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FILED BY FAX

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Linda Hawkins , Individually and On Behalf
of all Others Similarly Situated,

Plaintiff,

v.

UGI CORPORATION, AMERIGAS
PROPANE, INC., AMERIGAS PROPANE,
L.P., AMERIGAS PARTNERS, L.P. dba
AMERIGAS CYLINDER EXCHANGE,
FERRELLGAS COMPANY INC.,
FERRELLGAS, L.P. dba BLUE RHINO
LLC, FERRELLGAS PARTNERS, L.P.,
FERRELLGAS, INC., FERRELLGAS
PARTNERS FINANCE CORP.,
FERRELLGAS FINANCE CORP.,

Defendants.

CASE NO.:

CV 14 - 08461 RSW (JC)

CLASS ACTION COMPLAINT

1. California's Unfair Competition Law
2. California's False Advertising Law
3. Magnuson-Moss Warranty Act
4. Violation of Consumer Fraud Laws of Several States
5. California's Consumer Legal Remedies Act
6. California's Song-Beverly Consumer Warranty Act
7. Breach of Express Warranties of Each State
8. Negligent Misrepresentation
9. Intentional Misrepresentation
10. Quasi-Contract/Unjust Enrichment/Restitution
11. Fraudulent Concealment
12. Trespass to Chattels
13. Conversion
14. Money Had and Received
15. Breach of Contract

DEMAND FOR JURY TRIAL

CLASS ACTION COMPLAINT

1 Plaintiff LINDA HAWKINS (“Plaintiff”) brings this Class Action individually,
2 and on behalf of all others similarly situated, against Defendant UGI Corporation
3 (“UGI”), Defendant AmeriGas Propane, Inc., AmeriGas Propane, L.P. and AmeriGas
4 Partners, L.P. dba AmeriGas Cylinder Exchange (“AmeriGas”), Defendant Ferrellgas
5 Company Inc., Ferrellgas, L.P. dba Blue Rhino LLC and Ferrellgas Partners, L.P.
6 (“Ferrellgas” or “Blue Rhino”), and Doe Defendants 1-20 (collectively “Defendants”)
7 concerning their acts, seeking to recover damages, civil penalties, injunctive and other
8 equitable relief, and reasonable attorneys’ fees and costs, and alleges upon
9 information and belief, which is based upon the investigation of Plaintiff’s counsel,
10 except as to the allegations concerning Plaintiff, which are made upon Plaintiff’s
11 personal knowledge, as follows:

12 INTRODUCTION

13 1. Congress along with the states’ legislatures have long expressed their
14 desire, through applicable legislation, to protect consumers.

15 2. AmeriGas and Blue Rhino are the nation’s leading sellers of pre-filled
16 propane cylinders in the propane cylinder exchange industry. AmeriGas and Blue
17 Rhino distribute, manufacture, package, label, market and sell propane for consumer
18 consumption. Defendants both operate propane cylinder exchange programs
19 providing pre-filled propane gas cylinders to United States (“U.S.”) consumers
20 through thousands of retail partners nationwide in all the 50 states including through
21 retailers such as Home Depot, grocery stores, and convenience stores.

22 3. The propane cylinders as used in this Class Action are used by consumers
23 to fuel barbeque grills, outdoor heaters, outdoor lamps, and other household uses, and
24 are commonly referred to as “20-pound cylinders” (referred to as *Cylinders* or *Tanks*
25 herein).

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27 ///

28 **CLASS ACTION COMPLAINT**



4. Despite Congress and the state legislatures' expressed desire to protect its consumers, AmeriGas and Blue Rhino purport to offer full propane Cylinders to consumers in exchange for "empty" Cylinders. In reality, the Cylinders are never empty. In fact, there is always unused propane left in the Cylinders that is inaccessible to Defendants' customers. This unused propane remains in the Cylinders due to the design of the Cylinders and the delivery systems in place and utilized by the Defendants. Defendants know that this unused propane remains in the Cylinders when they are returned for exchange and they continue to fail to inform consumers of this fact. Defendants do not provide meaningful disclosure of this fact to its customers or to the public. Instead, they make false and misleading representations to

1 consumers that their “empty” cylinders are being exchanged for full ones. Moreover,
2 Defendants have ways to measure the propane left in the Cylinders when they are
3 exchanged but Defendants provide no way of giving credit for the unused propane
4 when consumers exchange their Cylinders. Despite the fact there are very simple
5 ways to measure the amount of unused propane when the Cylinder is exchanged,
6 Defendants choose not to let customers know that the Cylinders are not actually empty
7 when being exchanged. Defendants benefit from the propane left in the Cylinders at
8 the expense of the consumers purchasing the propane gas. Defendants are benefiting
9 from this propane that the consumer has paid for as it is resold to consumers over and
10 over again.

11 5. Defendants’ have made misrepresentations that are false and misleading
12 about the propane cylinders being “empty.” Consumers bring their Cylinders in for
13 exchange when the propane in the Tanks is no longer coming out in sufficient volume
14 to light their gas grills, lamps or other appliances. Despite the fact that propane is not
15 coming out with enough volume to light the appliances, there is still approximately
16 ten percent or more of the propane left in the Cylinders for which the consumers
17 receive absolutely no credit when exchanging the Cylinders for new ones. When
18 consumers pay for the new Cylinders in exchange, they are paying for all of the
19 propane in the Cylinder at the time of purchase, which is typically 15 to 15.5 pounds¹.
20 Defendants know there is propane left in the Cylinder being exchanged but fail to
21 inform consumers of this fact. Methods or equipment that would enable consumers to
22 utilize the more of the propane left in the Cylinders exists but this information is not
23 made known to consumers. There are also simple ways of measuring the propane left
24

25 _____
26 ¹ Although the Cylinders are called “20 pound cylinders” and they can hold
27 approximately 17.5 pounds of propane safely, the industry practice by the Defendants
28 herein is to fill the Cylinders to be sold to consumers at 15 - 15.5 pounds.

1 in the Cylinder at the time of exchange but Defendants do not utilize any method to
 2 give credit to consumers in this process. Approximately 10%² or more of the propane
 3 that is paid for by consumers remains in the Cylinders when returned for exchange as
 4 verified by Plaintiff' research and investigation by a certified gas engineering
 5 company.

6 6. Defendants have implemented and carried out unlawful and deceptive
 7 practices, and have engaged in a pattern of misconduct and wrongdoing throughout
 8 the U.S. in direct contravention of federal and states' laws and public policies.
 9 Defendants' actions are destructive to the rights and interests of competitors, to
 10 competition, to the general public, and to consumers. Plaintiff and the Class are
 11 consistently cheated by Defendants when they fail to provide consumers credit for
 12 unused propane left in the Cylinders when they turn them in at exchange stations.
 13 Instead, Defendants reutilize the propane left in the Cylinders by consumers and resell
 14 it for their own profits. In other words, their customers pay for more product than
 15 they can access and AmeriGas and Blue Rhino get paid multiple times for the
 16 inaccessible propane left in each Cylinder.

17 7. Plaintiff brings this class action on behalf of all current and former
 18 customers of Defendants within the U.S., the proposed class identified below,
 19 pursuant to Rule 23 of the *Federal Rules of Civil Procedure*, *California Civil Code §*
 20 *1781 to vindicate the rights afforded the Class by California's Consumer Legal*
 21 *Remedies Act ("CLRA")*, §§ 1750 – 1784, and numerous other states' statutes. The
 22 Class seeks recovery in this action for equitable, injunctive, and other relief due and
 23 owing to Plaintiff and putative class members for the maximum period allowed to the
 24 present (the "Class Period"), as set out below. Unless Plaintiff and the Class are
 25

26
 27 ² Average amount of propane varies depending on factors such as ambient
 28 temperature, altitude and air pressure.

1 granted the remedies sought in this Complaint, Defendants will continue to engage in
2 the unlawful, fraudulent, and unfair acts and practices alleged herein.

3 8. Defendants have systematically reutilized customers' propane and resold
4 it for their own profits. As a direct result of Defendants' conduct, Plaintiff and
5 members of the Class were subjected to Defendants' unfair and deceptive scheme to
6 make more money off selling pre-filled propane cylinders resulting in Defendants
7 receiving money for which they are not legally entitled to in violation of California's
8 Unfair Competition Law under *Business and Professions Code* §§ 17200, *et seq.*, and
9 *California's Business and Professions Code* §§17500, *et seq.* for false and/or
10 misleading statements, among numerous other federal and state statutes and
11 regulations.

12 9. As a direct result of Defendants' conduct, Plaintiff and members of the
13 Class were subjected to Defendants' unfair and deceptive scheme to make more
14 money off selling pre-filled propane cylinders resulting in Defendants receiving
15 money for which they are not legally entitled to.

16 10. During the relevant statutory period Defendants and its subsidiaries,
17 parents, and affiliate companies have consistently maintained and enforced the
18 following unlawful practices and policies against their customers in violation of U.S.
19 and states' laws:

- 20 (i) forcing customers to exchange Cylinders without being provided a
21 credit or discount for the propane that remains within the Cylinders
22 when they turn them in even though Defendants have ways to
23 measure the leftover propane in the Cylinders customers exchange;
24 (ii) failing to give credit to customers for the propane that remains
25 inside the Cylinders the customers bring back to exchange;
26 (iii) making customers pay for more propane than they can access;
27
28

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(iv) benefitting from customers' unused propane left in the Cylinders they return at exchange stations by reselling the unused propane so getting paid twice for the same product meaning that they both overcharge consumers and shortchange them propane at the same time; and

(v) making or causing to be disseminated to consumers, either expressly and/or by implication, representations that have been and are deceptive, false and/or misleading to a reasonable consumer, including but not limited to statements that customers' propane Cylinders were empty when in fact they have not been empty and are not empty.

11. Defendants have made it difficult for Plaintiff to account with precision the unlawfully withheld propane due, but this process should be simple. Defendants have not implemented any system at the exchange locations to capture this information. Plaintiff is informed and believes that Defendants do have a method for measuring the amount of propane left in these Cylinders but do not share this information with consumers.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction over this Class Action pursuant to 28 U.S.C. § 1332(d)(2) as amended by the Class Action Fairness Act of 2005 since the proposed class consists of more than 100 members, the proposed class contains at least one member that is a citizen of a different state from Defendants, and the aggregate amount in controversy exceeds five million dollars (\$5,000,000), exclusive of interest and costs.

13. This Court has personal jurisdiction over Defendants because Defendants are authorized to, and do conduct substantial business in the U.S. as well as in this

1 specific district. Defendants market, promote, distribute, and sell their pre-filled
2 propane cylinders all over the U.S..

3 14. Venue is also proper in this District under 28 U.S.C. § 1391(b)(2)
4 because Plaintiff is a resident of this judicial district, Defendants regularly conduct
5 business throughout this District, and a substantial part of the events and/or omissions
6 giving rise to this Class Action occurred in this District.

7 **PARTIES**

8 15. Plaintiff Linda Hawkins was, at all times mentioned herein, a resident of
9 the County of Los Angeles, State of California. For each purchase, Plaintiff
10 understood that she was paying for exchanging an “empty” cylinder for a full one and
11 was actually deceived when she turned in a cylinder that was not indeed “empty” due
12 to AmeriGas’s and Ferrellgas’s class-wide practice of taking back partially filled
13 propane cylinders yet not providing Plaintiff with any credit or refund for the propane
14 unused yet paid for by her. Plaintiff was damaged by Defendants’ practice.

15 16. At all relevant times, Plaintiff was a consumer who purchased propane
16 within the U.S. from Defendants, and is a member of the class of persons described
17 and defined in this Complaint.

18 17. The members of the proposed Class are likewise current and former
19 customers of Defendants that purchased propane within the U.S. from Defendants.

20 18. Defendant UGI CORPORATION is an international corporation with
21 businesses focused on providing energy distribution, transportation, marketing and
22 storage services, and with its propane distribution business conducted in the United
23 States through its publicly traded subsidiary AMERIGAS PARTNERS, L.P. doing
24 business as AMERIGAS CYLINDER EXCHANGE, which conducts its business
25 principally through its subsidiary AMERIGAS PROPANE, L.P. (“AmeriGas”).
26 AMERIGAS is a partnership organized and existing under the laws of the State of
27 Delaware. AMERIGAS maintains its principal executive offices in Valley Forge,
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1 Pennsylvania. AMERIGAS is a publicly traded master limited partnership on the
2 New York Stock Exchange under the ticker symbol “APU.” According to its SEC
3 filings, AMERIGAS is “the nation’s largest provider of propane” and the largest retail
4 propane distributor in the United States based on the volume of propane gallons
5 distributed annually with over 2.0 million residential, commercial, industrial,
6 agricultural and motor fuel customers and boasts that it operates in all 50 states.
7 AMERIGAS owns more than 300 propane cylinder exchange and distribution
8 locations in and around Los Angeles County. UGI CORPORATION is named herein
9 solely for the purpose of providing full and complete relief.

10 19. Defendant AMERIGAS PROPANE, INC. is a general partner of
11 AMERIGAS PARTNERS, L.P. and is organized and existing under the laws of the
12 State of Delaware.

13 20. Defendants AMERIGAS and AMERIGAS PROPANE, INC.
14 (collectively “AmeriGas”) both conduct business throughout the U.S..

15 21. As of September 30, 2013, AmeriGas’s pre-filled propane cylinders were
16 available at approximately 47,500 retail locations (over 20,000 more than 2008 where
17 there were 25,000 retail locations) throughout the United States and “enables
18 consumers to purchase propane cylinders or exchange their **empty propane cylinders**
19 at various retail locations such as home centers, gas stations, mass merchandisers and
20 grocery and convenience stores.” *See* AmeriGas Partners, L.P., 2013 Annual Report,
21 p. 4 (emphasis added) (attached hereto as Exhibit A).

22 22. Defendant FERRELLGAS PARTNERS, L.P., is a limited partnership
23 organized and existing under the laws of the State of Delaware with its principal
24 executive offices located in Overland Park, Kansas. FERRELLGAS PARTNERS,
25 L.P. is a publicly traded master limited partnership on the New York Stock Exchange
26 under the ticker symbol “FGP.” FERRELLGAS PARTNERS, L.P. owns
27 approximately 99% limited partnership interest in FERRELLGAS, L.P., which both
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1 entities conduct business throughout the U.S. under the trademarked name “BLUE
2 RHINO, LLC” (collectively “Blue Rhino”). Blue Rhino refers to itself in its NYSE
3 filings as the nation’s second largest retail marketer of propane, and states that it is the
4 nation’s largest provider of propane by portable cylinder exchange as measured by the
5 sales volume in fiscal year 2013. For instance, Blue Rhino distributes its propane
6 through more than 100 propane cylinder exchange and distribution locations in and
7 around Los Angeles County. Nationwide, in 2013, Blue Rhino had over one million
8 customers that used its propane services, and primarily distributed from 875 propane
9 distribution locations. *See* United States Securities and Exchange Commission Form
10 10-K, 2013 Annual Report for Ferrellgas Partners, L.P., Ferrellgas Partners Finance
11 Corp., Ferrellgas, L.P., and Ferrellgas Finance Corp., p. 2 (attached hereto as Exhibit
12 B).

13 23. Defendant FERRELLGAS, INC. is a corporation existing under the
14 laws of the State of Delaware with its principal executive offices located in Overland
15 Park, Kansas. FERRELLGAS, INC. performs the managerial functions for BLUE
16 RHINO.

17 24. Plaintiff is ignorant of the true names and capacities of defendants sued
18 herein as DOES 1-20, inclusive, and therefore sues these defendants by such
19 fictitious names and capacities. Plaintiff is informed and believes, and on that basis
20 alleges, that each defendant sued under such fictitious names is in some manner
21 responsible for the acts and occurrences herein alleged, and that Plaintiff and the
22 putative Class’s injuries as herein alleged were proximately caused by the conduct of
23 such defendants. Unless otherwise specified, Plaintiff will refer to all defendants,
24 including the Doe Defendants, collectively as “Defendants” and each allegation
25 pertains to each Defendant.

26 25. Plaintiff is informed and believes and thereupon alleges that, at all times
27 material herein, each of the Defendants were functioning as the agent, servant, partner,
28

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1 employee and/or working in concert with his, her or their co-defendants and was
 2 acting within the course and scope of such agency, partnership, employment and/or
 3 concerted activity. To the extent that certain acts and omissions were perpetrated by
 4 certain defendants, the remaining defendants confirmed and ratified said acts and
 5 omissions of the co-defendants, and in doing the actions mentioned below was acting
 6 within the course and scope of his, her or their authority as such agent, servant,
 7 partner, and employee with the permission, consent and ratification of the co-
 8 defendants.

9 26. Whenever and wherever reference is made to individuals who are not
 10 named as plaintiffs or defendants in this complaint but who were employees/agents of
 11 Defendants, such individuals at all relevant times acted on behalf of Defendants
 12 within the course and scope of their employment.

13 27. Plaintiff is informed and believes and thereupon alleges that, at all times
 14 material herein, Defendants and each of them, and/or their agents/employees or
 15 supervisors, knew or reasonably should have known that unless each of them
 16 intervened to protect Plaintiff and the putative Class, and to adequately supervise,
 17 prohibit, control, regulate, discipline, and/or otherwise penalize the conduct of the
 18 employees of Defendants, the remaining defendants and employees perceived the
 19 conduct and omissions as being ratified and condoned.

20 **SUBSTANTIVE ALLEGATIONS**

21 **Background**

22 28. Both AmeriGas and Blue Rhino sell Propane gas, which is made from a
 23 byproduct of petroleum refining and natural gas processing. Propane can be liquefied
 24 if placed under pressure. In this liquefied state it is stored in steel cylinders.

25 29. One means Defendants use to sell Propane to their customers is through
 26 their portable steel propane cylinder exchange programs through retail locations all
 27 throughout the United States. The portable propane cylinders as used in this Class
 28

1 Action are used by consumers to fuel barbeque grills, outdoor heaters, outdoor lamps,
2 and other household uses, and are commonly referred to as 20-pound cylinders, which
3 is not the actual amount of propane contained inside the cylinders. Unlike many other
4 consumer products, customers cannot visually inspect or confirm what is inside the
5 standard steel 20-pound propane cylinders so they do not know with any reliability if
6 it is completely filled or when it is partially full or empty.

7 30. Defendants' pre-filled propane cylinders are typically stored in locked
8 cages. At each retail location, customers usually must ask a retail employee to unlock
9 a cage to obtain a filled propane cylinder in exchange for their "empty" one.

10 **Defendants Deceptively Label Their Propane Cylinders As "Empty"**

11 31. This action is brought against Defendants AmeriGas and Blue Rhino for
12 the benefit and protection of all purchasers of portable propane cylinder tanks
13 commonly referred to as 20-pound cylinders.

14 32. Throughout the Class Period, Defendants have communicated to their
15 customers a straight-forward material message that their propane cylinders are
16 "empty" when in reality the cylinders are never in fact empty when the customers
17 have possession and use of them. However, unbeknownst to Plaintiff, the "empty"
18 propane cylinders are actually not empty at all. Instead, they propane cylinders
19 contain leftover propane in them. Defendants collect the unused propane and reuse it
20 collecting money from at least two customers for the same leftover propane thereby
21 engaging in a deceptive marketing and advertising campaign misrepresenting to the
22 customers that they emptied the cylinders, and thereby also engaging in a deceptive
23 price scheme to cheat the customers.

24 33. At all times during the statutory period, Defendants advertise and retain
25 the control for advertising their products. Defendants also offer retail locations
26 marketing and promotional materials, i.e., discount coupons, to place on the exchange
27 cages and in advertisements.

34. For example, in its advertising depicting a family barbequing meat on a gas grill equipped with an AmeriGas propane cylinder, AmeriGas has advised its customers to exchange their “empty” tanks: “Don’t be caught with an empty tank! Be prepared, get your coupon and exchange that tank!” See <http://www.moneysavingqueen.com/August-2013/3-1-Amerigas-Gas-Tank-Exchange/> (last visited August 1, 2014).

35. In AmeriGas’s website discussing its cylinder refill program, AmeriGas not only uses the term “empty” to refer to the propane cylinders, but it also admits the fact that propane cylinders are indeed not really empty: “YOUR Convenience and Best Value” ... “**Just bring your empty cylinder and pay only for the refilled volume** to enjoy the best value for your money.” See <http://www.amerigas.com/residential/propane-cylinder-refill.htm> (emphasis added) (last visited August 1, 2014).

36. Similarly, on Blue Rhino’s website, in its About Tank Exchange – Tour video clip, Blue Rhino exclaims: “Exchanging an empty for a Blue Rhino propane tank is convenient and eco-friendly.” See <http://www.bluerhino.com/Tank-Exchange/About-Tank-Exchange.aspx> (last visited on August 1, 2014). In its About Tank Exchange - A Tank Story video clip, Blue Rhino refers to the propane cylinders as empty instructing customers to “exchange your empty and you’re ready to go.” See <http://www.bluerhino.com/Tank-Echange/About-Tank-Exchange.aspx> (last visited on August 1, 2014).

37. In its About Tank Exchange - How to Exchange video clip, Blue Rhino shows how easy the PROPANE TANK EXCHANGE process is: “There are three steps to exchanging an empty propane tank for a Blue Rhino propane tank. Just drop, swap and go.” “DROP your empty tank beside this display. See cashier. Store will SWAP your empty for a Blue Rhino. GO enjoy your Blue Rhino.”



See <http://www.bluerhino.com/Tank-Exchange/About-Tank-Exchange.aspx> (last visited on August 1, 2014).

38. Further, in its Manufacturer's Mail-In Rebate (Expires 12/31/14), Blue Rhino also refers to its propane cylinders as "empty tank[s]."

REBATE FORM

39. And on Blue Rhino's exchange cages, it has marketing materials that are adhered to the outside of them. More specifically, it states "Exchange Empty for Full."

///

Propane Cylinders That Contain Propane In Them Are Not “Empty”

40. Plaintiff’s independent tests conducted prior to filing this action revealed that an average amount of 10% or more of propane remained inside the standard “20-pound” cylinders tested that is paid for by consumers but goes left unused by them.

41. Measurements were taken for the weight of the Cylinders returned, and for each of the cylinders’ weight after all the propane was removed out of the exchanged cylinders.

42. Defendants’ representation that the propane Cylinders are “empty” or similar is deceptive, false, misleading, and unfair to consumers who are injured in fact by purchasing propane and exchanging Cylinders that are not empty when in reality there is still propane in them that only Defendants can resell or access. Plaintiff and Class and subclass members were unaware that they were exchanging partially full cylinders; they thought they were empty. Defendants not only do not mention to customers a unique definition of what “empty” actually means so they reasonably believe empty means that there is no propane left in the cylinders when they can no longer extract any of it.

CLASS ACTION ALLEGATIONS

43. This action has been brought and may properly be maintained as a class action pursuant to Rule 23 of the *Federal Rules of Civil Procedure* and *California Civil Code § 1781*. There is a well-defined community of interest in this litigation.

44. Proposed Classes: Plaintiff brings this action individually and as a representative of a class of individuals in the United States on behalf of all other current and former AMERIGAS and BLUE RHINO customers who fall within the following class definition:

All persons who, within the relevant statute of limitations period, purchased Propane from AMERIGAS or BLUE RHINO prior to the date of filing this Complaint up to and including the date Class is certified (the “Class”).

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45. Plaintiff further seeks to represent a subclass defined as:

All persons who have purchased Propane from AMERIGAS or BLUE RHINO in the State of California at any time during the period commencing four (4) years prior to the date of filing of this Complaint up to and including the date Class is certified (the “California Subclass”).

46. Plaintiff reserves the right to amend or modify the Class and Subclass definitions with greater specificity or further division into additional subclasses, or limitation to particular issues as discovery and the orders of this Court warrant.

47. Excluded from the Class are Defendants and their parent companies, subsidiaries and affiliates, Defendants' executives, officers, directors, board members, legal counsel, the judges and all other court personnel to whom this case is assigned, and their immediate families. Also excluded from this action are persons or entities that purchased propane for resale.

48. Numerosity: Members of the Class and Subclasses are so numerous that their individual joinder herein is impracticable. Although the exact number of Class Members cannot be ascertained by Plaintiff at this time, the number of potential Class Members can be readily determined by examination of Defendants' business records. Upon information and belief, Plaintiff believes that the Class is in excess of, and includes at least over one (1) million individuals.

49. Common Questions Predominate: Common questions of law and fact exist as to all Class members and predominate over any questions affecting only individual Class members. Common legal and factual questions include, but are not limited to the following:

a. Whether Defendants force customers to exchange cylinders without being provided a credit or discount for the propane that remains within the cylinders when they turn them in;

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- 1 b. Whether Defendants have an unfair and deceptive scheme to make
2 extra money from their exchange program whereby customers turn in
3 allegedly “empty” propane cylinders for pre-filled propane cylinders;
- 4 c. Whether Defendants fail to pay their customers for the propane that
5 remains inside the cylinders the customers bring back to exchange;
- 6 d. Whether Defendants make customers pay for more propane than they
7 can use;
- 8 e. Whether Defendants benefit from customers’ unused propane left in
9 the cylinders they return at exchange stations by reselling the unused
10 propane resulting in Defendants getting paid twice for the same
11 product so they overcharge consumers while shortchanging them
12 propane at the same time;
- 13 f. Whether Defendants’ marketing, advertising, packaging, labeling and
14 other promotional materials concerning propane cylinder exchange
15 program were deceptive;
- 16 g. Whether Defendants make or cause to be disseminated to consumers,
17 either expressly and/or by implication, representations that have been
18 and are deceptive, false and/or misleading to a reasonable consumer,
19 including but not limited to statements that customers’ propane
20 cylinders were empty when in fact they have not been empty and are
21 not empty;
- 22 h. Whether Defendants knew their claims that the propane cylinders are
23 empty when customers could not get any more propane from the
24 propane cylinders were false and/or misleading;
- 25 i. Whether Defendants breached express warranties by making the
26 representations above;
- 27 j. Whether Defendants breached implied warranties by making the
28 representations above;

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1 k. Whether Defendants, as a result of their unfair and deceptive cylinder
2 and cylinder exchange scheme, violate California Business &
3 Professions Code §§ 17200, *et seq.* by engaging in unfair, unlawful
4 and/or fraudulent business practices;

5 l. Whether Defendants violated California Business and Professions
6 Code §§ 17500, *et seq.* by making deceptive, false and/or misleading
7 representations to its customers, either expressly and/ or by
8 implication;

9 m. Whether Plaintiff and Class Members suffered damages and, if so, the
10 proper measure of those damages.

11 50. Typicality: Plaintiff's claims are typical of the claims of the Class and
12 members of the Subclasses because Plaintiff and each member of the Class and
13 Subclasses suffered losses of money as a result of purchasing propane cylinders from
14 Defendants' exchange locations. Further, Plaintiff's claims have the same essential
15 characteristics as the claims of the members of the Classes as a whole and are based
16 upon identical legal theories. It is the same course of conduct that serves as the
17 gravamen of the claims against Defendants. The members of the Classes have
18 suffered the same type of monetary injuries and possess the same interests as
19 Plaintiff. As such, a single resolution of these claims would be preferable to a
20 multiplicity of similar actions.

21 51. Superiority: The class mechanism is superior to other available means
22 for fair and efficient adjudication of the claims of Plaintiff, the National Class, and the
23 Subclass members. Each individual class member may lack the resources to undergo
24 the burden and expense of individual prosecution of complex and extensive litigation
25 necessary to establish Defendants' liability. Individualized litigation increases the
26 delay and expense to all parties and multiplies the burden on the judicial system due to
27 the complex legal and factual issues of this case. Individualized litigation also
28 presents a potential for inconsistent or contradictory judgments. Moreover, since the

1 harm and damages suffered by individual Class members, while not inconsequential,
2 may be relatively small, the expense and burden of individual litigation by each
3 member make it impracticable for Class and Subclass members to seek redress
4 individually for the wrongful conduct alleged herein. In contrast, the class action
5 device presents far fewer management difficulties and provides the benefit of
6 economy of scale, and comprehensive supervision from one court regarding
7 Defendants' liability. Also, class treatment of liability issues ensures that all claims
8 and claimants are managed together resulting in a single, consistent adjudication.

9 52. Adequacy: Plaintiff is an adequate representative of the Class and
10 Subclass because Plaintiff's interests do not conflict with the interests of the Class or
11 Subclass members Plaintiff seeks to represent. Plaintiff is committed to prosecuting
12 this class action vigorously, and has retained competent counsel experienced in
13 zealously litigating class actions of this nature. Plaintiff is not subject to any
14 individual defenses unique from those conceivably applicable to the Class and
15 Subclasses. The interests of the Class and Subclass members will be fairly and
16 adequately protected by Plaintiff and Plaintiff's counsel. Finally, Plaintiff's counsel
17 anticipates no management difficulties in this litigation.

18 53. This lawsuit is maintainable as a class action under Rule 23(b)(2) of the
19 *Federal Rules of Civil Procedure* because Defendants have acted or refused to act on
20 grounds that are generally applicable to the class, thereby making final injunctive
21 relief appropriate with respect to the Class and each Subclass as a whole.

22 54. This lawsuit is maintainable as a class action under Rule 23(b)(3) of the
23 *Federal Rules of Civil Procedure* because the questions of law and fact common to
24 the class and subclass members predominate over any questions that affect only
25 individual members, and because the class action mechanism is superior to other
26 available methods for the fair and efficient adjudication of the controversy.
27
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CLASS ACTION COMPLAINT

FIRST CAUSE OF ACTION

**UNFAIR AND UNLAWFUL BUSINESS PRACTICES
UNDER CALIFORNIA’S UNFAIR COMPETITION LAW
(Violation of *California Business & Professions Code* §§ 17200, *et seq.*)**

55. Plaintiff herewith refers to, and by that reference incorporate as though fully set forth herein, each and every paragraph set forth above.

56. Defendants are subject to the Unfair Competition Law (“UCL”), *Business & Professions Code* §§ 17200, *et seq.* The UCL provides, in pertinent part: “Unfair competition shall mean and include unlawful, unfair or fraudulent business practices
....”

57. The acts and omissions alleged in this cause of action were committed within four (4) years of the date of commencement of this action by Defendants who have and continue to engage in unfair competition within the meaning of § 17200, *et seq.* because Defendants’ conduct is fraudulent, unfair and illegal as herein alleged. Defendants’ conduct and business practices were and are substantially injurious to Plaintiff, the Class and the California Subclass members.

58. As described above, the conduct of AMERIGAS AND BLUE RHINO constitutes unlawful, unfair and fraudulent acts, omissions and/or business practices that constitute unfair competition within the meaning of *California Business & Professions Code* §§ 17200, *et seq.*, including but not limited to:

- a. Violating *California Civil Code* §§ 1770(a)(5), 1770(a)(7), 1770(a)(9), 1770(a)(10), 1770(a)(15), 1770(a)(16).
- b. Engaging in false or misleading advertising in violation of *Business & Professions Code* § 17500, *et seq.*, as alleged in the Second Cause of Action, below.

59. Defendants’ activities constitute unfair business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*, because Defendants’ practices violate, for

CLASS ACTION COMPLAINT

1 instance, California's established public policies and/or are immoral, unethical,
2 oppressive, unscrupulous and substantially injurious to consumers who are led to
3 believe that Cylinders are empty when they are not. Consumers have been compelled
4 to overpay Defendants for propane. Indeed, Defendants, which rank among the most
5 sophisticated energy companies in the United States, know full well that consumers
6 are being charged for propane they cannot use, and that Defendants are able to engage
7 in this unfair and unscrupulous scheme of charging twice for the Propane Defendants
8 reutilize when re-filling cylinders turned in by customers at exchange stations.
9 Defendants' practices are unethical, oppressive, and have injured and will continue to
10 injure Plaintiff and the Class as long as it is able to continue treating its customers this
11 way.

12 60. Defendants' wrongful business acts and conduct constitute and have
13 constituted and continuing course of unfair competition and unethical behavior
14 because Defendants are selling their products and marketing them in a manner that is
15 likely to deceive the public. Plaintiff and the Class and California Subclass members
16 suffer and have suffered actual and monetary injury because they were deprived and
17 are deprived of the ability to use all of the propane in the Cylinders and have
18 purchased and are purchasing replacement propane that is unnecessary and without
19 receiving any credit, refund, or notice of this fact, and instead are being shortchanged
20 by Defendants who are profiting at consumers' and at other industry propane
21 providers' expense.

22 61. Plaintiff also seeks equitable and injunctive relief to stop the misconduct
23 of AMERIGAS and BLUE RHINO against Plaintiff and the Class to prevent any
24 future harm and damages for which there is no adequate remedy at law, as complained
25 of herein, and is seeking restitution from AMERIGAS and BLUE RHINO through the
26 unfair and unlawful business practices described herein.
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62. Defendants also violated and continue to violate the “unfair” prong of the UCL by unfairly withholding from Plaintiff and Class Members credits earned for unused propane. Defendants’ policy and practice of withholding leftover propane and reutilizing it for their own profits from its customers is oppressive and substantially injurious to Plaintiff and Class Members. As a direct and proximate result of these violations, Defendants have profited from these practices to the detriment of Plaintiff and Class Members. The profit so obtained should be disgorged from Defendants’ ill-gotten gains since the Defendants have been unjustly enriched through requiring customers to suffer Defendants’ failure to pay customers for unused propane left in the cylinders they return to the exchange stations. Plaintiff is informed and believes that Plaintiff and the Class are prejudiced by Defendants’ unfair trade practices.

63. Defendants’ knowing failure to adopt policies in accordance with and/or to adhere to these public policies, all of which are binding upon and burdensome to Defendants’ competitors, engenders an unfair competitive advantage for Defendants, thereby constituting unfair business practice, as set forth in *California Business & Professions Code* §§ 17200, *et seq.*

64. Particularly in light of its repeated violations of these laws, it is clear that Defendants have established a policy of willingly adopting unfair business practices and therefore establishing risk, as incidental to their business operations, rather than accept the alternative costs of full compliance with fair, lawful and honest business practices ordinarily borne by responsible competitors of Defendants.

65. The acts as herein alleged are continuing. Unless enjoined, Defendants will continue to reap the benefits of these unlawful practices. Injunctive relief is warranted.

66. The wrongful conduct of Defendants, unless restrained and enjoined pursuant to *Business & Professions Code* § 17203 by an order of this Court, will cause

1 great and irreparable harm to Plaintiff and Class Members since Defendants will
 2 continue to engage in unfair and anti-competitive business practices with impunity,
 3 and continue to engage in conduct prohibited by the UCL.

4 67. Plaintiff has standing to pursue this claim because Plaintiff has been
 5 injured by virtue of suffering a loss of money and/or property as a result of the
 6 wrongful conduct alleged herein by Defendants. Defendants business practices and
 7 conduct have caused and causes injuries to Plaintiff, the Class and the California
 8 Subclass members.

9 68. Each and every separate act by Defendants constitutes an unlawful,
 10 unfair and fraudulent business practice. Each unlawful act, omission or practice is a
 11 separate and distinct violation of *Business & Professions Code* § 17200.

12 69. Pursuant to *Business & Professions Code* § 17206, the Defendants are
 13 liable for civil penalties for each and every separate act of unfair competition as
 14 alleged herein.

15 **SECOND CAUSE OF ACTION**
 16 **FALSE OR MISLEADING STATEMENTS**
 17 **UNDER CALIFORNIA'S FALSE ADVERTISING LAW**
 18 **(Violation of *California Business & Professions Code* §§ 17500, *et seq.*)**

19 70. Plaintiff herewith refers to, and by that reference incorporates as though
 20 fully set forth herein, each and every paragraph set forth above.

21 71. The Defendants have made and caused to be disseminated to California
 22 consumers, expressly and/or by implication, representations that are and were
 23 deceptive, false and/or misleading to a reasonable consumer, including but not limited
 24 to statements that consumers are paying for use of the entire contents of the Propane
 25 Cylinders even though in reality consumers cannot use all of the propane in the
 26 cylinders in which they are exchanging. Defendants know full well that consumers
 27 cannot use all of the propane in the Propane Cylinders yet Defendants have persisted
 28 in their unlawful, unfair, and unethical practices of selling the propane that

1 Defendants reutilize and charge customers twice for. More specifically, Defendants
2 instruct their customers to bring in their “empty” cylinders to exchange them for a
3 new one, but Defendants are fully aware that the cylinders are indeed never empty as
4 far as customers are concerned; only Defendants have access to the full contents of the
5 propane cylinders. Instead, Defendants could either re-fill the same propane cylinder
6 the customer turns in, or provide customers credit for the unused propane in that
7 cylinder by weighing the contents of the Propane Cylinders. As a result of
8 Defendants’ unscrupulous scheme, consumers have been forced to buy more of the
9 Defendants’ propane than they should have.

10 72. Defendants’ use of various forms of advertising media to market and
11 advertise, call attention to and give publicity to the sale of their Propane Cylinder
12 Exchange Programs and propane, and other practices, as set forth above, which are not
13 advertised or as otherwise represented, constitutes unfair competition, unfair,
14 deceptive, untrue or misleading advertising pursuant to *California Business &*
15 *Professions Code* § 17500, *et seq.* These advertisements and marketing and practices
16 have deceived, and continue to deceive, and are likely to deceive the consuming
17 public.

18 73. Plaintiff and the Class and California Subclass members have been
19 deceived and injured by Defendants’ false and misleading advertising. Plaintiff and
20 the Class and California Subclass members are led to believe by Defendants’
21 Cylinders and the advertising and marketing that the Cylinders need to be exchanged
22 prematurely by the technology contained in the Cylinders that stops the flow of
23 propane before the Cylinders are empty and by Defendants’ representations that the
24 Cylinders are empty when they are not in reality empty. Plaintiff and the Class and
25 Subclass members rely on Defendants’ representations and exchange the Cylinders
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1 before they need to do so. Rather than exchanging their Cylinders when empty, they
2 are buying extra propane that Defendants reap profits on.

3 74. Unless enjoined by order of the court, Defendants will continue their
4 illegal and unfair course of conduct. Defendants' business acts and practices, as
5 alleged herein, have caused injuries to Plaintiff, and the Class and California Subclass
6 members, and to the public.

7 75. Defendants' unlawful conduct, acts, and omissions in violation of
8 *Business & Professions Code* § 17500, *et seq.* demonstrates the need to grant
9 injunctive relief, disgorgement of profits, and restitution to Defendants' consumers by
10 imposing civil penalties under *Business & Professions Code* §§ 17535 and 17536.

11 **THIRD CAUSE OF ACTION**

12 **MAGNUSON-MOSS WARRANTY ACT**

13 (Violation of *United States Code*, 15 U.S.C. §§ 2301-2312, *et seq.*, in
14 conjunction with various state consumer laws for the implied warranties)

15 76. Plaintiff herewith refers to, and by that reference incorporates as though
16 fully set forth herein, each and every paragraph set forth above.

17 77. Propane is a consumer product as defined in 15 U.S.C. § 2301(1).

18 78. Plaintiff, and members of the Class and Subclasses are consumers as
19 defined in 15 U.S.C. § 2301(3).

20 79. Defendants are suppliers and warrantors as defined in 15 U.S.C. § 2301(4)
21 and (5), respectively.

22 80. In connection with the sale of propane through their cylinder exchange
23 program, Defendants issued written warranties as defined in 15 U.S.C. § 2301(6), which
24 warranted that the propane cylinders customers were exchanging were "empty" when in
25 fact the cylinders are never empty. This statement is untrue, as detailed above. The
26 cylinders are not empty so the term is false and/or misleading because customers cannot
27 extract out all the propane in the cylinders and Defendants have ways to measure how
28 much propane is left within the cylinders customers exchange yet Defendants choose not

1 to let customers know. In fact, Defendants extract the leftover propane and do so to their
2 benefit.

3 81. In connection with the sale of propane through their cylinder exchange
4 program, Defendants have violated implied warranties, such as the implied warranty of
5 merchantability, as defined in 15 U.S.C. § 2301(7) in conjunction with state laws, e.g.,
6 California Civil Code § 1791.1. Defendants' propane cylinders do not have the quality
7 that buyers would reasonably expect. Defendants have implied that their propane
8 cylinders are adequately contained, packaged, and labeled, and that Defendants' propane
9 cylinders conform to the promises or affirmations of fact made on the container or label
10 that the propane cylinders are "empty" when in reality they are not empty at all because
11 customers cannot extract all of the propane from them.

12 82. By way of Defendants' breach of the express written warranties stating that
13 the propane cylinders are "empty" when in fact the propane cylinders are not empty, and
14 their implied warranties Defendants have violated the statutory rights due to Plaintiff and
15 Class Members pursuant to the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301-2312,
16 *et seq.*, thereby damaging Plaintiff and the Class Members.

17 **FOURTH CAUSE OF ACTION**
18 **VIOLATION OF CONSUMER FRAUD LAWS OF SEVERAL STATES**
19 **EXCEPT FOR CALIFORNIA**

20 83. Plaintiff herewith refers to, and by that reference incorporates as though
21 fully set forth herein, each and every paragraph set forth above.

22 84. By mislabeling and selling the propane cylinders as having qualities,
23 benefits and characteristics which they do not have, Defendants have engaged in
24 unfair competition or unlawful, unfair, misleading, unconscionable, or deceptive acts
25 in violation of the state consumer statutes listed below.

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28 **CLASS ACTION COMPLAINT**

1 85. Defendants have engaged in unfair competition or unfair or deceptive
2 acts or practices in violation of Alabama laws, including but not limited to Alabama's
3 Deceptive Trade Practices Act, ALA. CODE §§ 8-19-1, *et seq.*

4 86. Defendants have engaged in unfair competition or unfair or deceptive
5 acts or practices in violation of Alaska laws, including but not limited to Alaska's
6 Unfair Trade Practices and Consumer Protection Act, AS §§ 45.50.471 – AS
7 45.50.561.

8 87. Defendants have engaged in unfair competition or unfair or deceptive
9 acts or practices in violation of Arizona laws, including but not limited to Arizona's
10 Consumer Fraud Act, Arizona Revised Statutes, ARIZ. REV. STAT. §§ 44-1522, *et*
11 *seq.*

12 88. Defendants have engaged in unfair competition or unfair or deceptive
13 acts or practices in violation of Arkansas laws, including but not limited to Arkansas's
14 Deceptive Trade Practices Act, ARK. CODE §§ 4-88-107, *et seq.*

15 89. Defendants have engaged in unfair competition or unfair or deceptive
16 acts or practices or have made false representations in violation of Colorado laws,
17 including but not limited to Colorado's Consumer Protection Act, COL. REV. STAT.
18 §§ 6-1-101, *et seq.*

19 90. Defendants have engaged in unfair competition or unfair or deceptive
20 acts or practices in violation of Connecticut laws, including but not limited to
21 Connecticut's Unfair Trade Practices Act, CONN. GEN. STAT. §§ 42-110b, *et seq.*

22 91. Defendants have engaged in unfair competition or unfair or deceptive
23 acts or practices in violation of Delaware laws, including but not limited to
24 Delaware's Consumer Fraud Act, DEL. CODE ANN. tit. 6, §§ 2511, *et seq.* and
25 Delaware's Deceptive Trade Practices Act, DEL. CODE ANN. tit. 6, §§ 2532(5) and
26 (7), *et seq.*

1 92. Defendants have engaged in unfair competition or unfair or deceptive
2 acts or practices or have made false representations in violation of the District of
3 Columbia's, including but not limited to the District of Columbia's Consumer
4 Protection Procedures Act ("CPPA"), D.C. OFFICIAL CODE §§ 28-3901 – 28-3913.

5 93. Defendants have engaged in unfair competition or unfair or deceptive
6 acts or practices in violation of Florida laws, including but not limited to Florida's
7 Deceptive and Unfair Trade Practices Act, FLA. STAT. ANN. §§ 501.201, *et seq.*

8 94. Defendants have engaged in unfair competition or unfair or deceptive
9 acts or practices in violation of Georgia laws, including but not limited to Georgia's
10 Uniform Deceptive Trade Practices Act, GA. CODE ANN. §§ 10-1-370, *et seq.* and
11 Georgia's Fair Business Practices Act, GA. CODE ANN. §§ 10-1-392, *et seq.*

12 95. Defendants have engaged in unfair competition or unfair or deceptive
13 acts or practices in violation of Hawaii laws, including but not limited to Hawaii's
14 Deceptive Trade Practices Act, Hawaii Revised Statutes, HAW. REV. STAT. ANN.
15 §§ 481A-3(a), *et seq.* and Hawaii's Consumer Protection Act, HAW. REV. STAT.
16 ANN. §§ 480-2(a), *et seq.*

17 96. Defendants has engaged in unfair competition or unfair or deceptive acts
18 or practices in violation of Idaho laws, including but not limited to Idaho's Consumer
19 Protection Act, IDAHO CODE §§ 48-601, *et seq.*

20 97. Defendants have engaged in unfair competition or unfair or deceptive
21 acts or practices in violation of Illinois laws, including but not limited to Illinois's
22 Consumer Fraud and Deceptive Trade Practices Act, 815 ILL. STAT. §§ 505/1, *et*
23 *seq.* and Illinois's Uniform Deceptive Trade Practices Act, 815 ILL. STAT. §§ 510/2,
24 *et seq.*

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1 98. Defendants have engaged in unfair competition or unfair or deceptive
2 acts or practices in violation of Indiana laws, including but not limited to Indiana's
3 Deceptive Consumer Sales Act, IND. CODE §§ 24-5-0.5-1, *et seq.*

4 99. Defendants have engaged in unfair competition or unfair or deceptive
5 acts or practices in violation of Iowa laws, including but not limited to Iowa's
6 Consumer Fraud Act, IOWA CODE §§ 714.16, *et seq.*

7 100. Defendants have engaged in unfair competition or unfair or deceptive
8 acts or practices in violation of Kansas laws, including but not limited to Kansas's
9 Consumer Protection Act, KAN. STAT. §§ 50-623, *et seq.*

10 101. Defendants have engaged in unfair competition or unfair or deceptive
11 acts or practices in violation of Kentucky laws, including but not limited to
12 Kentucky's Consumer Protection Act, KY. REV. STAT. ANN. §§ 367.110, *et seq.*

13 102. Defendants have engaged in unfair competition or unfair or deceptive
14 acts or practices in violation of Louisiana laws, including but not limited to
15 Louisiana's Unfair Trade Practices and Consumer Protection Law, LA. REV. STAT.
16 §§ 51:1404, *et seq.*

17 103. Defendants have engaged in unfair competition or unfair or deceptive
18 acts or practices in violation of Maine laws, including but not limited to Maine's
19 Unfair Trade Practices Act, ME. REV. STAT. tit. 5, §§ 205-A, *et seq.* and Maine's
20 Uniform Deceptive Trade Practices Act, ME. REV. STAT. tit. 10, §§ 1212, *et seq.*

21 104. Defendants have engaged in unfair competition or unfair or deceptive
22 acts or practices in violation of Maryland laws, including but not limited to
23 Maryland's Consumer Protection Act under the Maryland Code Annotated
24 Commercial Law, MD. CODE. ANN., COM. LAW §§ 13-101, *et seq.*

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CLASS ACTION COMPLAINT

1 105. Defendants have engaged in unfair competition or unfair or deceptive
2 acts or practices in violation of Massachusetts laws, including but not limited to
3 Massachusetts's Consumer Protection Act, MASS. GEN. LAWS ch. 93A §§1, *et seq.*

4 106. Defendants have engaged in unfair competition or unfair or deceptive
5 acts or practices in violation of Michigan laws, including but not limited to
6 Michigan's Consumer Protection Act of the Michigan Compiled Laws, MICH.
7 COMP. LAWS §§ 445.901, *et seq.*

8 107. Defendants have engaged in unfair competition or unfair or deceptive
9 acts or practices in violation of Minnesota laws, including but not limited to the
10 Minnesota's Consumer Fraud Act, MINN. STAT. §§ 8.31, 325F.69, and Minnesota's
11 Uniform Deceptive Trade Practices Act, MINN. STAT. §§ 325D.44, *et seq.*

12 108. Defendants have engaged in unfair competition or unfair or deceptive
13 acts or practices in violation of Mississippi laws, including but not limited to
14 Mississippi's Consumer Protection Act, MISS. CODE ANN. §§ 75-24-3, *et seq.*

15 109. Defendants have engaged in unfair competition or unfair or deceptive
16 acts or practices in violation of Missouri laws, including but not limited to Missouri's
17 Merchandising Practices Act in the Missouri Revised Statutes, MO. REV. STAT. §§
18 407.010, *et seq.*

19 110. Defendants have engaged in unfair competition or unfair or deceptive
20 acts or practices in violation of Montana laws, including but not limited to Montana's
21 Unfair Trade Practices and Consumer Protection Act, MONT. CODE ANN. §§ 30-14-
22 101, *et seq.*

23 111. Defendants have engaged in unfair competition or unfair or deceptive
24 acts or practices in violation of Nebraska laws, including but not limited to Nebraska's
25 Consumer Protection Act under Nebraska's Revised Statutes, NEB. REV. STAT. §§
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1 59-1601, *et seq.* and Nevada's Uniform Deceptive Trade Practices Act, under
2 Nebraska's Revised Statutes, NEB. REV. STAT. §§ 87-301, *et seq.*

3 112. Defendants have engaged in unfair competition or unfair or deceptive
4 acts or practices in violation of Nevada laws, including but not limited to Nevada's
5 Deceptive Trade Practices Act under Nevada's Revised Statutes, NEV. REV. STAT.
6 §§ 598.0903, *et seq.*

7 113. Defendants have engaged in unfair competition or unfair or deceptive
8 acts or practices in violation of New Hampshire laws, including but not limited to
9 New Hampshire's Consumer Protection Act under New Hampshire's Revised
10 Statutes Annotated, N.H. REV. STAT. ANN. §§ 358-A:1, *et seq.*

11 114. Defendants have engaged in unfair competition or unfair or deceptive
12 acts or practices in violation of New Jersey laws, including but not limited to New
13 Jersey's Consumer Fraud Act, N.J. STAT. ANN. §§ 56:8-1, *et seq.*

14 115. Defendants have engaged in unfair competition or unfair or deceptive
15 acts or practices in violation of New Mexico laws, including but not limited to New
16 Mexico's Unfair Trade Practices Act, N.M. STAT. ANN. §§ 57-12-1, *et seq.*

17 116. Defendants have engaged in unfair competition or unfair or deceptive
18 acts or practices in violation of New York laws, including but not limited to New
19 York's Consumer Protection from Deceptive Acts and Practices, N.Y. GEN. BUS.
20 LAW §§ 349, *et seq.*

21 117. Defendants have engaged in unfair competition or unfair or deceptive
22 acts or practices in violation of North Carolina laws, including but not limited to
23 North Carolina's Unfair Trade Practices Act, N.C. GEN. STAT. §§ 75-1, *et seq.*

24 118. Defendants have engaged in unfair competition or unfair or deceptive
25 acts or practices in violation of North Dakota laws, including but not limited to North
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1 Dakota's Unlawful Sales or Advertising Practices Act, N.D. CENT. CODE §§ 51-15-
2 01, *et seq.*

3 119. Defendants have engaged in unfair competition or unfair or deceptive
4 acts or practices in violation of Ohio laws, including but not limited to Ohio's
5 Consumer Sales Practices Act in the Ohio Revised Code, OH. REV. CODE §§
6 1345.01, *et seq.*

7 120. Defendants have engaged in unfair competition or unfair or deceptive
8 acts or practices or made false representations in violation of Oklahoma laws,
9 including but not limited to Oklahoma's Consumer Protection Act, OKLA. STAT. tit.
10 15, §§ 751, *et seq.* and Oklahoma's Deceptive Trade Practices Act, OKLA. STAT. tit.
11 78, §§ 53(A), *et seq.*

12 121. Defendants have engaged in unfair competition or unfair or deceptive
13 acts or practices in violation of Oregon laws, including but not limited to Oregon's
14 Unlawful Trade Practices Act in the Oregon Revised Statutes, OR. REV. STAT. §§
15 646.605, *et seq.*

16 122. Defendants have engaged in unfair competition or unfair or deceptive
17 acts or practices in violation of Pennsylvania laws, including but not limited to
18 Pennsylvania's Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-
19 1, *et seq.*

20 123. Defendants have engaged in unfair competition or unfair or deceptive
21 acts or practices in violation of Rhode Island laws, including but not limited to Rhode
22 Island's Deceptive Trade Practices Act under the Rhode Island General Laws, R.I.
23 GEN. LAWS §§ 6-13.1-1, *et seq.*

24 124. Defendants have engaged in unfair competition or unfair or deceptive
25 acts or practices in violation of South Carolina laws, including but not limited to
26 South Carolina's Unfair Trade Practices Act, S.C. CODE ANN. §§ 39-5-10, *et seq.*
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1 125. Defendants have engaged in unfair competition or unfair or deceptive
2 acts or practices in violation of South Dakota laws, including but not limited to South
3 Dakota's Deceptive Trade Practices and Consumer Protection Act, S.D. CODIFIED
4 LAWS §§ 37-24-1, *et seq.*

5 126. Defendants have engaged in unfair competition or unfair or deceptive
6 acts or practices in violation of Tennessee laws, including but not limited to
7 Tennessee's Consumer Protection Act pursuant to the Tennessee Code Annotated,
8 TENN. CODE ANN. §§ 47-18-101, *et seq.*

9 127. Defendants have engaged in unfair competition or unfair or deceptive
10 acts or practices in violation of Texas laws, including but not limited to Texas's
11 Deceptive Trade Practices – Consumer Protection Act, TEX. BUS. & COM. CODE
12 §§ 17.41, *et seq.*

13 128. Defendants have engaged in unfair competition or unfair or deceptive
14 acts or practices in violation of Utah laws, including but not limited to Utah's
15 Consumer Sales Practices Act, UTAH CODE. ANN. §§ 13-11-1, *et seq.*

16 129. Defendants have engaged in unfair competition or unfair or deceptive
17 acts or practices in violation of Vermont laws, including but not limited to Vermont's
18 Consumer Fraud Act in the Vermont Statutes Annotated, VT. STAT. ANN. tit. 9, §§
19 2451, *et seq.*

20 130. Defendants have engaged in unfair competition or unfair or deceptive
21 acts or practices in violation of Virginia laws, including but not limited to Virginia's
22 Consumer Protection Act, VA. CODE ANN. §§ 59.1-196, *et seq.*

23 131. Defendants have engaged in unfair competition or unfair, deceptive or
24 fraudulent acts or practices in violation of Washington laws, including but not limited
25 to Washington's Unfair Business Practices – Consumer Protection Act in
26 Washington's Revised Code, WASH. REV. CODE §§ 19.86.010, *et seq.*

1 132. Defendants have engaged in unfair competition or unfair or deceptive
2 acts or practices in violation of West Virginia laws, including but not limited to West
3 Virginia's Consumer Credit and Protection Act, W. VA. CODE §§ 46A-6-101, *et seq.*

4 133. Defendants have engaged in unfair competition or unfair or deceptive
5 acts or practices in violation of Wisconsin laws, including but not limited to
6 Wisconsin's Deceptive Trade Practices Act, WIS. STAT. §§ 100.18, *et seq.*

7 134. Defendants have engaged in unfair competition or unfair or deceptive
8 acts or practices in violation of Wyoming laws, including but not limited to
9 Wyoming's Consumer Protection Act, WYO. STAT. ANN. §§ 40-12-101, *et seq.*

10 135. The acts, practices, misrepresentations and omissions by Defendants
11 described above, and Defendants' dissemination of deceptive and misleading
12 advertising and marketing materials in connection therewith, occurring in the course
13 of conduct involving trade or commerce, constitute unfair methods of competition and
14 unfair or deceptive acts or practices within the meaning of each of the above-
15 enumerated statutes, because each of these statutes generally prohibits deceptive
16 conduct in consumer transactions, and each of these statutes also prohibits the sale of
17 products which are prohibited by law. Defendants violated each of these statutes by
18 making illegal sales, and also by representing their propane cylinders are empty even
19 though they are not.
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21 136. Plaintiff, and the Class and Subclass members have suffered losses of
22 money as a result of Defendants' misrepresentations because: (a) they would not have
23 purchased their propane cylinders on the same terms if the true facts concerning their
24 contents were known; (b) they paid an unfair price premium due to the
25 misrepresentations concerning cylinder capacity; and (c) the cylinders have not
26 performed as promised.

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FIFTH CAUSE OF ACTION
CALIFORNIA'S CONSUMER LEGAL REMEDIES ACT
ON BEHALF OF THE CALIFORNIA SUBCLASS
(Violation of *California's Civil Code* §§ 1750-1784, *et seq.*)

133. Plaintiff herewith refers to, and by that reference incorporates as though fully set forth herein, each and every paragraph set forth above.

134. Plaintiff brings this claim individually and on behalf of the members of the California Subclass against Defendants.

135. The propane and propane cylinders are “goods” as that term is defined in *California Civil Code* (“*Cal. Civ. Code*”) § 1761(a), which states in part that “goods means tangible chattels bought or leased for use primarily for personal, family, or household purposes.”

136. Each Defendant is a “person” as that term is defined in *Cal. Civ. Code* § 1761(c).

137. Plaintiff, and the Class and Subclass members are consumers as defined in the *CLRA* under *Cal. Civ. Code* § 1761(d).

138. Plaintiff's purchases and/or exchanges of pre-filled propane cylinders constitute a “transaction” as that term is defined in *Cal. Civ. Code* § 1761(e).

139. The policies, practices, acts and conduct described in this Complaint and alleged herein, were intended to and did result in the sale of pre-filled propane cylinders by Defendants to Plaintiff and the California Subclass members that violated *California's Consumer Legal Remedies Act* (“*CLRA*”), *California Civil Code* (Cal. Civ. Code) §§ 1750-1784, *et seq.*, in part by representing that the propane sold to consumers contained in the pre-filled cylinders were “empty” when the consumers can

1 no longer extract any more propane out of the cylinders where in fact the propane
2 cylinders were not in reality empty, and Defendants knew or should have known that
3 these representations of “empty” were false and/or misleading.
4

5 140. Defendants have violated the *CLRA* under *Cal. Civ. Code § 1770(a)* for
6 engaging in “[t]he following unfair methods of competition and unfair or deceptive
7 acts or practices undertaken by any person in a transaction intended to result or which
8 results in the sale or lease of goods or services to any consumer are unlawful” in at
9 least the following ways:
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12 a. Defendants have misrepresented that the propane and propane cylinders
13 have characteristics, ingredients, uses, benefits and/or quantities that they do
14 not by stating that the pre-filled propane cylinders are “empty,” which they
15 are not in direct violation of *Cal. Civ. Code § 1770(a)(5)*;
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18 b. Defendants have represented that the propane and propane cylinders are of a
19 particular standard, quality, or grade by stating that they are “empty” when
20 they are of another standard, quality or grade, or that goods are of a
21 particular style or model if they are of another such as here where
22 Defendants represent that the propane and propane cylinders are “empty”
23 when in reality they are not empty, all in violation of *Cal. Civ. Code §*
24 *1770(a)(7)*;
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1 c. Defendants have deceived consumers by advertising that the propane and
2 propane cylinders are “empty” with the intent to sell the propane and/or sell
3 or exchange the propane cylinders not as they are advertised in violation of
4 *Cal. Civ. Code § 1770(a)(9)*;

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7 d. Defendants have deceived consumers by advertising that the propane and
8 propane cylinders are “empty” with the intent to sell the propane and/or sell
9 or exchange the propane cylinders not as reasonably expected and without
10 disclosing a limitation of the quantity in violation of *Cal. Civ. Code §*
11 *1770(a)(10)*;

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14 e. Defendants have represented that propane and propane cylinders need to be
15 exchanged and/or replaced when they are not in violation of *Cal. Civ. Code*
16 *§ 1770(a)(15)*; and

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18 f. Defendants have represented that the propane and propane cylinders, which
19 are subjects of transactions that have been supplied consistent with the
20 representations that the propane and propane cylinders are “empty,” when in
21 reality they are not empty in violation of *Cal. Civ. Code § 1770(a)(16)*.

22
23 141. On October 29, 2014, Plaintiff notified Defendants in writing, through a
24 certified letter, of the violations contained within this Complaint and Plaintiff has
25 demanded that Defendants remedy the violations (attached hereto as Exhibit C). If
26 Defendants fail to remedy the alleged violations and fail to provide notice to all
27
28

CLASS ACTION COMPLAINT

1 affected consumers within thirty (30) days of receipt of Plaintiff's written notice in the
 2 *CLRA* under *California Civil Code* § 1782 then Plaintiff will amend this Complaint to
 3
 4 add claims for actual, statutory, and punitive damages. Plaintiff, the Class and
 5 Subclass members will also seek a court order enjoining the Defendants from further
 6
 7 wrongful acts and unfair and unlawful business practices, and will seek restitution,
 8 disgorgement of profits, and any other relief this Court deems proper.

9
 10 142. Venue in this District is proper and to the extent necessary under the
 11 *CLRA*, Plaintiff attaches a declaration to this effect (attached hereto as Exhibit D).

12
 13 **SIXTH CAUSE OF ACTION**
 14 CALIFORNIA'S SONG-BEVERLY CONSUMER WARRANTY ACT
 15 ON BEHALF OF THE CALIFORNIA SUBCLASS
 16 (Violation of *California's Civil Code* §§ 1790–1795.8, *et seq.*)

17 143. Plaintiff herewith refers to, and by that reference incorporates as though
 18 fully set forth herein, each and every paragraph set forth above.

19 144. Plaintiff brings this claim individually and on behalf of the members of
 20 the California Subclass against Defendants.

21 145. The propane and propane cylinders are “consumer goods” as that term is
 22 defined in *California Civil Code* (“*Cal. Civ. Code*”) § 1791(a), which states in part
 23 that “consumer goods” are “bought primarily for family or household purposes.”

24 146. Plaintiff and the Class and Subclass members are “buyers” or “retail
 25 buyers” as defined in the *Song-Beverly Consumer Warranty Act* under *Cal. Civ. Code*
 26 § 1791(b).

27 147. Each Defendant is a “distributor” as defined in *Cal. Civ. Code* § 1791(e).

1 148. Each Defendant is a “manufacturer” as defined in *Cal. Civ. Code* §
2 1791(j).

3 149. Each Defendant is a “retail seller” or “seller” as defined in *Cal. Civ.*
4 *Code* § 1791(l).

5 150. Plaintiff’s purchases and/or exchanges of pre-filled propane cylinders
6 constitute “sales” as that term is defined in *Cal. Civ. Code* § 1791(n).

7 151. Defendants expressly warranted in their marketing, advertising and
8 promotion of their pre-filled propane cylinders that the pre-filled propane cylinders
9 were “empty” when consumers could not extract any more propane out of them, and
10 encouraged consumers to replace those “empty” cylinders. These statements are
11 untrue as detailed above.

12 152. The sale of pre-filled propane cylinders to Plaintiff and the California
13 Subclass was also accompanied express and implied warranties that the pre-filled
14 propane cylinders were merchantable. The sale of propane by Defendants to Plaintiff
15 and the California Subclass members also carry and carried an implied warranty of
16 fitness.

17 153. Plaintiff and the California Subclass members returned to purchase more
18 propane based upon these express and implied warranties.

19 154. Defendants breached their express and implied warranties by selling
20 propane in pre-filled cylinders that do not provide a means for consumers to extract all
21 the propane out of them or to get a credit for the remaining and unused propane.
22 Moreover, Defendants have ways to measure the consumers’ leftover propane when
23 they exchange them, but Defendants do not let customers know. In fact, Defendants
24 re-sell the leftover propane and do so to their benefit.
25
26
27
28

155. The nonconformities to the warranties manifested themselves during the applicable express warranty time period, and the nonconformities substantially impair the use and/or value of the propane received by Plaintiff and the California Subclass.

156. Plaintiff and the California Subclass members were injured as a direct and proximate result of Defendants' breaches of these warranties because they would not have purchased the propane on the same terms if the true facts concerning the propane still left in the so-called "empty" pre-filled propane cylinders that is only accessible to Defendants, but that Plaintiff and the California Subclass pay for were known. The Plaintiff and California Subclass also would not have purchased the propane on the same terms if the true facts about the quality or value promised were known.

157. Plaintiff and the California Subclass members are entitled to all general, consequential and incidental damages resulting from Defendants' failure to comply with their obligations under the *Song-Beverly Consumer Warranty Act*.

158. Plaintiff and the California Subclass members are entitled to recover an amount equal to the aggregate of expenses, costs, and attorneys' fees incurred in connection with the commencement and prosecution of this lawsuit.

159. Plaintiff and the California Subclass members are entitled to a civil penalty of up to two times the amount of actual damages against Defendants who willfully failed to comply with their responsibilities under the *Song-Beverly Consumer Warranty Act*.

SEVENTH CAUSE OF ACTION

BREACH OF EXPRESS WARRANTIES UNDER THE COMMON LAWS OF EACH STATE

160. Plaintiff herewith refers to, and by that reference incorporates as though fully set forth herein, each and every paragraph set forth above.

CLASS ACTION COMPLAINT

1 161. Plaintiff and each Class member formed contracts with Defendants each
2 time they purchased pre-filled propane cylinders from Defendants. The terms of each
3 contract include promises and affirmations of fact – e.g., “Exchange Empty for Full” –
4 Defendants made in their marketing, advertising, labeling and/or through the
5 Cylinders themselves that stop customers from extracting all of the propane from the
6 Cylinders as discussed above. As unsophisticated consumers, Plaintiff and Class
7 members expected to get full use of the propane purchased contained in the Cylinders
8 in the pre-filled propane cylinder exchange programs under these warranties. The
9 promises and affirmations of fact, marketing, advertising constitute express
10 warranties and became part of the basis of the bargain, and are part of the standardized
11 contract between Plaintiff and all other members of the Class, on the one hand, and
12 Defendants on the other.

13 162. All conditions precedent to Defendants’ liability under the contracts with
14 Plaintiff and each Class member have been performed by Plaintiff and the Class
15 members when they purchased the propane for its ordinary purposes. Further,
16 Plaintiff and each Class member have performed all covenants and promises required
17 to be performed on their part in accordance with the warranties.

18 163. Defendants expressly warranted in their marketing, advertising and
19 promotion of their pre-filled propane cylinders that the pre-filled propane cylinders
20 were “empty” when consumers could not extract any more propane out of them, and
21 encouraged consumers to replace those “empty” cylinders. These statements are
22 untrue as detailed above. At all times, Defendants knew of the deceptive and
23 misleading nature of the pre-filled propane cylinders equipped with technology
24 devices to prematurely stop the flow of propane before the cylinders were “empty” yet
25 never disclosed this fact to their consumers and still do not disclose this fact to their
26 unwitting consumers.
27
28

1 164. The sale of pre-filled propane cylinders to Plaintiff and the Class were
 2 also accompanied by an express warranty that the pre-filled propane cylinders were
 3 merchantable.

4 165. Plaintiff and Class members returned to purchase more propane based
 5 upon these express warranties.

6 166. Defendants breached their express warranties by selling propane in pre-
 7 filled cylinders that stop providing a means for consumers to obtain a credit or refund,
 8 or to extract all the propane out of them.

9 167. Plaintiff and the Class members were injured as a direct and proximate
 10 result of Defendants' breaches of these warranties because they would not have
 11 purchased the propane on the same terms if the true facts concerning the propane still
 12 left in the so-called "empty" pre-filled propane cylinders that is only accessible to
 13 Defendants, but that Plaintiff and the Class paid for were known. Plaintiff and Class
 14 members also would not have purchased the propane on the same terms if the true
 15 facts about the quality or value promised were known.

16
 17 **EIGHTH CAUSE OF ACTION**
 18 **NEGLIGENT MISREPRESENTATION**

19 168. Plaintiff herewith refers to, and by that reference incorporates as though
 20 fully set forth herein, each and every paragraph set forth above.

21 169. Defendants have violated both federal and state misrepresentation laws
 22 by having misrepresented that the 20-pound pre-filled propane cylinders are "empty"
 23 when customers cannot extract anymore propane from them, but in reality the
 24 cylinders are never empty when customers have possession and use of them.

25 170. These misrepresentations by Defendants are material facts that have
 26 influenced Plaintiff and Class members' purchases of propane.

27 171. Defendants have made these representations with the intent to induce
 28 Plaintiff and the Class members to act upon them.

172. At the time that Defendants made these misrepresentations, Defendants knew or should have known that these misrepresentations were false, and that there are no reasonable grounds to promote the 20-pound pre-filled propane cylinders as “empty” when customers cannot extract any more propane.

173. Plaintiff and the Class members have justifiably and detrimentally relied upon the Defendants’ misrepresentations and, as a proximate result thereof, have suffered damages in the form of lost money from the purchase of more propane than they can access.

174. Plaintiff and the Class members have suffered a loss of money as a result of Defendants’ wrongful conduct because if Plaintiff and the Class members were made aware of the true facts concerning the 20-pound pre-filled propane cylinders then they would not have purchased them under the same terms.

NINTH CAUSE OF ACTION
INTENTIONAL MISREPRESENTATION

175. Plaintiff herewith refers to, and by that reference incorporates as though fully set forth herein, each and every paragraph set forth above.

176. Defendants have violated both federal and state misrepresentation laws by having misrepresented that the 20-pound pre-filled propane cylinders are “empty” when customers cannot extract anymore propane from them, but in reality the cylinders are never empty when customers have possession and use of them.

177. These misrepresentations by Defendants are material facts that have influenced Plaintiff and Class members’ purchases of propane.

178. Defendants have made these representations with the intent to induce Plaintiff and the Class members to act upon them.

179. At the time that Defendants made these misrepresentations, Defendants knew or should have known that these misrepresentations were false, made them with knowledge of their lack of truth or veracity, and that there are no reasonable grounds

1 to promote the 20-pound pre-filled propane cylinders as “empty” when customers
2 cannot extract all the propane still inside the cylinders.

3 180. Plaintiff and the Class members have justifiably and detrimentally relied
4 upon the Defendants’ misrepresentations and, as a proximate result thereof, have
5 suffered damages in the form of lost money from the purchase of more propane than
6 they can access.

7 181. Plaintiff and the Class members have suffered a loss of money as a result
8 of Defendants’ wrongful conduct because if Plaintiff and the Class members were
9 made aware of the true facts concerning the 20-pound pre-filled propane cylinders
10 then they would not have purchased them under the same terms.

11
12 **TENTH CAUSE OF ACTION**
13 **QUASI-CONTRACT/UNJUST ENRICHMENT/RESTITUTION**

14 182. Plaintiff herewith refers to, and by that reference incorporates as though
15 fully set forth herein, each and every paragraph set forth above.

16 183. Plaintiff and Class members conferred a benefit upon Defendants by
17 purchasing propane in pre-filled cylinders from them.

18 184. Defendants received a benefit at Plaintiff and Class members’ expense in
19 the form of: (1) money saved by Defendants who were able to charge their customers
20 for propane that customers could not use and then later extract, re-utilize, keep and/or
21 re-sell that same propane left in the exchanged propane cylinders; (2) overcharge their
22 pre-filled cylinder exchange customers by getting them to buy more propane than they
23 can actually extract and use by selling them a cylinder of propane and not providing
24 them a credit or refund for the propane left inside that customers cannot extract even
25 though it is not empty. Also, Defendants have ways to measure their customers’
26 leftover propane when they exchange them, but Defendants choose not to let
27 customers know how much propane is left. In fact, Defendants extract the leftover
28

1 propane and do so to their benefit. Finally, making their customers believe it was
2 empty, and also telling customers in Defendants' advertising and marketing that
3 cylinders are empty when customers cannot extract any more propane from the
4 cylinders; and (3) getting pre-filled cylinder exchange customers to buy propane more
5 often by shortchanging them since they get less propane from their 20-pound pre-
6 filled cylinders than they think they are getting.

7 185. Defendants have been unjustly enriched by retaining the money derived
8 from Plaintiff and Class members' purchases of propane they cannot extract and use,
9 which retention under these circumstances is unjust and inequitable because
10 Defendants misrepresented the amount of propane customers were getting and
11 misrepresented the capacity of their 20-pound pre-filled cylinders, which caused
12 Plaintiff and Class members to lose money as a result thereof.

13 186. Plaintiff and the Class members have suffered a loss of money as a result
14 of Defendants' unjust enrichment because: (1) they would not have purchased the
15 propane from Defendants on the same terms if the true facts concerning the 20-pound
16 pre-filled cylinders and that they are not ever actually empty when in use or
17 possession by customers had been known; (2) the true facts that Defendants'
18 customers have been overcharged and shortchanged had been known; (3) customers
19 paid an unfair price for propane in the 20-pound pre-filled cylinders due to the
20 misrepresentation that the cylinders are "empty" when in reality they are never empty
21 when customers have use and possession of them; and (4) the propane cylinders did
22 not perform as promised.

23 187. Because Defendants' retention of the non-gratuitous benefit conferred on
24 them by Plaintiff and the Class members is unjust and inequitable, Defendants must
25 pay restitution to Plaintiff and the Class members for its unjust enrichment.

26 ///

ELEVENTH CAUSE OF ACTION
FRAUDULENT CONCEALMENT

188. Plaintiff herewith refers to, and by that reference incorporates as though fully set forth herein, each and every paragraph set forth above.

189. Defendants have violated both federal and state fraud laws by concealing the fact that the 20-pound pre-filled propane cylinders are not empty when customers cannot extract anymore propane from them, but in reality the cylinders are never empty when customers have possession and use of them.

190. These Defendants failed to disclose the material fact that the propane cylinders still have propane in them that Defendants can access, but Plaintiff and Class members cannot. And, Plaintiff and Class members could not have discovered this material fact on their own. Also, Defendants actively concealed this material fact by referring to the cylinders as “empty” when customers cannot extract any more propane from the cylinders.

191. Plaintiff and the Class members did not know of the concealed fact that the cylinders are never “empty” when in their possession.

192. At the time Defendants made these misrepresentations, Defendants knew or should have known that these misrepresentations were false, made them with knowledge of their lack of truth or veracity, and that there are no reasonable grounds to promote the 20-pound pre-filled propane cylinders as “empty” when customers cannot extract any more propane.

193. Plaintiff and the Class members have justifiably and detrimentally relied upon the Defendants’ deceptions and, as a proximate result thereof, have suffered damages in the form of lost money from the purchase of more propane than they can access.

194. Plaintiff and the Class members have suffered a loss of money as a result of Defendants’ wrongful conduct because if Plaintiff and the Class members were

CLASS ACTION COMPLAINT

1 made aware of the true facts concerning the 20-pound pre-filled propane cylinders
2 then they would not have purchased them under the same terms.

3 **TWELFTH CAUSE OF ACTION**
4 **TRESPASS TO CHATTELS**

5 195. Plaintiff herewith refers to, and by that reference incorporates as though
6 fully set forth herein, each and every paragraph set forth above.

7 196. Plaintiff and the Class members were and are, at all times relevant herein,
8 entitled to immediately possess the propane they paid for yet had no access to or to the
9 amount of money they have been overcharged by Defendants for propane they paid
10 for. Further, Plaintiff and the Class members did not consent to have less propane
11 than they paid for. Indeed, Plaintiff and the Class members had no idea that they paid
12 for propane they would never have access to and that only Defendants could extract,
13 re-utilize, keep and/or re-sell this propane because the propane in the pre-filled
14 cylinders is not able to be viewed by customers as the cylinders are painted steel
15 cylinders with no glass viewing windows, and Defendants tell their customers that the
16 cylinders are empty when in reality they are not empty, just inaccessible to customers.
17 The propane and Plaintiff's and Class members' money has been wrongfully withheld
18 by Defendants at the expense of Plaintiff and the Class members.

19 197. As a result of Defendants' trespass to Plaintiff's and Class members'
20 chattel, Plaintiff and the Class members have been damaged by Defendants' conduct
21 in the sum or sums to be proven at trial, including all compensatory damages.

22 **THIRTEENTH CAUSE OF ACTION**
23 **CONVERSION**

24 198. Plaintiff herewith refers to, and by that reference incorporates as though
25 fully set forth herein, each and every paragraph set forth above.

26 199. Plaintiff and the Class members were and are, at all times relevant herein,
27 entitled to immediately possess the amount of money they have been overcharged by
28

1 Defendants for propane they paid for, but only Defendants could extract, re-utilize,
2 keep and/or re-sell it. This propane has been wrongfully withheld by Defendants and
3 used for their profit at the expense of Plaintiff and the Class members.

4 200. As a result of Defendants' acts of conversion, Plaintiff and the Class
5 members have been damaged in the sum or sums to be proven at trial, including all
6 compensatory damages.

7 **FOURTEENTH CAUSE OF ACTION**
8 **MONEY HAD AND RECEIVED**

9 201. Plaintiff herewith refers to, and by that reference incorporates as though
10 fully set forth herein, each and every paragraph set forth above.

11 202. Defendants' customers paid for propane in pre-filled cylinders that they
12 had no access to use yet Defendants, on the other hand, overcharged its customers for
13 the unused propane and then kept the money customers paid for that unused propane
14 by customers for themselves. In addition, Defendants have had access to the propane
15 that was inaccessible to Plaintiff and the Class members so they could use it, resell it,
16 keep it, or re-utilize it.

17 203. Defendants failed to remit money or the propane to Plaintiff and the
18 Class members.

19 204. By this conduct, Defendants were unjustly enriched by the amount of
20 money they charged Plaintiff and the Class members for the propane the customers
21 could not use.

22 **FIFTEENTH CAUSE OF ACTION**
23 **BREACH OF CONTRACT**

24 205. Plaintiff herewith refers to, and by that reference incorporates as though
25 fully set forth herein, each and every paragraph set forth above.

26 206. Plaintiff and each Class member formed a contract with Defendants at
27 the time that Plaintiff and the Class members purchased propane in the 20-pound pre-
28

1 filled cylinders. The terms of the contract include the promises and affirmations of
 2 fact made by Defendants on their marketing, packaging and labeling, as described
 3 above. The propane marketing, packaging and labeling constituted express
 4 warranties, which became part of the basis of the bargain and were part of a
 5 standardized contract between Plaintiff and Class members on the one hand, and
 6 Defendants on the other.

7 207. All conditions precedent to Defendants' liability under the contracts were
 8 performed by Plaintiff and the Class members.

9 208. Defendants breached the terms of the contracts, including the express
 10 warranties with Plaintiff and the Class members by not providing the propane as
 11 promised – stating that the pre-filled cylinders are “empty” when indeed they are
 12 never in reality empty while Plaintiff and the Class members have use and possession
 13 of them.

14 209. As a result of Defendants' breach of its contracts with Plaintiff and the
 15 Class members, Plaintiff and the Class members have been damaged at the very least
 16 in the amount of the purchase price of any and all of the propane they purchased, in
 17 the amount of the propane they purchased, but could not access and use and/or the
 18 amount of propane they purchased without being given credit for the propane left in
 19 their exchanged tanks which the resell to the next consumer without giving credit.
 20

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff, individually and on behalf of the proposed Class,
 23 seeks judgment against Defendants, as follows:

- 24 1. For an Order certifying the National Class under Rule 23 of the *Federal*
 25 *Rules of Civil Procedure*;
- 26 2. For an Order certifying the California Subclass under Rule 23 of the
 27 *Federal Rules of Civil Procedure*, and/or for an Order certifying the proposed
 28

1 California Subclass under *California Code of Civil Procedure* § 382 and *California*
2 *Civil Code* § 1781;

3 3. For an Order appointing Plaintiff as the Class Representative and as the
4 Subclass Representative;

5 4. For an Order appointing Plaintiff's counsel as counsel for the National
6 Class and California Subclass;

7 5. For an Order finding in favor of Plaintiff and the National Class and the
8 California Subclass on all causes of action asserted herein;

9 6. For an Order declaring that Defendants' conduct violates the statutes
10 referenced herein;

11 7. That the Court declare, adjudge and decree that the Defendants violated
12 *California Business and Professions Code* §§ 17200, *et seq.* and 17500, *et seq.* by
13 failing to pay Plaintiff and the Class and California Subclass members for unused
14 propane left in their cylinders when they took them into exchange stations and for
15 making misleading statements to consumers;

16 8. For the Court to exercise its equity powers and under Business and
17 Professions Code §§ 17203 and 17535 that Defendants, their successors and assigns,
18 and all persons, corporations or other entities acting under, by, through or on behalf
19 thereof, or acting in concert or participation with or for them, be permanently
20 restrained and enjoined from violating Business and Professions Code §§ 17200 by
21 committing any unlawful, fraudulent and/or unfair acts, as more specifically alleged
22 above;

23 9. That the Court make such orders or judgments under *Business and*
24 *Professions Code* §§ 17203 and 17535, including awarding of rescission,
25 disgorgement and restitution, as may be necessary to preserve assets and restore funds
26 acquired by means of the unlawful and unfair business practices as alleged herein;
27
28

1 10. Under *Business and Professions Code* §§ 17206 and 17536 that
2 Defendants be ordered to pay civil penalties in the amount of Two Thousand Five
3 Hundred Dollars (\$2,500) for each violation of § 17200 of the Business and
4 Professions Code, and Two Thousand Five Hundred Dollars (\$2,500) for each
5 violation of § 17500 of the Business and Professions Code as alleged herein;

6 11. For all other Orders, findings, and determinations identified and sought in
7 this Complaint;

8 12. For an Order awarding compensatory and punitive damages in amounts
9 to be determined by the Court and/or jury;

10 13. For an Order awarding special damages according to proof;

11 14. For prejudgment interest on all amounts awarded as allowed by law;

12 15. For interest on the amount of any and all economic losses, at the
13 prevailing legal rate;

14 16. For an Order of restitution and all other forms of equitable monetary
15 relief;

16 17. For Injunctive Relief as pleaded, including under the California Legal
17 Remedies Act on behalf of the California Subclass, or as the Court may deem proper;

18 18. For and Order awarding Plaintiff and the Class and the California
19 Subclass members their reasonable attorneys' fees, expenses, and costs of suit,
20 including as provided by statute such as under *California Code of Civil Procedure* §
21 1021.5; and

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

1 19. For any other such relief as the Court deems just and proper.

2 **DEMAND FOR JURY TRIAL**

3 Plaintiff demands a trial by jury of all issues so triable.

4
5 DATED: October 30, 2014

Respectfully submitted,

6
7 **FARUQI & FARUQI, LLP**

8
9 
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12 Los Angeles, California 90024
13 Tel: (424) 256-2884
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15 Email: dbower@faruqilaw.com

16
17 *Attorneys for Plaintiff Linda Hawkins*
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EXHIBIT A

AmeriGas Partners, L.P.

2013 Annual Report



Driving Every Day

***Our vision will span
the country
while our service goes
door to door.***

Business Strategy

On January 12, 2012, AmeriGas Partners completed the acquisition of the subsidiaries of ETP that operated ETP's propane distribution business ("Heritage Propane"). The acquired business conducted its propane operations in 41 states through HOLP and Titan Propane LLC. Effective August 1, 2012, Titan Propane LLC merged with and into AmeriGas OLP. Effective July 1, 2013, HOLP and its general partner, Heritage Operating GP, LLC, merged with and into AmeriGas OLP. According to LP-Gas Magazine rankings published on February 1, 2012, Heritage Propane was the third largest retail propane distributor in the United States, delivering over 500 million gallons to more than one million retail propane customers in 2011. See "Management's Discussion and Analysis of Financial Condition and Results of Operations" and Note 4 to Consolidated Financial Statements.

Since January 2012, our focus has been on the successful integration of Heritage Propane and the achievement of the benefits of the Heritage Propane acquisition. In addition, we have continued our efforts to execute our strategy to grow by (i) pursuing opportunistic acquisitions, (ii) developing internal sales and marketing programs, (iii) leveraging our scale and driving productivity, and (iv) achieving world class safety performance. We regularly consider and evaluate opportunities for growth through the acquisition of local, regional, and national propane distributors. We compete for acquisitions with others engaged in the propane distribution business. During Fiscal 2013, we completed the acquisition of two propane distribution businesses. We expect that internal growth will be provided in part from the continued expansion of our AmeriGas Cylinder Exchange ("ACE") program through which consumers can purchase propane cylinders or exchange empty propane cylinders at various retail locations, and our National Accounts program, through which we encourage multi-location propane users to enter into a supply agreement with us rather than with many suppliers.

General Partner Information

The Partnership's website can be found at www.amerigas.com. Information on our website is not intended to be incorporated into this Report. The Partnership makes available free of charge at this website (under the tab "Investor Relations," caption "SEC Filings") copies of its reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, including its Annual Reports on Form 10-K, its Quarterly Reports on Form 10-Q and its Current Reports on Form 8-K. The General Partner's Principles of Corporate Governance, Code of Ethics for the Chief Executive Officer and Senior Financial Officers, Code of Business Conduct and Ethics for Directors, Officers and Employees, and charters of the Corporate Governance, Audit and Compensation/Pension Committees of the Board of Directors of the General Partner are also available on the Partnership's website (under the tab "Investor Relations," caption "Corporate Governance"). All of these documents are also available free of charge by writing to Treasurer, AmeriGas Propane, Inc., P.O. Box 965, Valley Forge, PA 19482.

Products, Services and Marketing

The Partnership serves over 2 million customers in all 50 states from over 2,500 propane distribution locations. In addition to distributing propane, the Partnership also sells, installs and services propane appliances, including heating systems. Typically, we are located in suburban and rural areas where natural gas is not readily available. Our district offices generally consist of a business office, appliance showroom, warehouse, and service facilities, with one or more 18,000 to 30,000 gallon storage tanks on the premises. As part of its overall transportation and distribution infrastructure, the Partnership operates as an interstate carrier in 48 states throughout the continental United States. It is also licensed as a carrier in the Canadian Provinces of Ontario, British Columbia and Quebec.

The Partnership sells propane primarily to residential, commercial/industrial, motor fuel, agricultural and wholesale customers. The Partnership distributed nearly 1.4 billion gallons of propane in Fiscal 2013. Approximately 92% of the Partnership's Fiscal 2013 sales (based on gallons sold) were to retail accounts and approximately 8% were to wholesale customers. Sales to residential customers in Fiscal 2013 represented approximately 42% of retail gallons sold; commercial/industrial customers 33%; motor fuel customers 12%; and agricultural customers 8%. Transport gallons, which are large-scale deliveries to retail customers other than residential, accounted for 5% of Fiscal 2013 retail gallons. No single customer represents, or is anticipated to represent, more than 5% of the Partnership's consolidated revenues.

The Partnership continues to expand its ACE program. At September 30, 2013, ACE cylinders were available at nearly 47,500 retail locations throughout the United States. Sales of our ACE cylinders to retailers are included in commercial/industrial sales. The ACE program enables consumers to purchase propane cylinders or exchange their empty propane cylinders at various retail locations such as home centers, gas stations, mass merchandisers and grocery and convenience stores. We also supply retailers with large propane tanks to enable retailers to replenish customers' propane cylinders directly at the retailer's location.

Residential customers use propane primarily for home heating, water heating and cooking purposes. Commercial users, which include hotels, restaurants, churches, warehouses and retail stores, generally use propane for the same purposes as residential customers. Industrial customers use propane to fire furnaces, as a cutting gas and in other process applications. Other industrial

EXHIBIT B

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-K

(Mark One)

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended July 31, 2013

or

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from to

Commission file numbers: 001-11331, 333-06693, 000-50182 and 000-50183

Ferrellgas Partners, L.P.
Ferrellgas Partners Finance Corp.
Ferrellgas, L.P.
Ferrellgas Finance Corp.

(Exact name of registrants as specified in their charters)

Delaware
Delaware
Delaware
Delaware

43-1698480
43-1742520
43-1698481
14-1866671

(States or other jurisdictions of incorporation or organization)

(I.R.S. Employer Identification Nos.)

7500 College Boulevard,
Suite 1000, Overland Park, Kansas
(Address of principal executive office)

66210
(Zip Code)

Registrants' telephone number, including area code:
(913) 661-1500

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
Common Units of Ferrellgas Partners, L.P.	New York Stock Exchange

Securities registered pursuant to section 12(g) of the Act:

Limited Partner Interests of Ferrellgas, L.P.
Common Stock of Ferrellgas Partners Finance Corp.
Common Stock of Ferrellgas Finance Corp.
(Title of class)

Indicate by check mark if the registrants are well-known seasoned issuers, as defined in Rule 405 of the Securities Act.

Ferrellgas Partners, L.P.: Yes ☒ No ☐Ferrellgas Partners Finance Corp., Ferrellgas, L.P. and Ferrellgas Finance Corp.: Yes ☐ No ☒Indicate by check mark if the registrants are not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrants (1) have filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrants were required to file such reports), and (2) have been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrants have submitted electronically and posted on their corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrants were required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrants' knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

addition, our SEC filings are available on our website at www.ferrellgas.com at no cost as soon as reasonably practicable after our electronic filing or furnishing thereof with the SEC. Please note that any Internet addresses provided in this Annual Report on Form 10-K are for informational purposes only and are not intended to be hyperlinks. Accordingly, no information found and/or provided at such Internet addresses is intended or deemed to be incorporated by reference herein.

General

We believe we are a leading distributor of propane and related equipment and supplies to customers primarily in the United States and conduct our business as a single reportable operating segment. We believe that we are the second largest retail marketer of propane in the United States as measured by the volume of our retail sales in fiscal 2013, and the largest national provider of propane by portable tank exchange.

We serve residential, industrial/commercial, portable tank exchange, agricultural, wholesale and other customers in all 50 states, the District of Columbia and Puerto Rico. Our operations primarily include the distribution and sale of propane and related equipment and supplies with concentrations in the Midwest, Southeast, Southwest and Northwest regions of the United States. Sales from propane distribution are generated principally from transporting propane purchased from third parties to our propane distribution locations and then to tanks on customers' premises or to portable propane tanks delivered to nationwide and local retailers. Sales from portable tank exchanges, nationally branded under the name Blue Rhino, are generated through a network of independent and partnership-owned distribution outlets. Our market areas for our residential and agricultural customers are generally rural, while our market areas for our industrial/commercial and portable tank exchange customers is generally urban.

In the residential and industrial/commercial markets, propane is primarily used for space heating, water heating, cooking and other propane fueled appliances. In the portable tank exchange market, propane is used primarily for outdoor cooking using gas grills. In the agricultural market, propane is primarily used for crop drying, space heating, irrigation and weed control. In addition, propane is used for a variety of industrial applications, including as an engine fuel which is burned in internal combustion engines that power vehicles and forklifts, and as a heating or energy source in manufacturing and drying processes.

In our past three fiscal years, our total annual propane sales volumes in gallons were:

Fiscal year ended	Propane sales volumes (in millions)
July 31, 2013	901
July 31, 2012	878
July 31, 2011	900

Our History

We were formed in 1994 in connection with our initial public offering. Our operations began in 1939 as a single location propane distributor in Atchison, Kansas. Our initial growth largely resulted from small acquisitions in rural areas of eastern Kansas, northern and central Missouri, Iowa, western Illinois, southern Minnesota, South Dakota and Texas. Since 1986, we have acquired approximately 195 propane distributors. As of July 31, 2013, we distribute product to our propane customers from 875 propane distribution locations. See Item 2. "Properties" for more information about our propane distribution locations.

Business Strategy

Our business strategy is to:

- expand our operations through disciplined acquisitions and internal growth;
- capitalize on our national presence and economies of scale;
- maximize operating efficiencies through utilization of our technology platform; and
- align employee interests with our investors through significant employee ownership.

Expand our operations through disciplined acquisitions and internal growth

We expect to continue the expansion of our propane customer base through the acquisition of other propane distributors. We intend to concentrate on acquisition activities in geographical areas within or adjacent to our existing operating areas, and on a selected basis in areas that broaden our geographic coverage. We also intend to focus on acquisitions that can be efficiently combined with our existing propane operations to provide an attractive return on investment after taking into account the

EXHIBIT C



FARUQI & FARUQI
LLP
ATTORNEYS AT LAW

NEW YORK

CALIFORNIA

DELAWARE

PENNSYLVANIA

October 29, 2014

VIA CERTIFIED U.S. MAIL
RETURN RECEIPT REQUESTED

AmeriGas Propane, Inc.
460 North Gulph Road
King of Prussia, Pennsylvania 19406
Phone: (610) 337-7000

Ferrellgas Partners, L.P. d/b/a Blue Rhino, LLC
7500 College Boulevard, Suite 1000
Overland Park, Kansas 66210
Phone: (913) 661-1500

AmeriGas Propane, L.P.
460 North Gulph Road
King of Prussia, Pennsylvania 19406
Phone: (610) 337-7000

Ferrellgas, L.P. d/b/a Blue Rhino, LLC
7500 College Boulevard, Suite 1000
Overland Park, Kansas 66210
Phone: (913) 661-1500

Ferrellgas, Inc.
7500 College Boulevard, Suite 1000
Overland Park, Kansas 66210
Phone: (913) 661-1500

***Re: Notification and Pre-Lawsuit Demand Pursuant to the California Consumer
Legal Remedies Act Under California Civil Code Section 1782 Concerning Propane***

To Whom It May Concern:

Please be advised that this law firm represents Linda Hawkins ("Plaintiff") on behalf of herself and all others similarly situated in an action against AmeriGas Propane, Inc., AmeriGas Propane, L.P., their parent companies and subsidiaries, and Ferrellgas Partners, L.P. d/b/a Blue Rhino, LLC, Ferrellgas, L.P. d/b/a Blue Rhino, LLC, Ferrellgas, Inc., their parent companies and subsidiaries ("Defendants"). All further communications intended for Plaintiff must be directed through this law firm. Furthermore, this demand letter is meant to comply with the requirements of *California Civil Code* §1782 and *California Commercial Code* §2607, and all other laws requiring a pre-suit demand prior to litigation, on behalf of Plaintiff and all others similarly situated should this matter proceed to litigation.

Plaintiff seeks to maintain a class action on behalf of all consumers who purchased Defendants' pre-filled propane cylinders through Defendants' propane cylinder exchange programs. Plaintiff alleges through this action that Defendants have and continue to resell propane, through their pre-filled propane cylinder exchange programs, that is inaccessible and unused by their customers reaping multiple profits on the unused propane sold to consumers in the United States. More specifically, Defendants are being paid multiple times for unused, but previously purchased propane without giving proper credit to consumers.



FARUQI & FARUQI
LLP
ATTORNEYS AT LAW

After purchasing propane from Defendants, Plaintiff learned that she was not being credited for the unused propane left in the cylinders that she was taking to be exchanged and had no access to herself, and that Defendants are charging her money for this unused and inaccessible propane.

These business practices violate California consumer protection statutes.

Pursuant to *California Civil Code* §1782(a)(1), Plaintiff further provides notice that she believes Defendants have violated, and continue to violate the California Consumers Legal Remedies Act (“CLRA”), and specifically *California Civil Code* §1770, in at least the following respects:

1. Section 1770(a)(5) - Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have;
2. Section 1770(a)(7) - Representing that goods are of a particular standard, quality or grade if they are of another;
3. Section 1770(a)(9) - Advertising goods or services with intent not to sell them as advertised; and
4. Section 1770(a)(16) – Representing that goods have been supplied in accordance with previous representations, when they were not.

Furthermore, pursuant to *California Civil Code* §1782(a)(2), this letter not only serves as notification of your alleged violations of §1770 as outlined above, but also Plaintiff’s demand, and all others similarly situated, that Defendants immediately correct, repair, replace, refund and otherwise rectify the violations of § 1770 on a class-wide basis, including but not limited to the following actions: that Defendants cease and desist in making representations regarding the propane tanks that are not in fact true, that Defendants engage in a corrective advertising campaign that will alert the public to its misconceptions about the propane tanks, that Defendants refund and/or provide customers a credit for propane that is inaccessible to them and left unused in the propane tanks and otherwise compensate consumers for the inability to use the propane left in the cylinders, the Defendants provide a delivery system that allows customers to access and use of all propane in the cylinders, that Defendants should also provide restitution to all of their customers that purchase propane through Defendants’ propane cylinder exchange programs and further cease these unfair and deceptive business practices, that Defendants refund the purchase price paid for the propane plus interest, costs and fees, to all purchasers of the propane in the propane tanks, and that Defendant provide restitution on a class-wide basis.



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LLP
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This letter also serves as a thirty (30) day notice and demand requirement under §1782 for damages. Accordingly, should your company fail to rectify the unfair and deceptive scheme to make more money off reutilizing unused, but previously purchased propane on a class-wide basis within thirty (30) days of receipt of this letter, our client will amend her Complaint for injunctive relief, to request actual damages, punitive damages, and all other damages permitted under the California Consumer Legal Remedies Act along with interest, attorneys' fees and costs for your companies' violations of *California Civil Code* §1770.

Please contact me right away if you wish to discuss an appropriate way to remedy this matter without the need to resort to court filings. If I do not hear from you promptly, I will take that as an indication that you are not interested in doing so.

Sincerely,

A handwritten signature in black ink, appearing to read 'David E. Bower', with a long horizontal line extending to the right.

David E. Bower

Faruqi & Faruqi, LLP

7009 2820 0002 0229 2333

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CERTIFIED MAILTM RECEIPT
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For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 48
Certified Fee	330
Return Receipt Fee (Endorsement Required)	—
Restricted Delivery Fee (Endorsement Required)	—
Total Postage & Fees	\$ 378

Sent To: *Americas Propane, L.P.*
Street, Apt. No., or PO Box No. *460 North Gulph Road*
City, State, ZIP+4 *King of Prussia, Pennsylvania 19156*

PS Form 3800, August 2006 See Reverse for Instructions



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Postage	\$ 48
Certified Fee	330
Return Receipt Fee (Endorsement Required)	—
Restricted Delivery Fee (Endorsement Required)	—
Total Postage & Fees	\$ 378

Sent To: *Ferrellgas, L.P. d/b/a Blue Rhino, LLC*
Street, Apt. No., or PO Box No. *7500 College Blvd, Suite 1000*
City, State, ZIP+4 *Overland Park, Kansas 66210*

PS Form 3800, August 2006 See Reverse for Instructions



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Postage	\$ 48
Certified Fee	330
Return Receipt Fee (Endorsement Required)	—
Restricted Delivery Fee (Endorsement Required)	—
Total Postage & Fees	\$ 378

Sent To: *Americas Propane, Inc.*
Street, Apt. No., or PO Box No. *460 North Gulph Road*
City, State, ZIP+4 *King of Prussia, Pennsylvania 19156*

PS Form 3800, August 2006 See Reverse for Instructions



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Postage	\$ 48
Certified Fee	330
Return Receipt Fee (Endorsement Required)	—
Restricted Delivery Fee (Endorsement Required)	—
Total Postage & Fees	\$ 378

Sent To: *Ferrellgas Partners, L.P. d/b/a Blue Rhino, Inc.*
Street, Apt. No., or PO Box No. *7500 College Blvd, Suite 1000*
City, State, ZIP+4 *Overland Park, Kansas 66210*

PS Form 3800, August 2006 See Reverse for Instructions



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Certified Fee	330
Return Receipt Fee (Endorsement Required)	—
Restricted Delivery Fee (Endorsement Required)	—
Total Postage & Fees	\$ 378

Sent To: *Ferrellgas Inc.*
Street, Apt. No., or PO Box No. *7500 College Blvd Suite 1000*
City, State, ZIP+4 *Overland Park, Kansas 66210*

PS Form 3800, August 2006 See Reverse for Instructions



EXHIBIT D

1 I, Linda A. Hawkins, declare as follows:

2 1. I am a plaintiff in this action and a citizen of the State of California. I have personal
3 knowledge of the facts herein and if called as a witness, I could and would testify competently
4 thereto.

5 2. This is a proper place for trial in that a substantial portion of the transaction alleged
6 occurred in the District where this case is being filed. I am informed and believe consumers have
7 purchased this product in the District where the case is being filed and all across the nation.

8 3. I purchased prefilled propane which I am informed are referred to as "20 pound
9 Cylinders" (*Propane Tank* herein) at a retail store in Los Angeles County California commonly
10 referred to as a changing station. Based on the way the propane changing stations operate, I bring
11 in my used Propane Tank and exchange it for a prefilled Propane Tank. I am informed now and
12 believe that every tank I return for exchange has some unused propane left inside it that I cannot
13 extract for my consumption. Although I purchase the product and pay full price I am never given a
14 credit or refund for the unused propane left in the tank when I turn it in. I exchange the used tank,
15 with the left over propane inside, for a different prefilled Propane Tank each time. I am now
16 informed and believe that the Defendants turn around and sell the unused propane in the tanks I
17 return to them to other customers. Essentially, I am informed and believe they are selling the
18 unused propane multiple times and the propane distributors and/or manufacturers are engaging in
19 an unfair and deceptive scheme to increase profits at my and other consumers' expense.

20 I declare under the penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct, executed on September 01, 2014, in Los Angeles, California.

22
23 
24 Linda A. Hawkins

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California ☒

Linda Hawkins,
*individually and on behalf
of all other similarly situated,*

Plaintiff(s)

v.

UGI Corporation, AmeriGas Propane, Inc., AmeriGas Propane, L.P., AmeriGas Partners
L.P. dba AmeriGas Cylinder Exchange, Ferrellgas Company Inc., Ferrellgas, L.P. dba
Blue Rhino LLC, Ferrellgas Partners, L.P., Ferrellgas, Inc., Ferrellgas Partners Finance
Corp., Ferrellgas Finance Corp.,

Defendant(s)

Civil Action No.

CV 14-08461

RSWL(JC)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

David E. Bower (SBN 119546)
FARUQI & FARUQI, LLP
10866 Wilshire Boulevard, Suite 1470
Los Angeles, California 90024
Phone: (424) 256-2884; Fax: (424) 256-2885; E-mail: dbower@faruqilaw.com.

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

OCT 31 2014

Date: _____

CLERK OF COURT



1170

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: _____

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I. (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Linda Hawkins, Individually and On Behalf of all Others Similarly Situated	DEFENDANTS (Check box if you are representing yourself <input type="checkbox"/>) UGI Corporation, AmeriGas Propane, Inc., AmeriGas Propane, L.P., AmeriGas Partners, L.P. dba AmeriGas Cylinder Exchange, Ferrellgas Company, Inc., Ferrellgas, L.P. dba Blue Rhino L.L.C., Ferrellgas Partners, L.P., Ferrellgas, Inc., Ferrellgas Partners Finance Corp., Ferrellgas Finance Corp.
(b) County of Residence of First Listed Plaintiff <u>Los Angeles</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant <u>New Castle</u> (IN U.S. PLAINTIFF CASES ONLY)
(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. DAVID E. BOWER (SBN 119546) FARUQI & FARUQI, LLP, 10866 Wilshire Boulevard, Suite 1470, Los Angeles, CA 90024 Phone: (424) 256-2884; Fax: (424) 256-2885; E-mail: dbower@faruqilaw.com	Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

II. BASIS OF JURISDICTION (Place an X in one box only.)

- | | |
|--|--|
| <input type="checkbox"/> 1. U.S. Government Plaintiff

<input type="checkbox"/> 2. U.S. Government Defendant | <input type="checkbox"/> 3. Federal Question (U.S. Government Not a Party)

<input checked="" type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III) |
|--|--|

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
 (Place an X in one box for plaintiff and one for defendant)

- | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|---|-----|--|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|---|----------------------------|---------------------------------------|----------------|--|-----|-----|----------------------------|----------------------------|----------------------------|---------------------------------------|----------------------------|----------------------------|
| Citizen of This State

Citizen of Another State

Citizen or Subject of a Foreign Country | <table border="0"> <tr> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 3</td> <td>Foreign Nation</td> </tr> </table> | PTF | DEF | | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 3 | <input checked="" type="checkbox"/> 3 | Foreign Nation | <table border="0"> <tr> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table> | PTF | DEF | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| PTF | DEF | | | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 3 | <input checked="" type="checkbox"/> 3 | Foreign Nation | | | | | | | | | | | | | | | | | | | | |
| PTF | DEF | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | | | | | | | | | | | | | | | | | | | | | |

IV. ORIGIN (Place an X in one box only.)

- | | | | | | |
|--|--|---|--|---|---|
| <input checked="" type="checkbox"/> 1. Original Proceeding | <input type="checkbox"/> 2. Removed from State Court | <input type="checkbox"/> 3. Remanded from Appellate Court | <input type="checkbox"/> 4. Reinstated or Reopened | <input type="checkbox"/> 5. Transferred from Another District (Specify) | <input type="checkbox"/> 6. Multi-District Litigation |
|--|--|---|--|---|---|

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: ☒ Yes ☐ No **MONEY DEMANDED IN COMPLAINT:** \$ over 5,000,000.00
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 28 U.S.C. section 1332(d)(2).

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	PERSONAL INJURY	PERSONAL PROPERTY	<input type="checkbox"/> 530 General	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	Other:	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input checked="" type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	LABOR	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 740 Railway Labor Act	
			<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 751 Family and Medical Leave Act	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 790 Other Labor Litigation	
				<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

CV-71 (10/14)

CIVIL COVER SHEET

Page 1 of 3

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

QUESTION A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question E, below, and continue from there.	STATE CASE WAS PENDING IN THE COUNTY OF: <input type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo <input type="checkbox"/> Orange <input type="checkbox"/> Riverside or San Bernardino	INITIAL DIVISION IN CACD IS: Western Southern Eastern	
QUESTION B: Is the United States, or one of its agencies or employees, a PLAINTIFF in this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question C. If "yes," answer Question B.1, at right.	B.1. Do 50% or more of the defendants who reside in the district reside in Orange Co.? <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there. <input type="checkbox"/> NO. Continue to Question B.2.	
	B.2. Do 50% or more of the defendants who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there. <input type="checkbox"/> NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.	
QUESTION C: Is the United States, or one of its agencies or employees, a DEFENDANT in this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question D. If "yes," answer Question C.1, at right.	C.1. Do 50% or more of the plaintiffs who reside in the district reside in Orange Co.? <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there. <input type="checkbox"/> NO. Continue to Question C.2.	
	C.2. Do 50% or more of the plaintiffs who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there. <input type="checkbox"/> NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.	
QUESTION D: Location of plaintiffs and defendants? Indicate the location(s) in which 50% or more of <i>plaintiffs who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.) Indicate the location(s) in which 50% or more of <i>defendants who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	A. Orange County	B. Riverside or San Bernardino County	C. Los Angeles, Ventura, Santa Barbara, or San Luis Obispo County
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D.1. Is there at least one answer in Column A? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "yes," your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question E, below, and continue from there. If "no," go to question D2 to the right. →	D.2. Is there at least one answer in Column B? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "yes," your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question E, below. If "no," your case will be assigned to the WESTERN DIVISION. Enter "Western" in response to Question E, below. ↓		
QUESTION E: Initial Division? Enter the initial division determined by Question A, B, C, or D above: →	INITIAL DIVISION IN CACD WESTERN <input checked="" type="checkbox"/>		
QUESTION F: Northern Counties? Do 50% or more of plaintiffs or defendants in this district reside in Ventura, Santa Barbara, or San Luis Obispo counties? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

IX(a). IDENTICAL CASES: Has this action been previously filed in this court?

☒ NO

☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Is this case related (as defined below) to any civil or criminal case(s) previously filed in this court?

☒ NO

☐ YES

If yes, list case number(s): _____

Civil cases are related when they (check all that apply):


- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges.

Note: That cases may involve the same patent, trademark, or copyright is not, in itself, sufficient to deem cases related.

A civil forfeiture case and a criminal case are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. Involve one or more defendants from the criminal case in common and would entail substantial duplication of labor if heard by different judges.

**X. SIGNATURE OF ATTORNEY
(OR SELF-REPRESENTED LITIGANT):**



DATE:

10-30-14

Notice to Counsel/Parties: The submission of this Civil Cover Sheet is required by Local Rule 3-1. This Form CV-71 and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. For more detailed instructions, see separate instruction sheet (CV-071A).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))