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17 **UNITED STATES DISTRICT COURT**  
18 **SOUTHERN DISTRICT OF CALIFORNIA**

19 MARLIESE WEED on behalf of herself and all  
20 others similarly situated,

21 Plaintiff,

22 v.

23 AMERICA'S COLLECTIBLES NETWORK,  
24 INC. d/b/a JEWELRY TELEVISION,

25 Defendant.

26 Case No. \_\_\_\_\_

27 **CLASS ACTION COMPLAINT**  
28 **FOR DAMAGES AND**  
**INJUNCTIVE RELIEF**

**JURY TRIAL DEMANDED**

1 Plaintiff, Marliese Weed, individually and on behalf of all others similarly situated, by  
2 and through her undersigned attorneys, brings this action against Defendant America's  
3 Collectibles Network, Inc. d/b/a Jewelry Television ("Jewelry Television"), based upon personal  
4 knowledge as to herself, and as to all other matters, based upon information and belief and upon  
5 the investigation of Plaintiff's counsel to date, demanding a trial by jury, and alleges as follows:

6 **INTRODUCTION**

7 1. Plaintiff Marliese Weed brings this action as a class action on behalf of herself  
8 and a Class consisting of persons or entities in the State of California and elsewhere throughout  
9 the United States who purchased gemstones described by Defendant as green or red "andesine -  
10 labradorite" from Defendant from January 1, 2003 – the present. Plaintiff brings this action to  
11 recover the money that she and the Class spent on gemstones fraudulently advertised and  
12 misrepresented by Defendant as being a highly-coveted, extremely rare, all natural, expensive  
13 gem that looks like Oregon sunstone, an exceptionally rare feldspar with vivid reddish-orange  
14 colors. In reality, Defendant has sold to customers throughout the United States of America low-  
15 cost yellow or colorless labradorite that has been given a chemical "facelift" to make it appear  
16 like the rare Oregon sunstone.

17 **THE PARTIES**

18 2. Plaintiff Marliese Weed is a resident of the County of San Diego, State of  
19 California. Ms. Weed purchased andesine-labradorite from Defendant during the class period at  
20 a cost of over \$4,000.

21 3. Defendant America's Collectibles Network, Inc. d/b/a Jewelry Television is a  
22 corporation organized under the law of the State of Tennessee and with a principal place of  
23 business at 10001 Kingston Pike Street 57, Knoxville, Tennessee, 37922. Defendant is  
24 authorized to do business in California, has sufficient minimum contacts with California,  
25 broadcasts a full-time satellite and cable television show on channels JTV and JWLV  
26 nationwide and in California, promotes and sells its products in California and nationwide on  
27 www.jewelerytelevision.com, markets, delivers, promotes, and advertises its products to  
28 consumers in California and throughout the United States, and/or otherwise has intentionally

1 availed themselves of the market in California through the promotion, marketing and sale of its  
2 products in California, so as to render the exercise of jurisdiction by this Court permissible under  
3 traditional notions of fair play and substantial justice.

#### 4 **JURISDICTION AND VENUE**

5 4. The Court has original jurisdiction over this class action pursuant to 28 U.S.C.  
6 §1332(d)(2). Plaintiff and members of the putative class have suffered aggregate damages  
7 exceeding \$5,000,000, exclusive of interest.

8 5. Venue in this judicial district is proper pursuant to 28 U.S.C. §1391(a)(2) because  
9 a substantial part of the events or omissions giving rise to the claim occurred in this judicial  
10 district. At all relevant times, Defendant marketed and sold its products to purchasers in  
11 California, including but not limited to in this County.

#### 12 **FACTS**

13 6. During the class period Defendant marketed and sold gemstones which it has  
14 described as “andesine-labradorite” (the “Gemstones”). According to Defendant, these  
15 Gemstones are all natural, among the most rare stones on the face of the earth, and the most  
16 collectible Gemstone on the planet that has seen incredible appreciation in the recent past.

17 7. These claims false: JTV has now admitted –after a slew of consumer complaints -  
18 that the Gemstones are “heated.” Defendant has sold what in reality is nothing but colorless and  
19 yellow common feldspar that was chemically treated to give the Gemstones their color. Demand  
20 for these Gemstones was artificially inflated because of the unlawful misconduct by JTV and  
21 consumers of the Gemstones are victims of JTV, who are running what is reminiscent of a  
22 “boiler room” operation as it relates to these Gemstones.

23 8. Jewelry Television’s actions were in direct contravention to the Federal Trade  
24 Commission’s (“FTC”) Guides for the Jewelry, Precious Metals, and Pewter Industries.  
25 *Available at: <http://www.ftc.gov/bcp/guides/jewel-gd.shtm>.* Indeed, the FTC declares it unfair or  
26 deceptive to fail to disclose that a gemstone has been treated when it has a significant effect on  
27 the gemstone’s value. §23.22(c). The FTC guidelines also make clear that it is unfair and  
28 deceptive to call a gemstone genuine, natural, precious, or real when it is in fact not. §23.24.

1           9. Defendant's website explains to consumers that Andesine and Labradorite are  
2 each distinct members of the feldspar mineral family, and that their self-coined "andesine-  
3 labradorite" gems contain such a "close relationship between both minerals" that the gems  
4 cannot be separated by gemologists "with the standard array of tools available to the trade." See  
5 [www.jewelrytelevision.com/index.aspx?tid=24222](http://www.jewelrytelevision.com/index.aspx?tid=24222).

6           10. The red and green Gemstones that the company has sold to consumers greatly  
7 resemble Oregon sunstone, a rare feldspar with vivid reddish-orange colors. Oregon sunstone is  
8 mined and marketed by American vendors proud of the natural and untreated beauty and value of  
9 their rare gemstones, and the only verified known source of such gemstones is Oregon. All-  
10 natural Oregon sunstone sells for at least \$100 per carat, usually far more.

11           11. Defendant, through its website, claims to be unable to answer the question "What  
12 gives red and green andesine-labradorite their color," responding that "[t]his question has not  
13 been answered yet. Although major labs have studied these gemstones, the nature of the color is  
14 still conjecture. This may change in the near future." [www.jewelrytelevision.com/index.aspx?](http://www.jewelrytelevision.com/index.aspx?tid=24222)  
15 [tid=24222](http://www.jewelrytelevision.com/index.aspx?tid=24222)

16           12. In fact, Defendant's Gemstones only resemble the *real* Oregon gemstones as a  
17 result of artificial treatment including heating and/or diffusion of low-value yellow feldspar from  
18 China, Mexico, Mongolia, and/or other inexpensive sources.

19           13. During the class period, Defendant, a very large and sophisticated company with  
20 in excess of \$400 million in revenues last year, knew or should have known that the Gemstones  
21 it was selling were shams and nothing more than the mass-produced result of chemical facelifts  
22 in gemological beauty parlors. Upon information and belief, these "facelifts" were done to the  
23 inexpensive and abundant yellow or colorless labradorite.

24           14. Defendant, upon information and belief, obtained its sham product for pennies per  
25 carat and sold it for extraordinary profits. Because the sham Gemstones came from plentiful  
26 low-value yellow feldspar, Defendant was able to sell them for great profits while still  
27 undercutting the per-carat price of real Oregon sunstone.  
28

1           15. Defendant stated that its lower prices had nothing to do with cosmetic  
2 improvement and everything to do with production costs, availability (JTV claimed to have the  
3 largest inventory in the World), and the mysterious discovery of purported new sources of the  
4 Gemstones.

5           16. Defendant likewise touted, on national television broadcast around the country,  
6 that the stones are “100% natural.” The following is a transcript of a sales presentation made for  
7 Red Andesine-Labradorite jewelry on a Jewelry Television show, given by two Jewelry  
8 Television presenters:

9           **[Speaker #1]:** This ring that you are going to be seeing. And we  
10 are talking about rarity, we’re talking about, this could - there are  
11 only 25 of these. This could actually be the most rare gemstone on  
12 the face of the planet. And when I say could be your saying well it  
13 could be well do you not know? Nope. Do you know why? We  
14 want - From every bit of factual information that we have right  
15 now we could say that it’s the most rare gemstone on the face of  
16 the planet but the reason that we can’t is because nobody knows  
17 exactly where the mine site is. And we have probably – no not  
18 probably, let me take that back. We have at Jewelry Television,  
19 documented [sic] the best supply of red andesine labradorite in the  
20 entire world. We at Jewelry TV. We are basically and primarily a  
21 gemstone company....Red labradorite went from \$2,000 to \$3,000  
22 carat retail in one week.

23           **[Speaker #2]:** True story – fact. [picks up and shows a calculator].

24           **[Speaker #1]:** [Angela, the show planner and merchandiser] said,  
25 something must really really be desperately going on in that mine  
26 site for it to have gone from 2 to 3 thousand in one week. I’m  
27 talking about serious depletion. So guys \$3,000 a carat on the red  
28 andesine labradorite.... This is a ring that could potentially be  
more rare than Alexandrite more rare than Tanzanite more rare  
than Paraiba Tourmaline and more rare than all of them put  
together.

**[Speaker #2]:** Absolutely.

**[Speaker #1]:** And the reason that we know that to be true is  
because we know that we’ve got the largest supply of red andesine  
labradorite in the world and we don’t have much and we can’t get  
much. It is the best kept secret in the history of jewelry. There has  
never been a gemstone that the mine site has been kept a hidden  
secret for this amount of time.... I am trying to keep up with what  
is going on and they are saying that red andesine labradorite is just  
[...] it’s a mystery stone it is a fabulous gemstone.

**[Speaker #2]:** A connoisseur’s delight.

**[Speaker #1]:** It is the most collectible gemstone in the planet  
right now, the most talked about. \$3,000 a carat. Take a look at

1 this up close. At 2.30 carats for the red labradorite. [...] So lets  
2 just assume that since you've got the 44 points of diamonds. A  
collector could pay \$7,000 for this easy.

3 **[Speaker #2]:** Oh yeah.

4 **[Speaker #1]:** A collector could pay 7,000 for this. This could be  
5 a 7,000 baby. A collector. Guys and the stone is 100 % natural and  
6 untreated. Now let me just say this. When we bought this, the stone  
was \$500 dollars. When we bought it, it was \$500. It was not  
\$3,000 a carat when we bought this. [...]

7 **[Speaker #2]:** It's a sensational value.

8 **[Speaker #1]:** [...] [T]his could be the most important piece of  
9 jewelry you ever collected in your entire life because \$3,000 a  
10 carat is the retail on the stone and to get a stone over a half a carat  
11 is considered to be a miracle. A half a carat is considered to be a  
12 miracle. Now let me tell you what we've done, because of the  
13 price jump of red andesine labradorite. We are going to show you  
14 every piece of lab that we have to my knowledge at all on the  
jewelry site and its four. How does that strike you. This is a  
company with 3,000 something employees last count and we have  
billions of pieces of jewelry, billions, billions! And we have four  
selections of red andesine labradorite. Okay, that should help  
someone [...].

15 **[Speaker #2]:** As you are ordering this, understand if you are  
16 learning about Andesine you're curious, what is this red andesine  
labradorite. And the Andesine is the codicil that's the indicator  
17 that's the one that says get on it and grab it. Take it to a certified  
gemologist – if you are learning about gemology – get on the  
18 website – get some of the books and start learning and understand.  
What I want you to do is get this home. It is such an incredible  
19 value I am so serious about this and what this gemstone will mean  
in the world of jewelry [...] get it home and then do the research  
20 you've got 30 days to do the research and if it does not come back  
with everything we said and its 100 times more – which we can't  
21 even get to – it's a college course really when you think about it  
because you can study gemology for a lifetime and never  
22 understand it completely. Its one of those fields and endeavors that  
is constantly evolving and changing but this is a very important  
gem in the world of collectibles. It's a big carat weight. It looks  
23 like a ... sapphire. It is 100% natural and there are so few gems in  
the world that can come close to that fact. So few. [...] [R]ed  
24 andesine labradorite which comes from the family - it's a feldspar  
[sic] andesine labradorite....

25 17. The results of tests on the Gemstones, conducted by gemologists, reflect that the  
26 Gemstones have been artificially colorized by surface diffusion of copper and iron and other  
27 treatment. In other words, the "rich greens and reds of both minerals" composing Defendant's  
28 Gemstones are only surface-deep and the gems are not "100% natural."

1           18.     The stones sold by Defendant originally came from nature with none of the color  
2 and appearance virtues on which Defendant has touted the stones. The beauty is phony, nothing  
3 more than a factory add-on.

4           19.     During the pertinent times, Defendant has sold what in reality was nothing but  
5 colorless and yellow common feldspar, which benefited from secret treatment to give stones  
6 thick color rinds of red and green.

7           20.     In December 2007, Defendant advertised the Gemstones on its television network  
8 for prices of, for example, a one carat stone for \$149, three carat stone for \$689, four carat stone  
9 for \$919. In January 2008, Defendant was advertising the Gemstones for prices of, for example,  
10 a one carat stone for \$49, and a one carat stone in a ring for \$79.

11          21.     In January 2008, Defendant on its television network promoted the Gemstones for  
12 their purported resale value and touted how consumers could learn more about andesine  
13 labradorite on its website.

14          22.     In or about January 2008, Defendant marketed the Gemstones as products that  
15 were selling out fast and announced how Defendant was on the cusp of announcing information  
16 regarding andesine labradorite that purportedly no one in the gem world had been able to  
17 discover.

18          23.     In February 2008, Defendant announced that it had purportedly found an andesine  
19 mine in China, but also --- after receiving consumer complaints --- admitted that the Gemstones  
20 that they had touted as 100% natural really derived their color from artificial treatment.

21          24.     In February 2008, Jewelry Television co-founder Jerry Sisk claimed that  
22 Defendant always thought the Gemstones were natural, and that Defendant had sent samples to  
23 major labs that were all unable to shed any light on the truth about the Gemstones.

24                 **Interviewer:** We thought this color was natural. Can you tell us a  
25 little bit about that?

26                 **Jerry Sisk (co-founder Jewelry Television):** I think everybody  
27 did. We all sent samples to the major labs. And they didn't know  
28 the mechanism. They couldn't determine the mechanism. So  
basically they couldn't say this was treated. So it was assumed the  
material was natural. It wasn't until we actually got to the mine,  
saw the operation, and saw how they were performing that

1 transformation that we knew the truth and now we're bringing it  
2 out.

3 25. After an uprising of consumer complaints, Defendant admitted that the  
4 Gemstones it had been selling were "heated" but even then insisted that this treatment is  
5 acceptable and that the artificially enhanced Gemstones somehow have the same value as real,  
6 all-natural gemstones:

7 **Interviewer:** When we discovered the mine, we actually found  
8 out the material was heat treated. Does this affect the value of the  
9 stone?

10 **Jerry Sisk:** No. What you're buying is the color. And color rules  
11 when it comes to gem stones. The other thing is when we found  
12 the mine we realized that they would take a ton of material, of raw  
13 material, earth. They would basically get 2 to 2.2 pounds of rough  
14 out of that ton of earth. And then, when they treated it, they maybe  
15 had 2-3 ounces of material that changed. So you're talking about  
16 from a ton to come down to 2 or 3 ounces and not all that is even  
17 cutable. So you start realizing that it's a rare gemstone because  
18 very little material ends up the way you really want it to be.

19 Defendant also offered customers a brief return period which was not publicized or advertised,  
20 was ill-administered, and did not even begin to correct the harm that was done.

21 26. Pursuant to the Federal Trade Commission ("FTC") "Guides for the Jewelry,  
22 Precious Metals, and Pewter Industries," at § 23.22, "[i]t is unfair or deceptive to fail to disclose  
23 that a gemstone has been treated if . . . the treatment has a significant effect on the stone's value.  
24 The seller should disclose that the gemstone has been treated." According to the FTC's note to §  
25 23.22, "[t]he disclosures outlined in this section are applicable to sellers at every level of trade"  
26 and "where a jewelry product can be purchased without personally viewing the product, (e.g.,  
27 direct mail catalogs, online services, televised shopping programs) disclosure should be made in  
28 the solicitation for or description of the product." During the pertinent times, Defendant  
systematically failed to provide these required consumer disclosures.

29 27. Pursuant to FTC Guide § 23.1, "[i]t is unfair or deceptive to misrepresent the  
30 type, kind, grade, quality, quantity, metallic content, size, weight, cut, color, character, treatment,  
31 substance, durability, serviceability, origin, price, value, preparation, production, manufacture,  
32 distribution, or any other material aspect of an industry product." Defendant violated this  
33 provision.

1 28. Pursuant to FTC Guide Note 2 to § 23.1, “[t]o prevent deception, any  
2 qualifications or disclosures, such as those described in the guides, should be sufficiently clear  
3 and prominent.” Defendant did not comply with this provision.

4 29. Pursuant to FTC Guide § 23.2, “[i]t is unfair or deceptive to use, as part of any  
5 advertisement, packaging material, label, or other sales promotion matter, any visual  
6 representation, picture, televised or computer image, illustration, diagram, or other depiction  
7 which, either alone or in conjunction with any accompanying words or phrases, misrepresents  
8 the type, kind, grade, quality, quantity, metallic content, size, weight, cut, color, character,  
9 treatment, substance, durability, serviceability, origin, preparation, production, manufacture,  
10 distribution, or any other material aspect of an industry product.” Defendant violated this  
11 provision.

12 30. Defendant’s failures to comply with the pertinent FTC provisions evidences  
13 Defendant’s violations of the CLRA, and California’s Unfair Competition Laws and False  
14 Advertising Laws.

15 **CLASS ACTION ALLEGATIONS**

16 31. Plaintiff brings this class action, pursuant to the provisions of California Code of  
17 Civil Procedure § 382, California Civil Code § 1781, and Federal Rule of Civil Procedure 23, on  
18 behalf of the following class (“Class”):

19 All persons and entities in the United States who purchased  
20 Gemstones from Defendant from January 1, 2003, to the present.

21 32. Excluded from the Class is the Defendant, its officers, directors, agents, trustees,  
22 corporations, trusts, representatives, employees, principals, servants, partners, joint venturers, or  
23 entities controlled by the Defendant; business entities for purposes of Plaintiff’s claim for relief  
24 under the California Consumers Legal Remedies Act, Civil Code §1750, *et seq.*; the Judge  
25 assigned to this action, any member of the Judge’s immediate family; and counsel for Plaintiff.

26 33. Subject to additional information obtained through further investigation and  
27 discovery, the foregoing definition of the Class may be expanded or narrowed by amendment or  
28 amended complaint.

