

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Attorneys for Plaintiff
[Additional Counsel on Signature Page]

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

, Individually
and on Behalf of All Others
Similarly Situated,
Plaintiff,

v.

EXIDE TECHNOLOGIES,
JAMES R. BOLCH, PHILLIP A.
DAMASKA, R. PAUL HIRT, JR.,
MICHAEL OSTERMANN,
Defendants.

) CLASS ACTION
)
) **COMPLAINT FOR VIOLATIONS OF**
) **THE FEDERAL SECURITIES LAWS**
)
) DEMAND FOR JURY TRIAL
)
)

1 Plaintiff individually and on behalf of all others similarly
2 situated, by Plaintiff's undersigned attorneys, for Plaintiff's complaint against
3 Defendants, alleges the following based upon personal knowledge as to Plaintiff and
4 Plaintiff's own acts, and upon information and belief as to all other matters based on the
5 investigation conducted by and through Plaintiff's attorneys, which included, among
6 other things, a review of Securities and Exchange Commission ("SEC") filings by Exide
7 Technologies ("Exide" or the "Company"), as well as media reports about the Company
8 and conference call transcripts. Plaintiff believes that substantial additional evidentiary
9 support will exist for the allegations set forth herein after a reasonable opportunity for
10 discovery.

11 NATURE OF THE ACTION

12 1. This is a securities class action on behalf of all purchasers of the common
13 stock of Exide between February 9, 2012 and April 3, 2013, inclusive (the "Class
14 Period"), seeking to pursue remedies under §§10(b) and 20(a) of the Securities
15 Exchange Act of 1934 (the "Exchange Act"). Defendants include Exide, its President
16 and Chief Executive Officer, James R. Bloch ("Bloch"), Executive Vice President and
17 Chief Financial Officer, Phillip A. Damaska ("Damaska"), President of Exide America,
18 R. Paul Hirt ("Hirt") and President of Exide Europe, Michael Ostermann
19 ("Ostermann").

20 2. Defendant Exide was incorporated in Delaware on November 23, 1956 and
21 is headquartered in Milton, GA. The Company operates in 80 countries, producing,
22 recycling and distributing lead-acid batteries. The Company's global transportation and
23 industrial energy groups provide a range of stored electrical energy products and
24 services for industrial and transportation applications.

25 3. On May 5, 2004, under a Plan of Reorganization from Chapter 11
26 bankruptcy, the Company issued 25,000,000 shares and listed its shares on NASDAQ
27 under the trading symbol "XIDE."
28

1 4. Among the various activities of the Company, Exide operates eight battery
2 recycling facilities worldwide. Through these facilities the Company claims to recycle
3 more than 30 million batteries per year and recovers more than two million pounds of
4 lead per day, 25 million gallons of sulfuric acid per year and generates more than 30
5 million pounds of sodium sulfate.

6 5. On March 22, 2013, one of the Company's recycling facilities in Vernon,
7 California, located approximately four miles due south of downtown Los Angeles, was
8 cited by the South Coast Air Quality Management District (the "Agency") as posing a
9 greater cancer risk to residents of Southern California than any of the more than 450
10 facilities the agency has regulated in the last 25 years.

11 6. Following the Agency's citation, on April 3, 2013, Los Angeles City
12 Council members held a public hearing asking the government to press charges against
13 the Company to correct the health risk posed by the Company's environmental
14 contamination.

15 7. On April 4, 2013 news source Debtwire.com published a report that Exide
16 had hired financial advisory firm Lazard and the law firm of Akin Gump LLP, both
17 bankruptcy experts, to advise on its financial restructuring after prior restructuring
18 efforts stalled.

19 8. On this news, Exide's shares fell \$1.24 a share to \$1.37 a share (-46%), on
20 April 4, 2013, before trading in the stock was halted.

21 9. As a result of defendants' false statements, Exide stock traded at inflated
22 levels during the Class Period. However, after the above revelations seeped into the
23 market, the Company's shares were hammered by massive sales, sending them down
24 approximately 46%, eviscerating more than \$90 million in market capitalization.

25 10. The true facts, which were known by the Defendants but concealed from
26 the investing public during the Class Period, were as follows:

1 (a) Exide was polluting the environment with potentially fatal levels of
2 arsenic, and exposing almost 110,000 residents near its Vernon, California battery
3 recycling facility to dangerously high levels of pollutants;

4 (b) Exide knew that based on actual and projected revenues and expenses it
5 would not be able to meet its debt repayment obligations and other pledges and
6 promises under its debt agreements and indentures. Specifically, the Company knew
7 that it could not satisfy its obligations under a \$200 million revolving facility, a \$675
8 million bond, and a \$55.7 million floating rate convertible note due in September 2013;
9 and

10 (c) as a result, Exide knew its environmental liabilities, debt obligations and
11 potential insolvency supported neither Exide's statements to investors that the Company
12 was solvent, its quarterly guidance, nor the inflated share price targets the investment
13 community was modeling based on Defendants' Class Period statements and guidance.

14 11. As a result of defendants' false statements, Exide stock traded at inflated
15 levels during the Class Period. However, after the above revelations seeped into the
16 market, the Company's shares were hammered by massive sales, sending them down
17 approximately 46%.

18 JURISDICTION AND VENUE

19 12. The claims asserted herein arise under §§10(b), 20(a) of the Exchange Act,
20 15 U.S.C. §§78j(b), 78t(a) and 78t-1, and Rule 10b-5, 17 C.F.R. §240.10b-5.
21 Jurisdiction is conferred by §27 of the Exchange Act, 15 U.S.C. §78aa.

22 13. Venue is proper in this district pursuant to §27 of the Exchange Act. Acts
23 and transactions giving rise to the violations of law complained of occurred in this
24 district. The Company's recycling facility that exposed residents to potentially fatal
25 levels of arsenic lies just miles south from this District, and all the relevant witnesses
26 and facts are within the jurisdiction of this District.

THE PARTIES

1
2 14. Plaintiff, _____, purchased Exide common stock during the
3 Class Period as set forth in the Certification attached hereto, and incorporated herein by
4 reference, and suffered damages thereon.

5 15. Defendant Exide is organized under the laws of the State of Delaware and
6 headquartered in Milton, GA. During the Class Period, Exide had more than 79.3
7 million shares of common stock outstanding, which shares traded in an efficient market
8 on the NASDAQ under the ticker symbol "XIDE." Exide was followed by scores of
9 stock analysts and stock rating agencies and was constantly in communication with the
10 markets and investors in quarterly conference calls and frequent presentations to
11 investor and analyst conferences. Exide also filed periodic public reports with the SEC,
12 and regularly issued press releases to the financial press.

13 16. Defendant Bolch has served as Exide's President and CEO since July 2010.

14 17. Defendant Damaska has served as Exide's Executive Vice-President and
15 CFO since April 2008, prior to that time Mr. Damaska held Senior Vice-President and
16 Controller roles at the Company.

17 18. Defendant Hirt has served as President of Exide America since November
18 2011.

19 19. Defendant Ostermann has served as President of Exide Europe since March
20 2010, he was previously President of the Company's Transportation Europe division.

21 20. Defendants Bolch, Damaska, Hirt and Ostermann are sometimes referred
22 to herein collectively as the "Individual Defendants."

23 21. During the Class Period, the Individual Defendants ran Exide as "hands-
24 on" managers overseeing Exide's operations and finances and made the material false
25 and misleading statements described herein. The Individual Defendants were intimately
26 knowledgeable about all aspects of Exide's financial and business operations, as they
27 received daily reports and had access to computerized information regarding sales, costs
28 and expenses, product demand, inventory management and problems with the

1 Company's recycling facilities, debt obligations and potential insolvency. They were
2 also intimately involved in deciding which disclosures would be made by Exide. Indeed
3 the Individual Defendants made various public statements for Exide during the Class
4 Period, and participated in all Class Period investor conferences,

5 **MATERIALLY FALSE AND MISLEADING**
6 **STATEMENTS ISSUED DURING THE CLASS PERIOD**

7 22. The Class Period commences on February 9, 2012, on that day the
8 Company reported its Fiscal 2012 Third Quarter Results. The Company's press release
9 reported Net sales for the fiscal 2012 third quarter of \$784.1 million versus \$800.3
10 million in the prior year third quarter; Operating income for the current year period of
11 \$28.2 million versus \$49.7 million of operating income in the third quarter of fiscal
12 2011; and Net income for the fiscal 2012 third quarter was \$68.2 million or \$0.84 per
13 diluted share, the result of favorable discrete income tax items. This compared to the
14 prior year period net income of \$31.2 million or \$0.38 per diluted share.

15 23. Jim Bolch, President and Chief Executive Officer, stated, "[t]he decline in
16 net sales this period is primarily due to the lack of normal seasonal weather across
17 North America and Europe, which had an adverse impact on aftermarket transportation
18 battery sales."

19 24. On June 7, 2012 the Company reported its Fiscal 2012 Fourth Quarter
20 Results. The Company's press release reported, "[n]et sales of \$782.6 million versus
21 \$774.5 million in the prior year fourth quarter; Operating income was \$15.9 million
22 versus \$9.3 million in the fourth quarter of fiscal 2011; Net loss was \$2.7 million or
23 (\$0.03) per share as compared to the prior year period net loss of \$13.7 million or
24 (\$0.18) per share; and Free cash flow generation was approximately \$55.7 million
25 compared to a use of cash of (\$14.7 million) in the prior year period."

26 25. Defendant Block stated, "[o]ur fourth quarter results improved over the
27 comparative prior year period, principally due to lower restructuring and impairment
28 charges. We are making steady progress with substantial opportunities for further

1 improvement in the areas of product cost, recovery through pricing and optimization of
2 plant capacity."

3 26. In the Company's 10-K filed on June 7, 2012, the Company failed to
4 disclose the environmental liabilities of the Vernon, California facility in the
5 Environmental Matters section of its annual report, nor the material likelihood of
6 insolvency.

7 27. On August 2, 2012 the Company reported Fiscal 2013 First Quarter
8 Results. The Company's press release reported, "[f]iscal 2013 first quarter consolidated
9 net sales were \$693.4 million as compared to net sales of \$745.1 million in the fiscal
10 2012 first quarter. Net sales in the fiscal 2013 period were negatively impacted by lead-
11 related price decreases of approximately \$26.8 million and foreign currency translation
12 loss of \$45.8 million."

13 28. The Company's press release further stated that Exide, "achieved higher
14 unit volume in aftermarket sales for Transportation Europe and Rest of World
15 ("ROW"), and realized higher original equipment ("OE") unit sales in both
16 Transportation segments when compared to the fiscal 2012 first quarter. Additionally in
17 the current year period, the Company recorded higher sales throughout its global
18 Network Power channels."

19 29. In the Company's August 2, 2012 press release, Defendant Bolch stated,
20 "[t]he benefit of price increases announced earlier this year was insignificant in the
21 fiscal first quarter, but will be realized in July and beyond. In addition, we will continue
22 to reduce third party lead sales as we move to close our recycling operation in Frisco,
23 Texas."

24 30. Also in the August 2 press release, Defendant Damaska, "[t]he Company
25 continues to execute its strategy to right-size Transportation Americas through the
26 announced closure of our Bristol, Tennessee battery plant and the closure and land sale
27 of our Frisco, Texas lead recycling facility. We believe these actions, among other
28

1 ongoing initiatives will return the overall Americas region to profitability and allow us
2 to ultimately utilize this long-lived deferred tax benefit."

3 31. Finally, the August 2 press release provided that, "[a]s of June 30, 2012,
4 the Company had cash and cash equivalents of \$130.1 million and \$152.5 million of
5 availability under its revolving bank credit facility. This compares to cash and cash
6 equivalents of \$155.4 million and \$152.8 million of availability under the revolving
7 bank credit facility at March 31, 2012. Given the seasonal nature of a large portion of
8 our business, inventory is built during the first and second fiscal quarters. This resulted
9 in a use of free cash flow in the amount of \$21.0 million in the fiscal 2013 period, down
10 from a use of \$31.3 million in the prior year comparable period."

11 32. On November 9, 2012 the Company reported its Fiscal 2013 Second
12 Quarter results. The Company's press release reported that, "[f]iscal 2013 second
13 quarter consolidated net sales were \$712 million as compared to net sales of \$773
14 million in the fiscal 2012 second quarter. Net sales in the fiscal 2013 period were
15 negatively impacted by both foreign currency translation (\$41.7) million and lead
16 related pricing (\$30.5) million. The decrease was partially offset by increased sales in
17 Industrial Energy Americas, higher unit sales in the original equipment ("OE") channel
18 in both Transportation segments, and modest pricing in the Americas' aftermarket
19 channel."

20 33. The November 9 press release also reported, "[g]ross profit for the quarter
21 of \$103.7 million, declined by \$15 million when compared with the prior year period. A
22 combination of continued high cost of spent batteries in the Americas, coupled with a
23 lower LME price of lead weighed on results. The impact of this combination on the
24 Americas business aggregated \$18.6 million when compared to the prior year period;
25 and was only partially offset by favorable pricing of \$5.5 million, principally in the
26 transportation aftermarket channel."

27 34. The November 9 press release further reported, "[f]iscal 2013 second
28 quarter operating income was \$6.8 million compared to \$21.2 million in the prior year

1 second quarter. The decrease is primarily the result of higher spent battery input cost
2 coupled with lower LME lead prices, and compressed margins on third party lead sales.
3 Net loss for the current quarter was \$13.9 million or (\$0.18) per share compared to the
4 prior year period net loss of \$3.6 million or (\$0.05) per share.”

5 35. Defendant Bolch stated, in the November 9 press release, “[w]e expect the
6 normal seasonal nature of our business will result in higher revenue and substantially
7 improved operating income in the second half of the fiscal year. This should be further
8 supplemented by the combination of transportation aftermarket pricing and a better lead
9 equation, assuming the cost of cores and LME lead pricing remain stable at the
10 improved levels we saw in the month of October.”

11 36. On February 6, 2013 the Company reported Fiscal 2013 Third Quarter
12 results. The Company’s press release reported, “[f]iscal 2013 third quarter consolidated
13 net sales were \$804.9 million as compared to net sales of \$784.1 million in the fiscal
14 2012 third quarter. Net sales in the fiscal 2013 period were negatively impacted by
15 foreign currency translation of \$10.2 million and lead related pricing of \$16.3 million.
16 Excluding the negative impact of foreign currency translation and lead-related pricing,
17 net sales increased 6% primarily due to increased sales in the motive power and
18 network power channels of both Industrial Energy segments as well as higher unit sales
19 in the aftermarket channel in Transportation Europe.”

20 37. The February 6 press release continued, “[g]ross profit for the third quarter
21 of \$120.1 million, declined by \$6.4 million when compared with the prior year period.
22 Continued higher spent battery acquisition costs in the Americas combined with lower
23 margins from third party lead sales negatively impacted gross margin by approximately
24 \$11 million. Improvement in spent battery acquisition costs in the U.S. began in
25 November 2012. This trend has continued into the early part of the fiscal fourth quarter
26 which should benefit both Americas businesses if the trend continues.”

27 38. The Company also reported in the February 6 press release, “[f]iscal 2013
28 third quarter operating income, excluding \$15.8 million for restructuring and

1 impairment charges, was \$20.5 million compared to \$30.3 million, excluding \$2.1
2 million for restructuring and impairment charges, in the prior year third quarter. The
3 decrease is primarily due to lower gross profits discussed above. Current period
4 restructuring charges were \$5.2 million related to the closure of the Bristol, Tennessee
5 flooded battery manufacturing facility, the idling of lead recycling operations in
6 Reading, Pennsylvania and the closure of GNB India. Impairment charges of \$10.6
7 million are principally related to asset write-downs for the closure of GNB India and the
8 sale of the Australasia transportation business that was completed on February 4, 2013.
9 Net loss for the fiscal 2013 third quarter was \$15.4 million or \$0.20 per share as
10 compared to the prior year period net income of \$68.2 million or \$0.84 per share. Fiscal
11 2012 third quarter net income included the non-cash reversal of the tax valuation
12 allowance in France for \$76.7 million partially offset by a \$13.4 million charge to settle
13 a tax audit in Spain.”

14 39. Defendants’ Class Period materially false and misleading statements
15 concealed the large potential liability arising out of the toxic conditions of its Vernon,
16 California facility, and the inability of the Company to meet its debt obligations and
17 potential insolvency. As a result, Exide stock traded at artificially inflated prices during
18 the Class Period.

19 40. The true facts, which were known by the Defendants but concealed from
20 the investing public during the Class Period, were as follows:

21 (a) Exide’s battery recycling facility was leaking arsenic into the environment,
22 at levels a regulatory agency claimed it had not seen in 25 years, endangering over
23 100,000 residents in surrounding areas;

24 (b) Exide knew that based on actual and projected revenues and expenses it
25 would not be able to meet its debt repayment obligations and other pledges and
26 promises under its debt agreements and indentures. Specifically, the Company knew
27 that it could not satisfy its obligations under a \$200 million revolving facility, a \$675
28

1 million bond, and a \$55.7 million floating rate convertible note due in September 2013;
2 and

3 (c) as a result, Exide knew its environmental liabilities, debt obligations and
4 potential insolvency supported neither its statements to investors that the Company was
5 solvent, its quarterly guidance, nor the inflated share price targets the investment
6 community was modeling based on Defendants' Class Period statements and guidance.

7 **THE TRUTH EMERGES**

8 41. Finally, on April 4, 2013 various news sources reported that Los Angeles
9 Council members had held a hearing calling for the city attorneys to take action against
10 the Company to protect residents from the potentially fatal conditions caused by Exide's
11 unhealthy practices. Also, on April 4, 2013, debtwire revealed that the Company had
12 engaged the services of noted restructuring specialist firms Lazard and Akin Gump after
13 the Company could not arrange financing through traditional means.

14 42. On this news Company shares fell, on April 4, 2013, \$1.24 a share to \$1.37
15 a share (46%) before trading was halted.

16 43. That same day, the Company confirmed that financial advisory firm
17 Lazard had been retained, "to advise the [C]ompany on financing alternatives to
18 maximize the value of the [C]ompany for all stakeholders."

19 44. As a result of Defendants' materially false and misleading statements,
20 Exide stock traded at inflated levels during the Class Period. However, after the above
21 revelations seeped into the market, the Exide shares were hammered by massive sales,
22 causing a 46% decline, eviscerating more than \$90 million in market capitalization.

23 **NO SAFE HARBOR**

24 45. Exide's "Safe Harbor" warnings accompanying its reportedly forward-
25 looking statements ("FLS") issued during the Class Period were ineffective to shield
26 those statements from liability. Because most of the false and misleading statements
27 related to existing facts or conditions, the Safe Harbor has no applicability. To the
28 extent that known trends should have been included in the Company's financial reports

1 prepared in accordance with Generally Accepted Accounting Principles, they are
2 excluded from the protection of the statutory Safe Harbor. 15 U.S.C. §78u-5 (b)(2)(A).

3 46. The Defendants are also liable for any false or misleading FLS pleaded
4 because, at the time each FLS was made, the speaker knew the FLS was false or
5 misleading and the FLS was authorized and/or approved by an executive officer and/or
6 director of Exide who knew that the FLS was false. In addition, the FLS were
7 contradicted by existing, undisclosed material facts that were required to be disclosed so
8 that the FLS would not be misleading. Finally most of the purported "Safe Harbor"
9 warnings were themselves misleading because they warned of "risks" that had already
10 materialized or failed to provide meaningful disclosures of the relevant risks.

11 **ADDITIONAL SCIENTER ALLEGATIONS**

12 47. As alleged herein, Defendants acted with scienter in that Defendants knew
13 that the public documents and statements issued or disseminated in the name of the
14 Company were materially false and misleading; knew that such statements or
15 documents would be issued or disseminated to the investing public; and knowingly and
16 substantially participated or acquiesced in the issuance or dissemination of such
17 statements or documents as primary violations of the federal securities laws. As set
18 forth elsewhere herein in detail, Defendants, by virtue of their receipt of information
19 reflecting the true facts regarding Exide, their control over, and/or receipt of
20 modification of Exide's allegedly materially misleading misstatements and/or their
21 associations with the Company which made them privy to confidential proprietary
22 information concerning Exide, participated in the fraudulent scheme alleged herein.

23 **APPLICABILITY OF PRESUMPTION OF RELIANCE:** 24 **FRAUD-ON-THE-MARKET DOCTRINE**

25 48. At all relevant times, the market for Exide common stock was an efficient
26 market for the following reasons, among others:
27
28

1 (a) Exide stock met the requirements for listing, and was listed and
2 actively traded on the NASDAQ, a highly efficient and automated market;

3 (b) According to the Company's Form 10-K filed June 7, 2012, the
4 Company had 78,346,859 shares outstanding as of May 25, 2012. During the Class
5 Period, on average, more than half a million shares of Exide stock were traded on a
6 daily basis, demonstrating a very active and broad market for Exide stock and
7 permitting a very strong presumption of an efficient market;

8 (c) as a regulated issuer, Exide filed periodic public reports with the
9 SEC;

10 (d) Exide regularly communicated with public investors via established
11 market communication mechanisms, including regular disseminations of press releases
12 on the national circuits of major newswire services, the Internet and other wide-ranging
13 public disclosures, such as communications with the financial press and other similar
14 reporting services;

15 (e) Exide was followed by many securities analysts who wrote reports
16 that were distributed to the sales force and certain customers of their respective firms
17 during the Class Period. Each of these reports was publicly available and entered the
18 public marketplace;

19 (f) numerous National Association of Securities Dealers' member firms
20 were active market-makers in Exide stock at all times during the Class Period; and

21 (g) unexpected material news about Exide was rapidly reflected in and
22 incorporated into the Company's stock price during the Class Period.

23 49. As a result of the foregoing, the market for Exide common stock promptly
24 digested current information regarding Exide from publicly available sources and
25 reflected such information in Exide's stock price. Under these circumstances, all
26 purchasers of Exide common stock during the Class Period suffered similar injury
27 through their purchase of Exide common stock at artificially inflated prices, and a
28 presumption of reliance applies.

LOSS CAUSATION

1
2 50. During the Class Period, as detailed herein, Defendants made false and
3 misleading statements, and omitted material information, concerning Exide's business
4 fundamentals and engaged in a scheme to deceive the market.

5 51. By artificially inflating and manipulating Exide stock price, Defendants
6 deceived plaintiff and the Class and caused them losses when the truth was revealed.
7 When Defendants' prior misrepresentations and fraudulent conduct became apparent to
8 the market, as detailed herein, it caused the price of Exide stock to fall precipitously as
9 the prior artificial inflation came out of the stock price. As a result of their purchases of
10 Exide stock during the Class Period, Plaintiff and other members of the Class suffered
11 economic loss, *i.e.*, damages, under the federal securities laws.

12 52. This is a class action on behalf of those who purchased or otherwise
13 acquired Exide common stock between February 9, 2012 and April 3, 2013, inclusive,
14 excluding Defendants (the "Class"). Excluded from the Class are officers and directors
15 of the Company as well as their families and the families of the Defendants. Class
16 members are so numerous that joinder of them is impracticable.

17 53. Common questions of law and fact exist as to all members of the Class and
18 predominate over any questions affecting solely individual members of the Class.
19 Among the questions of law and fact common to the Class are: (a) whether the
20 Defendants violated the Exchange Act; (b) whether the Defendants omitted and/or
21 misrepresented material facts; (c) whether the Defendants knew or recklessly
22 disregarded that their statements were false; (d) whether the Defendants artificially
23 inflated the price of Exide common stock; and (e) the extent of injuries sustained by
24 members of the Class and the appropriate measure of damages.

25 54. Plaintiff's claims are typical of those of the Class. Prosecution of
26 individual actions would create a risk of inconsistent adjudications. Plaintiff will
27 adequately protect the interests of the Class. A class action is superior to other available
28 methods for the fair and efficient adjudication of this controversy.

COUNT I

**For Violation of Section 10(b) of the Exchange Act and Rule 10b-5
Against All Defendants**

1
2
3 55. Plaintiff repeats and realleges the above paragraphs as though fully set
4 forth herein.

5 56. Throughout the Class Period, Defendants Exide and the Individual
6 Defendants, pursuit of their scheme and continuous course of conduct to inflate the
7 market price of Exide common stock, had the ultimate authority for making, and
8 knowingly or recklessly made, materially false or misleading statements or failed to
9 disclose material facts necessary to make the statements made, in light of the
10 circumstances under which they were made, not misleading.

11 57. During the Class Period, Defendants Exide and the Individual Defendants,
12 and each of them, carried out a plan, scheme, and course of conduct using the
13 instrumentalities of interstate commerce and the mails, which was intended to and,
14 throughout the Class Period did: (a) artificially inflate and maintain the market price of
15 Exide common stock; (b) deceive the investing public, including Plaintiff and other
16 Class members, as alleged herein; (c) cause Plaintiff and other members of the Class to
17 purchase Exide common stock at inflated prices; and (d) cause them losses when the
18 truth was revealed. In furtherance of this unlawful scheme, plan and course of conduct,
19 Defendants Exide and the Individual Defendants, and each of them, took the actions set
20 forth herein, in violation of §10(b) of the Exchange Act and Rule 10b-5, 17 C.F.R.
21 §240.10b-5. All Defendants are sued either as primary participants in the wrongful and
22 illegal conduct charged herein or as controlling persons as alleged below.

23 58. In addition to the duties of full disclosure imposed on Defendants Exide
24 and the Individual Defendants as a result of their affirmative false and misleading
25 statements to the investing public, these Defendants had a duty to promptly disseminate
26 truthful information with respect to Exide's operations and performance that would be
27 material to investors in compliance with the integrated disclosure provisions of the SEC,
28 including with respect to the Company's revenue and earnings trends, so that the market

1 price of the Company's securities would be based on truthful, complete and accurate
2 information. SEC Regulations S-X (17 C.F.R. §210.01, *et seq.*) and S-K (17 C.F.R.
3 §229.10, *et seq.*)

4 59. Defendants Exide and the Individual Defendants had actual knowledge of
5 the misrepresentations and omissions of material facts set forth herein or acted with
6 reckless disregard for the truth in that they failed to ascertain and disclose such facts,
7 even though such facts were either known or readily available to them.

8 60. As a result of the dissemination of the materially false and misleading
9 information and failure to disclose material facts as set forth above, the market price of
10 Exide common stock was artificially inflated during the Class Period. In ignorance of
11 the fact that the market price of Exide common stock was artificially inflated, and
12 relying directly or indirectly on the false and misleading statements made knowingly or
13 with deliberate recklessness by Exide and the Individual Defendants, or upon the
14 integrity of the market in which the shares traded, Plaintiff and other members of the
15 Class purchased Exide stock during the Class Period at artificially high prices and,
16 when the truth was revealed, were damaged thereby.

17 61. Had Plaintiff and the other members of the Class and the marketplace
18 known of the true facts, which were knowingly or recklessly concealed by Exide and
19 the Individual Defendants, Plaintiff and the other members of the Class would not have
20 purchased or otherwise acquired their Exide shares during the Class Period, or if they
21 had acquired such shares during the Class Period, they would not have done so at the
22 artificially inflated prices which they paid.

23 62. By virtue of the foregoing, Exide and the Individual Defendants have
24 violated §10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder. 17 C.F.R.
25 §240.10-5
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT II

**For Violation of §20(a) of the Exchange Act
Against the Individual Defendants**

63. Plaintiff repeats and realleges the above paragraphs as though fully set forth herein.

64. The Individual Defendants had control over Exide and made the material false and misleading statements and omissions on behalf of Exide within the meaning of §20(a) of the Exchange Act as alleged herein. By virtue of their controlling shareholder status, executive positions, board membership, and stock ownership, and their culpable participation, as alleged above, the Individual Defendants had the power to influence and control and did, directly or indirectly, influence and control the decision making of the Company, including the content and dissemination of the various statements which Plaintiff contends were false and misleading. The Individual Defendants were provided with or had unlimited access to the Company's internal reports, press releases, public filings, and other statements alleged by Plaintiff to be misleading prior to or shortly after these statements were issued, and had the ability to prevent the issuance of the statements or cause them to be corrected.

65. In particular, the Individual Defendants had direct involvement in and responsibility over the day-to-day operations of the Company and, therefore, are presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein.

66. By reason of such wrongful conduct, the Individual Defendants are liable pursuant to §20(a) of the Exchange Act. As a direct and proximate result of the Individual Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their purchases of the Company's common stock during the Class Period.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the Class, prays for judgment as follows:

A. Determining that this action is a proper class action, designating plaintiff as Lead Plaintiff and certifying Plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure and Plaintiff's counsel as Lead Counsel;

B. Awarding compensatory damages in favor of Plaintiff and the other Class members against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

C. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

D. Awarding such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands trial by jury.

Dated: