

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

L'OREAL USA S/D, INC., and DOES 1-100

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

CONSUMER ADVOCACY GROUP, INC., in the public interest

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of California for the County of San Francisco
Civic Center Courthouse
400 McAllister Street, San Francisco, CA 94102

CASE NUMBER
(Número del Caso): 08-479990

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Reuben Yeroushalmi, Yeroushalmi & Associates, 3700 Wilshire Blvd., Suite 480
Los Angeles, CA 90010, 213-382-3183

DATE: SEP 19 2008
(Fecha)

GORDON BARTON CRISTINA E. BAUTISTA

(Secretary)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
- CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
- other (specify):

4. by personal delivery on (date):

ENDORSED
FILED

CM-010

FOR DEPOSIT ONLY
San Francisco County Superior Court

SEP 16 2008

GORDON PARK-LI, Clerk
Deputy Clerk

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

REUBEN YEROUSHALMI (SBN 199981)
YEROUSHALMI & ASSOCIATES
3700 WILSHIRE BLVD., SUITE 480
LOS ANGELES, CA 90010

TELEPHONE NO.: 213-382-3183

FAX NO.: 213-382-3430

ATTORNEY FOR (Name): Consumer Advocacy Group, Inc.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco

STREET ADDRESS: 400 McAllister Street

MAILING ADDRESS: 400 McAllister Street

CITY AND ZIP CODE: San Francisco, CA 94102

BRANCH NAME: Civic Center Courthouse

CASE NAME:

Consumer Advocacy Group, Inc. v. L'oreal USA S/D, Inc.

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation

Counter Joinder

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

JUDGE:

DEPT:

08-479990

Items 1-5 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

Auto (22)
 Uninsured motorist (46)

Other P/DP/W/D (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
 Product liability (24)
 Medical malpractice (45)
 Other P/DP/W/D (23)

Non-P/DP/W/D (Other) Tort

Business tort/unfair business practice (07)
 Civil rights (08)
 Defamation (13)
 Fraud (16)
 Intellectual property (19)
 Professional negligence (25)
 Other non-P/DP/W/D tort (35)

Employment

Wrongful termination (36)
 Other employment (15)

Contract

Breach of contract/warranty (06)
 Collections (09)
 Insurance coverage (18)
 Other contract (37)

Real Property

Eminent domain/inverse condemnation (14)
 Wrongful eviction (33)
 Other real property (28)

Unlawful Detainer

Commercial (31)
 Residential (32)
 Drugs (38)

Judicial Review

Asset forfeiture (05)
 Petition re: arbitration award (11)
 Writ of mandate (02)
 Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

Antitrust/Trade regulation (03)
 Construction defect (10)
 Mass tort (40)
 Securities litigation (28)
 Environmental/Toxic tort (30)
 Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

Enforcement of judgment (20)

Miscellaneous Civil Complaint

RICO (27)
 Other complaint (not specified above) (42)

Miscellaneous Civil Petition

Partnership and corporate governance (21)
 Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. Large number of separately represented parties
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c. Substantial amount of documentary evidence
- d. Large number of witnesses
- e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f. Substantial postjudgment judicial supervision

3. Type of remedies sought (check all that apply):

- a. monetary
- b. nonmonetary; declaratory or injunctive relief
- c. punitive

4. Number of causes of action (specify): One

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: September 16, 2008

Reuben Yeroushalmi

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

1 REUBEN YEROUSHALMI (SBN 193981)
2 DANIEL D. CHO (SBN 105409)
3 EDWIN AFWAZIAN (SBN 232943)
4 YEROUSHALMI & ASSOCIATES
5 3700 WILSHIRE BLVD., SUITE 480
6 LOS ANGELES, CA 90010
7 Telephone: 213-382-3183
8 Facsimile: 213-382-3430

9 Attorneys for Plaintiffs,
10 Consumer Advocacy Group, Inc

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN FRANCISCO - UNLIMITED

13 CONSUMER ADVOCACY GROUP, INC.,
14 in the public interest,

15 Plaintiff,

16 v.

17 L'OREAL USA S/D, INC., and DOES 1-
18 100;

19 Defendants.

ENDORSED
FILED
San Francisco County Superior Court
SEP 19 2008
SEP 19 2008
GORDON PARKER, Clerk
BY CHRISTINE E. CRUZ, Clerk
CASE MANAGEMENT CONFERENCE

FEB 20 2009 - 9:02 AM

DEPARTMENT 212

CASE NO. : 08-479990

) COMPLAINT FOR PENALTY,
) INJUNCTION, AND RESTITUTION

) Violation of Proposition 65, the Safe
) Drinking Water and Toxic Enforcement
) Act of 1986 (Health & Saf. Code., §§
) 25249.5, et seq.)

) ACTION IS AN UNLIMITED CIVIL
) CASE (exceeds \$25,000)

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25 Plaintiff, Consumer Advocacy Group, Inc., alleges a cause of action against defendants as
26 follows.
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THE PARTIES

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1. Plaintiff, Consumer Advocacy Group, Inc. ("Plaintiff"), is a non-profit corporation qualified to do business in the State of California. It brings this action in the public interest as defined under Health and Safety Code section 25249.7, subdivision (d).
 2. Defendant L'oreal USA S/D, Inc. is a New York corporation.
 3. Plaintiff is ignorant of the true names and capacities of defendants Does 1-100, and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
 4. Plaintiff is informed, believes, and thereon alleges that L'oreal USA S/D, Inc. at all times mentioned herein has conducted business within the State of California.
 5. At all times mentioned herein, "Defendants" include L'oreal USA S/D, Inc. and Does 1-100.
 6. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each defendant was a person doing business within the meaning of Health and Safety Code section 25249.11, subdivision (b), and that each defendant had ten or more employees.

JURISDICTION

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7. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes except those given by statute to other trial courts.

1 persons prior to exposure. Plaintiff later discerned that Defendants engaged in such
2 practice.

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4 **FIRST CAUSE OF ACTION**

5 **(By Consumer Advocacy Group, Inc. and against L'oreal USA S/D, Inc. and Does 1-100**
6 **For Violation Of Proposition 65, The Safe Drinking Water And Toxic Enforcement Act Of**
7 **1986 (Health & Saf. Code, §§ 25249.5, et seq.)**

8 **L'oréal Paris Natural Match No-Ammonia Color-Calibrated Crème**

9 12. Plaintiff, Consumer Advocacy Group, Inc. repeats and incorporates by reference
10 paragraphs 1 through 11 of this complaint as though fully set forth herein.

11 13. Each Defendant is, and at all times mentioned herein, was a manufacturer or distributor
12 of L'oréal Paris Natural Match No-Ammonia Color-Calibrated Crème ("L'oreal Natural
13 Match"), a consumer product designed for the coloring of hair.

14 14. Plaintiff is informed, believes, and thereon alleges that L'oreal Natural Match contains
15 Diaminotoluene.

16 15. On January 1, 1990, the Governor of California added Diaminotoluene to the list of
17 chemicals known to the State to cause cancer (Cal. Code Regs., title 22, § 12000, subd.
18 (b)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty months
19 after addition of Diaminotoluene to the list of chemicals known to the State to cause
20 cancer, Diaminotoluene became fully subject to Proposition 65 warning requirements and
21 discharge prohibitions.

22 16. Plaintiff is informed, believes, and thereon alleges that between October 2, 2004 and the
23 present each defendant knowingly and intentionally exposed California users of L'oreal
24 Natural Match, which it manufactured or distributed, as mentioned above, to
25 Diaminotoluene, without first giving clear and reasonable warning of such to the exposed
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1 persons before the time of exposure. Defendants have distributed L'oreal Natural Match
2 in California. Defendants thereby violated Proposition 65.

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4 17. The principal routes of exposure are through inhalation and dermal contact when users of
5 L'oreal Natural Match apply the contents of the L'oreal Natural Match to the roots of
6 their hair and leave on for twenty minutes before thoroughly rinsing, and/or apply the
7 contents of the L'oreal Natural Match to the rest of their hair and leave on for thirty
8 minutes before thoroughly rinsing. Further exposure results when the user, in accordance
9 with the instructions, prepares the contents of the L'oreal Natural Match for application,
10 including pouring and mixing the coloring crème and developer crème contained in the
11 L'oreal Natural Match. The foregoing assumes the use of the product according to
12 instructions. In such use, users permitted bare skin, including scalp, and in some
13 instances hands, to touch the product containing Diaminotoluene. Furthermore, in such
14 use, users also breathed in fumes from the L'oreal Natural Match.

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17 18. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
18 Proposition 65 as to L'oreal Natural Match have been ongoing and continuous and have
19 continued to the date of the signing of this complaint, so that a separate and distinct
20 violation of Proposition 65 occurred each and every time a consumer was exposed to
21 Diaminotoluene by using L'oreal Natural Match as mentioned herein.

22
23 19. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
24 mentioned herein is ever continuing.

25 **SATISFACTION OF PRIOR NOTICE**

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27 20. On or about October 2, 2007, Plaintiff gave notice of alleged violations of Health and
28 Safety Code section 25249.6 subject to a private action to L'oreal USA S/D, Inc.,

1 identified in the notice as L'oreal USA S/D, Inc., and to the California Attorney General,
2 County District Attorneys, and City Attorneys for each city containing a population of at
3 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
4 L'oreal Natural Match.
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6 21. Before sending the notice of alleged violation, Plaintiff investigated the consumer
7 products involved, the likelihood that such products would cause users to suffer
8 significant exposures to Diaminotoluene, the corporate structure of each Defendant, and
9 other relevant matters.
10

11 22. Plaintiff's notice of alleged violation included a certificate of merit executed by the
12 attorney for the noticing party, Plaintiff. The certificates of merit stated that the attorney
13 for Plaintiff who executed the certificate had consulted with at least one person with
14 relevant and appropriate expertise who had reviewed data regarding the exposure to
15 Diaminotoluene, respectively, which are the subject Proposition 65 listed chemicals of
16 this action. Based on that information, the attorney for Plaintiff who executed the
17 certificates believed there was a reasonable and meritorious case for this private action.
18 The attorney for Plaintiff attached to the certificates of merit served on the Attorney
19 General information sufficient to establish the basis of the certificates of merit.
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22 23. Plaintiff is commencing this action more than sixty days from the date that Plaintiff gave
23 notice of the alleged violations to L'oreal USA S/D, Inc. and to the public prosecutors
24 referenced in Paragraph 20.

25 24. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
26 any applicable district attorney or city attorney has commenced and is diligently
27 prosecuting an action against the Defendants.
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1 25. Plaintiff's allegations concern a "consumer product exposure," which is an exposure that
2 results from a person's acquisition, purchase, storage, consumption, or other reasonably
3 foreseeable use of a consumer good. L'oreal Natural Match is a consumer product, and
4 as mentioned in paragraphs 16 -17, exposure to Diaminotoluene took place as a result of
5 such consumption and foreseeable use.
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7 **PRAYER FOR RELIEF**

8 Plaintiff demands against each Defendant as follows:

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10 1. A permanent injunction mandating Proposition 65 compliant warnings;
11 2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b);
12 3. Costs of suit;
13 4. Reasonable attorney fees and costs; and
14 5. Any further relief that the court may deem just and equitable.
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16 Dated: September 16, 2008

17 YEROUSHALMI & ASSOCIATES

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19
20 BY: 

21 Reuben Yeroshalmi
22 Attorneys for Plaintiff,
23 Consumer Advocacy Group, Inc.
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