

**SUMMONS
(CITACION JUDICIAL)**

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

ROOFCORP OF CA, INC., A GUTIERREZ ROOFING CO, A A
ROOFING CONSTRUCTION, INC., A-QUALITY ROOFING
SERVICE, INC., (Additional Parties Attachment form is attached.)

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

CONSUMER ADVOCACY GROUP, INC., in the interest of the Public,
and BENJAMIN SASSOON, in the interest of the Public, and on Behalf
of the General Public

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

**CONFORMED COPY
OF ORIGINAL FILED**

Los Angeles Superior Court

DEC 29 2006

John A. Clarke, Executive Officer/Clerk
By D. Garcia, Deputy

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 the State of California for the County of Los Angeles,
Stanley Mosk Courthouse
111 North Hill Street, Los Angeles, California 90012

CASE NUMBER:
(Número del Caso):

BC364149

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:
(Fecha)

DEC 29 2006

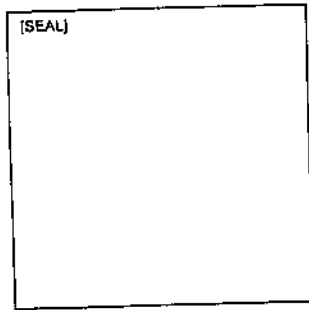
JOHN A. CLARKE, CLERK

Clerk by

D. Garcia Deputy
(Adjunto)

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

Daniel Garcia



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- 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):
- by personal delivery on (date):

COPY

SHORT TITLE: Consumer Advocacy Group, Inc., et al. v. Roofcorp of CA, Inc., et al.	CASE NUMBER:
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INSTRUCTIONS FOR USE

- ➔ This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- ➔ If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party):

Plaintiff Defendant Cross-Complainant Cross-Defendant

CAPLE ROOFING COMPANY, C-WEST ROOFING COMPANY, INC., APEX ENTERPRISE ROOFING, INC., and DOES 1-500

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 REUBEN YEROUSHALMI (SBN 193981)
 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., et al.

FOR COURT USE ONLY
CONFORMED COPY
 OF ORIGINAL FILED
 Los Angeles Superior Court
 DEC 29 2006

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
 STREET ADDRESS: 111 North Hill Street
 MAILING ADDRESS: 111 North Hill Street
 CITY AND ZIP CODE: Los Angeles 90012
 BRANCH NAME: Stanley Mosk Courthouse

John A. Clark, Executive Officer/Clerk
 By D. Garcia, Deputy

CASE NAME:
 Consumer Advocacy Group, Inc., et al. v. Roofcorp of CA, Inc., et al.

CASE NUMBER: BC364149

CIVIL CASE COVER SHEET

<input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	<input type="checkbox"/> Counter	<input type="checkbox"/> Joinder
Complex Case Designation			
Filed with first appearance by defendant (Cal. Rules of Court, rule 1811)			

JUDGE:
 DEPT:

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:

<p>Auto Tort</p> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <p>Non-PI/PD/WD (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <p>Employment</p> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800-1812)</p> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input checked="" type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 1800 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> 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): three

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: December 29, 2006
 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 201.8.) 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 1800 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.

COPY

**NOTICE OF CASE ASSIGNMENT
LOS ANGELES SUPERIOR COURT**

BC364149

CASE NUMBER _____

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

Your case is assigned for all purposes to the judicial officer indicated below. There is additional information on the reverse side of this form.

ASSIGNED JUDGE	DEPT	ROOM	ASSIGNED JUDGE	DEPT	ROOM
Hon. Gregory Alarcon	36	410	Hon. William Highberger	32	406
Hon. Alice E. Altoon	28	318	Hon. Ernest Hiroshige	54	512
Hon. Conrad Aragon	49	509	Hon. Jane Johnson	56	514
Hon. Helen I. Bendix	18	308	Hon. Elizabeth Allen White	48	506
Hon. Elihu M. Berle	42	416	Hon. Malcolm H. Mackey	55	515
Hon. Tricia Ann Bigelow	23	315	Hon. Jon M. Mayeda	72	731
Hon. Soussan Bruguera	71	729	Hon. Rita Miller	16	306
Hon. Susan Bryant-Deason	52	510	Hon. David L. Minning	61	632
Hon. James C. Chalfant	13	630	Hon. Aurelio Munoz	47	507
Hon. Victoria Chaney	324	CCW	Hon. Mary Ann Murphy	25	317
Hon. Judith C. Chirlin	89	532	Hon. Joanne O'Donnell	37	413
Hon. Ralph W. Dau	57	517	Hon. Victor H. Person	39	415
Hon. Maureen Duffy-Lewis	38	412	Hon. Mei Recana	45	529
Hon. James R. Dunn	26	316	Hon. Andria K. Richey	31	407
Hon. Mark Mooney	68	617	Hon. Teresa Sanchez-Gordon	74	735
Hon. William F. Fahey	78	730	Hon. Ann I. Jones	40	414
Hon. Irving Feffer	51	511	Hon. John P. Shook	53	513
Hon. Edward A. Ferns	69	621	Hon. Ronald M. Sohigian	41	417
Hon. Kenneth R. Freeman	64	601	Hon. Michael L. Stern	62	600
Hon. Haley J. Fromholz	20	310	Hon. Mary Thornton House	17	313
Hon. Richard Fruin	15	307	Hon. Rolf M. Treu	58	516
Hon. Terry Green	14	300	Hon. John Shepard Wiley Jr.	50	508
Hon. Elizabeth A. Grimes	30	400		19	311
Hon. Paul Gutman	34	408	Hon. George Wu	33	409
Hon. Robert L. Hess	24	314		35	411
	3	224	OTHER		

Given to Plaintiff of record on _____

John A. Clarke, Executive Officer/Clerk

_____, DEPUTY
CLERK

CONFIRMED COPY
THE ORIGINAL FILED
Los Angeles Superior Court

DEC 29 2006

John A. Clark, Executive Officer/Clerk
By D. Garcia, Deputy

1 REUBEN YEROUSHALMI (SBN 193981)
2 DANIEL D. CHO (SBN 105409)
3 YEROUSHALMI & ASSOCIATES
3700 WILSHIRE BLVD., SUITE 480
4 LOS ANGELES, CA 90010
213-382-3183

5 Attorneys for Plaintiffs,
6 Consumer Advocacy Group, Inc. and Benjamin Sassoon

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES

BC364149

11 CONSUMER ADVOCACY)
12 GROUP, INC., in the interest of the)
13 Public, and BENJAMIN SASSOON,)
14 in the interest of the Public, and on)
Behalf of the General Public,)

15 Plaintiffs,)

16 v.)

17)
18)
19 ROOFCORP OF CA, INC., A)
GUTIERREZ ROOFING CO, A A)
20 ROOFING CONSTRUCTION,)
INC., A-QUALITY ROOFING)
21 SERVICE, INC., CAPLE ROOFING)
COMPANY, C-WEST ROOFING)
22 COMPANY, INC., APEX)
23 ENTERPRISE ROOFING, INC.,)
and DOES 1-500,)

24)
25 Defendants.)

COMPLAINT FOR PENALTY,
INJUNCTION, AND RESTITUTION

1. Violation of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code §§ 25249.5, et seq.)
2. Violation of Business and Professions Code sections 17200, et seq.
3. Violation of Business and Professions Code sections 17500, et seq.

Action is an Unlimited Civil Case
(Amount demand exceeds \$25,000)

26
27
28 //

COPY

BACKGROUND AND PRELIMINARY FACTS

- 1
2 1. In 1986, California voters approved an initiative to address growing concerns about
3 exposure to toxic chemicals. The initiative, The Safe Drinking Water and Toxic
4 Enforcement Act of 1986, codified at Health and Safety Code sections 25249.5 et seq.
5 (“Proposition 65”), helps to protect California’s drinking water sources from
6 contamination, to allow consumers to make informed choices about the products they
7 buy, and to enable persons to protect themselves from toxic chemicals as they see fit.
- 8
9 2. Proposition 65 requires the Governor of California to publish a list of chemicals known to
10 the state to cause cancer, birth defects, or other reproductive harm (“Proposition 65-
11 Listed Chemicals”). (Health & Saf. Code, § 25249.8.) The list, which the Governor
12 updates at least once a year, contains over 550 chemicals. Proposition 65 imposes
13 warning requirements and other controls that apply to Proposition 65-Listed Chemicals.
- 14
15 3. All businesses with ten or more employees that operate or sell products in California
16 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
17 from knowingly discharging Proposition 65-Listed Chemicals into sources of drinking
18 water (Health & Saf. Code, § 25249.5), and (2) required to provide “clear and
19 reasonable” warnings before exposing a person, knowingly and intentionally, to a
20 Proposition 65-Listed Chemical (Health & Saf. Code, § 25249.6). A business can satisfy
21 its obligations under Health and Safety Code section 25249.6 by the tendering the
22 requisite warnings through various means, e.g. labeling a consumer product, posting
23 signs, or publishing notices in a newspaper.
- 24
25
26 4. The toughest pro-consumer law in California is the Unfair Competition Law (Bus. &
27 Prof. Code, §§ 17200, et seq.) and the Deceptive, False, and Misleading Advertising
28 Statute (Bus. & Prof. Code, §§ 17500, et seq.). The definition of Unfair Competition

1 includes any unlawful, unfair or fraudulent business act or practice and unfair, deceptive,
2 untrue or misleading advertising.

- 3
4 5. Plaintiff Benjamin Sassoon has been a resident of Los Angeles County, California. He
5 brings this action in the public interest as defined under Health and Safety Code section
6 25249.7, subdivision (d). He also brings this action on behalf of the public as authorized
7 by Business and Professions Code sections 17203 and 17204.
- 8
9 6. Plaintiff, Consumer Advocacy Group, Inc. is a non-profit corporation qualified to do
10 business in the State of California. It brings this action in the public interest as defined
11 under Health and Safety Code section 25249.7, subdivision (d).
- 12
13 7. In 2000 and 2001, Consumer Advocacy Group, Inc. and Benjamin Sassoon (collectively
14 "Plaintiffs") conducted research, from which they identified an industry-wide practice
15 among California companies, which install, repair, or replace roofs, of exposing,
16 knowingly and intentionally, persons to asphalt without first providing clear and
17 reasonable warnings of such to the exposed persons prior to exposure. Asphalt is
18 extremely toxic material, containing numerous Proposition 65-Listed Chemicals.
- 19
20 8. Defendants Roofcorp of CA, Inc., A Gutierrez Roofing Co, A A Roofing Construction,
21 Inc., A-Quality Roofing Service, Inc., Caple Roofing Company, C-West Roofing
22 Company, Inc., Apex Enterprise Roofing, Inc., and DOES 1-500, are and at all times
23 mentioned herein have been qualified to do business in the State of California. At all
24 times mentioned herein, such defendants have conducted business within the State of
25 California.
- 26
27 9. Plaintiffs are ignorant of the true names and capacities of defendants sued as Does 1-500,
28 and therefore sue these defendants by such fictitious names. Plaintiffs will amend this

1 complaint to allege their true names and capacities when ascertained. Plaintiffs are
2 informed, believe, and thereon allege that each of the fictitiously named defendants is
3 responsible in some manner for the occurrences herein alleged and the damages caused
4 thereby.
5

6 10. At all times mentioned herein, "Defendants" include Roofcorp of CA, Inc., A Gutierrez
7 Roofing Co, A A Roofing Construction, Inc., A-Quality Roofing Service, Inc., Caple
8 Roofing Company, C-West Roofing Company, Inc., Apex Enterprise Roofing, Inc., and
9 Does 1 through 500.
10

11 11. At all times mentioned each defendant was a person within the meaning of Business and
12 Professions Code section 17201 and a person doing business within the meaning of
13 Health and Safety Code section 25249.11, subdivision (a). Plaintiffs are informed,
14 believe, and thereon allege that at all times mentioned herein each Defendant has had 10
15 or more employees.
16

17 12. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
18 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
19 those given by statute to other trial courts. Plaintiffs bring this lawsuit under statutes that
20 do not specify any other basis of jurisdiction.
21

22 //

23 //

24 //

25 //

26 //

27 //

28

FIRST CAUSE OF ACTION

1
2 By Plaintiffs, CONSUMER ADVOCACY GROUP, INC. and BENJAMIN SASSOON and
3 against Defendant, ROOFCORP OF CA, INC. and DOES 1-50; and Plaintiff,
4 CONSUMER ADVOCACY GROUP, INC. and against Defendants, A GUTIERREZ
5 ROOFING CO, A A ROOFING CONSTRUCTION, INC., A-QUALITY ROOFING
6 SERVICE, INC., CAPLE ROOFING COMPANY, C-WEST ROOFING COMPANY,
7 INC., APEX ENTERPRISE ROOFING, INC., and DOES 51-400, for violation of
8 Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health and
9 Safety Code sections 25249.5, et seq.)
10
11

12 13. Plaintiffs repeat and incorporate by reference the preceding paragraphs of this complaint
13 as though fully set forth herein.

14 14. Defendants are and at all times mentioned herein have been engaged in the business of
15 installing, repairing, and or replacing the roofs on residential and commercial structures.

16 15. Defendants have been exposing persons, knowingly and intentionally, by deliberately
17 using asphalt, to the constituent Proposition 65-Listed Chemicals of asphalt, without first
18 giving clear and reasonable warning of such to the exposed persons before the time of
19 exposure. (Health & Saf. Code, § 25249.6.)
20

21 16. Plaintiffs mailed a separate Proposition 65 60-day Notice of intent to sue to Roofcorp of
22 CA, Inc. Consumer Advocacy Group, Inc. mailed a separate Proposition 65 60-day
23 Notice of intent to sue to A Gutierrez Roofing Co, A A Roofing Construction, Inc., A-
24 Quality Roofing Service, Inc., Caple Roofing Company, C-West Roofing Company, Inc.,
25 Apex Enterprise Roofing, Inc., respectively. Such Notices stated that each respective
26 defendant, by failing to warn persons of exposures to Proposition 65-Listed Chemicals
27
28

1 before exposing them to Proposition 65-Listed Chemicals, had violated Proposition 65.
2 Plaintiffs mailed copies of each respective notice to the Office of the Attorney General,
3 State of California, Department of Justice ("Attorney General"), and the County District
4 Attorneys for each county and City Attorneys for each city containing a population of at
5 least 750,000 people, within which each respective named defendant violated Proposition
6 65.
7

8 17. On or about May 18, 2005, Plaintiffs sent a Proposition 65 60-Day Notice of intent to sue
9 to Roofcorp of CA, Inc. alleging the facts found in Paragraph 15 of this pleading.
10

11 18. On or about February 8, 2006, Consumer Advocacy Group, Inc. sent a Proposition 65 60-
12 Day Notice of intent to sue to A Gutierrez Roofing Co alleging the facts in Paragraph 15
13 of this pleading.

14 19. On or about February 8, 2006, Consumer Advocacy Group, Inc. sent a Proposition 65 60-
15 Day Notice of intent to sue to A A Roofing Construction, Inc. alleging the facts found in
16 Paragraph 15 of this pleading.
17

18 20. On or about February 8, 2006, Consumer Advocacy Group, Inc. sent a Proposition 65 60-
19 Day Notice of intent to sue to A-Quality Roofing Service, Inc. alleging the facts found in
20 Paragraph 15 of this pleading.

21 21. On or about February 8, 2006, Consumer Advocacy Group, Inc. sent a Proposition 65 60-
22 Day Notice of intent to sue to Caple Roofing Company alleging the facts found in
23 Paragraph 15 of this pleading.
24

25 22. On or about February 8, 2006, Consumer Advocacy Group, Inc. sent a Proposition 65 60-
26 Day Notice of intent to sue to C-West Roofing Company, Inc. alleging the facts found in
27 Paragraph 15 of this pleading.
28

1 23. On or about February 8, 2006, Consumer Advocacy Group, Inc. sent a Proposition 65 60-
2 Day Notice of intent to sue to Apex Enterprise Roofing, Inc. alleging the facts found in
3 Paragraph 15 of this pleading.
4

5 24. Each Proposition 65 60-Day Notice of intent to sue listed above included a certificate of
6 merit executed by the attorney for the noticing party. The certificate of merit stated that
7 the attorney for the noticing party or parties who executed the certificate had consulted
8 with at least one person with relevant and appropriate expertise who had reviewed data
9 regarding the exposure to Proposition 65-Listed Chemicals that are the subjects of the
10 action. Based on that information, the attorney for the noticing party or parties who
11 executed the certificate believed there was a reasonable and meritorious case for this
12 private action. The attorney for the noticing party or parties attached to the certificate of
13 merit served on the Attorney General information sufficient to establish the basis of the
14 certificate of merit.
15

16
17 25. Plaintiffs are commencing this action more than sixty days (plus additional time for
18 mailing of notice) from the date that such party or parties gave notice of the alleged
19 violations of Proposition 65 to each respective named defendant, the Attorney General,
20 and applicable district attorneys and city attorneys in whose jurisdictions the violations
21 allegedly occurred.
22

23 26. Plaintiffs are informed, believe, and thereon allege that neither the Attorney General, nor
24 any applicable district attorney or city attorney has commenced and is diligently
25 prosecuting an action against the violation.
26

27 27. Between three years before the sending of each respective Proposition 65 60-Day Notice
28 of intent to sue and the present, in the normal course of business, Defendants installed,

1 repaired, and or replaced roofs. Defendants have been exposing, knowingly and
2 intentionally, reasonably foreseeable members of the public, including occupants of the
3 structures serviced, neighbors of the same, passersby, motorists, and inspectors not
4 employed by Defendants, to Proposition 65-Listed Chemicals by using asphalt, including
5 hot asphalt, "cold" asphalt emulsions and adhesives, asphalt shingles, and inter-ply layers
6 of asphalt or coal tar. Defendants exposed such persons without providing "clear and
7 reasonable" warnings to affected persons before exposing such persons, knowingly and
8 intentionally, to Proposition 65-Listed Chemicals. In doing so, Defendants violated
9 Proposition 65.
10
11

12 28. As to environmental exposures, Defendants failed to provide a warning either that (A)
13 appears on a sign in the affected area, (B) constitutes a posting of signs in the manner
14 described in Cal. Code Regs., tit. 3, § 6776(d), (C) is in a notice mailed or otherwise
15 delivered to each occupant in the affected area at least once in any three-month period,
16 and/or (D) provided by public media announcements that targets the affected area at least
17 once in any three-month period.
18

19 29. As to Occupational Exposures, Defendants failed to provide an adequate warning.

20 30. Between three years before the sending of each respective Proposition 65 60-Day Notice
21 of intent to sue and the present, in the normal course of business, Defendants installed,
22 repaired, and or replaced roofs. Defendants have also been exposing, knowingly and
23 intentionally, their employees, including roofing contractors, drivers, roofing installers,
24 and workers otherwise involved in the installation, repair, and or replacement of roofs, to
25 Proposition 65-Listed Chemicals by using asphalt, including hot asphalt, "cold" asphalt
26 emulsions and adhesives, asphalt shingles, and inter-ply layers of asphalt or coal tar.
27
28

1 Defendants exposed such employees without providing "clear and reasonable" warnings
2 to affected employees before exposing such persons, knowingly and intentionally, to
3 Proposition 65-Listed Chemicals. In doing so, Defendants violated Proposition 65.

4
5 31. The sources of exposures are the constituent chemicals of asphalt, as listed in this
6 complaint. The locations of the exposures include:

- 7 a. Violators' principal places of business and areas within 50 feet of the same;
- 8 b. Areas along and within 50 feet of the routes traveled between said principal
9 places of business and where Defendants stored roofing materials, such as storage
10 facilities and garage areas, wherein Defendants also prepared and heated the
11 asphalt;
- 12 c. Areas along and within 50 feet of the routes traveled between said principal
13 places of business and where Defendants performed roofing work, including
14 roofing installations, removals, and replacements; and
- 15 d. Areas within 50 feet of where Defendants performed roofing work or established
16 staging grounds for the performance of such work.

17
18
19 32. These Environmental and Occupational Exposures occurred in the California counties
20 whose district attorneys received copies of the operative 60-Day Notices relevant to each
21 respective named defendant.

22
23 33. The route of exposure for Environmental Exposures is inhalation contact whereby
24 affected persons breathed in the ambient air, which contained asphalt, asphalt smoke, or
25 associated fumes, causing contact with their mouths, throats, esophagi, and lungs.
26 Defendants possessed sufficient control over the relevant areas to control the quality of
27 the ambient air.
28

1 34. The route of exposure for Occupational Exposures is inhalation contact whereby affected
 2 employees breathed in the ambient air, which contained asphalt, asphalt smoke, or
 3 associated fumes, causing contact with their mouths, throats, esophagi, and lungs.
 4 Defendants possessed sufficient control over the relevant areas to control the quality of
 5 the ambient air. Employees also sustained inhalation contact by inhaling particulate
 6 matter and other airborne constituents, including gaseous emissions released from "cold"
 7 asphalt emulsions and adhesives, asphalt shingles, and inter-ply layers of asphalt or coal
 8 tar, when they removed various roofing products from packaging and or tore out
 9 previously installed roofing products in preparation of re-roofing. The route of exposure
 10 for Occupational Exposures is also Dermal Contact, whereby employees allowed their
 11 bare skin to touch, intentionally or inadvertently, asphalt products, while mixing, heating,
 12 transporting, or applying the same. Dermal Contact also occurred when Employees, after
 13 allowing work gloves to touch asphalt, then touched their bare skin with the asphalt-
 14 impregnated work gloves. Said exposures occurred in the California counties whose
 15 district attorneys received copies of the operative notices.

16
 17
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 19 35. For each type and means of exposure, Defendants have exposed and are exposing the
 20 above referenced persons to the Proposition 65-Listed Chemicals listed below.

21
 22 **CARCINOGENS**

23 Benz[a]anthracene	Chrysene	Toluene diisocyanate	Formaldehyde (gas)
24 5-Methylchrysene	Nickel and Nickel Compounds	Dichloromethane (Methylene Chloride)	Benzene
25 Lead and Lead Compounds	Benzo[b]flouranthene	Benzo[k]flouranthene	Benzo[a]pyrene
26 Indeno[1,2,3-cd]pyrene	Acetaldehyde	Beryllium and Beryllium compounds	Arsenic (inorganic arsenic compounds)
27 Cadmium and	Chromium (hexavalent	Tetrachloroethylene	Trichloroethylene

1	Cadmium compounds	compounds)	(Perchloroethylene)	
2	Formaldehyde (gas)	Chrysene	Dibenz[a,h]anthracene	Carbazole
3	Dibenzo[a,i]pyrene	Dibenzo[a,e]pyrene	Dibenz[a,j]acridine	Dibenzo[a,h]p
4	Dibenzo[a,l]pyrene			

REPRODUCTIVE TOXINS

6	Toluene	Carbon Disulfide	Benzene	Lead
7	Mercury and Mercury compounds	Arsenic (inorganic oxides)	Cadmium	

36. Each Proposition 65-Listed Chemical listed above first appeared on the Governor's Proposition 65 list more than twenty months before the sending of a Proposition 65 60-Day Notice of intent to sue to each respective named defendant. Therefore, each Proposition 65-Listed Chemical was subject to Proposition 65 warning requirements at the times of the exposures alleged herein.

37. For the past several years, both the Attorney General as well as plaintiff Consumer Advocacy Group, Inc. have investigated and prosecuted Asphalt Roofing entities as an industry for alleged violations of Proposition 65. Consumer Advocacy Group, Inc. and its counsel poured and continue to pour significant resources, including time, money, and energy, in trying to bring all members of the Asphalt Roofing Industry in compliance with Proposition 65. In fact, the Attorney General and Consumer Advocacy Group, Inc. co-litigated a previous action that resulted in a universal settlement reached with over 100 Asphalt Roofing entities. That settlement had an extensive opt-in period that allowed all roofing entities, including these defendants, to join the settlement and end not only their continual violations of Proposition 65, but also their potential liabilities for alleged violations of the statute. Accordingly, these defendants have had plenty of time and

1 opportunities to end their violations of Proposition 65 and come into compliance with the
2 law.

3
4 38. Instead, these defendants flouted the various opportunities they had to comply with
5 Proposition 65, and chose instead not to participate in a win-win settlement agreement
6 offered by both the Attorney General and Consumer Advocacy Group, Inc. The
7 settlement these defendants chose not to participate in would have benefited all parties
8 involved, in that it would have required defendants to significantly reduce both their
9 employees' as well as the public's exposures to deadly chemicals, and would have
10 obligated these defendants to post the required warnings. By choosing to continue their
11 violations, these defendants have significantly enlarged their potential liabilities for
12 violating Proposition 65.
13
14

15 **SECOND CAUSE OF ACTION**

16 **By Plaintiff, BENJAMIN SASSOON and against Defendants, ROOFCORP OF CA, INC.**
17 **and DOES 401-450, for violation of Business and Professions Code sections 17200, et seq.**
18

19 39. Plaintiff Benjamin Sassoon repeats and incorporates by reference the preceding
20 paragraphs of this complaint as though fully set forth herein.

21 40. On or about January 9, 2005, defendant Roofcorp of CA, Inc. and DOES 401-450 carried
22 out acts constituting unfair business practices and false or misleading advertising under
23 Business and Professions Code sections 17200, et seq. and 17500, et seq. Such acts by
24 defendant Roofcorp of CA, Inc. and DOES 401-450 caused plaintiff Benjamin Sassoon
25 pecuniary loss.
26
27
28

1 41. By committing the above acts such defendants engaged in an unlawful practice, an act
2 constituting unfair competition within the meaning of Business and Professions Code
3 sections 17200 et seq. Said sections specifically authorize an action for injunctive relief.

4 42. As a direct and proximate result of each such defendant's conduct, as set forth herein,
5 each such defendant has received ill-gotten gains, including, but not limited to, money
6 and falsely obtained goodwill of unknowing and misled consumers.
7

8 **THIRD CAUSE OF ACTION**

9
10 **By Plaintiff, BENJAMIN SASSOON and against Defendants, ROOFCORP OF CA, INC.**
11 **and DOES 451-500, for violation of the Business and Professions Code sections 17500, et**
12 **seq.**

13
14 43. Plaintiff Benjamin Sassoon repeats and incorporates by reference the preceding
15 paragraphs of this complaint as though fully set forth herein.

16 44. Section 17500 et seq. provides that "[i]t is unlawful for any person, firm, corporation, or
17 association, or any employee thereof with intent directly or indirectly...to perform
18 services, professional or otherwise, or anything of any nature whatsoever or to induce the
19 public to enter into any obligation relating thereto, to make or disseminate or cause to be
20 made or disseminated before the public in this state...any advertising device...including
21 over the Internet, any statement....concerning...services, professional or otherwise, or
22 concerning any circumstances or matter of fact connected with the proposed performance
23 or disposition thereof, which is untrue or misleading, and which is known, or which by
24 the exercise of reasonable care should be known, to be untrue or misleading[.]"
25
26
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28

1 45. Defendant Roofcorp of CA, Inc. and DOES 451-500 have intended and continue to
2 intend to sell, store, distribute, install, and lay asphalt products, primarily through the
3 installation, repair, and/or replacement of roofs, within the State of California.

4
5 46. Such defendants publicly disseminate advertising on the Internet, by oral representations,
6 and/or by other means which (1) contains statements that are untrue or misleading (2)
7 which such defendants knew, or in the exercise of reasonable case, should have known,
8 were untrue or misleading, and (3) which concerned the performance of services and/or
9 disposition of property.

10
11 47. On information and belief, such defendants have engaged in fraudulent business practices
12 by failing to disclose to its customers that asphalt contains chemicals known to the State
13 of California to cause cancer or reproductive toxicity, thereby omitting a fact that is
14 material with respect to consequences which may result from the use of asphalt under
15 such conditions as are customary or usual, and that would counter the assumption that
16 asphalt is safe.

17
18 48. Such defendants have thereby engaged in false advertising within the meaning of
19 Sections 17500, et seq., of the Business and Professions Code.


20
21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs in the FIRST CAUSE OF ACTION through the THIRD CAUSE OF
23 ACTION demands against each defendant as follows:

- 24 1. A permanent injunction pursuant to Health and Safety Code section 25249.7, subdivision (a),
25 Business and Professions Code sections 17200 et seq. and 17500 et seq., and the equitable
26 powers of the court;
27
28

- 1 2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b) and Business
2 and Professions Code sections 17200 et seq. and 17500 et seq. in the amount of \$2,500.00
3 per day per violation;
- 4
- 5 3. Order to disgorge and/or pay restitution in an amount sufficient to restore to any person in
6 interest any money or property that may have been acquired by means of violations set forth
7 herein and to prevent defendants' future use of such violations, pursuant to Business and
8 Professions Code section 17203 and the equitable powers of the court;
- 9
- 10 4. Costs of suit;
- 11 5. Reasonable attorney's fees and costs; and
- 12 6. Any further relief that the court may deem just and equitable.
- 13

14 Dated: *December 29, 2006*

15
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17 
18 Reuben Yeroushalmi
19 Attorney for Plaintiffs,
20 Consumer Advocacy Group, Inc. and
21 Benjamin Sassoon
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