

**SUMMONS  
(CITACION JUDICIAL)**

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

OREQ CORPORATION, CHEMTURA CORPORATION, HOME  
DEPOT U.S.A., INC., PENTAIR WATER POOL & SPA, INC.,  
POOLMASTER, INC., (Additional Parties Attachment form is attached)

**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)

**ENDORSED  
FILED  
ALAMEDA COUNTY**

**JUN 19 2007**

CLERK OF THE SUPERIOR COURT  
By *R Mishra*

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](http://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](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://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 puede 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/](http://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](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.

COPY

The name and address of the court is:  
(El nombre y dirección de la corte es):  
Superior Court of California for the County of Alameda  
René C. Davidson Alameda County Courthouse  
1225 Fallon St., CA Oakland, 94612

CASE NUMBER: **RG07331650**  
(Número del Caso)

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: 6/19/07 Clerk, by PAT S. SWEETEN Deputy  
(Fecha) 6/19/07 (Secretario) (Adjunto)

*R Mishra*

(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**

[SEAL]

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

|  |   |
|--|---|
| under: <input type="checkbox"/> CCP 416.10 (corporation)         | <input type="checkbox"/> CCP 416.60 (minor)             |
| <input type="checkbox"/> CCP 416.20 (defunct corporation)        | <input type="checkbox"/> CCP 416.70 (conservatee)       |
| <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (authorized person) |
| <input type="checkbox"/> other (specify):                        |   |
4.  by personal delivery on (date):

|   |              |
|---|--------------|
| SHORT TITLE:<br>Consumer Advocacy Group, Inc. v. Oreq Corporation, et al. | CASE NUMBER: |
|---|--------------|

**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

SCP POOL CORPORATION, RECREATIONAL WATER PRODUCTS, INC., and DOES 1 – 100,

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Bar number, and address):  
**REUBEN YERUSHALMI (SBN 193981)**  
**YERUSHALMI & 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.

FOR COURT USE ONLY  
**ENDORSED FILED**  
**ALAMEDA COUNTY**  
**JUN 19 2007**  
 CLERK OF THE SUPERIOR COURT  
 By *PRO*

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA**  
 STREET ADDRESS: 1225 Fallon St.  
 MAILING ADDRESS: 1225 Fallon St.  
 CITY AND ZIP CODE: Oakland, 94612  
 BRANCH NAME: René C. Davidson Alameda County Courthouse

CASE NAME:  
 Consumer Advocacy Group, Inc. v. Oreg Corporation, et al.

**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:  
**RG07381650**  
 JUDGE:  
 DEPT:

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

COPY

1. Check one box below for the case type that best describes this case:
- |   |   |  |
|---|---|--|
| <p><b>Auto Tort</b></p> <input type="checkbox"/> Auto (22)<br><input type="checkbox"/> Uninsured motorist (46) <p><b>Other P/IPD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort</b></p> <input type="checkbox"/> Asbestos (04)<br><input type="checkbox"/> Product liability (24)<br><input type="checkbox"/> Medical malpractice (45)<br><input type="checkbox"/> Other P/IPD/W/D (23) <p><b>Non-P/IPD/W/D (Other) Tort</b></p> <input type="checkbox"/> Business tort/unfair business practice (07)<br><input type="checkbox"/> Civil rights (08)<br><input type="checkbox"/> Defamation (13)<br><input type="checkbox"/> Fraud (16)<br><input type="checkbox"/> Intellectual property (19)<br><input type="checkbox"/> Professional negligence (25)<br><input type="checkbox"/> Other non-P/IPD/W/D tort (35) <p><b>Employment</b></p> <input type="checkbox"/> Wrongful termination (36)<br><input type="checkbox"/> Other employment (15) | <p><b>Contract</b></p> <input type="checkbox"/> Breach of contract/warranty (06)<br><input type="checkbox"/> Collections (09)<br><input type="checkbox"/> Insurance coverage (18)<br><input type="checkbox"/> Other contract (37) <p><b>Real Property</b></p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14)<br><input type="checkbox"/> Wrongful eviction (33)<br><input type="checkbox"/> Other real property (26) <p><b>Unlawful Detainer</b></p> <input type="checkbox"/> Commercial (31)<br><input type="checkbox"/> Residential (32)<br><input type="checkbox"/> Drugs (38) <p><b>Judicial Review</b></p> <input type="checkbox"/> Asset forfeiture (05)<br><input type="checkbox"/> Petition re: arbitration award (11)<br><input type="checkbox"/> Writ of mandate (02)<br><input type="checkbox"/> Other judicial review (39) | <p><b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b></p> <input type="checkbox"/> Antitrust/Trade regulation (03)<br><input type="checkbox"/> Construction defect (10)<br><input type="checkbox"/> Mass tort (40)<br><input type="checkbox"/> Securities litigation (28)<br><input checked="" type="checkbox"/> Environmental/Toxic tort (30)<br><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p><b>Enforcement of Judgment</b></p> <input type="checkbox"/> Enforcement of judgment (20) <p><b>Miscellaneous Civil Complaint</b></p> <input type="checkbox"/> RICO (27)<br><input type="checkbox"/> Other complaint (not specified above) (42) <p><b>Miscellaneous Civil Petition</b></p> <input type="checkbox"/> Partnership and corporate governance (21)<br><input type="checkbox"/> 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. <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): **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: 6/13/07  
 Reuben Yerushalmi  
 (TYPE OR PRINT NAME)

*[Signature]*  
 (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.

F. ADDENDUM TO CIVIL CASE COVER SHEET

|  |                     |
|--|---------------------|
| <b>Short Title:</b><br>Consumer Advocacy Group, Inc. v. Oreg Corporation, et al. | <b>Case Number:</b> |
|--|---------------------|

**CIVIL CASE COVER SHEET ADDENDUM**

**THIS FORM IS REQUIRED IN ALL NEW UNLIMITED CIVIL CASE FILINGS IN THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA**

|   |  |
|---|--|
| <input checked="" type="checkbox"/> Oakland, Rene C. Davidson Alameda County Courthouse (446) | <input type="checkbox"/> Hayward Hall of Justice (447) |
| <input type="checkbox"/> Pleasanton, Gale-Schenone Hall of Justice (448)                      |  |

| Civil Case Cover Sheet Category | Civil Case Cover Sheet Case Type     | Alameda County Case Type (check only one)  |
|---------------------------------|--------------------------------------|--|
| Auto Tort                       | Auto tort (22)                       | <input type="checkbox"/> 34 Auto tort (G)<br><b>Is this an uninsured motorist case? <input type="checkbox"/> yes <input type="checkbox"/> no</b> |
| Other PI / PD / WD Tort         | Asbestos (04)                        | <input type="checkbox"/> 75 Asbestos (D)   |
|                                 | Product liability (24)               | <input type="checkbox"/> 89 Product liability (not asbestos or toxic tort/environmental) (G)   |
|                                 | Medical malpractice (45)             | <input type="checkbox"/> 97 Medical malpractice (G)  |
|                                 | Other PI/PD/WD tort (23)             | <input type="checkbox"/> 33 Other PI/PD/WD tort (G)  |
| Non - PI / PD / WD Tort         | Bus tort / unfair bus. practice (07) | <input type="checkbox"/> 79 Bus tort / unfair bus. practice (G)  |
|                                 | Civil rights (08)                    | <input type="checkbox"/> 80 Civil rights (G)   |
|                                 | Defamation (13)                      | <input type="checkbox"/> 84 Defamation (G)   |
|                                 | Fraud (16)                           | <input type="checkbox"/> 24 Fraud (G)  |
|                                 | Intellectual property (19)           | <input type="checkbox"/> 87 Intellectual property (G)  |
|                                 | Professional negligence (25)         | <input type="checkbox"/> 59 Professional negligence - non-medical (G)  |
|                                 | Other non-PI/PD/WD tort (35)         | <input type="checkbox"/> 03 Other non-PI/PD/WD tort (G)  |
| Employment                      | Wrongful termination (36)            | <input type="checkbox"/> 38 Wrongful termination (G)   |
|                                 | Other employment (15)                | <input type="checkbox"/> 85 Other employment (G)   |
|                                 |                                      | <input type="checkbox"/> 53 Labor comm award confirmation  |
|                                 |                                      | <input type="checkbox"/> 54 Notice of appeal - L.C.A.  |
| Contract                        | Breach contract / Wrnty (06)         | <input type="checkbox"/> 04 Breach contract / Wrnty (G)  |
|                                 | Collections (09)                     | <input type="checkbox"/> 81 Collections (G)  |
|                                 | Insurance coverage (18)              | <input type="checkbox"/> 86 Ins. coverage - non-complex (G)  |
|                                 | Other contract (37)                  | <input type="checkbox"/> 98 Other contract (G)   |
| Real Property                   | Eminent domain / Inv Cdm (14)        | <input type="checkbox"/> 18 Eminent domain / Inv Cdm (G)   |
|                                 | Wrongful eviction (33)               | <input type="checkbox"/> 17 Wrongful eviction (G)  |
|                                 | Other real property (26)             | <input type="checkbox"/> 36 Other real property (G)  |
| Unlawful Detainer               | Commercial (31)                      | <input type="checkbox"/> 94 Unlawful Detainer - commercial   |
|                                 | Residential (32)                     | <input type="checkbox"/> 47 Unlawful Detainer - residential  |
|                                 | Drugs (38)                           | <input type="checkbox"/> 21 Unlawful detainer - drugs  |
|                                 |                                      | <b>Is the deft. in possession of the property? <input type="checkbox"/> Yes <input type="checkbox"/> No</b>                                      |
| Judicial Review                 | Asset forfeiture (05)                | <input type="checkbox"/> 41 Asset forfeiture   |
|                                 | Petition re: arbitration award (11)  | <input type="checkbox"/> 62 Pet. re: arbitration award   |
|                                 | Writ of Mandate (02)                 | <input type="checkbox"/> 49 Writ of mandate  |
|                                 | Other judicial review (39)           | <input type="checkbox"/> 64 Other judicial review  |
|                                 |                                      | <b>Is this a CEQA action (Publ.Res.Code section 21000 et seq) <input type="checkbox"/> Yes <input type="checkbox"/> No</b>                       |
| Provisionally Complex           | Antitrust / Trade regulation (03)    | <input type="checkbox"/> 77 Antitrust / Trade regulation   |
|                                 | Construction defect (10)             | <input type="checkbox"/> 82 Construction defect  |
|                                 | Claims involving mass tort (40)      | <input type="checkbox"/> 78 Claims involving mass tort   |
|                                 | Securities litigation (28)           | <input type="checkbox"/> 91 Securities litigation  |
|                                 | Toxic tort / Environmental (30)      | <input checked="" type="checkbox"/> 93 Toxic tort / Environmental  |
|                                 | Ins covrg from cmplx case type (41)  | <input type="checkbox"/> 95 Ins covrg from complex case type   |
| Enforcement of Judgment         | Enforcement of judgment (20)         | <input type="checkbox"/> 19 Enforcement of judgment  |
|                                 |                                      | <input type="checkbox"/> 08 Confession of judgment   |
| Misc Complaint                  | RICO (27)                            | <input type="checkbox"/> 90 RICO (G)   |
|                                 | Partnership / Corp. governance (21)  | <input type="checkbox"/> 88 Partnership / Corp. governance (G)   |
|                                 | Other complaint (42)                 | <input type="checkbox"/> 68 All other complaints (G)   |
| Misc. Civil Petition            | Other petition (43)                  | <input type="checkbox"/> 06 Change of name   |
|                                 |                                      | <input type="checkbox"/> 69 Other petition   |

1 REUBEN YERUSHALMI (SBN 193981)  
2 DANIEL D. CHO (SBN 105409)  
3 BEN YERUSHALMI (SBN 232540)  
4 YERUSHALMI & ASSOCIATES  
5 3700 WILSHIRE BLVD., SUITE 480  
6 LOS ANGELES, CA 90010  
7 213-382-3183

**ENDORSED  
FILED  
ALAMEDA COUNTY**

**JUN 19 2007**

CLERK OF THE SUPERIOR COURT

By *[Signature]*

8 Attorney for Plaintiff,  
9 Consumer Advocacy Group, Inc.

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF ALAMEDA --UNLIMITED

12 CONSUMER ADVOCACY )  
13 GROUP, INC., in the public interest, )

14 Plaintiff, )

15 v. )

16 )  
17 OREQ CORPORATION, )  
18 CHEMTURA CORPORATION, )  
19 HOME DEPOT U.S.A., INC., )  
20 PENTAIR WATER POOL & SPA, )  
21 INC., POOLMASTER, INC., SCP )  
22 POOL CORPORATION, )  
23 RECREATIONAL WATER )  
24 PRODUCTS, INC., and )  
25 DOES 1 - 100, )

26 Defendants. )

Case No. **RG07331650**

COMPLAINT FOR VIOLATION OF  
PROPOSITION 65, THE SAFE DRINKING  
WATER AND TOXIC ENFORCEMENT ACT OF  
1986 (HEALTH AND SAFETY CODE  
SECTIONS 25249.5, ET SEQ.)

UNLIMITED CIVIL CASE (more than  
\$25,000)

25 //  
26 //

COPY

1 **THE PARTIES**

- 2 1. Plaintiff, Consumer Advocacy Group, Inc. ("Plaintiff"), is a non-profit corporation  
3 qualified to do business in the State of California. It brings this action in the public  
4 interest as defined under Health and Safety Code section 25249.7, subdivision (d).  
5
- 6 2. Defendants Oreq Corporation, Chemtura Corporation, Home Depot U.S.A., Inc., Pentair  
7 Water Pool & Spa, Inc., Poolmaster, Inc., SCP Pool Corporation, Recreation Water  
8 Products, Inc., and DOES 1 – 100 are and at all times mentioned herein were qualified to  
9 do business in California, and at all times mentioned herein have conducted business  
10 within California.  
11
- 12 3. Plaintiff is ignorant of the true names and capacities of defendants Does 1-100, and  
13 therefore sues these defendants by such fictitious names. Plaintiff will amend this  
14 complaint to allege their true names and capacities when ascertained. Plaintiff is  
15 informed, believes, and thereon alleges that each fictitiously named defendant is  
16 responsible in some manner for the occurrences herein alleged and the damages caused  
17 thereby.  
18
- 19 4. At all times mentioned herein, "Defendants" include Oreq Corporation, Chemtura  
20 Corporation, Home Depot U.S.A., Inc., Pentair Water Pool & Spa, Inc., Poolmaster, Inc.,  
21 SCP Pool Corporation, Recreation Water Products, Inc., as well as Does 1-100.  
22
- 23 5. At all times mentioned each defendant was a "[p]erson in the course of doing business"  
24 within the meaning of Health and Safety Code section 25249.11, subdivision (b).  
25 Plaintiff is informed, believes, and thereon alleges that at all times mentioned herein each  
26 defendant had ten or more employees.

27 //  
28

1 **JURISDICTION AND VENUE**

2 6. The Court has jurisdiction over this lawsuit pursuant California Constitution Article VI,  
3 Section 10, which grants the Superior Court original jurisdiction in all causes except  
4 those given by statute to other trial courts.  
5

6 **FIRST CAUSE OF ACTION**

7 **(BY Consumer Advocacy Group, Inc. and against Oreq Corporation, Chemtura**  
8 **Corporation, Home Depot U.S.A., Inc., Pentair Water Pool & Spa, Inc., Poolmaster,**  
9 **Inc., SCP Pool Corporation, Recreation Water Products, Inc., and DOES 1 – 100 For**  
10 **Violation Of Proposition 65, The Safe Drinking Water And Toxic Enforcement Act Of**  
11 **1986 (Health & Saf. Code, §§ 25249.5, et seq.)**

12 7. Plaintiff, Consumer Advocacy Group, Inc., repeats and incorporates by reference the  
13 previous paragraphs of this complaint as though fully set forth herein.  
14

15 8. Each Defendant is and at all times mentioned herein was a manufacturer or distributor of  
16 a consumer product designed for testing the concentration of chlorine and pH in  
17 swimming pool water, as follows:  
18

19

| <b>Manufacturer / Distributor</b> | <b>Product</b>  |
|-----------------------------------|---|
| Oreq Corporation                  | #1 OTO Solution for Chlorine Test ; POOL<br>STYLE TESTING SOLUTIONS |
| Chemtura Corporation              | 1 Reagent Ortho Tolidin OTO Chlorine Indicator                      |
| Home Depot U.S.A., Inc.           | 1 Indicator Solution by Pool Shop®                                  |
| Pentair Water Pool & Spa, Inc.    | Pentair Pool Products™ Rainbow Lifeguard®                           |
| Poolmaster, Inc.                  | Poolmaster® Orthotolidine OTO Indicator<br>Solution                 |

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|                                     |                                      |
|-------------------------------------|--------------------------------------|
| 1 SCP Pool Corporation              | PoolStyle™ Chlorine Bromine OTO - 50 |
| 2 Recreational Water Products, Inc. | Aqua Chem™ 3-Way Test Kit            |

3  
4  
5 Hereinafter, the above-mentioned products shall collectively be referred to as “Pool  
6 Products.”

7 9. Plaintiff is informed, believes, and thereon alleges that each Defendant knowingly and  
8 intentionally exposed users of the Pool Product that it manufactured or distributed, as  
9 mentioned above, to 3,3'-Dimethylbenzidine (ortho-Tolidine), a chemical designated by  
10 the State of California to cause cancer, without first giving clear and reasonable warning  
11 of such to the persons exposed. Defendants thereby violated Health and Safety Code  
12 sections 25249.5, et seq. (“Proposition 65”).  
13

14 10. On January 1, 1988, 3,3'-Dimethylbenzidine (ortho-Tolidine) first appeared on the  
15 Governor’s Proposition 65 list of Chemicals known to cause cancer. (Cal. Code Regs.,  
16 title 22, §12000, subdivision (b)). Pursuant to Health and Safety Code section 25249.9,  
17 twenty months after first appearing on the Governor’s Proposition 65 list, 3,3'-  
18 Dimethylbenzidine (ortho-Tolidine) became subject to Proposition 65 warning  
19 requirements.  
20

21 11. Between December 13, 2003, and December 11, 2006, persons using the Pool Products  
22 sustained exposure by dermal contact to 3,3'-Dimethylbenzidine (ortho-Tolidine)  
23 contained in the Pool Products by using a bare thumb or other finger to seal a cylinder  
24 containing pool water collected for testing and the Pool Products before mixing the  
25 contents therein. Said persons thereby allowed their bare skin to touch the solution  
26 containing 3,3'-Dimethylbenzidine (ortho-Tolidine). Since 3,3'-Dimethylbenzidine  
27  
28

1 (ortho-Tolidine) absorbs through human skin, the foregoing exposure was significant and  
2 warranted a Proposition 65 warning.

3 **SATISFACTION OF PRIOR NOTICE**

4  
5 12. On December 12, 2006, Plaintiff gave notice of alleged violations of Health and Safety  
6 Code section 25249.6 subject to a private action, as described in the foregoing  
7 paragraphs, to Defendant Oreq Corporation.

8  
9 13. On December 12, 2006, Plaintiff gave notice of alleged violations of Health and Safety  
10 Code section 25249.6 subject to a private action, as described in the foregoing  
11 paragraphs, to Defendant Chemtura Corporation.

12  
13 14. On December 12, 2006, Plaintiff gave notice of alleged violations of Health and Safety  
14 Code section 25249.6 subject to a private action, as described in the foregoing  
15 paragraphs, to Defendant Home Depot U.S.A, Inc.

16  
17 15. On December 12, 2006, Plaintiff gave notice of alleged violations of Health and Safety  
18 Code section 25249.6 subject to a private action, as described in the foregoing  
19 paragraphs, to Defendant Pentair Water Pool & Spa, Inc.

20  
21 16. On December 12, 2006, Plaintiff gave notice of alleged violations of Health and Safety  
22 Code section 25249.6 subject to a private action, as described in the foregoing  
23 paragraphs, to Defendant Poolmaster, Inc.

24  
25 17. On December 12, 2006, Plaintiff gave notice of alleged violations of Health and Safety  
26 Code section 25249.6 subject to a private action, as described in the foregoing  
27 paragraphs, to Defendant SCP Pool Corporation.  
28

1 18. On December 12, 2006, Plaintiff gave notice of alleged violations of Health and Safety  
2 Code section 25249.6 subject to a private action, as described in the foregoing  
3 paragraphs, to Defendant Recreational Water Products, Inc.  
4

5 19. On each respective date mentioned in paragraphs 12 through 18 of this Complaint,  
6 Plaintiff caused mailing of a copy of each respective Notice of Intent to Sue to the  
7 Attorney General and the applicable district attorneys and city attorneys in whose  
8 jurisdictions the violations allegedly occurred.

9 20. Plaintiff gave this notice, and filed this action, more than twenty months after 3,3'-  
10 Dimethylbenzidine (ortho-Tolidine) first appeared on the Governor's Proposition 65 list,  
11 and after 3,3'-Dimethylbenzidine (ortho-Tolidine) became subject to Proposition 65  
12 warning requirements.  
13

14 21. Plaintiff's notices of the alleged violation included a certificate of merit executed by the  
15 attorney for the noticing party, Plaintiff. The certificate of merit stated that the attorney  
16 for Plaintiff who executed the certificate had consulted with at least one person with  
17 relevant and appropriate expertise who had reviewed data regarding the exposure to 3,3'-  
18 Dimethylbenzidine (ortho-Tolidine), which is the subject of this action. Based on that  
19 information, the attorney for Plaintiff who executed the certificate believed there was a  
20 reasonable and meritorious case for this private action. The attorney for Plaintiff attached  
21 to the certificate of merit served on the Attorney General information sufficient to  
22 establish the basis of the certificate of merit.  
23  
24

25 22. Plaintiff is commencing this action more than sixty days from the date that Plaintiff gave  
26 notice of the alleged violations to Defendants, to the Attorney General, and to applicable  
27  
28

1 district attorneys and city attorneys in whose jurisdictions the violations allegedly  
2 occurred.

3  
4 23. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor  
5 any applicable district attorney or city attorney has commenced and is diligently  
6 prosecuting an action against the violation.

7  
8 24. At all times relevant to this action, Defendants knew they was exposing users of the Pool  
9 Products to 3,3'-Dimethylbenzidine (ortho-Tolidine), a chemical designated by the State  
10 of California to cause cancer, without first giving clear and reasonable warning of such to  
11 the persons exposed.

12 25. Plaintiff's allegations concern a "consumer product exposure," which is an exposure that  
13 results from a person's acquisition, purchase, storage, consumption, or other reasonably  
14 foreseeable use of a consumer good. The Pool Products are consumer products. Since  
15 the Pool Products contain 3,3'-Dimethylbenzidine (ortho-Tolidine), the reasonably  
16 foreseeable use of the Pool Products results in exposure through dermal contact to 3,3'-  
17 Dimethylbenzidine (ortho-Tolidine). Users of the Pool Products touch the chemical  
18 included the Pool Products with their bare skin when they use a bare thumb or other  
19 finger to seal a cylinder that contains said chemical and the swimming pool water  
20 collected for testing and mix the contents therein.  
21  
22

23 26. The route of exposure for 3,3'-Dimethylbenzidine (ortho-Tolidine) has been dermal  
24 contact.

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1 **PRAYER FOR RELIEF**

2 Plaintiff demands against each Defendant as follows:

- 3 1. A permanent injunction;
- 4
- 5 2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b) of
- 6 \$2,500.00 per day per violation;
- 7 3. Costs of suit;
- 8
- 9 5. Reasonable attorney's fees and costs; and
- 10 6. Any further relief that the court may deem just and equitable.

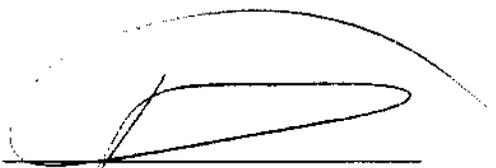
11 Dated: June 13/07

YEROUSHALMI & ASSOCIATES

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16 Reuben Yeroushalmi

17 Attorney for Plaintiff,

18 Consumer Advocacy Group, Inc.

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