

1 Christopher M. Martin, State Bar No. 186021  
HIRST & CHANLER LLP  
2 566 W. Adams, Suite 450  
Chicago, IL 60661  
3 Telephone: (312) 376-1801  
Facsimile: (312) 376-1804

4 Attorneys for Plaintiff  
5 MICHAEL DIPIRRO

ENDORSED  
FILED  
ALAMEDA COUNTY

NOV - 1 2007

CLERK OF THE SUPERIOR COURT  
By C. PITTS Deputy

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF ALAMEDA  
9 UNLIMITED CIVIL JURISDICTION

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12 MICHAEL DIPIRRO,  
13 Plaintiff,  
14 v.  
15 SYNTAX-BRILLIAN CORPORATION; and  
DOES 1 through 150, inclusive,  
16 Defendants.

Case No. **RG07354290**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

*(Cal. Health & Safety Code §25249.6 et seq.)*

**BY FAX**

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1 persons engaged in the small business field of computer service and repair whom the Occupational  
 2 Safety Health Act (OSH ACT) does not cover; and/or other individuals in the State of California  
 3 about their exposure to the LISTED CHEMICAL in conjunction with defendants' sale of the  
 4 PRODUCTS is a violation of Proposition 65 and subjects defendants to enjoinder of such  
 5 conduct as well as civil penalties for each such violation.

6 8. For defendants' violations of Proposition 65, plaintiff seeks preliminary injunctive  
 7 and permanent injunctive relief to compel defendants to provide purchasers or users of the  
 8 PRODUCTS with the required warning regarding the health hazards of the LISTED CHEMICAL.  
 9 (*Cal. Health & Safety Code §25249.7(a).*)

10 9. Plaintiff also seeks civil penalties against defendants for their violations of  
 11 Proposition 65, as provided for by California Health & Safety Code §25249.7(b).

12 **PARTIES**

13 10. Plaintiff MICHAEL DIPIRRO is a citizen of the City and County of San Francisco  
 14 in the State of California who is dedicated to protecting the health of California citizens through  
 15 the elimination or reduction of toxic exposures from consumer products, and brings this action in  
 16 the public interest pursuant to California Health & Safety Code §25249.7.

17 11. Defendant SYNTAX-BRILLIAN CORPORATION (SYNTAX-BRILLIAN) is a  
 18 person doing business within the meaning of California Health & Safety Code §25249.11.

19 12. SYNTAX-BRILLIAN manufactures, distributes and/or offers the PRODUCTS for  
 20 sale or use in the State of California or implies by its conduct that it manufactures, distributes  
 21 and/or offers the PRODUCTS for sale or use in the State of California.

22 13. Defendants DOES 1-50 (MANUFACTURER DEFENDANTS) are each persons  
 23 doing business within the meaning of California Health & Safety Code §25249.11.

24 14. MANUFACTURER DEFENDANTS engage in the process of research, testing,  
 25 designing, assembling, fabricating and/or manufacturing, or imply by their conduct that they  
 26 engage in the process of research, testing, designing, assembling, fabricating and/or manufacturing,  
 27 one or more of the PRODUCTS for sale or use in the State of California.  
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1 15. Defendants DOES 51-100 (DISTRIBUTOR DEFENDANTS) are each persons  
2 doing business within the meaning of California Health & Safety Code §25249.11.

3 16. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process and/or  
4 transport one or more of the PRODUCTS to individuals, businesses or retailers for sale or use in  
5 the State of California.

6 17. Defendants DOES 101-150 (RETAIL DEFENDANTS) are each persons doing  
7 business within the meaning of California Health & Safety Code §25249.11.

8 18. RETAIL DEFENDANTS offer the PRODUCTS for sale to individuals in the State  
9 of California.

10 19. At this time, the true names of Defendants DOES 1 through 150, inclusive, are  
11 unknown to plaintiff, who therefore sues said defendants by their fictitious name pursuant to Code  
12 of Civil Procedure §474. Plaintiff is informed and believes, and on that basis alleges, that each of  
13 the fictitiously named defendants is responsible for the acts and occurrences herein alleged. When  
14 ascertained, their true names shall be reflected in an amended complaint.

15 20. SYNTAX-BRILLIAN, MANUFACTURER DEFENDANTS, DISTRIBUTOR  
16 DEFENDANTS, and RETAIL DEFENDANTS shall, where appropriate, collectively be referred to  
17 hereinafter as "DEFENDANTS."

#### 18 VENUE AND JURISDICTION

19 21. Venue is proper in the Alameda County Superior Court, pursuant to Code of Civil  
20 Procedure §§394, 395, 395.5, because this Court is a court of competent jurisdiction, because one  
21 or more instances of wrongful conduct occurred, and continues to occur, in the County of Alameda  
22 and/or because DEFENDANTS conducted, and continue to conduct, business in this County with  
23 respect to the PRODUCTS.

24 22. The California Superior Court has jurisdiction over this action pursuant to  
25 California Constitution Article VI, §10, which grants the Superior Court "original jurisdiction in all  
26 causes except those given by statute to other trial courts." The statute under which this action is  
27 brought does not specify any other basis of subject matter jurisdiction.  
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1 DEFENDANTS' manufacture, distribution and/or offering of the PRODUCTS for sale or use in  
2 violation of California Health & Safety Code §25249.6 has continued to occur beyond SYNTAX-  
3 BRILLIAN's receipt of plaintiff's sixty-day notice of violation. Plaintiff further alleges and  
4 believes that such violations will continue to occur into the future.

5 29. After receipt of the claims asserted in the sixty-day notice of violation, the  
6 appropriate public enforcement agencies have failed to commence and diligently prosecute a cause  
7 of action against SYNTAX-BRILLIAN under Proposition 65.

8 30. The PRODUCTS manufactured, distributed, and/or offered for sale or use in  
9 California by DEFENDANTS contained the LISTED CHEMICAL above the allowable state  
10 limits.

11 31. DEFENDANTS knew or should have known that the PRODUCTS manufactured,  
12 distributed, and/or offered for sale or use by DEFENDANTS in California contained the LISTED  
13 CHEMICAL.

14 32. The LISTED CHEMICAL was present in or on the PRODUCTS in such a way as to  
15 expose individuals to the LISTED CHEMICAL through dermal contact, ingestion, and/or  
16 inhalation during the reasonably foreseeable use of the PRODUCTS.

17 33. The normal and reasonably foreseeable use of the PRODUCTS has caused and  
18 continues to cause consumer exposures to the LISTED CHEMICAL, as such exposure is defined  
19 by 22 CCR §12601(b).

20 34. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of  
21 the PRODUCTS would expose individuals to the LISTED CHEMICAL through dermal contact,  
22 ingestion, and/or inhalation.

23 35. DEFENDANTS, and each of them, intended that such exposures to the LISTED  
24 CHEMICAL from the reasonably foreseeable use of the PRODUCTS would occur by their  
25 deliberate, non-accidental participation in the manufacture, distribution and/or offer for sale or use  
26 of PRODUCTS to individuals in the State of California.

27 36. DEFENDANTS failed to provide a "clear and reasonable warning" to those  
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1 consumers; sole proprietors, employees, and other persons engaged in the small business field of  
2 computer service and repair whom the Occupational Safety Health Act (OSH ACT) does not  
3 cover; and/or other individuals in the State of California who were or who could become exposed  
4 to the LISTED CHEMICAL through dermal contact, ingestion, and/or inhalation during the  
5 reasonably foreseeable use of the PRODUCTS.

6 37. Contrary to the express policy and statutory prohibition of Proposition 65, enacted  
7 directly by California voters, individuals exposed to the LISTED CHEMICAL through dermal  
8 contact, ingestion, and/or inhalation resulting from the reasonably foreseeable use of the  
9 PRODUCTS, sold by DEFENDANTS without "clear and reasonable warning," have suffered, and  
10 continue to suffer, irreparable harm, for which harm they have no plain, speedy or adequate remedy  
11 at law.

12 38. As a consequence of the above-described acts, DEFENDANTS, and each of them,  
13 are liable for a maximum civil penalty of \$2,500 per day for each violation pursuant to California  
14 Health & Safety Code §25249.7(b).

15 39. As a consequence of the above-described acts, California Health & Safety Code  
16 §25249.7(a) also specifically authorizes the Court to grant injunctive relief against  
17 DEFENDANTS.

18 40. Wherefore, plaintiff prays judgment against DEFENDANTS, and each of them, as  
19 set forth hereinafter.

#### 20 **PRAYER FOR RELIEF**

21 Wherefore, plaintiff prays for judgment against DEFENDANTS as follows:

22 1. That the Court, pursuant to California Health & Safety Code §25249.7(b), assess  
23 civil penalties against DEFENDANTS, and each of them, in the amount of \$2,500 per day for each  
24 violation alleged herein;

25 2. That the Court, pursuant to California Health & Safety Code §25249.7(a),  
26 preliminarily and permanently enjoin DEFENDANTS, and each of them, from manufacturing,  
27 distributing or offering the PRODUCTS for sale or use in California, without providing "clear and  
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reasonable warnings” as defined by 22 CCR §12601, as to the harms associated with exposures to the LISTED CHEMICAL;

- 3. That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and
- 4. That the Court grant such other and further relief as may be just and proper.

Dated: November L, 2007

Respectfully Submitted,

HIRST & CHANLER LLP



Christopher M. Martin  
Attorneys for Plaintiff  
MICHAEL DIPIRRO

**BY FAX**