SUM-100

SUMMONS
(CITACION JUDICIAL)

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

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
Valley Industries Corp., A.J. Wholesale Distributors, Inc. and DOES 1-50.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
CONSUMER ADVOCACY GROUP, INC., in the interest of the Public,

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, State of California, for the County of San Francisco
Civic Center Courthouse
400 McAllister Street, San Francisco, CA 94102-4514

CASE NUMBER: CGC-08-479129
(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: *(Fecha)* AUG 26 2008 GORDON PARK-LI Clerk, by *(Secretario)* D. STEELE, Deputy *(Adjunto)*

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

[SEAL]

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):*

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. January 1, 2004]

SUMMONS

Code of Civil Procedure §§ 412.20, 465
American LegalNet, Inc. www.USCourtForms.com

CM-010

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.

FOR COURT USE ONLY

ENDORSED
FILED
Superior Court of California
County of San Francisco

AUG 26 2008

GORDON PARK-LI, Clerk
BY: DEBORAH STEPPE
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco
STREET ADDRESS: 400 McAllister Street
MAILING ADDRESS: 400 McAllister Street
CITY AND ZIP CODE: San Francisco 94102-4514
BRANCH NAME: Civic Center Courthouse

CASE NAME:
Consumer Advocacy Group, Inc. v. Valley Industries Corp. et al.

CASE NUMBER:
CGC-08-479129

JUDGE:

DEPT:

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)

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 PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
- ☐ Asbestos (04)
- ☐ Product liability (24)
- ☐ Medical malpractice (45)
- ☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
- ☐ Business tort/unfair business practice (07)
- ☐ Civil rights (08)
- ☐ Defamation (13)
- ☐ Fraud (16)
- ☐ Intellectual property (19)
- ☐ Professional negligence (25)
- ☐ Other non-PI/PD/WD 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 (26)

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: 8/11/2008

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.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev. January 1, 2007]

CIVIL CASE COVER SHEET

American LegalNet, Inc.
www.FormsWorkflow.com

Cal. Rules of Court, rules 3.220, 3.400-3.403;
Standards of Judicial Administration, § 19
www.courtinfo.ca.gov

Reuben Yeroushalmi (SBN 193981)
Daniel D. Cho (SBN 105409)
Joshua A. Najemy (SBN 251596)
YEROUSHALMI & ASSOCIATES
3700 Wilshire Blvd., Suite 480
Los Angeles, CA 90010
Telephone: 213-382-3183
Facsimile: 213-382-3430
Email: lawfirm@yeroushalmi.com
Attorney for Plaintiff,
Consumer Advocacy Group, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

CONSUMER ADVOCACY GROUP, INC., in the public interest, Plaintiff, v. VALLEY INDUSTRIES CORP., A. J. WHOLESALE DISTRIBUTORS, INC., and DOES 1 – 50. Defendants.	Case No. CGC-08-479129 COMPLAINT FOR VIOLATIONS 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)

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

THE PARTIES

1. Plaintiff, Consumer Advocacy Group, Inc. 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 Valley Industries Corp. is a corporation qualified to do business in the State of California.

3. Defendant A.J. Wholesale Distributors, Inc. is a corporation qualified to do business in the State of California.

4. Plaintiff is ignorant of the true names and capacities of defendants Does 1-50, 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 and damages alleged.

5. At all times mentioned herein, "Defendants" include Valley Industries Corp., A.J. Wholesale Distributors, Inc. and DOES 1 to 50.

6. At all times mentioned each defendant was a "[p]erson in the course of doing business" within the meaning of Health and Safety Code section 25249.11, subdivision (b). Plaintiff is informed, believes, and thereon alleges that at all times mentioned each defendant had ten or more employees.

JURISDICTION AND VENUE

7. The Court has jurisdiction over this lawsuit pursuant 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.

//

FIRST CAUSE OF ACTION

(By Consumer Advocacy Group, Inc. and against Valley Industries Corp., A. J. Wholesale Distributors, Inc. and DOES 1 – 50 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Saf. Code, §§ 25249.5 et seq.)

8. Plaintiff repeats and incorporates by reference the previous paragraphs of this complaint as though fully set forth herein.

9. Each and every day between June 11, 2005, and June 11, 2008, and continuing thereafter, Defendant Valley Industries Corp. has manufactured or distributed a consumer product known as Valley® Soldering Wire, Item No. ETSW-001, designed for soldering metal.

10. Each and every day between June 6, 2005, and June 6, 2008, and continuing thereafter, Defendant A.J. Wholesale Distributors, Inc. has manufactured or distributed a consumer product known as Pit Bull 5Pcs Soldering Gun, Item. No. CHIG001302, designed for soldering metal.

11. Each and every day between June 6, 2005, and June 6, 2008, and continuing thereafter, Defendant A.J. Wholesale Distributors, Inc. has manufactured or distributed a consumer product known as Pit Bull 10pcx 105 gm Battery Terminal (12/C), Item No. CHITAM10, designed for use on automobile batteries.

12. Plaintiff is informed, believed, and thereon alleges that each of the consumer products identified in Paragraphs 9 to 11 contains Lead.

13. Plaintiff is informed, believes, and thereon alleges that each Defendant identified herein exposed, knowingly and intentionally, users of the products identified in Paragraph 9 to 11 to Lead, a chemical designated by the State of California to cause cancer, without first

giving clear and reasonable warning of such to the persons exposed. Defendants thereby violated Proposition 65.

14. On October 1, 1992, the Governor of California added lead and lead compounds to the list of chemicals known to the State to cause cancer, (Cal. Code Regs., tit. 22, § 12000, sub. (b)). Pursuant to Health and Safety Code section 25249.9, twenty months after first appearing on the Governor's Proposition 65 list, lead became subject fully to Proposition 65 warning requirements and discharge prohibitions.

15. Between June 11, 2005, and the present, persons in California using the product identified in Paragraph 9 were exposed to Lead through dermal contact, ingestion, and inhalation. Persons sustained exposures to lead by handling said product without wearing gloves or by touching bare skin with gloves after handling said product. Persons handling said product were also exposed when they breathed in particulate matter emanating from the lead soldering wire as they used the lead solder wire, especially when heating the same.

16. Between June 6, 2005, and the present, persons in California using the product identified in Paragraph were exposed to Lead through dermal contact, ingestion, and inhalation. Persons sustained exposures to lead by handling the lead solder wire accompanying such products without wearing gloves or by touching bare skin with gloves after handling the lead solder wire. Persons handling said lead soldering wire were also exposed when they breathed in particulate matter emanating from the lead soldering wire as they used the lead solder wire, especially when heating the same.

17. Between June 6, 2005, and the present, persons in California using the product identified in Paragraph 11 were exposed to lead by handling said product without wearing gloves or

by touching bare skin with gloves after handling said product. Persons handling said product were also exposed when they inserted bare skin that had been exposed to Lead into their mouths, or breathing in particulate matter emanating from the said product as they installed said product onto or removed said product from an automobile battery.

18. Plaintiff is informed, believes, and thereon alleges that each of the Proposition 65 violations referenced in paragraphs 9 to 17 was continuous, so that a separate and distinct violation of Proposition 65 occurred every time a consumer was exposed to lead by using any of the products mentioned herein.

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

SATISFACTION OF PRIOR NOTICE

20. On June 11, 2008, Plaintiff gave notice of alleged violations of Proposition 65 subject to a private action ("Notice") to Defendant Valley Industries Corp., concerning the consumer product described in paragraph 9.

21. On June 6, 2008, Plaintiff gave Notice to Defendant A.J. Wholesale Distributors, Inc., concerning the consumer products described in paragraphs 10 and 11.

22. Before the sending of each Notice, plaintiff investigated the consumer products involved, the likelihood that such products would cause users to suffer significant exposures to lead, the corporate structure of each Defendant, and other relevant matters.

23. Plaintiff caused mailing of copies of each Notice to each Defendant named herein, the Attorney General, and applicable district attorneys and city attorneys in whose jurisdictions the violations allegedly occurred.

24. Plaintiff gave each Notice, and filed this action, more than twenty months after lead first appeared on the Governor's Proposition 65 list, and after lead became subject fully to Proposition 65 warning requirements and discharge prohibitions.

25. Each of the Notices identified in paragraphs 20 and 21 included a certificate of merit executed by the attorney for the noticing party. Each certificate of merit stated that the attorney for plaintiff who executed the certificate had consulted with at least one person with relevant and appropriate expertise who had reviewed data regarding the exposures to lead alleged in this action. Based on that information, such attorney believed there was a reasonable and meritorious case for this private action. Such attorney attached to the certificate of merit served on the Attorney General information sufficient to establish the basis of the certificate of merit.

26. Plaintiff is commencing this action more than sixty days from the date that Plaintiff gave Notice to each Defendant mentioned herein, the Attorney General, and applicable district attorneys and city attorneys in whose jurisdictions the violations allegedly occurred.

27. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General nor any applicable district attorney or city attorney has commenced and is diligently prosecuting an action against the violations alleged.

28. Plaintiff's allegations concern a "consumer product exposure," which is an exposure that results from a person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good. The products identified in Paragraphs 9 to 11 are consumer products. As detailed in Paragraphs 15 to 17, the reasonably foreseeable use of the products causes exposure to lead.

PRAYER FOR RELIEF

Plaintiff demands against each defendant as follows:

1. A permanent injunction mandating Proposition 65 complaint warnings;

2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b) of $2,500.00 per day per violation;

3. Costs of suit;

4. Reasonable attorney fees and costs; and

5. Any further relief that the court may deem just and equitable.

Dated: August 21, 2008

YEROUSHALMI & ASSOCIATES

Reuben Yeroushalmi
Attorney for Plaintiff,
Consumer Advocacy Group, Inc.