

**SUMMONS ON FIRST AMENDED  
(CITACION JUDICIAL) COMPLAINT**

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

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

HAWK TOOL & MACHINE CORP., HAWK TOOL & MACHINE, INC., CHRISTOPHER ASSOCIATES, INC., a California Corporation, TOPLINE CORPORATION, a California Corporation and DOES 1-100

**YOU ARE BEING SUED BY PLAINTIFF:**

**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

CONSUMER ADVOCACY GROUP, INC., in the public interest

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 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/](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.*

The name and address of the court is:

(El nombre y dirección de la corte es):

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

CASE NUMBER: CGC-08-480461  
(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)

NOV 14 2008

GORDON PARK-LJ

Clerk, by  
(Secretario)

KAREN LIU

Deputy  
(Adjunto)

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

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

**NOTICE TO THE PERSON SERVED: You are served**

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

3.  on behalf of (specify):

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

4.  by personal delivery on (date):

COPY

1 REUBEN YEROUSHALMI (SBN 193981)  
2 DANIEL D. CHO (SBN 105409)  
3 JOSHUA NAJEMY (SBN 21596)  
4 **YEROUSHALMI & ASSOCIATES**  
5 3700 WILSHIRE BLVD., SUITE 480  
6 LOS ANGELES, CA 90010  
7 Telephone: 213-382-3183  
8 Facsimile: 213-382-3430

9 Attorneys for Plaintiffs,  
10 Consumer Advocacy Group, Inc

ENDORSED  
FILED  
San Francisco County Superior Court  
NOV 14 2008  
GORDON PARK-LI, Clerk  
BY: \_\_\_\_\_  
Deputy Clerk

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

13 CONSUMER ADVOCACY GROUP, INC., )	CASE NO. CGC-08-480461
14 in the public interest, )	
15 Plaintiff, )	FIRST AMENDED COMPLAINT FOR
16 v. )	PENALTY, INJUNCTION, AND
17 HAWK TOOL & MACHINE CORP., )	RESTITUTION
18 HAWK TOOL & MACHINE, INC., )	Violation of Proposition 65, the Safe
19 CHRISTOPHER ASSOCIATES, INC., a )	Drinking Water and Toxic Enforcement
20 California Corporation, TOPLINE )	Act of 1986 (Health & Safety Code., §§
21 CORPORATION, a California Corporation )	25249.5, et seq.)
22 and DOES 1-100; )	ACTION IS AN UNLIMITED CIVIL
23 Defendants. )	CASE (exceeds \$25,000)
24 )	
25 )	
26 )	
27 )	
28 )	

25 Plaintiff, Consumer Advocacy Group, Inc., amends its complaint filed herein and for  
26 cause of action alleges as follows:  
27  
28

THE PARTIES

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



1 14. Plaintiff conducted research, from which it identified a widespread practice of  
2 manufacturers and distributors of soldering products of exposing, knowingly and  
3 intentionally, persons in California to the Proposition 65 listed constituents of such  
4 products without first providing clear and reasonable warnings of such to the exposed  
5 persons prior to exposure. Plaintiff later discerned that Defendants engaged in such  
6 practice.  
7

8 **FIRST CAUSE OF ACTION**

9  
10 **(By Consumer Advocacy Group, Inc. and against Hawk Tool & Machine Corp., Hawk**  
11 **Tool & Machine, Inc., Christopher Associates, Inc., Topline Corporation, and Does 1-100**  
12 **For Violation Of Proposition 65, The Safe Drinking Water And Toxic Enforcement Act Of**  
13 **1986 (Health & Safety Code, §§ 25249.5, et seq.)**

14  
15 15. Plaintiff, Consumer Advocacy Group, Inc. repeats and incorporates by reference  
16 paragraphs 1 through 12 of this complaint as though fully set forth herein.

17 16. Defendants Hawk Tool & Machine Corp., and Hawk Tool & Machine, Inc., are, and at  
18 all times mentioned herein, were, manufacturers or distributors of Hawk 4pc Solder Wire  
19 Set – Alloy: 40% Tin: 60% Lead – Diameter: 1.2mm; Item #TE44 (“Hawk Solder  
20 Wire”), a consumer product designed for soldering.  
21

22 17. Defendants Christopher Associates, Inc., and Topline Corporation, are, and at all times  
23 mentioned herein, were, manufacturers or distributors of tubes of alloy tin/lead marked  
24 under the trademark Koki Products Ltd. (“Koki Tube”), a consumer product designed for  
25 soldering.  
26

27 18. Plaintiff is informed, believes, and thereon alleges that Hawk Solder Wire contains Lead.

28 19. Plaintiff is informed, believes, and thereon alleges that Koki Tube contains Lead.

1 20. On October 1, 1992, the Governor of California added Lead to the list of chemicals  
2 known to the State to cause cancer (Cal. Code Regs., title 22, § 12000, subd. (b)).  
3 Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty months after  
4 addition of Lead to the list of chemicals known to the State to cause cancer, Lead became  
5 fully subject to Proposition 65 warning requirements and discharge prohibitions.  
6

7 21. Plaintiff is informed, believes, and thereon alleges that between October 2, 2004 and the  
8 present Defendants Hawk Tool & Machine Corp., and Hawk Tool & Machine, Inc.  
9 knowingly and intentionally exposed California users of Hawk Solder Wire, which they  
10 manufactured or distributed, as mentioned above, to Lead, without first giving clear and  
11 reasonable warning of such to the exposed persons before the time of exposure.  
12 Defendants have distributed Hawk Solder Wire in California. Defendants thereby  
13 violated Proposition 65.  
14

15 22. Plaintiff is informed, believes, and thereon alleges that between July 28, 2004 and the  
16 present Defendants Christopher Associates, Inc. and Topline Corporation knowingly and  
17 intentionally exposed California users of Koki Tube, which they manufactured or  
18 distributed, as mentioned above, to Lead, without first giving clear and reasonable  
19 warning of such to the exposed persons before the time of exposure. Defendants have  
20 distributed Koki Tube in California. Defendants thereby violated Proposition 65.  
21  
22

23 23. As to Hawk Solder Wire, the principal routes of exposure are through dermal contact,  
24 ingestion, and inhalation. Hawk Solder Wire contains four lengths of lead soldering wire.  
25 Persons handling Hawk Solder Wire suffer exposure when they handle the lead soldering  
26 wire without wearing gloves or by touching bare skin with gloves after handling the lead  
27 soldering wire. Persons handling Hawk Solder Wire also suffer exposures by breathing  
28

1 in particulate matter emanating from the lead soldering wire as they use the lead  
2 soldering wire (especially when heating the same) or by inserting surfaces (e.g., hands)  
3 that have encountered the lead soldering wire into their mouths. The foregoing assumes  
4 use of Hawk Solder Wire in accordance with its instructions.  
5

6 24. As to Koki Tube, the principal routes of exposure are through dermal contact, ingestion,  
7 and inhalation. Koki Tube is a plastic cylinder that contains a spiral-shaped length of  
8 lead soldering wire. Each and every day between December 28, 2004 until the present,  
9 persons handling Koki Tube were exposed to lead when they handled the lead soldering  
10 wire without wearing gloves or by touching bare skin with gloves after handling the lead  
11 soldering wire. Persons handling Koki Tube also suffered exposure by breathing in  
12 particulate matter emanating from the lead soldering wire as they used the lead soldering  
13 wire (especially when heating the same) or by inserting surfaces that have encountered  
14 the lead solder wire into their mouths.  
15  
16

17 25. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
18 Proposition 65 mentioned in this First Amended Complaint have been ongoing and  
19 continuous and have continued to the date of the signing of this complaint, so that a  
20 separate and distinct violation of Proposition 65 occurred each and every time a  
21 consumer was exposed to Lead by using Hawk Solder Wire or to Koki Tube as  
22 mentioned herein.  
23

24 26. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
25 Proposition 65 mentioned herein is ever continuing.  
26  
27  
28

SATISFACTION OF PRIOR NOTICE

1  
2 27. On or about October 2, 2007, Plaintiff gave notice of alleged violations of Health and  
3 Safety Code section 25249.6 subject to a private action to Hawk Tool & Machine Corp.  
4 and Hawk Tool & Machine, Inc., identified in the notice as Hawk Tool & Machine Corp.,  
5 and to the California Attorney General, County District Attorneys, and City Attorneys for  
6 each city containing a population of at least 750,000 people in whose jurisdictions the  
7 violations allegedly occurred, concerning Hawk Solder Wire.  
8

9  
10 28. On or about July 27, 2007, Plaintiff gave notice of alleged violations of Health and Safety  
11 Code section 25249.6 subject to a private action to Christopher Associates, Inc., Topline  
12 Corporation (identified in the notice as "Topline"), and to the California Attorney  
13 General, County District Attorneys, and City Attorneys for each city containing a  
14 population of at least 750,000 people in whose jurisdictions the violations allegedly  
15 occurred, concerning Koki Tube.  
16

17 29. Before sending the notice of alleged violation, Plaintiff investigated the consumer  
18 products involved, the likelihood that such products would cause users to suffer  
19 significant exposures to Lead, the corporate structure of each defendant, and other  
20 relevant matters.  
21

22 30. Plaintiff's notices of alleged violation included a certificate of merit executed by the  
23 attorney for the noticing party, Plaintiff. The certificates of merit stated that the attorney  
24 for Plaintiff who executed the certificate had consulted with at least one person with  
25 relevant and appropriate expertise who had reviewed data regarding the exposure to  
26 Lead, respectively, which are the subject Proposition 65 listed chemicals of this action.  
27 Based on that information, the attorney for Plaintiff who executed the certificates  
28



1 believed there was a reasonable and meritorious case for this private action. The attorney  
2 for Plaintiff attached to the certificates of merit served on the Attorney General  
3 information sufficient to establish the basis of the certificates of merit.  
4

5 31. Plaintiff is commencing this action more than sixty days from the date that Plaintiff gave  
6 notice of the alleged violations to the Defendants herein, and to the public prosecutors  
7 referenced in Paragraph 27.

8 32. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor  
9 any applicable district attorney or city attorney has commenced and is diligently  
10 prosecuting an action against any of the Defendants herein.  
11

12 33. 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. Hawk Solder Wire is a consumer product, and as  
15 mentioned in paragraph 23, exposure to Lead took place as a result of such consumption  
16 and foreseeable use.  
17

18 34. Koki Tube is also a consumer product, and as mentioned in paragraph 24, exposure to  
19 Lead took place as a result of such consumption and foreseeable use.  
20  
21  
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23  
24

25 //


**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff demands against each Defendant as follows:

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

Dated:

YEROUSHALMI & ASSOCIATES

BY:   
Daniel D. Cho  
Attorneys for Plaintiff,  
Consumer Advocacy Group, Inc.