

**SUMMONS
(CITACION JUDICIAL)**

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

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

PACIFIC INDUSTRIAL COMPONENTS, INC., an Oregon corporation,
and DOES 1-50

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

CASE NUMBER
(Número del Caso):

CS-08-482536

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 4 2008

GORDON PARK-LI

Clerk, by
(Secretario)

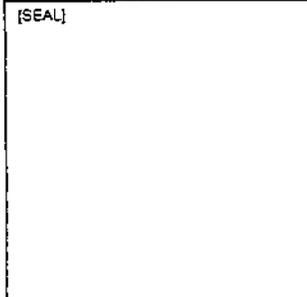
CRISTINA E. BAUTISTA

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

- 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

1 REUBEN YEROUSHALMI (SBN 193981)
2 DANIEL D. CHO (SBN 105409)
3 BEN YEROUSHALMI (SBN 232540)
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
Superior Court of California
County of San Francisco

DEC 4 2008

GORDON PARK-LI, Clerk
BY: CRISTINA BAUTISTA
Deputy Clerk

CASE MANAGEMENT CONFERENCE SET

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 MAY 28 2009 - 9:00 AM

13 COUNTY OF SAN FRANCISCO - UNLIMITED
14 **DEPARTMENT 212**

15 CONSUMER ADVOCACY GROUP, INC.,)
16 in the public interest,)

17 Plaintiff,)

18 v.)

19 PACIFIC INDUSTRIAL COMPONENTS,)
20 INC., an Oregon corporation, and DOES 1-)
21 50;)

22 Defendants.)
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CASE NO. **CGC-08-482536**
COMPLAINT FOR PENALTY,
INJUNCTION, AND RESTITUTION
Violation 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:

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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 Pacific Industrial Components, Inc. is an Oregon corporation.
3. 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 herein alleged and the damages caused thereby.
4. Plaintiff is informed, believes, and thereon alleges that Pacific Industrial Components, Inc. at all times mentioned herein has conducted business within the State of California.
5. At all times mentioned herein, "Defendants" include Pacific Industrial Components, Inc. and Does 1-50.
6. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the Defendants was a person doing business within the meaning of Health and Safety Code section 25249.11, subdivision (b), and that each of the Defendants had ten or more employees.

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JURISDICTION

7. The Court has jurisdiction over this lawsuit pursuant to 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.

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BACKGROUND AND PRELIMINARY FACTS

8. In 1986, California voters approved an initiative to address growing concerns about exposure to toxic chemicals. The initiative, The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections 25249.5, *et seq.*

1 ("Proposition 65"), helps to protect California's drinking water sources from
2 contamination, to allow consumers to make informed choices about the products they
3 buy, and to enable persons to protect themselves from toxic chemicals as they see fit.

4 9. Proposition 65 requires the Governor of California to publish a list of chemicals known to
5 the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
6 *Code*, § 25249.8. The list, which the Governor updates at least once a year, contains over
7 550 chemicals. Proposition 65 imposes warning requirements and other controls that
8 apply to Proposition 65-listed chemicals.

9 10. All businesses with ten or more employees that operate or sell products in California
10 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
11 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
12 water (*Health & Safety Code*, § 25249.5), and (2) required to provide "clear and
13 reasonable" warnings before exposing a person, knowingly and intentionally, to a
14 Proposition 65-listed chemical (*Health & Safety Code*, § 25249.6).

15 11. Plaintiff conducted research, from which it identified a widespread practice of
16 manufacturers and distributors of lead-bearing automotive battery terminals, cables, and
17 accessories of exposing, knowingly and intentionally, persons in California to the
18 Proposition 65-listed chemicals of such products without first providing clear and
19 reasonable warnings of such to the exposed persons prior to exposure. Plaintiff later
20 discerned that Defendants engaged in such practice.

21 FIRST CAUSE OF ACTION

22 **(By Consumer Advocacy Group, Inc. and against Pacific Industrial Components, Inc. and**
23 **Does 1-50 For Violation Of Proposition 65, The Safe Drinking Water And Toxic**
24 **Enforcement Act Of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

25 **Pico 0893PT Side Charging Post and Other Lead-Bearing Battery Terminals, Cables, and**
26 **Accessories**
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1 12. Plaintiff, Consumer Advocacy Group, Inc. repeats and incorporates by reference
2 paragraphs 1 through 11 of this complaint as though fully set forth herein.

3 13. Each of the Defendants is, and at all times mentioned herein, was a manufacturer or
4 distributor Pico 0893PT Side Charging Post and other lead-bearing battery terminals,
5 cables, and accessories ("Pico"), a consumer product designed for use on automobile
6 batteries and related automobile equipment.

7 14. Plaintiff is informed, believes, and thereon alleges that Pico contains Lead.

8 15. On October 1, 1992, the Governor of California added Lead and lead compounds to the
9 list of chemicals known to the State to cause cancer (*Cal. Code Regs. 22 § 12000(b)*).
10 Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months
11 after addition of Lead and lead compounds to the list of chemicals known to the State to
12 cause cancer, Lead and lead compounds became fully subject to Proposition 65 warning
13 requirements and discharge prohibitions.

14 16. On February 27, 1987, the Governor of California added Lead to the list of chemicals
15 known to the State to cause reproductive toxicity (*Cal. Code Regs. 22 § 12000(c)*). Lead
16 is known to the State to cause developmental, female, and male reproductive toxicity.
17 Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months
18 after addition of Lead to the list of chemicals known to the State to cause reproductive
19 toxicity, Lead became fully subject to Proposition 65 warning requirements and discharge
20 prohibitions.

21 17. Plaintiff is informed, believes, and thereon alleges that between March 21, 2005 and the
22 present each of the Defendants knowingly and intentionally exposed California
23 consumers and users of Pico, which it manufactured or distributed as mentioned above, to
24 Lead, without first giving clear and reasonable warning of such to the exposed persons
25 before the time of exposure. Defendants have distributed Pico in California. Defendants
26 thereby violated Proposition 65.

27 18. The principal routes of exposure are through dermal contact and inhalation when persons
28 handle Pico without wearing gloves or by touching bare skin with gloves after handling

- 1 Pico, hand to mouth contact, or breathing in particulate matter emanating from Pico as
2 part of the process of installing Pico on or removing Pico from an automobile battery.
- 3 19. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
4 Proposition 65 as to Pico have been ongoing and continuous to the date of the signing of
5 this complaint, so that a separate and distinct violation of Proposition 65 occurred each
6 and every time a consumer was exposed to Lead by using Pico as mentioned herein.
- 7 20. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
8 mentioned herein is ever continuing.

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10 **SATISFACTION OF PRIOR NOTICE**

- 11 21. On or about March 21, 2008, Plaintiff gave notice of alleged violations of Health and
12 Safety Code section 25249.6 subject to a private action to Pacific Industrial Components,
13 Inc., identified in the notice as Pacific Industrial Components, Inc., and to the California
14 Attorney General, County District Attorneys, and City Attorneys for each city containing
15 a population of at least 750,000 people in whose jurisdictions the violations allegedly
16 occurred, concerning Pico.
- 17 22. On or about June 11, 2008, Plaintiff gave notice of alleged violations of Health and
18 Safety Code section 25249.6 subject to a private action to Pacific Industrial Components,
19 Inc., identified in the notice as Pacific Industrial Components, Inc., and to the California
20 Attorney General, County District Attorneys, and City Attorneys for each city containing
21 a population of at least 750,000 people in whose jurisdictions the violations allegedly
22 occurred, concerning Pico.
- 23 23. Before sending the notices of alleged violations referenced above in Paragraphs 21 and
24 22, Plaintiff investigated the consumer products involved, the likelihood that such
25 products would cause users to suffer significant exposures to Lead, the corporate
26 structure of each of the Defendants, and other relevant matters.
- 27 24. Plaintiff's notices of alleged violations each included a certificate of merit executed by
28 the attorney for the noticing party, Plaintiff. The certificates of merit stated that the

1 attorney for Plaintiff who executed the certificate had consulted with at least one person
2 with relevant and appropriate expertise who had reviewed data regarding the exposure to
3 Lead, respectively, which are the subject Proposition 65-listed chemicals of this action.
4 Based on that information, the attorney for Plaintiff who executed the certificates
5 believed there was a reasonable and meritorious case for this private action. The attorney
6 for Plaintiff attached to the certificates of merit served on the Attorney General
7 information sufficient to establish the basis of the certificates of merit.

8 25. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
9 gave notice of the alleged violations to Pacific Industrial Components, Inc. and to the
10 public prosecutors referenced in Paragraphs 21 and 22.

11 26. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
12 any applicable district attorney or city attorney has commenced and is diligently
13 prosecuting an action against the Defendants.

14 27. Plaintiff's allegations concern a "consumer product exposure," which is an exposure that
15 results from a person's acquisition, purchase, storage, consumption, or other reasonably
16 foreseeable use of a consumer good. Pico is a consumer product, and as mentioned in
17 paragraphs 13-20, exposure to Lead took place as a result of such consumption and
18 foreseeable use.

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PRAYER FOR RELIEF

Plaintiff demands against each of the Defendants 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: November 25, 2008

YEROUSHALMI & ASSOCIATES

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