

SUM-100

SUMMONS on First Amended
(CITACION JUDICIAL) Complaint

CONFIRMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
CP Auto Products, Inc., and DOES 1 through 50, inclusive.

OCT 10 2008

John A. Clarke, Executive Officer/Clerk
By [Signature] Deput.
CYNTHIA M. JACOBS

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):
Los Angeles Superior Court, Stanley Mosk Courthouse,
111 N. Hill Street, Los Angeles, CA 90012.

CASE NUMBER:
(Número del Caso): BC396267

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, (SBN 193981), YERUSHALMI & ASSOCIATES
3700 Wilshire Boulevard, Suite 480, Los Angeles, CA 90010 TEL (213) 382-3183 FAX (213) 382-0430

DATE: **OCT 10 2008**
(Fecha)

JOHN A. CLARKE
Clerk, by _____ Deputy
(Secretario) (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).)

[REAL] _____

- 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

**CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court**

OCT 10 2008

John A. Clarke, Executive Officer/Clerk

By CYNTHIA W. JACOBS Depu.

1 Reuben Yeroushalmi (SBN 193981)
2 Daniel D. Cho (SBN 105409)
3 Joshua A. Najemy (SBN 251596)
4 **YEROUSHALMI & ASSOCIATES**
5 3700 Wilshire Blvd., Suite 480
6 Los Angeles, CA 90010
7 Telephone: 213-382-3183

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

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

12 CONSUMER ADVOCACY)
13 GROUP, INC., in the public interest,)
14)
15 Plaintiff,)
16 v.)
17 CP AUTO PRODUCTS, INC.,)
18 and DOES 1 through 50, inclusive.)
19 Defendants.)
20)

Case No. BC396267

FIRST AMENDED COMPLAINT FOR
VIOLATIONS OF PROPOSITION 65,
THE SAFE DRINKING WATER AND TOXIC
AND TOXIC ENFORCEMENT ACT OF
1986 (Health & Saf. Code, §§ 25249.5 et seq.)

ACTION IS AN UNLIMITED CIVIL CASE
(exceeds \$25,000)

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

23 THE PARTIES

24 1. Plaintiff, Consumer Advocacy Group, Inc. is a non-profit corporation qualified to do
25 business in the State of California. It brings this action in the public interest as defined under
26 Health and Safety Code section 25249.7, subdivision (d).

27 2. Defendant CP Auto Products, Inc. is a corporation qualified to do business in the State of
28 California.

1 3. Plaintiff is ignorant of the true names and capacities of defendants Does 1 through 50,
2 inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this
3 complaint to allege their true names and capacities when ascertained. Plaintiff is informed,
4 believes, and thereon alleges that each fictitiously named defendant is responsible in some
5 manner for the occurrences and damages alleged.

6 4. At all times mentioned herein, "Defendants" include **CP Auto Products, Inc.** and DOES
7 1 to 50.

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

12 JURISDICTION AND VENUE

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

16 FIRST CAUSE OF ACTION

17 (By Consumer Advocacy Group, Inc. and against **CP Auto Products, Inc.** and DOES
18 through 50, inclusive for Violations of Proposition 65, The Safe Drinking Water and
19 Toxic Enforcement Act of 1986 (Health & Saf. Code, §§ 25249.5 et seq.)

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

22 8. Each and every day between March 21, 2005, and March 21, 2008, and continuing
23 thereafter **CP Auto Products, Inc.**, a California Corporation (hereinafter referred to as
24 "Defendant") has manufactured and/or distributed a consumer product known as CP Automotive
25 75150 Stick-On Wheel Weights, 6.5 oz., designed for stabilizing the balance of automobile
26 wheels.

27 9. Plaintiff is informed, believed, and thereon alleges that the consumer product identified in
28 Paragraphs 8 contains Lead.

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

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

7 19. The Notice identified in paragraph 15 included a certificate of merit executed by the
8 attorney for the noticing party. The certificate of merit stated that the attorney for plaintiff who
9 executed the certificate had consulted with at least one person with relevant and appropriate
10 expertise who had reviewed data regarding the exposures to lead alleged in this action. Based on
11 that information, such attorney believed there was a reasonable and meritorious case for this
12 private action. Such attorney attached to the certificate of merit served on the Attorney General
13 information sufficient to establish the basis of the certificate of merit.

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

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

20 22. Plaintiff's allegations concern a "consumer product exposure," which is an exposure that
21 results from a person's acquisition, purchase, storage, consumption, or other reasonably
22 foreseeable use of a consumer good. The product identified in Paragraph 8 is a consumer
23 product. As detailed in Paragraph 12, the reasonably foreseeable use of the products causes
24 exposure to lead.

25
26 **PRAYER FOR RELIEF**

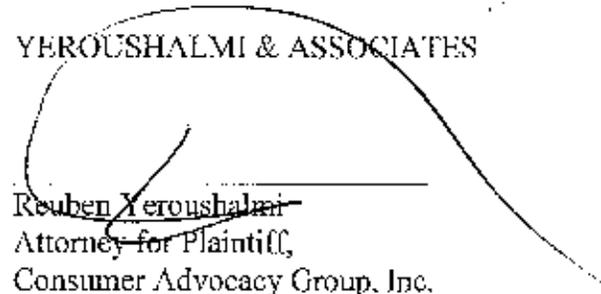
27 Plaintiff demands against each defendant as follows:

- 28 1. A permanent injunction mandating Proposition 65 complaint warnings;

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

6
7
8 Dated: October 7, 2008

YEROUSHALMI & ASSOCIATES

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10 
11 ~~Reuben Yeroushalmi~~
12 Attorney for Plaintiff,
13 Consumer Advocacy Group, Inc.
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