

**SUMMONS**  
**(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:**  
**(AVISO AL DEMANDADO):**  
SPX CORPORATION, and DOES 1-20

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

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

JUN 16 2008

John A. Clarke, Executive Officer/Clerk  
*M. Garcia*  
BY MARY GARCIA, Deputy

**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 Los Angeles  
Stanley Mosk Courthouse  
111 N. Hill St., Los Angeles, CA 90012

CASE NUMBER  
*(Número del caso)* **BC 392719**

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: **JUN 16 2008** Clerk by **JOHN A. CLARKE, CLERK** Deputy **M. GARCIA**  
*(Fecha)* *(Adjunto)*

*(For proof of service of this summons, use the attached Proof of Service of Summons, (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 416.80 (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):

CONFIRMED COPY  
OF ORIGINAL FILED  
Los Angeles Superior Court

JUN 15 2008

John A. Clarke, Executive Officer/Clerk  
*M. Garcia*  
BY MARY GARCIA, Deputy

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 Email: lawfirm@yerausalmi.com  
10 Attorney for Plaintiff,  
11 Consumer Advocacy Group, Inc.

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF LOS ANGELES --UNLIMITED

11	CONSUMER ADVOCACY GROUP, INC., )	CASE NO.	BC 592719
12	in the public interest, )		
13		) COMPLAINT FOR VIOLATIONS OF	
14	Plaintiff, )	) PROPOSITION 65, THE SAFE	
15	v. )	) DRINKING WATER AND TOXIC	
16	SPX CORPORATION, and DOES 1-20; )	) ENFORCEMENT ACT OF 1986 (Health &	
17	Defendants. )	) Saf. Code, §§ 25249.5 et seq.)	
18		) ACTION IS AN UNLIMITED CIVIL	
		) CASE (exceeds \$25,000)	

19 Plaintiff, Consumer Advocacy Group, Inc., alleges a cause of action against defendant,  
20 SPX Corporation as follows.

21 THE PARTIES

- 22 1. Plaintiff, Consumer Advocacy Group, Inc. ("Plaintiff"), is a non-profit corporation
- 23 qualified to do business in the State of California. It brings this action in the public
- 24 interest as defined under Health and Safety Code section 25249.7, subdivision (d).
- 25 2. Defendant, SPX Corporation, is a Delaware corporation qualified to do business in
- 26 California.
- 27
- 28

COPY

- 1 3. Plaintiff is ignorant of the true names and capacities of defendants Does 1-20, and  
2 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  
4 informed, believes, and thereon alleges that each fictitiously named defendant is  
5 responsible in some manner for the occurrences and the damages alleged.  
6
- 7 4. At all times mentioned herein, "Defendants" include SPX Corporation and Does 1-20.  
8
- 9 5. At all times mentioned each defendant was a "[p]erson in the course of doing business"  
10 within the meaning of Health and Safety Code section 25249.11, subdivision (b).  
11 Plaintiff is informed, believes, and thereon alleges that at all times mentioned each  
12 defendant had ten or more employees.

#### 13 JURISDICTION AND VENUE

- 14 6. The Court has jurisdiction over this lawsuit pursuant California Constitution Article VI,  
15 Section 10, which grants the Superior Court original jurisdiction in all causes except  
16 those given by statute to other trial courts.  
17

#### 18 FIRST CAUSE OF ACTION

19 **(By Consumer Advocacy Group, Inc. and against SPX Corporation and DOES 1-20 for**  
20 **Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of**  
21 **1986 (Health & Saf. Code, §§ 25249.5 et seq.)**  
22

- 23 7. Plaintiff repeats and incorporates by reference the previous paragraphs of this complaint  
24 as though fully set forth herein.
- 25 8. At all times mentioned herein, Defendants are and have been manufacturers or  
26 distributors of a consumer product designed for use on automobile batteries to find  
27  
28

1 battery-draining electrical problems: SPX OTC Parasitic Draw Test Switch, sold by SPX  
2 Corporation both under part number 7645 and part number J-38758.

3  
4 9. Plaintiff is informed, believes, and thereon alleges that Defendants exposed, knowingly  
5 and intentionally, users of SPX OTC Parasitic Draw Test Switch to Lead, a chemical  
6 designated by the State of California to cause cancer and reproductive toxicity,  
7 reproductive, female, male, without first giving clear and reasonable warning of such to  
8 the persons exposed. The packaging for the product (meaning any label or other written,  
9 printed or graphic matter affixed to or accompanying the product or its container or  
10 wrapper) contains no Proposition 65-complaint warning. Nor did Defendants, pertinent  
11 to Test Switch, provide a system of signs, public advertising identifying the system and  
12 toll-free information services, or any other system, which provided clear and reasonable  
13 warnings. Nor did Defendants, pertinent to Test Switch, provide identification of the  
14 product at retail outlets in a manner that provided a warning through shelf labeling, signs,  
15 menus, or a combination thereof. Defendants, by failing to provide Proposition 65  
16 compliant warnings for SPX OTC Parasitic Draw Test Switch by any of the means  
17 denoted above, violated Proposition 65.

18  
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20  
21 10. Pursuant to Health and Safety Code section 25249.9, twenty months after first appearing  
22 on the Governor's Proposition 65 list, Lead became subject fully to Proposition 65  
23 warning requirements and discharge prohibitions.

24  
25 11. Between March 24, 2005, and the present, persons in California using SPX OTC Parasitic  
26 Draw Test Switch sustained routes of exposure to Lead through inhalation and dermal  
27 contact. This occurs when persons handle the product without wearing gloves or by  
28 touching bare skin with gloves after handling the product, hand to mouth contact, or

1 breathing in particulate matter emanating from the product as part of the process of  
2 installing the product on or removing the product from an automobile battery.

3 SATISFACTION OF PRIOR NOTICE  
4

5 12. On March 24, 2008, Plaintiff gave notice of alleged violations of Proposition 65 subject  
6 to a private action to defendant, SPX Corporation, as to SPX OTC Parasitic Draw Test  
7 Switch.

8 13. Plaintiff caused mailing of copies of the notice of alleged violations of Proposition 65  
9 subject to a private action to the Attorney General and applicable district attorneys and  
10 city attorneys in whose jurisdictions the violations allegedly occurred.

11 14. Plaintiff gave this notice, and filed this action, more than twenty months after Lead first  
12 appeared on the Governor's Proposition 65 list, and after Lead became subject fully to  
13 Proposition 65 warning requirements and discharge prohibitions.

14 15. Plaintiff's notice of the alleged violations of Proposition 65 subject to a private action  
15 included a certificate of merit executed by the attorney for the noticing party. The  
16 certificate of merit stated that the attorney for Plaintiff who executed the certificate had  
17 consulted with at least one person with relevant and appropriate expertise who had  
18 reviewed data regarding the exposure to Lead (mindful of its context concerning use of  
19 SPX OTC Parasitic Draw Test Switch), which is the subject of this action. Based on that  
20 information, the attorney for Plaintiff who executed the certificate believed there was a  
21 reasonable and meritorious case for this private action. The attorney for Plaintiff attached  
22 to the certificate of merit served on the Attorney General information sufficient to  
23 establish the basis of the certificate of merit.  
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1 16. Plaintiff is commencing this action more than sixty days from the date that Plaintiff gave  
2 notice of the alleged violations of Proposition 65 subject to a private action to defendant,  
3 to the Attorney General, and to applicable district attorneys and city attorneys in whose  
4 jurisdictions the violations allegedly occurred.  
5

6 17. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General nor  
7 any applicable district attorney or city attorney has commenced and is diligently  
8 prosecuting an action against the violations alleged.  
9

10 18. Plaintiff's allegations concern a "consumer product exposure," which is an exposure that  
11 results from a person's acquisition, purchase, storage, consumption, or other reasonably  
12 foreseeable use of a consumer good. SPX OTC Parasitic Draw Test Switch is a  
13 consumer product. As detailed in Paragraph 11, the reasonably foreseeable use of the  
14 product causes exposure to Lead.  
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1 PRAYER FOR RELIEF

2 Plaintiff demands against each Defendant as follows:

- 3 1. A permanent injunction mandating Proposition 65 complaint warnings;
- 4
- 5 2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b) of
- 6 \$2,500.00 per day per violation;
- 7 3. Costs of suit;
- 8 4. Reasonable attorney fees and costs; and
- 9 5. Any further relief that the court may deem just and equitable.
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- 12

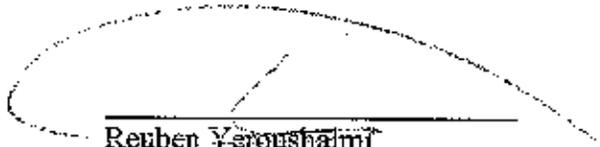
13 Dated: *June 5/08*

YEROUSHALMI & ASSOCIATES

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

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