

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
Stephen Ure (CSB#188244)  
Law Offices of Stephen Ure, PC.  
1518 Sixth Avenue, San Diego, CA 92101  
TELEPHONE NO.: (619) 235-5400 FAX NO.: (619) 235-5404  
ATTORNEY FOR (Name): Plaintiff, Maureen Parker

FOR COURT USE ONLY  
FILED  
CIVIL BUSINESS OFFICE 4  
CENTRAL DIVISION  
2012 AUG -9 PM 12: 03  
CLERK-SUPERIOR COURT  
SAN DIEGO COUNTY, CA

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego  
STREET ADDRESS: 330 West Broadway  
MAILING ADDRESS: Same  
CITY AND ZIP CODE: San Diego, CA 92101-3827  
BRANCH NAME: Hall of Justice

CASE NAME: MAUREEN PARKER v. ACE HARDWARE and DOES 1 - 25  
INCLUSIVE

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)

CASE NUMBER:  
37-2012-00102048-CU-NP-CTL  
JUDGE:  
DEPT:

Items 1-6 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),  Rule 3.740 collections (09),  Other 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 d.  Large number of witnesses  
b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court  
c.  Substantial amount of documentary evidence f.  Substantial postjudgment judicial supervision  
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive  
4. Number of causes of action (specify): One (1)  
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: 8/9/2012  
Stephen Ure, Esq.  
(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 collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.



**SUMMONS  
(CITACION JUDICIAL)**

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

ACE HARDWARE AND DOES 1 THROUGH 25 INCLUSIVE

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

MAUREEN PARKER

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)  
CIVIL BUSINESS OFFICE 4  
CENTRAL DIVISION

2012 AUG -9 PM 12: 03

CLERK-SUPERIOR COURT  
SAN DIEGO COUNTY, CA

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

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. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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.sucorte.ca.gov](http://www.sucorte.ca.gov)), 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.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

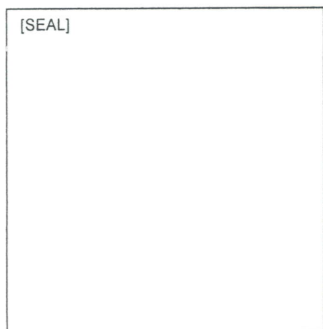
The name and address of the court is:  
(El nombre y dirección de la corte es): Hall of Justice  
330 West Broadway, San Diego, CA 92101-3827

CASE NUMBER:  
(Número del Caso):  
**37-2012-00102048-CU-NP-CTL**

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):  
Stephen Ure, SBC#188244, Law Offices of Stephen Ure, PC., 1518 Sixth Avenue, San Diego, CA 92101, Tel (619) 235-5400

DATE: **AUG 09 2012** Clerk, by **R. Babers**, Deputy  
(Fecha) (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)).



**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):

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CLERK-SUPERIOR COURT  
SAN DIEGO COUNTY, CA

1 Stephen Ure, Esq., (CSB# 188244)  
2 **LAW OFFICES OF STEPHEN URE, PC**  
3 1518 Sixth Avenue  
4 San Diego, CA 92101  
5 Telephone: 619-235-5400  
6 Facsimile: 619-235-5404

7 *Attorneys for Plaintiff, Maureen Parker*

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO**

10 **UNLIMITED CIVIL JURISDICTION**

11	<b>MAUREEN PARKER,</b>	)	<b>CASE NO.37-2012-00102048-CU-NP-CTL</b>
12		)	
13	<b>Plaintiff,</b>	)	<b>COMPLAINT FOR CIVIL PENALTIES</b>
14		)	<b>AND INJUNCTIVE RELIEF</b>
15	<b>and</b>	)	
16		)	<i>(Cal. Health &amp; Safety Code § 25249.6 et seq.) .</i>
17	<b>ACE HARDWARE</b>	)	
18	<b>AND DOES 1 -25 INCLUSIVE</b>	)	
19		)	
20	<b>Defendant.</b>	)	
21		)	

22 **NATURE OF THE ACTION**

23 1. This Complaint is a representative action brought by plaintiff Maureen Parker, in  
24 the public interest of the citizens of the State of California, to enforce the people's right to be  
25 informed of the presence of lead, a toxic chemical found in Grill Mark Gas Gauge (UPC #  
26 843518005422) sold in California.

27 2. By this Complaint, plaintiff seeks to remedy DEFENDANT'S continuing failures  
28 to warn California citizens about their exposure to lead present in or on certain drills/tools that  
DEFENDANT manufactures, distributes and/or offers for sale to consumers throughout the  
State of California.

3. High levels of lead are commonly found in Grill Mark Gas Gauge (UPC  
#843518005422) that DEFENDANT manufactures, distributes and/or offers





1 12. Plaintiff Maureen Parker is a citizen of the City of Oceanside, County of San  
2 Diego, in the State of California, who is dedicated to protecting the health of California citizens  
3 through the elimination o reduction of toxic exposures from consumer products, and brings this  
4 action in the public interest pursuant to California Health & Safety Code § 25249.7.

5 13. Defendant ACE HARDWARE (“ACE” or "DEFENDANT ") is a person doing  
6 business within the meaning of California Health & Safety Code § 25249.11.

7 14. Defendant manufactures, distributes, and/or offers the PRODUCTS for sales or use  
8 in the State of California or implies by its conduct that it manufactures, distributes and/or offers  
9 the PRODUCTS for sale or use in the State of California.

10 **VENUE AND JURISDICTION**

11 15. Venue is proper in the San Diego County Superior Court, pursuant to Code of  
12 Civil Procedure § § 394, 495, 395.5, because this Court is a court of competent jurisdiction,  
13 because one or more instances of wrongful conduct occurred, and continues to occur, in the  
14 County of San Diego and/or because DEFENDANT conducted, and continue to conduct,  
15 business in this County with respect to the PRODUCTS.

16 16. The California Superior Court has jurisdiction over this action pursuant to  
17 California Constitution Article VI, § 10, which grants the Superior Court “original jurisdiction in  
18 all causes except those given by statute to other trial courts.” The statute under which this action  
19 is brought does not specify any other basis of subject matter jurisdiction.

20 17. The California Superior Court has jurisdiction over DEFENDANT based on  
21 plaintiff’s information and good faith belief that each defendant is a person, firm, corporation or  
22 association that either are citizens of the State of California, have sufficient minimum contacts in  
23 the State of California, or otherwise purposefully avail themselves of the California market.  
24 DEFENDANT’S purposeful availment renders the exercise of personal jurisdiction by  
25 California courts consistent with traditional notions of fair play and substantial justice.

26 ///

27 ///



1 **FIRST CAUSE OF ACTION**

2 **(Violation of Proposition 65 – Against Defendant and Other DEFENDANT)**

3 18. Plaintiff realleges and incorporates by reference, as if full reference, as if full set  
4 forth herein, Paragraphs 1 through 24, inclusive.

5 19. The citizens of the State of California have expressly stated in the Safe Drinking  
6 Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.5, et seq.  
7 (Proposition 65) that they must be informed “about exposures to chemicals that cause cancer,  
8 birth defects and order reproductive harm.” (*Cal. Health & Safety Code § 25249.6.*)

9 20. Proposition 65 states, “No person in the course of doing business shall knowingly  
10 and intentionally expose any individual to a chemical known to the state to cause cancer or  
11 productive toxicity without first giving clear and reasonable warning to such individual (*Id.*)”

12 21. On August 15, 2011 a sixty-day notice violation, together with the requisite  
13 certificate of merit, was provided to ACE, and various public enforcement agencies stating that  
14 as a result of the DEFENDANT'S sales of the PRODUCTS, purchasers and users in the State of  
15 California were being exposed to the LISTED CHEMICAL resulting from the reasonably  
16 foreseeable users of the PRODUCTS, without the individual purchasers and users first having  
17 been provided with a “clear and reasonable warning” regarding such toxic exposures.

18 22. DEFENDANT has engaged in the manufacture, distribution and/or offering of the  
19 PRODUCTS for sale or use in violation of California Health & Safety Code § 25249.6 and  
20 DEFENDANT'S manufacture, distribution and/or offering of the PRODUCTS for sale or use in  
21 violation of California Health & Safety Code § 25249.6 has continued to occur beyond  
22 DEFENDANT'S receipt of plaintiff's sixty-day notice of violation. Plaintiff further alleges and  
23 believes that such violations will continue to occur into the future.

24 23. After receipt of the claims asserted in the sixty-day notices of violation, the  
25 appropriate public enforcement agencies have failed to commence and diligently prosecute a  
26 cause of action against DEFENDANT under Proposition 65.

1           24. The PRODUCTS manufactured, distributed, and/or offered for sale or use in  
2 California by DEFENDANT contained the LISTED CHEMICAL above the allowable state  
3 limits.

4           25. DEFENDANT knew or should have known that the PRODUCTS manufactured,  
5 distributed, and/or for sale or use by DEFENDANT in California contained the LISTED  
6 CHEMICAL.

7           26. The LISTED CHEMICAL was present in or on the PRODUCTS in such away as  
8 to expose individuals to the LISTED CHEMICAL through dermal contact and/or ingestion  
9 during the reasonably foreseeable use of the PRODUCTS.

10           27. The normal and reasonably foreseeable use of he PRODUCTS has caused and  
11 continues to cause consumer exposures to the LISTED CHEMICAL, as such exposure s defined  
12 by 27 CCR§ 25602(b).

13           28. DEFENDANT had knowledge that the normal and reasonably foreseeable use of  
14 the PRODUCTS would expose individuals to the LISTED CHEMICAL through dermal contact  
15 and/or ingestion.

16           29. DEFENDANT intended that such exposures to the LISTED CHEMICAL from the  
17 reasonably foreseeable use of the PRODUCTS would occur by their deliberate, non-accidental  
18 participation in the manufacture, distribution and/or offer for sale or use of PRODUCTS to  
19 individuals in the State of California.

20           30. DEFENDANT failed to provide a “clear and reasonable warning” to those  
21 consumers and/or other individuals in the State of California who were or who could become  
22 exposed to the LISTED CHEMICAL through dermal contact and/or ingestion during the  
23 reasonably foreseeable use of the PRODUCTS.

24           31. Contrary to the express policy and statutory prohibition of Proposition 65, enacted  
25 directly by California voters, individuals exposed to the LISTED CHEMICAL through dermal  
26 contact and/or ingestion resulting from the reasonably foreseeable use of the PRODUCTS, sold  
27 by DEFENDENT without a “clear and reasonable warning,” have suffered, and continue to  
28 suffer, irreparable harm, for which harm they have no plain, speedy or adequate remedy at law.

