

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

KINGSTON BRASS, INC. and DOES 1 - 10 INCLUSIVE

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

KINGPUN CHENG

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

FILED
CIVIL BUSINESS OFFICE
CENTRAL DIVISION

2017 AUG 31 PM 3:08

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), 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. **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), 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.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): Superior Court of California,
County of San Diego, Hall of Justice
330 West Broadway, San Diego, CA 92101

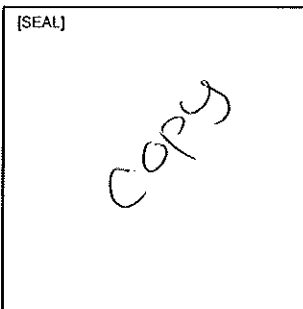
CASE NUMBER:
(Número del Caso):
37-2017-00031416-CU-
NIP-CTL

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):
Parker A. Smith and Stephanie Sy, SY & SMITH, PC., 11622 El Camino Real, S100, San Diego, CA 92130

DATE: AUG 31 2017
(Fecha)

Clerk, by C. MARTINEZ, 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).)



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):*

1 PARKER SMITH, ESQ. (290311)
STEPHANIE SY, ESQ. (247071)
2 LORI A. TOYAMA, ESQ. (110021)
SY AND SMITH, PC.
3 11622 El Camino Real, Suite 100
San Diego, CA 92130
4 Telephone: (858) 746-9554
Facsimile: (858)746-5199

5 Attorneys for Plaintiff, Kingpun Cheng
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FILED
CLERK OF SUPERIOR COURT
SAN DIEGO, CALIF.

2017 AUG 24 A 10:27

CLERK OF SUPERIOR COURT
SAN DIEGO, CALIF.

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN DIEGO

10 UNLIMITED CIVIL JURISDICTION

11
12 KINGPUN CHENG,

13 Plaintiff,

14 vs.

15 KINGSTON BRASS, INC. and DOES 1-10,

16 Defendant.

CASE NO.: 37-2017-00031416-CU-NP-CTL

COMPLAINT FOR CIVIL
PENALTIES AND INJUNCTIVE
RELIEF

(Cal. Health & Safety Code § 25249.6 et
seq.)

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18 NATURE OF THE ACTION

19 1. KINGPUN CHENG (hereinafter, "Plaintiff") brings this representative
20 action, in the public interest of the citizens of the State of California (hereinafter, "citizens"), to
21 enforce the citizen's right to be informed of the presence of LEAD AND/OR LEAD
22 COMPOUNDS (hereinafter, "Lead") found in Defendant KINGSTON BRASS, INC.'s
23 (hereinafter, "Defendant") products—specifically Bridgewater Hot Water Cartridges
24 Model VF1165E UPC6637028678 and Model VF1175EC UPC663370288821 (hereinafter,
25 "Water Cartridges".)
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1 consumer products, represented by and through its counsel of record, Parker A. Smith. Plaintiff
2 brings this action in the public interest pursuant to *California Health & Safety Code § 25249.7*.

3 11. Kingston Brass, Inc., is a person doing business within the meaning of *California*
4 *Health & Safety Code § 25249.11*.

5 VENUE AND JURISDICTION

6 12. Venue is proper in the San Diego County Superior Court, pursuant to Code of Civil
7 Procedure § § 394, 495, 395.5, because this Court is a court of competent jurisdiction, because
8 one or more instances of wrongful conduct occurred, and continues to occur, in the County of San
9 Diego and/or because Defendant conducted, and continues to conduct, business in this County
10 with respect to water cartridges.

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

15 14. The California Superior Court has jurisdiction over Defendant based on Plaintiff’s
16 information and good faith belief that Defendant is a person, firm, corporation or association that
17 is either a citizen of the State of California, has sufficient minimum contacts in the State of
18 California, or otherwise purposefully avail itself of the California market. Defendant’s
19 purposeful availment renders the exercise of personal jurisdiction by California courts consistent
20 with traditional notions of fair play and substantial justice.

21 FIRST CAUSE OF ACTION

22 (Violation of Proposition 65 – Against Defendant)

23 15. Plaintiff alleges and incorporates by reference, as if full reference, as if full set forth
24 herein, Paragraphs 1 through 14, inclusive.

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

1 17. Proposition 65 states, "No person in the course of doing business shall knowingly
2 and intentionally expose any individual to a chemical known to the state to cause cancer or
3 productive toxicity without first giving clear and reasonable warning to such individual (*Id.*)"

4 18. A sixty-day notice of violation, together with the requisite certificates of merit, was
5 provided to Defendant on April 21, 2017, other potential violators and various public enforcement
6 agencies, including the California Attorney General's Office, stating that as a result of the
7 Defendant's sale of water cartridges, purchasers and users in the State of California were being
8 exposed to lead resulting from the reasonably foreseeable users of water cartridges, without the
9 individual purchasers and users first having been provided with a "clear and reasonable warning"
10 regarding such toxic exposures.

11 19. Defendant manufactures, distributes and/or offers water cartridges for sale or use in
12 violation of *California Health & Safety Code § 25249.6* and Defendant's manufacture,
13 distribution and/or offering of water cartridges for sale or use in violation of *California Health &*
14 *Safety Code § 25249.6* has continued to occur beyond Defendant's receipt of Plaintiff's sixty-day
15 Notice of Violation. Plaintiff further alleges and believes that such violations will continue to
16 occur into the future.

17 20. After receipt of the claims asserted in the sixty-day notices of violation, the
18 appropriate public enforcement agencies have failed to commence and diligently prosecute a
19 cause of action against Defendant under Proposition 65.

20 21. The water cartridges manufactured, distributed, and/or offered for sale or use in
21 California by Defendant contained lead above the allowable state limits.

22 22. Defendant knew or should have known that the water cartridges manufactured,
23 distributed, and/or for sale or use by Defendant in California contained lead.

24 23. Lead was present in or on the water cartridges in such a way as to expose
25 individuals to lead through dermal contact and/or ingestion during the reasonably foreseeable use
26 of the water cartridges.

27 24. The normal and reasonably foreseeable use of the water cartridges have caused and
28 continue to cause consumer exposure to lead, as such exposure is defined by 27 CCR§ 25602(b).


1 water cartridges for sale or use in California, without providing "clear and reasonable warnings"
2 as detailed by 27 CCR § 25601, as to the harms associated with exposures to lead;

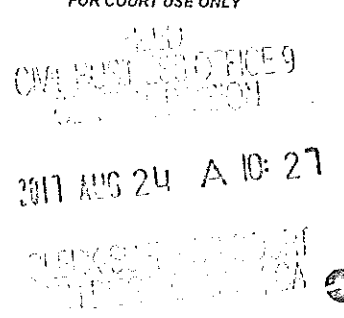
3 3. That the Court grant Plaintiff reasonable attorneys' fees and cost of suit; and
4 the Court grant such other and further relief as may be just and proper.

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Dated: 8/23/17

Respectfully Submitted,

By: 
Parker A. Smith
Attorney for Plaintiff

| | |
|---|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Parker A. Smith (290311), Stephanie Sy (247071) and Lori A. Toyama (110021) Sy and Smith, PC. 11622 El Camino Real, Suite 100 Del Mar, CA 92130 TELEPHONE NO.: (858) 746-9554 FAX NO.: (858) 746-5199 ATTORNEY FOR (Name): Plaintiff, King Pun Cheng | FOR COURT USE ONLY  |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Hall of Justice | CASE NUMBER: 37-2017-00031416-CU-NP-CTL JUDGE: DEPT: |
| CASE NAME: King Pun Cheng v. Kingston Brass, Inc., et al. | CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) |

Items 1-6 below must be completed (see instructions on page 2).

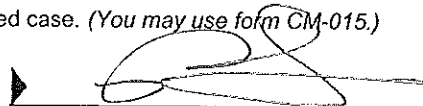
1. Check one box below for the case type that best describes this case:

| | | |
|---|--|---|
| Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input checked="" type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15) | Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> 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. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> 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: August 23, 2017
 Parker A. Smith, 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.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

| | | |
|---|---|---|
| Auto Tort | Contract | Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403) |
| Auto (22)–Personal Injury/Property Damage/Wrongful Death | Breach of Contract/Warranty (06) | Antitrust/Trade Regulation (03) |
| Uninsured Motorist (46) <i>(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)</i> | Breach of Rental/Lease | Construction Defect (10) |
| | Contract <i>(not unlawful detainer or wrongful eviction)</i> | Claims Involving Mass Tort (40) |
| | Contract/Warranty Breach–Seller | Securities Litigation (28) |
| | Plaintiff <i>(not fraud or negligence)</i> | Environmental/Toxic Tort (30) |
| | Negligent Breach of Contract/ | Insurance Coverage Claims |
| | Warranty | <i>(arising from provisionally complex case type listed above)</i> (41) |
| Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort | Other Breach of Contract/Warranty | Enforcement of Judgment |
| Asbestos (04) | Collections (e.g., money owed, open book accounts) (09) | Enforcement of Judgment (20) |
| Asbestos Property Damage | Collection Case–Seller Plaintiff | Abstract of Judgment (Out of County) |
| Asbestos Personal Injury/Wrongful Death | Other Promissory Note/Collections Case | Confession of Judgment <i>(non-domestic relations)</i> |
| Product Liability <i>(not asbestos or toxic/environmental)</i> (24) | Insurance Coverage <i>(not provisionally complex)</i> (18) | Sister State Judgment |
| Medical Malpractice (45) | Auto Subrogation | Administrative Agency Award <i>(not unpaid taxes)</i> |
| Medical Malpractice– | Other Coverage | Petition/Certification of Entry of Judgment on Unpaid Taxes |
| Physicians & Surgeons | Other Contract (37) | Other Enforcement of Judgment Case |
| Other Professional Health Care Malpractice | Contractual Fraud | |
| Other PI/PD/WD (23) | Other Contract Dispute | Miscellaneous Civil Complaint |
| Premises Liability (e.g., slip and fall) | Real Property | RICO (27) |
| Intentional Bodily Injury/PD/WD (e.g., assault, vandalism) | Eminent Domain/Inverse | Other Complaint <i>(not specified above)</i> (42) |
| Intentional Infliction of Emotional Distress | Condemnation (14) | Declaratory Relief Only |
| Negligent Infliction of Emotional Distress | Wrongful Eviction (33) | Injunctive Relief Only <i>(non-harassment)</i> |
| Other PI/PD/WD | Other Real Property (e.g., quiet title) (26) | Mechanics Lien |
| Non-PI/PD/WD (Other) Tort | Writ of Possession of Real Property | Other Commercial Complaint Case <i>(non-tort/non-complex)</i> |
| Business Tort/Unfair Business Practice (07) | Mortgage Foreclosure | Other Civil Complaint <i>(non-tort/non-complex)</i> |
| Civil Rights (e.g., discrimination, false arrest) <i>(not civil harassment)</i> (08) | Quiet Title | Miscellaneous Civil Petition |
| Defamation (e.g., slander, libel) (13) | Other Real Property <i>(not eminent domain, landlord/tenant, or foreclosure)</i> | Partnership and Corporate Governance (21) |
| Fraud (16) | Unlawful Detainer | Other Petition <i>(not specified above)</i> (43) |
| Intellectual Property (19) | Commercial (31) | Civil Harassment |
| Professional Negligence (25) | Residential (32) | Workplace Violence |
| Legal Malpractice | Drugs (38) <i>(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)</i> | Elder/Dependent Adult Abuse |
| Other Professional Malpractice <i>(not medical or legal)</i> | Judicial Review | Election Contest |
| Other Non-PI/PD/WD Tort (35) | Asset Forfeiture (05) | Petition for Name Change |
| Employment | Petition Re: Arbitration Award (11) | Petition for Relief From Late Claim |
| Wrongful Termination (36) | Writ of Mandate (02) | Other Civil Petition |
| Other Employment (15) | Writ–Administrative Mandamus | |
| | Writ–Mandamus on Limited Court Case Matter | |
| | Writ–Other Limited Court Case Review | |
| | Other Judicial Review (39) | |
| | Review of Health Officer Order | |
| | Notice of Appeal–Labor | |
| | Commissioner Appeals | |



Superior Court of California
County of San Diego

**NOTICE OF ELIGIBILITY TO eFILE
AND ASSIGNMENT TO IMAGING DEPARTMENT**

This case is eligible for eFiling. Should you prefer to electronically file documents, refer to General Order in re procedures regarding electronically imaged court records, electronic filing, and access to electronic court records in civil and probate cases for rules and procedures or contact the Court's eFiling vendor at www.onelegal.com for information.

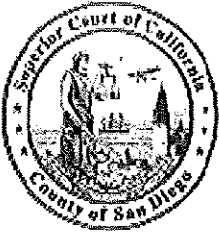
This case has been assigned to an Imaging Department and original documents attached to pleadings filed with the court will be imaged and destroyed. Original documents should not be filed with pleadings. If necessary, they should be lodged with the court under California Rules of Court, rule 3.1302(b).

On August 1, 2011 the San Diego Superior Court began the Electronic Filing and Imaging Pilot Program ("Program"). As of August 1, 2011 in all new cases assigned to an Imaging Department all filings will be imaged electronically and the electronic version of the document will be the official court file. The official court file will be electronic and accessible at one of the kiosks located in the Civil Business Office and on the Internet through the court's website.

You should be aware that the electronic copy of the filed document(s) will be the official court record pursuant to Government Code section 68150. The paper filing will be imaged and held for 30 days. After that time it will be destroyed and recycled. **Thus, you should not attach any original documents to pleadings filed with the San Diego Superior Court. Original documents filed with the court will be imaged and destroyed except those documents specified in California Rules of Court, rule 3.1806.** Any original documents necessary for a motion hearing or trial shall be lodged in advance of the hearing pursuant to California Rules of Court, rule 3.1302(b).

It is the duty of each plaintiff, cross-complainant or petitioner to serve a copy of this notice with the complaint, cross-complaint or petition on all parties in the action.

On all pleadings filed after the initial case originating filing, all parties must, to the extent it is feasible to do so, place the words "**IMAGED FILE**" in all caps immediately under the title of the pleading on all subsequent pleadings filed in the action.



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2017-00031402-CU-NP-CTL CASE TITLE: Cheng vs Echo Incorporated [IMAGED]

NOTICE: All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) Information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), and
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

Potential Advantages and Disadvantages of ADR

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

Potential Advantages

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

Potential Disadvantages

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

Most Common Types of ADR

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdcourt.ca.gov/adr>.

Mediation: A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

Settlement Conference: A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

Arbitration: A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

Other ADR Processes: There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

Local ADR Programs for Civil Cases

Mediation: The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

On-line mediator search and selection: Go to the court's ADR webpage at www.sdcourt.ca.gov/adr and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

Settlement Conference: The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

Arbitration: The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

More information about court-connected ADR: Visit the court's ADR webpage at www.sdcourt.ca.gov/adr or contact the court's Mediation/Arbitration Office at (619) 450-7300.

Dispute Resolution Programs Act (DRPA) funded ADR Programs: The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at www.ncrconline.com or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at www.nclifeline.org or (760) 726-4900.

Private ADR: To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

Legal Representation and Advice

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at www.courtinfo.ca.gov/selfhelp/lowcost.