

**SUMMONS  
(CITACION JUDICIAL)**

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

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

HOMWERKS WORLDWIDE, LLC. and DOES 1-10

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

KINGPUN CHENG

**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.

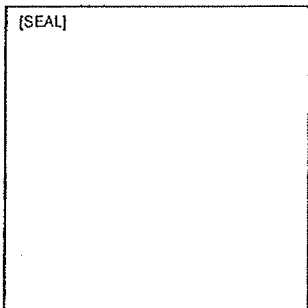
The name and address of the court is:  
(El nombre y dirección de la corte es): Superior Court of California,  
County of San Francisco, Civic Center Courthouse  
400 McAllister Street, San Francisco, CA 94102

CASE NUMBER:  
(Número del Caso) CGC-17-561620

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: SEP 29 2017 Clerk of the Court Clerk, by NEYL WEBB 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):

**BY FAX**  
ONE LEGAL LLC

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 San Diego, CA 92130 TELEPHONE NO.: (858) 746-9554 FAX NO.: (858) 746-5199 ATTORNEY FOR (Name): Plaintiff, Kingpun Cheng

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: Civil Center Courthouse

CASE NAME: Kingpun Cheng v. Homewerks Worldwide, LLC., et al.

FOR COURT USE ONLY ENDORSED FILED San Francisco County Superior Court SEP 29 2017 CLERK OF THE COURT NEYL WEBB Deputy Clerk

CIVIL CASE COVER SHEET [X] 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 CGC-17-561620 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, Other PI/PD/WD, Non-PI/PD/WD, Contract, Real Property, Unlawful Detainer, Judicial Review, Provisionally Complex Civil Litigation, Enforcement of Judgment, Miscellaneous Civil Complaint, Miscellaneous Civil Petition

- 2. This case [ ] is [X] 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, b. Extensive motion practice, c. Substantial amount of documentary evidence, d. Large number of witnesses, e. Coordination with related actions, f. Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. [X] monetary, b. [X] nonmonetary; declaratory or injunctive relief, c. [X] punitive
4. Number of causes of action (specify): One (1)
5. This case [ ] is [X] 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: September 28, 2017 Parker A. Smith, Esq. (TYPE OR PRINT NAME)

BY FAX ONE LEGAL LLC (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.

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  
6

ENDORSED  
FILED  
San Francisco County Superior Court

SEP 29 2017

CLERK OF THE COURT  
BY: NEYL WEBB  
Deputy Clerk

7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN FRANCISCO

10 UNLIMITED CIVIL JURISDICTION

11  
12 KINGPUN CHENG,

13 Plaintiff,

14 vs.

15 HOMEWERKS WORLDWIDE, LLC and DOES  
16 I-10,

17 Defendant.

CASE NO. **GGC - 17 - 561620**

COMPLAINT FOR CIVIL  
PENALTIES AND INJUNCTIVE  
RELIEF

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

18 BY FAX  
ONE LEGAL LLC

19 NATURE OF THE ACTION

20 1. KINGPUN CHENG (hereinafter, "Plaintiff") brings this representative  
21 action, in the public interest of the citizens of the State of California (hereinafter, "citizens"), to  
22 enforce the citizen's right to be informed of the presence of Diisononyl Phthalate (hereinafter,  
23 "DINP") found in Defendant HOMEWERKS WORLDWIDE, LLC.'s (hereinafter, "Defendant")  
24 products—specifically Homewerks Brass Valve, 1"UPC820633982319 (hereinafter, "Brass  
25 Valve".)

26 2. Plaintiff seeks to remedy Defendant's failure to warn citizens about the risks of  
27 exposure to DINP present in Defendant's Brass Valve manufactured, distributed and/or offered  
for sale to consumers throughout the State of California.

1           3. Defendant manufactures, distributes or offers for sale Brass Valve containing  
2 detectable levels of DINP to consumers throughout the State of California.

3           4. California's Safe Drinking Water and Toxic Enforcement Act of 1986, California  
4 Health & Safety Code § 25249.5 et seq. ("Proposition 65") states, "No person in the course of  
5 doing business shall knowingly and intentionally expose any individual to a chemical known to  
6 the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning  
7 to such individual..." (Cal. Health & Safety Code § 25249.6.)

8           5. California identified and listed DINP as chemicals known to cause cancer under  
9 Proposition 65.

10          6. Defendant manufactures, distributes or offers for sale Brass Valve containing  
11 DINP without providing a health hazard warning in California.

12          7. Defendant's failure to warn consumers and/or other individuals in the State of  
13 California about their exposure to DINP in conjunction with Defendant's sale of Brass Valve is a  
14 violation of Proposition 65 which subjects Defendant to enjoinder of such conduct as well as  
civil penalties for each such violation.

15          8. For Defendant's violations of Proposition 65, plaintiff seeks preliminary injunctive  
16 and permanent injunctive relief to compel Defendant to provide purchasers or users of Brass  
17 Valve with the required warning regarding the health hazards of DINP. (Cal. Health & Safety  
18 Code § 25249.7(a).)

19          9. Plaintiff also seeks civil penalties against Defendant for its violations of Proposition  
20 65, as provided for by California Health & Safety Code § 25249.7(b).

21                           PARTIES

22          10. Plaintiff resides in the City of Carlsbad, County of San Diego, in the State of  
23 California and as such, as citizen of the state of California. Plaintiff is dedicated to protecting the  
24 health of California citizens through the elimination or reduction of toxic exposures from  
25 consumer products, represented by and through its counsel of record, Parker A. Smith. Plaintiff  
26 brings this action in the public interest pursuant to California Health & Safety Code § 25249.7.

27          11. Homewerks Worldwide, LLC, is a person doing business within the meaning of  
28 California Health & Safety Code § 25249.11.

1    VENUE AND JURISDICTION

2            12. Venue is proper in the San Francisco County Superior Court, pursuant to Code of  
3 Civil Procedure § § 394, 495, 395.5, because this Court is a court of competent jurisdiction,  
4 because one or more instances of wrongful conduct occurred, and continues to occur, in the  
5 County of San Francisco and/or because Defendant conducted, and continues to conduct, business  
6 in this County with respect to Brass Valve.

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

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

17    FIRST CAUSE OF ACTION

18    **(Violation of Proposition 65 – Against Defendant)**

19           15. Plaintiff alleges and incorporates by reference, as if full reference, as if full set forth  
20 herein, Paragraphs 1 through 15, inclusive.

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

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

28           18. A sixty-day notice of violation, together with the requisite certificates of merit, was  
provided to Defendant on May 8, 2017, other potential violators and various public enforcement

1 agencies, including the California Attorney General's Office, stating that as a result of the  
2 Defendant's sale of Brass Valve, purchasers and users in the State of California were being  
3 exposed to DINP resulting from the reasonably foreseeable users of Brass Valve, without the  
4 individual purchasers and users first having been provided with a "clear and reasonable warning"  
5 regarding such toxic exposures.

6 19. Defendant manufactures, distributes and/or offers Brass Valve for sale or use in  
7 violation of *California Health & Safety Code § 25249.6* and Defendant's manufacture,  
8 distribution and/or offering of Brass Valve for sale or use in violation of *California Health &*  
9 *Safety Code § 25249.6* has continued to occur beyond Defendant's receipt of Plaintiff's sixty-day  
10 Notice of Violation. Plaintiff further alleges and believes that such violations will continue to  
11 occur into the future.

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

15 21. The Brass Valve manufactured, distributed, and/or offered for sale or use in  
16 California by Defendant contained DINP above the allowable state limits.

17 22. Defendant knew or should have known that the Brass Valve manufactured,  
18 distributed, and/or for sale or use by Defendant in California contained DINP.

19 23. DINP was present in or on the Brass Valve in such a way as to expose individuals  
20 to DINP through dermal contact and/or ingestion during the reasonably foreseeable use of the  
21 Brass Valve.

22 24. The normal and reasonably foreseeable use of the Brass Valve have caused and  
23 continue to cause consumer exposure to DINP, as such exposure is defined by *27 CCR§*  
24 *25602(b)*.

25 25. Defendant had knowledge that the normal and reasonably foreseeable use of the  
26 water cartridge would expose individuals to DINP through dermal contact and/or ingestion.

27 26. Defendant intended that such exposures to DINP from the reasonably foreseeable  
28 use of the Brass Valve would occur by its deliberate, non-accidental participation in the

1 manufacture, distribution and/or offer for sale or use of the Brass Valve to purchasers, consumers,  
2 or users in the State of California.

3 27. Defendant failed to provide a “clear and reasonable warning” to those consumers  
4 and/or other individuals in the State of California who were or who could become exposed to  
5 DINP through dermal contact and/or ingestion during the reasonably foreseeable use of the Brass  
6 Valve.

7 28. Contrary to the express policy and statutory prohibition of Proposition 65, enacted  
8 directly by California voters, individuals exposed to DINP through dermal contact and/or  
9 ingestion resulting from the reasonably foreseeable use of the Brass Valve, sold by Defendant  
10 without a “clear and reasonable warning,” have suffered, and continue to suffer, irreparable harm,  
11 for which harm they have no plain, speedy or adequate remedy at law.

12 29. As a consequence of the above-described acts, each Defendant is liable for a  
13 maximum civil penal of \$2,500.00 per day for each violation pursuant to *California Health &*  
*Safety Code § 25249.7(b)*.

14 30. As a consequence of the above-described acts, *California Health & Safety Code §*  
15 *25249.7(a)* also specifically authorizes the Court to grant injunctive relief against Defendant.

16 31. Wherefore, Plaintiff prays for judgment against Defendant as set forth hereinafter.

17 **PRAYER FOR RELIEF**

18 Wherefore, Plaintiff prays for judgment against Defendant as follows:

19 1. That the Court, pursuant to *California Health & Safety Code § 25249.7(b)*, assess  
20 civil penalties against Defendant, in the amount of \$2,500.00 per day for each violation alleged  
21 herein;


22 2. That the Court, pursuant to *California Health & Safety Code § 25249.7(a)*,  
23 preliminarily and permanently enjoin Defendant from manufacturing, distributing or offering  
24 Brass Valve for sale or use in California, without providing “clear and reasonable warnings” as  
25 detailed by *27 CCR § 25601*, as to the harms associated with exposures to DINP;

26 3. That the Court grant Plaintiff reasonable attorneys’ fees and cost of suit; and  
27 the Court grant such other and further relief as may be just and proper.  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: Sept. 28<sup>th</sup>, 2017

Respectfully Submitted,

By:   
Parker A. Smith  
Attorney for Plaintiff