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

DEC 28 2010

John A. Clarke, Executive Officer/Clerk
By *Dawn Alexander*, Deputy
DAWN ALEXANDER

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

9 PRATHER JACKSON, an individual,
10 Plaintiff,

11 vs.

12 XEROX CORPORATION, a New York
13 corporation; and DOES 1 through 100,
14 inclusive,
15 Defendants.

CASE NO. **BC 452059**

COMPLAINT FOR:

1. **VIOLATION OF CALIFORNIA
HEALTH & SAFETY CODE § 25249.5 ET.
SEQ.**
2. **BUSINESS & PROFESSIONS CODE §
17200 ET. SEQ.**

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17 Plaintiff Prather Jackson alleges:

18 **JURISDICTION AND VENUE**

19 1. Jurisdiction and venue are proper within this district because: (i) the Defendants,
20 and each of them, have been or are doing business within the jurisdiction of this court; and (ii) a
21 substantial portion of the acts and omissions giving rise to this Complaint occurred within this
22 jurisdiction and district.

23 **PARTIES**

24 2. At all times relevant herein, Plaintiff Prather Jackson was an individual and
25 resident of the City of Los Angeles, County of Los Angeles, State of California [hereinafter
26 referred to as "Plaintiff"].

27 3. At all times relevant herein, Defendant Xerox Corporation, was and is a New York
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1 corporation existing under the laws of the United States and conducting business as a copier
2 machine manufacturer, distributor, sales and/or leasing company in the County of Los Angeles,
3 State of California [hereinafter referred to as "XEROX"].

4 4. When reference in this Complaint is made to any act or transaction of a Defendant
5 that is a corporation, limited liability company, partnership, limited partnership, or any other
6 business or governmental entity, such allegation shall be deemed to mean that Defendant and its
7 owners, officers, directors, members, managers, agents, employees, or other representatives did or
8 authorized such acts while engaged in the management, direction, or control of the affairs of
9 Defendant and while acting under the scope and course of his, her, or its duties.

10 5. Plaintiffs are ignorant of the true names and capacities of defendants sued herein as
11 DOES 1-100, inclusive, and therefore sues these defendants fictitiously. On information and
12 belief, Plaintiffs allege that these defendants, and each of them, are, and at times mentioned here,
13 were involved in or in some manner was responsible for the damages alleged in this complaint,
14 whether as principal, beneficiary, joint venturer, alter ego, or otherwise. Each cause of action
15 alleged below is asserted against each of these defendants.

16 6. Plaintiff is further informed and believes that defendant DOES 1-100, inclusive,
17 were at all times alleged below, the agents, servants, alter ego and/or employees of the other
18 defendants, and each of them, and in committing the acts and omissions below were acting within
19 the course and scope of this agency, servitude, and employment.

20 7. At all times mentioned herein, each of the Defendants was a person within the
21 meaning of Business & Professions Code §17201 and a person doing business within the meaning
22 of Health & Safety Code § 25249.11(a). Plaintiff is informed and believes and thereon alleges
23 that at all times mentioned herein, each of the Defendants has had 10 or more employees.

24 **COMMON FACTUAL ALLEGATIONS**

25 8. Plaintiff was and is publisher of a monthly magazine.

26 9. In September 2007, XEROX, through its sales agent, approached Plaintiff to lease a
27 Xerox copier/printer (Model No. DocuColor 260) (the "MACHINE").
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1 birth defects and reproductive toxicity, as set forth in Health & Safety Code §§ 25249.5, *et. seq.*
2 and 22 California Code of Regulations §§ 12000 through 14000 through the sale and distribution
3 of copy machine/printers, including ones like the MACHINE, in California.

4 18. In the ordinary course of business, Defendants, since at least August 2007 through
5 the present date, have sold and distributed copy machine/printers, including ones like the
6 MACHINE, throughout California for use by consumers. When the copy machines are in
7 operation, in the ordinary course of usage, hazardous emissions in significant amounts that pose a
8 serious health risk to unsuspecting people. The levels of these chemicals exceed the allowable
9 threshold exposure level set forth in Health & Safety Code § 25249.6. Defendants now and for at
10 least the four years prior to this Complaint have failed to provide its customers and the general
11 public with a clear and reasonable warning of this potential exposure.

12 19. When XEROX's copy machine/printers, including ones like the MACHINE, are
13 operating, they emit vapors, gases and particles containing the following Designated Chemicals:
14 Benzene, Styrene Oxide, Ethyl Benzene, Napthalene, Toluene, 1,1,2,2 Tetrachlorethane, 1-
15 Nitropyrene, and Trichlorokethylene. Persons using and that are in and around the machines are
16 exposed to these Designated Chemicals via inhalation, that is, by breathing in the chemical.
17 Defendants have never provided, however, any clear and reasonable warning that the use of or
18 proximity to these machines while operating poses any health risk or exposes them to such
19 chemicals, in violation of Health & Safety Code § 25249.6.

20 20. At all times relevant to this action, Defendants knew that the general public could
21 be and/or were being exposed, through inhalation, to these chemicals.

22 21. Each of the Defendants knew these facts because they are in the business of
23 manufacturing, leasing, selling, and/or repairing copy machine/printers, including ones like the
24 MACHINE.

25 22. Plaintiff has investigated XEROX and determined that it does not provide any
26 warnings in compliance with Section 25249.6 or Proposition 65.

27 23. The route of exposure of said chemicals is primarily through inhalation, that is, via
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1 breathing of the chemicals.

2 24. More than sixty (60) days prior to filing this action, Plaintiff mailed to the
3 Defendant a 60-day Notice of Intent to Sue (the "Notice") for violations of Proposition 65, by
4 knowingly and intentionally exposing consumers, their customers and/or the general public to the
5 Designated Chemicals listed herein. The Notice specifically identified that Defendant offered for
6 sale or distributed throughout California "Xerox brand copiers," including the MACHINE, and
7 that thereby Defendant had exposed consumers, their customers and/or the general public without
8 providing a warning. The Notice identified the time period wherein such exposures had occurred,
9 and also identified the route of exposure for the chemicals as inhalation. Included with the Notice
10 was a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A
11 Summary."

12 25. Copies of the Notice referred to herein were mailed to the California Attorney
13 General, the relevant County District Attorneys and City Attorneys for each city containing a
14 population of at least 750,000 people where Defendants had violated Health & Safety Code §§
15 25249.5, *et. seq.*, and 22 California Code of Regulations §§ 12000 through 14000.

16 26. No response was ever received from any of these persons. Upon information and
17 belief, none is currently prosecuting an action against Defendant for the violations set forth herein.

18 27. Individuals exposed to the listed chemicals suffered and continue to suffer harm
19 due to their exposure to said chemicals without prior clear and reasonable warning.

20 28. This action is also for injunctive relief and penalties for violation of Health &
21 Safety Code §§ 25249.5, *et. seq.*, is specifically authorized by § 25249.7.

22 **SECOND CAUSE OF ACTION**

23 **(Business & Professions Code §§ 17200 *et. seq.***

24 **— Against Defendants)**

25 29. Plaintiff incorporates by reference the allegations contained in the preceding
26 paragraphs of this Complaint.

27 30. The Unfair Competition Law and Unfair Business Practices Act, codified in
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1 Business & Professional Code §§ 17200 *et. seq.*, provides that unfair competition shall mean and
2 include any unlawful business act or practice.

3 31. Defendants' acts or practices, as previously alleged within this Complaint, were
4 and are illegal.

5 32. By committing the acts and practices alleged herein, Defendants have been and
6 continue to be engaged in illegal business practices within the meaning of the Business &
7 Professions Code §§ 17200 *et. seq.*

8 33. Plaintiff has been injured in fact and suffered damages as a result of Defendants'
9 acts.

10 34. Plaintiff has brought this action within four years of the accrual of this cause of
11 action, pursuant to Business & Professions Code § 17208.

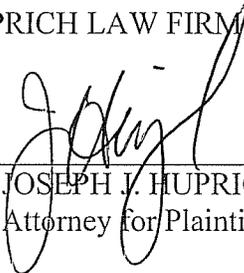
12 **WHEREFORE**, Plaintiff prays for judgment as follows:

- 13 1. A permanent injunction pursuant to Health & Safety Code §§ 25249.7(a) and the
14 equitable powers of this Court;
- 15 2. Penalties pursuant to Health & Safety Code §§ 25249.7(b) in the amount of \$2,500.00
16 per day per violation at each of the locations listed in Exhibit A;
- 17 3. Compensatory damages in an amount of no less than \$25,000;
- 18 4. Costs of suit;
- 19 5. Attorneys' fees and costs;
- 20 6. Such other and further relief as the Court may deem just and proper.

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DATED: December 28, 2010

HUPRICH LAW FIRM, P.C.

By 

JOSEPH J. HUPRICH
Attorney for Plaintiff