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CENTER FOR ENVIRONMENTAL HEALTH

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ALAMEDA

11 CENTER FOR ENVIRONMENTAL HEALTH,)
12 a non-profit corporation,)

13 Plaintiff,)

14 v.)

15 AERODYNAMIC AVIATION; AIR 88, INC.)
16 dba CROWNAIR AVIATION; AIRFLITE,)
INC.; AIR PETRO CORP.; AIRPORT)
17 PROPERTY PARTNERS LLC dba APP JET)
CENTER; AIR RUTTER INTERNATIONAL)
18 LLC; AMELIA REID AVIATION, LLC;)
AMERICAN AIRPORTS CORP.; AMERICAN)
19 FLYERS; ATLANTIC AVIATION CORP.;)
ATLANTIC AVIATION FBO, INC.;)
20 ATLANTIC AVIATION OF SANTA MONICA,)
LP; AVANTAIR, INC.; AVFUEL)
CORPORATION; AVIATION)
21 CONSULTANTS, INC.; BUSINESS JET)
CENTER OAKLAND, L.P.; CALIFORNIA IN)
22 NICE, INC. dba NICE AIR; CASTLE &)
COOKE AVIATION SERVICES, INC.;)
23 CHANNEL ISLANDS AVIATION, INC.;)
CROWNAIR HOLDINGS, INC.; EAFNC, LLC;)
24 EASTERN AVIATION FUELS, INC.;)
ENCORE JET CENTER, LLC; JETFLITE,)
25 INC.; JETFLITE INTERNATIONAL;)
KAISERAIR, INC.; LANCAIR CORP.;)
26 LANCAIR INTERNATIONAL INC.; LOYD'S)
AVIATION; MAGUIRE AVIATION GROUP,)
27 LLC; MILLION AIR BURBANK; MILLION)
AIR INTERLINK, INC.; NAPA JET CENTER,)
28 INC.; PACIFIC STATES AVIATION INC.;)

Case No. RG 11-600721

**SECOND AMENDED COMPLAINT
FOR INJUNCTIVE RELIEF AND
CIVIL PENALTIES**

Health & Safety Code § 25249.6, et seq.

(Other)

1 PATTERSON AVIATION COMPANY;)
2 PENTASTAR AVIATION OF CALIFORNIA,)
3 LLC; REW INVESTMENTS, INC.; ROSSI)
4 AIRCRAFT, INC.; SACRAMENTO)
5 EXECUTIVE JET CENTER; SACRAMENTO)
6 INTERNATIONAL JET CENTER)
7 INCORPORATED; SAN DIEGO JET)
8 CENTER, INC.; SAN LUIS JET CENTER;)
9 SIGNATURE FLIGHT SUPPORT CORP.;)
10 SOUTH BAY AVIATION, INC.; SUN AIR)
11 JETS, LLC; THRESHOLD TECHNOLOGIES,)
12 INC.; WESTERN CARDINAL, INC.; WORLD)
13 FUEL SERVICES CORPORATION; and DOES)
14 1 through 200, inclusive,)

Defendants.

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1 Plaintiff Center for Environmental Health, in the public interest, based on
2 information and belief and investigation of counsel, except for information based on knowledge,
3 hereby makes the following allegations:

4 INTRODUCTION

5 1. This Second Amended Complaint seeks to remedy Defendants' continuing
6 failure to warn individuals in California that they are being exposed to lead and lead compounds
7 (collectively, "Lead"), chemicals known to the State of California to cause cancer and birth
8 defects and other reproductive harm. Such exposures have occurred, and continue to occur,
9 through the distribution, sale and use of Defendants' Leaded aviation gasoline ("Avgas").
10 Individuals, including children and pregnant women, living and/or working near the airports at
11 which Defendants operate are exposed to Lead emitted from Avgas supplied by Defendants. In a
12 recent study of children living near airports where Avgas is used, it was determined that such
13 children have elevated blood Lead levels.

14 2. Under California's Proposition 65, Health & Safety Code § 25249.5, *et*
15 *seq.*, it is unlawful for businesses to knowingly and intentionally expose individuals in California
16 to chemicals known to the State to cause cancer, birth defects or other reproductive harm without
17 first providing clear and reasonable warnings to individuals prior to their exposure. Defendants
18 supply Avgas, which emits Lead as airplanes are fueled and as the airplanes fueled and/or
19 operated by Defendants using Avgas take off and land. Defendants' use of Avgas exposes
20 individuals to Lead.

21 3. Despite the fact that Defendants expose children, pregnant women and
22 other individuals to Lead, Defendants provide no warnings whatsoever about the carcinogenic or
23 reproductive hazards associated with Lead exposure. Defendants' conduct thus violates the
24 warning provision of Proposition 65 set forth at Health & Safety Code § 25249.6.

25 PARTIES

26 4. Plaintiff CENTER FOR ENVIRONMENTAL HEALTH ("CEH") is a
27 non-profit corporation dedicated to protecting the public from environmental health hazards and
28 toxic exposures. CEH is based in Oakland, California and incorporated under the laws of the

1 State of California. CEH is a “person” within the meaning of Health & Safety Code
2 § 25249.11(a) and brings this enforcement action in the public interest pursuant to Health &
3 Safety Code § 25249.7(d). CEH is a nationally recognized non-profit environmental advocacy
4 group that has prosecuted a large number of Proposition 65 cases in the public interest. These
5 cases have resulted in significant public benefit, including the reformulation of thousands of
6 products to remove toxic chemicals and to make them safer. CEH also provides information to
7 Californians about the health risks associated with exposure to hazardous substances, where
8 manufacturers and other responsible parties fail to do so.

9 5. Defendant AERODYNAMIC AVIATION is a person in the course of
10 doing business within the meaning of Health & Safety Code § 25249.11. AeroDynamic Aviation
11 distributes, sells and/or uses Avgas in California. AeroDynamic Aviation operates out of Reid-
12 Hillview Airport. AeroDynamic Aviation exposes individuals living and/or working near Reid-
13 Hillview Airport to Lead without first providing such individuals with clear and reasonable
14 warnings.

15 6. Defendant AIR 88, INC. dba CROWNAIR AVIATION is a person in the
16 course of doing business within the meaning of Health & Safety Code § 25249.11. Air 88, Inc.
17 dba CrownAir Aviation distributes, sells and/or uses Avgas in California. Air 88, Inc. dba
18 CrownAir Aviation operates out of Montgomery Field. Air 88, Inc. dba CrownAir Aviation
19 exposes individuals living and/or working near Montgomery Field to Lead without first
20 providing such individuals with clear and reasonable warnings.

21 7. Defendant AIRFLITE, INC. is a person in the course of doing business
22 within the meaning of Health & Safety Code § 25249.11. AirFlite, Inc. distributes, sells and/or
23 uses Avgas in California. AirFlite, Inc. operates out of Long Beach Airport (Daugherty Field).
24 AirFlite, Inc. exposes individuals living and/or working near Long Beach Airport (Daugherty
25 Field) to Lead without first providing such individuals with clear and reasonable warnings.

26 8. Defendant AIR PETRO CORP. is a person in the course of doing business
27 within the meaning of Health & Safety Code § 25249.11. Air Petro Corp. distributes, sells
28 and/or uses Avgas in California. Air Petro Corp. operates out of Bob Hope Airport, Brackett

1 Field, Brown Field Municipal Airport, Camarillo Airport, El Monte Airport, Fresno Yosemite
2 International Airport, Hayward Executive Airport, John Wayne Airport, Long Beach Airport
3 (Daugherty Field), Los Angeles International Airport, Meadows Field Airport, Montgomery
4 Field, Napa County Airport, Oakland International Airport, Palo Alto Airport, Reid-Hillview
5 Airport, Sacramento Executive Airport, San Luis Obispo County Regional Airport, Santa
6 Barbara Municipal Airport, Santa Monica Municipal Airport, Van Nuys Airport and Zamperini
7 Field. Air Petro Corp. exposes individuals living and/or working near Bob Hope Airport,
8 Brackett Field, Brown Field Municipal Airport, Camarillo Airport, El Monte Airport, Fresno
9 Yosemite International Airport, Hayward Executive Airport, John Wayne Airport, Long Beach
10 Airport (Daugherty Field), Los Angeles International Airport, Meadows Field Airport,
11 Montgomery Field, Napa County Airport, Oakland International Airport, Palo Alto Airport,
12 Reid-Hillview Airport, Sacramento Executive Airport, San Luis Obispo County Regional
13 Airport, Santa Barbara Municipal Airport, Santa Monica Municipal Airport, Van Nuys Airport
14 and Zamperini Field to Lead without first providing such individuals with clear and reasonable
15 warnings.

16 9. Defendant AIRPORT PROPERTY PARTNERS LLC dba APP JET
17 CENTER is a person in the course of doing business within the meaning of Health & Safety
18 Code § 25249.11. Airport Property Partners LLC dba APP Jet Center distributes, sells and/or
19 uses Avgas in California. Airport Property Partners LLC dba APP Jet Center operates out of
20 Hayward Executive Airport. Airport Property Partners LLC dba APP Jet Center exposes
21 individuals living and/or working near Hayward Executive Airport to Lead without first
22 providing such individuals with clear and reasonable warnings.

23 10. Defendant AIR RUTTER INTERNATIONAL LLC is a person in the
24 course of doing business within the meaning of Health & Safety Code § 25249.11. Air Rutter
25 International LLC distributes, sells and/or uses Avgas in California. Air Rutter International
26 LLC operates out of Long Beach Airport (Daugherty Field). Air Rutter International LLC
27 exposes individuals living and/or working near Long Beach Airport (Daugherty Field) to Lead
28 without first providing such individuals with clear and reasonable warnings.

1 11. Defendant AMELIA REID AVIATION, LLC is a person in the course of
2 doing business within the meaning of Health & Safety Code § 25249.11. Amelia Reid Aviation,
3 LLC distributes, sells and/or uses Avgas in California. Amelia Reid Aviation, LLC operates out
4 of Reid-Hillview Airport. Amelia Reid Aviation, LLC exposes individuals living and/or working
5 near Reid-Hillview Airport to Lead without first providing such individuals with clear and
6 reasonable warnings.

7 12. Defendant AMERICAN AIRPORTS CORP. is a person in the course of
8 doing business within the meaning of Health & Safety Code § 25249.11. American Airports
9 Corp. distributes, sells and/or uses Avgas in California. American Airports Corp. operates out of
10 Brackett Field and El Monte Airport. American Airports Corp. exposes individuals living and/or
11 working near Brackett Field and El Monte Airport to Lead without first providing such
12 individuals with clear and reasonable warnings.

13 13. Defendant AMERICAN FLYERS is a person in the course of doing
14 business within the meaning of Health & Safety Code § 25249.11. American Flyers distributes,
15 sells and/or uses Avgas in California. American Flyers operates out of Santa Monica Municipal
16 Airport. American Flyers exposes individuals living and/or working near Santa Monica
17 Municipal Airport to Lead without first providing such individuals with clear and reasonable
18 warnings.

19 14. Defendant ATLANTIC AVIATION CORP. is a person in the course of
20 doing business within the meaning of Health & Safety Code § 25249.11. Atlantic Aviation Corp.
21 distributes, sells and/or uses Avgas in California. Atlantic Aviation Corp. operates out of Bob
22 Hope Airport, Santa Barbara Municipal Airport, Hayward Executive Airport, John Wayne
23 Airport, Los Angeles International Airport, Meadows Field Airport and Santa Monica Municipal
24 Airport. Atlantic Aviation Corp. exposes individuals living and/or working near Bob Hope
25 Airport, Santa Barbara Municipal Airport, Hayward Executive Airport, John Wayne Airport, Los
26 Angeles International Airport, Meadows Field Airport and Santa Monica Municipal Airport to
27 Lead without first providing such individuals with clear and reasonable warnings.

28 15. Defendant ATLANTIC AVIATION FBO, INC. is a person in the course

1 of doing business within the meaning of Health & Safety Code § 25249.11. Atlantic Aviation
2 FBO, Inc. distributes, sells and/or uses Avgas in California. Atlantic Aviation FBO, Inc. operates
3 out of Bob Hope Airport, Santa Barbara Municipal Airport, Hayward Executive Airport, John
4 Wayne Airport, Los Angeles International Airport, Meadows Field Airport and Santa Monica
5 Municipal Airport. Atlantic Aviation FBO, Inc. exposes individuals living and/or working near
6 Bob Hope Airport, Santa Barbara Municipal Airport, Hayward Executive Airport, John Wayne
7 Airport, Los Angeles International Airport, Meadows Field Airport and Santa Monica Municipal
8 Airport to Lead without first providing such individuals with clear and reasonable warnings.

9 16. Defendant ATLANTIC AVIATION OF SANTA MONICA, LP is a person
10 in the course of doing business within the meaning of Health & Safety Code § 25249.11.
11 Atlantic Aviation of Santa Monica, LP distributes, sells and/or uses Avgas in California.
12 Atlantic Aviation of Santa Monica, LP operates out of Santa Monica Municipal Airport. Atlantic
13 Aviation of Santa Monica, LP exposes individuals living and/or working near Santa Monica
14 Municipal Airport to Lead without first providing such individuals with clear and reasonable
15 warnings.

16 17. Defendant AVANTAIR, INC. is a person in the course of doing business
17 within the meaning of Health & Safety Code § 25249.11. Avantair, Inc. distributes, sells and/or
18 uses Avgas in California. Avantair, Inc. operates out of Camarillo Airport. Avantair, Inc.
19 exposes individuals living and/or working near Camarillo Airport to Lead without first providing
20 such individuals with clear and reasonable warnings.

21 18. Defendant AVFUEL CORPORATION is a person in the course of doing
22 business within the meaning of Health & Safety Code § 25249.11. Avfuel Corporation
23 distributes, sells and/or uses Avgas in California. Avfuel Corporation operates out of Brackett
24 Field, Brown Field Municipal Airport, Buchanan Field, Chino Airport, El Monte Airport,
25 Gillespie Field, McClellan-Palomar Airport, Meadows Field Airport, Santa Monica Municipal
26 Airport and Van Nuys Airport. Avfuel Corporation exposes individuals living and/or working
27 near Brackett Field, Brown Field Municipal Airport, Buchanan Field, Chino Airport, El Monte
28 Airport, Gillespie Field, McClellan-Palomar Airport, Meadows Field Airport, Santa Monica

1 Municipal Airport and Van Nuys Airport to Lead without first providing such individuals with
2 clear and reasonable warnings.

3 19. Defendant AVIATION CONSULTANTS, INC. is a person in the course
4 of doing business within the meaning of Health & Safety Code § 25249.11. Aviation
5 Consultants, Inc. distributes, sells and/or uses Avgas in California. Aviation Consultants, Inc.
6 operates out of San Luis Obispo County Regional Airport. Aviation Consultants, Inc. exposes
7 individuals living and/or working near San Luis Obispo County Regional Airport to Lead
8 without first providing such individuals with clear and reasonable warnings.

9 20. Defendant BUSINESS JET CENTER OAKLAND, L.P. is a person in the
10 course of doing business within the meaning of Health & Safety Code § 25249.11. Business Jet
11 Center Oakland, L.P. distributes, sells and/or uses Avgas in California. Business Jet Center
12 Oakland, L.P. operates out of Oakland International Airport. Business Jet Center Oakland, L.P.
13 exposes individuals living and/or working near Oakland International Airport to Lead without
14 first providing such individuals with clear and reasonable warnings.

15 21. Defendant CALIFORNIA IN NICE, INC. dba NICE AIR is a person in the
16 course of doing business within the meaning of Health & Safety Code § 25249.11. California in
17 Nice, Inc. dba Nice Air distributes, sells and/or uses Avgas in California. California in Nice, Inc.
18 dba Nice Air operates out of Reid-Hillview Airport. California in Nice, Inc. dba Nice Air
19 exposes individuals living and/or working near Reid-Hillview Airport to Lead without first
20 providing such individuals with clear and reasonable warnings.

21 22. Defendant CASTLE & COOKE AVIATION SERVICES, INC. is a person
22 in the course of doing business within the meaning of Health & Safety Code § 25249.11. Castle
23 & Cooke Aviation Services, Inc. distributes, sells and/or uses Avgas in California. Castle &
24 Cooke Aviation Services, Inc. operates out of Van Nuys Airport. Castle & Cooke Aviation
25 Services, Inc. exposes individuals living and/or working near Van Nuys Airport to Lead without
26 first providing such individuals with clear and reasonable warnings.

27 23. Defendant CHANNEL ISLANDS AVIATION, INC. is a person in the
28 course of doing business within the meaning of Health & Safety Code § 25249.11. Channel

1 Islands Aviation, Inc. distributes, sells and/or uses Avgas in California. Channel Islands
2 Aviation, Inc. operates out of Camarillo Airport. Channel Islands Aviation, Inc. exposes
3 individuals living and/or working near Camarillo Airport to Lead without first providing such
4 individuals with clear and reasonable warnings.

5 24. Defendant CROWNAIR HOLDINGS, INC. is a person in the course of
6 doing business within the meaning of Health & Safety Code § 25249.11. CrownAir Holdings,
7 Inc. distributes, sells and/or uses Avgas in California. CrownAir Holdings, Inc. operates out of
8 Montgomery Field. CrownAir Holdings, Inc. exposes individuals living and/or working near
9 Montgomery Field to Lead without first providing such individuals with clear and reasonable
10 warnings.

11 25. Defendant EAFNC, LLC is a person in the course of doing business within
12 the meaning of Health & Safety Code § 25249.11. EAFNC, LLC distributes, sells and/or uses
13 Avgas in California. EAFNC, LLC operates out of Camarillo Airport and Hayward Executive
14 Airport. EAFNC, LLC exposes individuals living and/or working near Camarillo Airport and
15 Hayward Executive Airport to Lead without first providing such individuals with clear and
16 reasonable warnings.

17 26. Defendant EASTERN AVIATION FUELS, INC. is a person in the course
18 of doing business within the meaning of Health & Safety Code § 25249.11. Eastern Aviation
19 Fuels, Inc. distributes, sells and/or uses Avgas in California. Eastern Aviation Fuels, Inc.
20 operates out of Camarillo Airport and Hayward Executive Airport. Eastern Aviation Fuels, Inc.
21 exposes individuals living and/or working near Camarillo Airport and Hayward Executive
22 Airport to Lead without first providing such individuals with clear and reasonable warnings.

23 27. Defendant ENCORE JET CENTER, LLC is a person in the course of
24 doing business within the meaning of Health & Safety Code § 25249.11. Encore Jet Center, LLC
25 distributes, sells and/or uses Avgas in California. Encore Jet Center, LLC operates out of Chino
26 Airport. Encore Jet Center, LLC exposes individuals living and/or working near Chino Airport
27 to Lead without first providing such individuals with clear and reasonable warnings.

28 28. Defendant JETFLITE, INC. is a person in the course of doing business

1 within the meaning of Health & Safety Code § 25249.11. JetFlite, Inc. distributes, sells and/or
2 uses Avgas in California. JetFlite, Inc. operates out of Long Beach Airport (Daugherty Field).
3 JetFlite, Inc. exposes individuals living and/or working near Long Beach Airport (Daugherty
4 Field) to Lead without first providing such individuals with clear and reasonable warnings.

5 29. Defendant JETFLITE INTERNATIONAL is a person in the course of
6 doing business within the meaning of Health & Safety Code § 25249.11. JetFlite International
7 distributes, sells and/or uses Avgas in California. JetFlite International operates out of Long
8 Beach Airport (Daugherty Field). JetFlite International exposes individuals living and/or
9 working near Long Beach Airport (Daugherty Field) to Lead without first providing such
10 individuals with clear and reasonable warnings.

11 30. Defendant KAISERAIR, INC. is a person in the course of doing business
12 within the meaning of Health & Safety Code § 25249.11. KaiserAir, Inc. distributes, sells and/or
13 uses Avgas in California. KaiserAir, Inc. operates out of Oakland International Airport.
14 KaiserAir, Inc. exposes individuals living and/or working near Oakland International Airport to
15 Lead without first providing such individuals with clear and reasonable warnings.

16 31. Defendant LANCAIR CORP. is a person in the course of doing business
17 within the meaning of Health & Safety Code § 25249.11. Lancair Corp. distributes, sells and/or
18 uses Avgas in California. Lancair Corp. operates out of Brown Field Municipal Airport. Lancair
19 Corp. exposes individuals living and/or working near Brown Field Municipal Airport to Lead
20 without first providing such individuals with clear and reasonable warnings.

21 32. Defendant LANCAIR INTERNATIONAL INC. is a person in the course
22 of doing business within the meaning of Health & Safety Code § 25249.11. Lancair International
23 Inc. distributes, sells and/or uses Avgas in California. Lancair International Inc. operates out of
24 Brown Field Municipal Airport. Lancair International Inc. exposes individuals living and/or
25 working near Brown Field Municipal Airport to Lead without first providing such individuals
26 with clear and reasonable warnings.

27 33. Defendant LOYD'S AVIATION is a person in the course of doing
28 business within the meaning of Health & Safety Code § 25249.11. Loyd's Aviation distributes,

1 sells and/or uses Avgas in California. Loyd's Aviation operates out of Meadows Field Airport.
2 Loyd's Aviation exposes individuals living and/or working near Meadows Field Airport to Lead
3 without first providing such individuals with clear and reasonable warnings.

4 34. Defendant MAGUIRE AVIATION GROUP, LLC is a person in the course
5 of doing business within the meaning of Health & Safety Code § 25249.11. Maguire Aviation
6 Group, LLC distributes, sells and/or uses Avgas in California. Maguire Aviation Group, LLC
7 operates out of Van Nuys Airport. Maguire Aviation Group, LLC exposes individuals living
8 and/or working near Van Nuys Airport to Lead without first providing such individuals with
9 clear and reasonable warnings.

10 35. Defendant MILLION AIR BURBANK is a person in the course of doing
11 business within the meaning of Health & Safety Code § 25249.11. Million Air Burbank
12 distributes, sells and/or uses Avgas in California. Million Air Burbank operates out of Bob Hope
13 Airport. Million Air Burbank exposes individuals living and/or working near Bob Hope Airport
14 to Lead without first providing such individuals with clear and reasonable warnings.

15 36. Defendant MILLION AIR INTERLINK, INC. is a person in the course of
16 doing business within the meaning of Health & Safety Code § 25249.11. Million Air Interlink,
17 Inc. distributes, sells and/or uses Avgas in California. Million Air Interlink, Inc. operates out of
18 Bob Hope Airport. Million Air Interlink, Inc. exposes individuals living and/or working near
19 Bob Hope Airport to Lead without first providing such individuals with clear and reasonable
20 warnings.

21 37. Defendant NAPA JET CENTER, INC. is a person in the course of doing
22 business within the meaning of Health & Safety Code § 25249.11. Napa Jet Center, Inc.
23 distributes, sells and/or uses Avgas in California. Napa Jet Center, Inc. operates out of Napa
24 County Airport. Napa Jet Center, Inc. exposes individuals living and/or working near Napa
25 County Airport to Lead without first providing such individuals with clear and reasonable
26 warnings.

27 38. Defendant PACIFIC STATES AVIATION INC. is a person in the course
28 of doing business within the meaning of Health & Safety Code § 25249.11. Pacific States

1 Aviation Inc. distributes, sells and/or uses Avgas in California. Pacific States Aviation Inc.
2 operates out of Buchanan Field. Pacific States Aviation Inc. exposes individuals living and/or
3 working near Buchanan Field to Lead without first providing such individuals with clear and
4 reasonable warnings.

5 39. Defendant PATTERSON AVIATION COMPANY is a person in the
6 course of doing business within the meaning of Health & Safety Code § 25249.11. Patterson
7 Aviation Company distributes, sells and/or uses Avgas in California. Patterson Aviation
8 Company operates out of Sacramento Executive Airport. Patterson Aviation Company exposes
9 individuals living and/or working near Sacramento Executive Airport to Lead without first
10 providing such individuals with clear and reasonable warnings.

11 40. Defendant PENTASTAR AVIATION OF CALIFORNIA, LLC is a person
12 in the course of doing business within the meaning of Health & Safety Code § 25249.11.
13 Pentastar Aviation of California, LLC distributes, sells and/or uses Avgas in California.
14 Pentastar Aviation of California, LLC operates out of Van Nuys Airport. Pentastar Aviation of
15 California, LLC exposes individuals living and/or working near Van Nuys Airport to Lead
16 without first providing such individuals with clear and reasonable warnings.

17 41. Defendant REW INVESTMENTS, INC. is a person in the course of doing
18 business within the meaning of Health & Safety Code § 25249.11. REW Investments, Inc.
19 distributes, sells and/or uses Avgas in California. REW Investments, Inc. operates out of Bob
20 Hope Airport. REW Investments, Inc. exposes individuals living and/or working near Bob Hope
21 Airport to Lead without first providing such individuals with clear and reasonable warnings.

22 42. Defendant ROSSI AIRCRAFT, INC. is a person in the course of doing
23 business within the meaning of Health & Safety Code § 25249.11. Rossi Aircraft, Inc.
24 distributes, sells and/or uses Avgas in California. Rossi Aircraft, Inc. operates out of Palo Alto
25 Airport. Rossi Aircraft, Inc. exposes individuals living and/or working near Palo Alto Airport to
26 Lead without first providing such individuals with clear and reasonable warnings.

27 43. Defendant SACRAMENTO EXECUTIVE JET CENTER is a person in
28 the course of doing business within the meaning of Health & Safety Code § 25249.11.

1 Sacramento Executive Jet Center distributes, sells and/or uses Avgas in California. Sacramento
2 Executive Jet Center operates out of Sacramento Executive Airport. Sacramento Executive Jet
3 Center exposes individuals living and/or working near Sacramento Executive Airport to Lead
4 without first providing such individuals with clear and reasonable warnings.

5 44. Defendant SACRAMENTO INTERNATIONAL JET CENTER
6 INCORPORATED is a person in the course of doing business within the meaning of Health &
7 Safety Code § 25249.11. Sacramento International Jet Center Incorporated distributes, sells
8 and/or uses Avgas in California. Sacramento International Jet Center Incorporated operates out
9 of Sacramento Executive Airport. Sacramento International Jet Center Incorporated exposes
10 individuals living and/or working near Sacramento Executive Airport to Lead without first
11 providing such individuals with clear and reasonable warnings.

12 45. Defendant SAN DIEGO JET CENTER, INC. is a person in the course of
13 doing business within the meaning of Health & Safety Code § 25249.11. San Diego Jet Center,
14 Inc. distributes, sells and/or uses Avgas in California. San Diego Jet Center, Inc. operates out of
15 Brown Field Municipal Airport. San Diego Jet Center, Inc. exposes individuals living and/or
16 working near Brown Field Municipal Airport to Lead without first providing such individuals
17 with clear and reasonable warnings.

18 46. Defendant SAN LUIS JET CENTER is a person in the course of doing
19 business within the meaning of Health & Safety Code § 25249.11. San Luis Jet Center
20 distributes, sells and/or uses Avgas in California. San Luis Jet Center operates out of San Luis
21 Obispo County Regional Airport. San Luis Jet Center exposes individuals living and/or working
22 near San Luis Obispo County Regional Airport to Lead without first providing such individuals
23 with clear and reasonable warnings.

24 47. Defendant SIGNATURE FLIGHT SUPPORT CORP. is a person in the
25 course of doing business within the meaning of Health & Safety Code § 25249.11. Signature
26 Flight Support Corp. distributes, sells and/or uses Avgas in California. Signature Flight Support
27 Corp. operates out of Van Nuys Airport, Santa Barbara Municipal Airport, Fresno Yosemite
28 International Airport, John Wayne Airport and Long Beach (Daugherty Field). Signature Flight

1 Support Corp. exposes individuals living and/or working near Van Nuys Airport, Santa Barbara
2 Municipal Airport, Fresno Yosemite International Airport, John Wayne Airport and Long Beach
3 (Daugherty Field) to Lead without first providing such individuals with clear and reasonable
4 warnings.

5 48. Defendant SOUTH BAY AVIATION, INC. is a person in the course of
6 doing business within the meaning of Health & Safety Code § 25249.11. South Bay Aviation,
7 Inc. distributes, sells and/or uses Avgas in California. South Bay Aviation, Inc. operates out of
8 Zamperini Field. South Bay Aviation, Inc. exposes individuals living and/or working near
9 Zamperini Field to Lead without first providing such individuals with clear and reasonable
10 warnings.

11 49. Defendant SUN AIR JETS, LLC is a person in the course of doing
12 business within the meaning of Health & Safety Code § 25249.11. Sun Air Jets, LLC distributes,
13 sells and/or uses Avgas in California. Sun Air Jets, LLC operates out of Camarillo Airport. Sun
14 Air Jets, LLC exposes individuals living and/or working near Camarillo Airport to Lead without
15 first providing such individuals with clear and reasonable warnings.

16 50. Defendant THRESHOLD TECHNOLOGIES, INC. is a person in the
17 course of doing business within the meaning of Health & Safety Code § 25249.11. Threshold
18 Technologies, Inc. distributes, sells and/or uses Avgas in California. Threshold Technologies,
19 Inc. operates out of Chino Airport. Threshold Technologies, Inc. exposes individuals living
20 and/or working near Chino Airport to Lead without first providing such individuals with clear
21 and reasonable warnings.

22 51. Defendant WESTERN CARDINAL, INC. is a person in the course of
23 doing business within the meaning of Health & Safety Code § 25249.11. Western Cardinal, Inc.
24 distributes, sells and/or uses Avgas in California. Western Cardinal, Inc. operates out of
25 Camarillo Airport. Western Cardinal, Inc. exposes individuals living and/or working near
26 Camarillo Airport to Lead without first providing such individuals with clear and reasonable
27 warnings.

28 52. Defendant WORLD FUEL SERVICES CORPORATION is a person in

1 the clear and reasonable warning requirement regarding reproductive toxicants under Proposition
2 65. *Ibid.*; Health & Safety Code § 25249.10(b).

3 62. On October 1, 1992, the State of California officially listed lead and lead
4 compounds as chemicals known to cause cancer. On October 1, 1993, one year after they were
5 listed as chemicals known to cause cancer, lead and lead compounds became subject to the clear
6 and reasonable warning requirement regarding carcinogens under Proposition 65. 27 C.C.R.
7 § 27001(c); Health & Safety Code § 25249.10(b).

8 63. Use of Avgas is the single largest source of airborne Lead pollution in the
9 United States. *See* U.S. Environmental Protection Agency, "Development and Evaluation of an
10 Air Quality Modeling Approach for Lead Emissions from Piston-Engine Aircraft Operating on
11 Leaded Aviation Gasoline," EPA-420-R-10-007, February 2010. Avgas usage results in *over*
12 *650 tons of Lead emissions every year* in the United States. *Ibid.*

13 64. Young children are especially susceptible to the toxic effects of Lead.
14 Children show a greater sensitivity to Lead's effects than do adults. Adverse health impacts from
15 Lead exposure generally occur in children at lower blood Lead levels than in adults. Children
16 absorb and retain more Lead in proportion to their weight than do adults. Young children also
17 show a greater prevalence of iron deficiency, a condition that can increase gastrointestinal
18 absorption of Lead. The body accumulates Lead over a lifetime and releases it slowly, so even
19 small doses received in childhood, over time, can cause adverse health impacts, including but not
20 limited to reproductive toxicity, later in life. For example, in times of physiological stress, such
21 as pregnancy, the body can mobilize accumulated stores of Lead in tissue and bone, thereby
22 increasing the level of Lead in the blood and increasing the risk of harm to the fetus.

23 65. There is no safe level of exposure to Lead and even minute amounts of
24 Lead exposure have been proven harmful to children and adults. Studies have repeatedly
25 concluded that concentrations of Lead in children's blood previously deemed acceptable can
26 have adverse health effects. *See, e.g.,* Canfield, R.L., *et al.*, "Intellectual Impairment in Children
27 with Blood Lead Concentrations below 10 ug per Deciliter," *New England Journal of Medicine*
28 348:16, 2003. Another study on the effect of childhood Lead exposure declared that even the

1 smallest detectable amount of blood Lead levels in children can mean the difference between an
2 A or B grade in school. Lanphear, B.P., Dietrich, K., Auinger, P., Cox, C., "Subclinical Lead
3 Toxicity in U.S. Children and Adolescents," *Neurodevelopmental Disabilities II Platform*, 2000.

4 66. Children living near airports at which Avgas is used have increased blood
5 Lead levels and the impacts of Avgas are highest among those children living closest to the
6 airport. *See, e.g.,* Miranda, M.L., Anthopolos, R., Hastings, D., "A Geospatial Analysis of the
7 Effects of Aviation Gasoline on Childhood Blood Lead Levels," *Environmental Health*
8 *Perspectives*, 2011.

9 67. Lead exposures for pregnant women are also of particular concern in light
10 of evidence that even short term Lead exposures *in utero* may have long-term harmful effects.
11 *See* Hu, H., *et al.*, "Fetal Lead Exposure at Each State of Pregnancy as a Predictor of Infant
12 Mental Development," *Environmental Health Perspectives* 114:11, 2006; *and* Schnaas, Lourdes,
13 *et al.*, "Reduced Intellectual Development in Children with Prenatal Lead Exposure,"
14 *Environmental Health Perspectives* 114:5, 2006.

15 68. Avgas contains approximately 2.12 grams of Lead per gallon. Defendants
16 supply Avgas to planes that take off and land at the airports at which they operate. Defendants'
17 facilities aggregate the airplanes in such a concentrated area that emissions from the airplanes
18 fueled and/or operated by Defendants expose individuals living and/or working near the airports
19 to Lead emitted from Avgas. The routes of exposure for the violations are primarily through
20 inhalation, when individuals breathe the Lead emitted by the airplanes fueled and/or operated by
21 Defendants; and also through ingestion via hand-to-mouth contact and dermal absorption directly
22 through the skin when individuals touch or handle dust laden with Lead from Avgas. The
23 exposures to Lead from Avgas occur in the neighborhoods surrounding airports where
24 Defendants operate.

25 69. Defendants control the circumstances of the exposures which result from
26 the use of the Avgas they distribute, sell and/or use. They control how many airplanes they fuel
27 each day and when they provide fuel to those airplanes, which also impacts when the airplanes
28 take off and land. Many Defendants have their own airplanes which use Avgas and control not

1 only when those airplanes are fueled, but also when they take off and land.

2 70. No clear and reasonable warning is provided to individuals living and/or
3 working near the airports at which Defendants operate regarding the carcinogenic or reproductive
4 hazards of Lead.

5 71. Any person acting in the public interest has standing to enforce violations
6 of Proposition 65 provided that such person has supplied the requisite public enforcers with a
7 valid 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the
8 action within such time. Health & Safety Code § 25249.7(d).

9 72. More than sixty days prior to naming each Defendant in this lawsuit, CEH
10 provided a 60-Day "Notice of Violation of Proposition 65" to the California Attorney General,
11 the District Attorneys of every county in California, the City Attorneys of every California city
12 with a population greater than 750,000 and to each of the named Defendants. In compliance with
13 Health & Safety Code § 25249.7(d) and 27 C.C.R. § 25903(b), each Notice included the
14 following information: (1) the name and address of each violator; (2) the statute violated; (3) the
15 time period during which violations occurred; (4) specific descriptions of the violations,
16 including (a) the routes of exposure to Lead from Avgas, (b) the locations of the exposures; and
17 (c) a description of the individuals exposed; and (5) the name of the specific Proposition 65-
18 listed chemical that is the subject of the violations described in each Notice.

19 73. CEH also sent a Certificate of Merit for each Notice to the California
20 Attorney General, the District Attorneys of every county in California, the City Attorneys of
21 every California city with a population greater than 750,000 and to each of the named
22 Defendants. In compliance with Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3101, each
23 Certificate certified that CEH's counsel: (1) has consulted with one or more persons with
24 relevant and appropriate experience or expertise who reviewed facts, studies or other data
25 regarding the exposures to Lead alleged in each Notice; and (2) based on the information
26 obtained through such consultations, believes that there is a reasonable and meritorious case for a
27 citizen enforcement action based on the facts alleged in each Notice. In compliance with Health
28 & Safety Code § 25249.7(d) and 11 C.C.R. § 3102, each Certificate served on the Attorney

1 General included factual information – provided on a confidential basis – sufficient to establish
2 the basis for the Certificate, including the identity of the person(s) consulted by CEH’s counsel
3 and the facts, studies or other data reviewed by such persons.

4 74. None of the public prosecutors with the authority to prosecute violations
5 of Proposition 65 has commenced and/or is diligently prosecuting a cause of action against
6 Defendants under Health & Safety Code § 25249.5, *et seq.*, based on the claims asserted in each
7 of CEH’s Notices.

8 75. Defendants both know and intend that individuals will be exposed to the
9 Lead from the Avgas sold and/or used by Defendants.

10 76. Under Proposition 65, an exposure is “knowing” where the party
11 responsible for such exposure has:

12 knowledge of the fact that a[n] . . . exposure to a chemical listed
13 pursuant to [Health & Safety Code § 25249.8(a)] is occurring. No
14 knowledge that the . . . exposure is unlawful is required.

15 27 C.C.R. § 25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final
16 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2,
17 § 12201).

18 77. Defendants know that Avgas contains Lead due to Avgas being marketed
19 and sold as “leaded.”

20 78. The fact that individuals living and/or working near airports where Avgas
21 is sold and/or used are exposed to Lead from the Avgas has also been widely discussed in
22 government reports and in the media in recent years such that Defendants have actual or at least
23 constructive knowledge of the exposures which result from their sale and use of Avgas.

24 79. Defendants know or should have known that emissions from airplanes
25 which use Avgas taking off and landing at the airports where Defendants operate would result in
26 emissions of Lead into the vicinity of those airports. Every airplane fueled and/or operated by a
27 Defendant necessarily takes off from and lands at the airport where such Defendant operates.
28 Defendants thus know and intend that the airplanes fueled and/or operated by them will emit

1 Lead into the neighborhoods surrounding the airports where they operate. The Lead exposures to
2 individuals who use Avgas are a natural and foreseeable consequence of Defendants' placing
3 Avgas into the stream of commerce.

4 80. Defendants also have been informed that the Lead in Avgas sold and/or
5 used by Defendants exposes individuals living and/or working near airports where Defendants
6 operate to Lead by the 60-Day Notice of Violation and accompanying Certificate of Merit served
7 on them by CEH.

8 81. Nevertheless, Defendants continue to expose individuals, including
9 children and pregnant women, to Lead without prior clear and reasonable warnings regarding the
10 carcinogenic or reproductive hazards of Lead.

11 82. CEH has engaged in good-faith efforts to resolve the claims alleged herein
12 prior to filing this Complaint.

13 83. Any person "violating or threatening to violate" Proposition 65 may be
14 enjoined in any court of competent jurisdiction. Health & Safety Code § 25249.7. "Threaten to
15 violate" is defined to mean "to create a condition in which there is a substantial probability that a
16 violation will occur." Health & Safety Code § 25249.11(e). Proposition 65 provides for civil
17 penalties not to exceed \$2,500 per day for each violation of Proposition 65.

18 **FIRST CAUSE OF ACTION**

19 **(Violations of the Health & Safety Code § 25249.6)**

20 84. CEH realleges and incorporates by reference as if specifically set forth
21 herein Paragraphs 1 through 83, inclusive.

22 85. By fueling and/or operating airplanes with Avgas, each Defendant is a
23 person in the course of doing business within the meaning of Health & Safety Code § 25249.11.

24 86. Lead is a chemical listed by the State of California as known to cause
25 cancer, birth defects and other reproductive harm.

26 87. Defendants know that average use of the Avgas they provide to airplanes
27 they fuel and/or operate will expose individuals living and working near the airports at which
28 Defendants operate to Lead. Defendants intend that Avgas will be used in a manner that results

1 in exposures to Lead from Avgas.

2 88. Defendants have failed, and continue to fail, to provide clear and
3 reasonable warnings regarding the carcinogenicity and reproductive toxicity of Lead to
4 individuals living and working near the airports at which Defendants operate.

5 89. By committing the acts alleged above, Defendants have at all times
6 relevant to this Complaint violated Proposition 65 by knowingly and intentionally exposing
7 individuals to Lead without first giving clear and reasonable warnings to such individuals
8 regarding the carcinogenicity and reproductive toxicity of Lead.

9 Wherefore, CEH prays for judgment against Defendants, as set forth hereafter.

10 **PRAYER FOR RELIEF**

11 Wherefore, CEH prays for judgment against Defendants as follows:

12 1. That the Court, pursuant to Health & Safety Code § 25249.7(b), assess
13 civil penalties against each of the Defendants in the amount of \$2,500 per day for each violation
14 of Proposition 65 according to proof;

15 2. That the Court, pursuant to Health & Safety Code § 25249.7(a),
16 preliminarily and permanently enjoin Defendants from offering Avgas for sale in California
17 without first providing prior clear and reasonable warnings, as CEH shall specify in further
18 application to the Court;

19 3. That the Court, pursuant to Health & Safety Code § 25249.7(a), order
20 Defendants to take action to stop ongoing unwarned exposures to Lead resulting from their sale
21 and/or use of Avgas, as CEH shall specify in further application to the Court;

22 4. That the Court, pursuant to Code of Civil Procedure § 1021.5 or any other
23 applicable theory, grant CEH its reasonable attorneys' fees and costs of suit; and

24 5. That the Court grant such other and further relief as may be just and
25 proper.

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1 Dated: July 17, 2012

Respectfully submitted,

2 LEXINGTON LAW GROUP

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5 _____
6 Mark N. Todzo
7 Attorneys for Plaintiff
8 CENTER FOR ENVIRONMENTAL HEALTH
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