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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Orange  
**06/19/2014** at 11:37:30 AM  
Clerk of the Superior Court  
By Robert Renison, Deputy Clerk

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF ORANGE  
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10 SUSAN M. LARSEN PH.D, an individual; ) Case No. 30-2014-00729353-CU-MC-CJC  
11 Plaintiff, )  
12 vs. ) COMPLAINT FOR:  
13 ) 1. VIOLATION OF PROPOSTION 65.  
14 HIXSON METAL FINISHING, a California )  
corporation;; and DOES 1 through 20, inclusive; )  
15 Defendants )  
16 )  
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20 Plaintiff, SUSAN M. LARSEN PH.D. (Hereinafter "Plaintiff") hereby alleges, asserts and  
21 claims as follows:  
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3 1. NATURE OF THE ACTION

4 1. This Complaint is a representative action brought by plaintiff SUSAN M. LARSEN, PH.D, in the  
5 public interest of the citizens of the State of California to enforce the citizens' right to be informed of the  
6 presence of hexavalent chromium in the ambient air.

7 2. By this Complaint, Plaintiff seeks to remedy Defendant's past and continuing failure to warn  
8 California citizens of the risks of exposure to hexavalent chromium.

9 3. Hexavalent chromium has a variety of industrial uses, including, as is relevant here, in metal  
10 plating and finishing. Hexavalent chromium may be emitted to the ambient air and can thereby be  
11 inhaled.

12 4. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California Health &  
13 Safety Code Section 25249.5 et seq., ("Proposition 65"), "[n]o person in the course of doing business  
14 shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer  
15 or reproductive toxicity without first giving clear and reasonable warning to such individual ...."

16 5. Hexavalent chromium has been identified as a chemical known to the State of California to cause  
17 cancer (listing date February 27, 1987) and reproductive toxicity (listing date December 19, 2008).

18 6. Defendant Hixson Metal Finishing uses hexavalent chromium in its industrial operations at 829  
19 Production Place, Newport Beach, CA 92663. The use of this chemical by defendant has resulted in  
20 exposures that would have required a warning, however, no warning was provided as required by  
21 Proposition 65.

22 7. For these violations of Proposition 65, plaintiff seeks preliminary and permanent injunctive relief  
23 to require that the necessary warnings be furnished and/or to require that the use of hexavalent chromium  
24 in the absence of the necessary warnings be ceased.

25 8. In addition, plaintiff seeks civil penalties against defendant for its violation of Proposition 65, as  
provided in California Health & Safety Code Section 25249.7(b).

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2. PARTIES

9. Plaintiff SUSAN M. LARSEN, PH.D., is a citizen of the State of California who is committed to improving the health and lives of members of the public, especially children and members of lower socio-economic groups, through the reduction or elimination of exposures to toxic compounds, and brings this action in the public interest pursuant to California Health & Safety Code Section 25249.7.

10. Defendant HIXSON METAL FINISHING is a corporation qualified to do business in the State of California that is doing business within the meaning of California Health & Safety Code Section 25249.11. Defendant HIXSON METAL FINISHING uses hexavalent chromium in its business and emits this compound to the ambient air in the course of doing business.

11. Defendants does 1-20 are each person doing business within the meaning of California Health & Safety Code Section 25249.11 who are responsible for the emissions of hexavalent chromium from the HIXSON METAL FINISHING facility at 829 Production Place, Newport Beach, CA 92663.

12. At this time, the true names of Defendants DOES 1-20 are unknown to plaintiff, who therefore sues said defendants by their fictitious name pursuant to California Code of Civil Procedure Section 474. Plaintiff is informed and believes, and thereupon alleges, that each of the fictitiously named defendants is responsible for the acts and occurrences herein alleged. Once ascertained, plaintiff shall amend this complaint to name such defendants by their true names.

3. VENUE AND JURISDICTION

13. Venue is proper in Orange County Superior Court pursuant to California Code of Civil Procedure Sections 393, 395 and 395.5, because this Court is a court of competent jurisdiction, because plaintiff seeks civil penalties against defendants, because one or more instances of wrongful conduct occurred, and continues to occur, in this County, and because defendants conducted, and continue to conduct, business in this County with respect to the violations alleged herein.

1 14. The California Superior Court has jurisdiction over this action pursuant to California Constitution,  
2 Article VI, Section 10, which grants the Superior Court "original jurisdiction in all causes except those  
3 given by statute to other trial courts." The statute under which this action is prosecuted does not specify  
4 any other basis of subject matter jurisdiction.

5 15. The California Superior Court has jurisdiction over defendant based on plaintiff's allegation,  
6 based on information and belief, that each defendant is a person, firm, corporation or association that  
7 either is a citizen of the State of California or has sufficient minimum contacts in the State of California or  
8 otherwise purposefully avails themselves of the State of California.

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10 4. FIRST CAUSE OF ACTION

11 (Violation of Proposition 65)

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13 16. Plaintiff realleges and incorporates by reference Paragraphs 1 through 15 above, inclusive, as if  
14 fully set forth herein.

15 17. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California Health &  
16 Safety Code Section 25249.5 et seq., ("Proposition 65"), "[n]o person in the course of doing business  
17 shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer  
18 or reproductive toxicity without first giving clear and reasonable warning to such individual ...."

19 18. On April 3, 2014, plaintiff served a compliant 60-Day Notice of Violation ("60-Day Notice"),  
20 supported by a compliant Certificate of Merit, upon HIXSON METAL FINISHING and various public  
21 agencies that advised that defendant had caused exposures to a listed chemical under Proposition 65  
22 without first having provided the required warning.

23 19. Defendant Hixson Metal Finishing has used, and, on information and belief, continues to use,  
24 hexavalent chromium in its industrial operations at 829 Production Place, Newport Beach, CA 92663.  
25 The use of this chemical by defendant has resulted in exposures that would have required a warning

1 under Proposition 65. However, no warning was provided as required by Proposition 65.

2 20. Defendant knew or should have known that its use and emission of hexavalent chromium to the  
3 ambient air was reasonably foreseeable to, and in fact did, cause exposures to other persons meant to be  
4 protected by Proposition 65.

5 22. Defendant knew or should have known that it had not provided an adequate "clear and  
6 reasonable" warning respecting such exposures.

7 23. Defendant's conduct in using and emitting hexavalent chromium in the absence of providing  
8 adequate warnings was intentional and deliberate and not accidental.

9 24. After its receipt of the 60-Day Notice, on information and belief, defendant continued to use and  
10 emit hexavalent chromium without providing a Proposition 65-compliant warning.

11 25. After receipt of the 60-Day Notice by the governmental agencies upon whom the 60-Day Notice  
12 was served, none of those agencies has commenced and is diligently prosecuting a cause of action  
13 against defendant under Proposition 65.

14 26. As a result of the above-described acts and omissions, defendant is liable for a civil penalty in an  
15 amount not to exceed \$2,500 per day per violation of Proposition 65 pursuant to California Health &  
16 Safety Code Section 25249.7(b).

17 27. As a result of the above-described acts and omissions, defendant also may be enjoined under  
18 California Health & Safety Code Section 25249.7(a).

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## 5. PRAYER FOR RELIEF

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22 Wherefore, plaintiff prays for judgment against defendant, and each of them, as follows:

23 1. That the Court, pursuant to California Health & Safety Code Section 25249.7(b), assess civil  
24 penalties against Defendant in the amount of \$2,500 per day for each violation alleged herein;

25 2. That the Court, pursuant to California Health & Safety Code Section 25249.7(a), preliminarily and

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1 permanently enjoin Defendant from causing exposures to hexavalent chromium above allowable  
2 Proposition 65 levels in the absence of providing a prior clear and adequate warning to all such persons  
3 exposed.

4 3. That the Court grant plaintiff her reasonable attorneys' fees and costs of suit; and

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

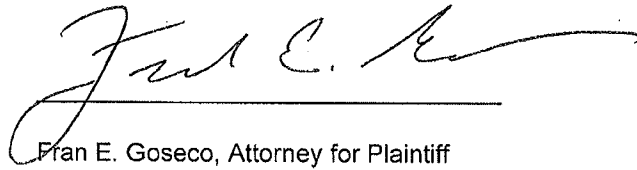
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7 Dated: June 12, 2014

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Fran E. Goseco, Attorney for Plaintiff

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