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CENTER FOR ENVIRONMENTAL HEALTH

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Superior Court of California
County of Los Angeles

JAN 10 2019

Sherri R. Carter, Executive Officer/Clerk of Court
By: Steven Drew, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CENTER FOR ENVIRONMENTAL HEALTH,
a non-profit corporation,

Plaintiff,

v.

AMERICH CORPORATION; ARMORCAST
PRODUCTS COMPANY, INC.; CUSTOM
FIBREGLASS MANUFACTURING CO.;
TRUCK ACCESSORIES GROUP, LLC; J.B.
POINDEXTER & CO., INC.; and DOES 1
through 100, inclusive,

Defendants.

19STCV00673

Case No. _____

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

Health & Safety Code § 25249.6, *et seq.*

(Other)

BY FAX

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

4 **INTRODUCTION**

5 1. This Complaint seeks to remedy Defendants' continuing failure to warn
6 individuals in California that they are being exposed to styrene, a chemical known to the State of
7 California to cause cancer. Such exposures have occurred, and continue to occur, as a result of
8 Defendants' plastics processing operations at facilities they own and/or operate (the "Facilities").
9 Individuals in the neighborhoods surrounding Defendants' Facilities are exposed to styrene when
10 they inhale the air contaminated with significant amounts of styrene from Defendants' Facilities.

11 2. Under California's Proposition 65, Health & Safety Code § 25249.5, *et seq.*, it is
12 unlawful for businesses to knowingly and intentionally expose individuals in California to
13 chemicals known to the State to cause cancer without providing clear and reasonable warnings to
14 individuals prior to their exposure. Defendants process and treat plastics at their Facilities, which
15 releases styrene into the air and thereby exposes individuals in the neighborhoods surrounding
16 Defendants' Facilities to styrene.

17 3. Despite the fact that Defendants expose individuals to styrene, Defendants provide
18 no warnings whatsoever about the carcinogenic hazards associated with styrene exposure.
19 Defendants' conduct thus violates the warning provision of Proposition 65, Health & Safety Code
20 § 25249.6.

21 **PARTIES**

22 4. Plaintiff CENTER FOR ENVIRONMENTAL HEALTH ("CEH") is a non-profit
23 corporation dedicated to protecting the public from environmental health hazards and toxic
24 exposures. CEH is based in Oakland, California and incorporated under the laws of the State of
25 California. CEH is a "person" within the meaning of Health & Safety Code § 25249.11(a) and
26 brings this enforcement action in the public interest pursuant to Health & Safety Code §
27 25249.7(d). CEH is a nationally recognized non-profit environmental advocacy group that has
28 prosecuted a large number of Proposition 65 cases in the public interest. These cases have

1 resulted in significant public benefit, including the reformulation of thousands of products to
2 remove toxic chemicals and to make them safer. CEH also provides information to Californians
3 about the health risks associated with exposure to hazardous substances, where manufacturers and
4 other responsible parties fail to do so.

5 5. Defendant AMERICH CORPORATION is a person in the course of doing
6 business within the meaning of Health & Safety Code § 25249.11. Americh Corporation owns
7 and/or operates a facility in which plastics are processed and that releases styrene into the air.
8 The Americh Corporation Facility is located at 13212 Saticoy Street, North Hollywood,
9 California 91605. Americh Corporation exposes individuals in the neighborhood surrounding its
10 Facility to styrene without first providing such individuals with clear and reasonable warnings.

11 6. Defendant ARMORCAST PRODUCTS COMPANY, INC. is a person in the
12 course of doing business within the meaning of Health & Safety Code § 25249.11. Armorcast
13 Products Company, Inc. owns and/or operates a facility in which plastics are processed and that
14 releases styrene into the air. The Armorcast Products Company, Inc. Facility is located at 13230
15 Saticoy Street, North Hollywood, California 91605. Armorcast Products Company, Inc. exposes
16 individuals in the neighborhood surrounding its Facility to styrene without first providing such
17 individuals with clear and reasonable warnings.

18 7. Defendant CUSTOM FIBREGLASS MANUFACTURING CO. is a person in the
19 course of doing business within the meaning of Health & Safety Code § 25249.11. Custom
20 Fibreglass Manufacturing Co. owns and/or operates a facility in which plastics are processed and
21 that releases styrene into the air. The Custom Fibreglass Manufacturing Co. Facility is located at
22 1711 Harbor Avenue, Long Beach, CA, 90813. Custom Fibreglass Manufacturing Co. exposes
23 individuals in the neighborhood surrounding its Facility to styrene without first providing such
24 individuals with clear and reasonable warnings.

25 8. Defendant TRUCK ACCESSORIES GROUP, LLC is a person in the course of
26 doing business within the meaning of Health & Safety Code § 25249.11. Truck Accessories
27 Group, LLC owns and/or operates the Custom Fibreglass Manufacturing Co. Facility. Truck
28

1 Accessories Group, LLC exposes individuals in the neighborhood surrounding its Facility to
2 styrene without first providing such individuals with clear and reasonable warnings.

3 9. Defendant J.B. POINDEXTER & CO., INC. is a person in the course of doing
4 business within the meaning of Health & Safety Code § 25249.11. J.B. Poindexter & Co., Inc.
5 owns and/or operates the Custom Fibreglass Manufacturing Co. Facility. J.B. Poindexter & Co.,
6 Inc. exposes individuals in the neighborhood surrounding its Facility to styrene without first
7 providing such individuals with clear and reasonable warnings.

8 10. DOES 1 through 100 are each a person in the course of doing business within the
9 meaning of Health & Safety Code § 25249.11. DOES 1 through 100 own and/or operate the
10 Facilities.

11 11. The true names of DOES 1 through 100 are either unknown to CEH at this time or
12 the applicable time period before which CEH may file a Proposition 65 action has not run. When
13 their identities are ascertained or the applicable time period before which CEH may file a
14 Proposition 65 action has run, the Complaint shall be amended to reflect their true names.

15 12. The defendants identified in Paragraphs 5 through 9 and DOES 1 through 100 are
16 collectively referred to herein as “Defendants.”

17 **JURISDICTION AND VENUE**

18 13. The Court has jurisdiction over this action pursuant to Health & Safety Code §
19 25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to
20 California Constitution Article VI, Section 10, because this case is a cause not given by statute to
21 other trial courts.

22 14. This Court has jurisdiction over Defendants because each is a business entity that
23 does sufficient business, has sufficient minimum contacts in California, or otherwise intentionally
24 avails itself of the California market through the ownership and/or operation of the Facilities, or
25 by having such other contacts with California so as to render the exercise of jurisdiction over it by
26 the California courts consistent with traditional notions of fair play and substantial justice.

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1 20. Any person acting in the public interest has standing to enforce violations of
2 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid
3 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action
4 within such time. Health & Safety Code § 25249.7(d).

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

15 22. CEH also sent a Certificate of Merit for each Notice to the California Attorney
16 General, the District Attorney of Los Angeles County, the City Attorney of Los Angeles, and to
17 each of the named Defendants. In compliance with Health & Safety Code § 25249.7(d) and 11
18 C.C.R. § 3101, each Certificate certified that CEH’s counsel: (1) has consulted with one or more
19 persons with relevant and appropriate experience or expertise who reviewed facts, studies, or
20 other data regarding the exposures to styrene alleged in each Notice; and (2) based on the
21 information obtained through such consultations, believes that there is a reasonable and
22 meritorious case for a citizen enforcement action based on the facts alleged in each Notice. In
23 compliance with Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3102, each Certificate
24 served on the Attorney General included factual information – provided on a confidential basis –
25 sufficient to establish the basis for the Certificate, including the identity of the person(s) consulted
26 by CEH’s counsel and the facts, studies, or other data reviewed by such persons.

27 23. None of the public prosecutors with the authority to prosecute violations of
28 Proposition 65 has commenced and is diligently prosecuting a cause of action against Defendants

1 under Health & Safety Code § 25249.5, *et seq.*, based on the claims asserted in each of CEH's
2 Notices.

3 24. Defendants know that their Facilities emit significant quantities of styrene into the
4 air, exposing individuals in the neighborhoods surrounding the Facilities to styrene. Defendants
5 intend that their Facilities are operated in a manner that results in such styrene exposures.

6 25. Under Proposition 65, an exposure is "knowing" where the party responsible for
7 such exposure has:

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

10 27 C.C.R. § 25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final
11 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2,
12 § 12601).

13 26. Defendants here have actual knowledge of the styrene exposures described herein.
14 Indeed, Defendants report significant styrene emissions data to the United States Environmental
15 Protection Agency. In addition, Defendants have been informed of the styrene exposures caused
16 by their Facilities by means of the 60-Day Notice of Violation and accompanying Certificate of
17 Merit served on them by CEH.

18 27. The styrene exposures in the neighborhoods surrounding the Facilities are the
19 natural consequence of Defendants operating plastics processing facilities in densely populated
20 neighborhoods.

21 28. CEH has engaged in good faith efforts to resolve the claims alleged herein prior to
22 filing this Complaint.

23 29. Nevertheless, Defendants have failed, and continue to fail, to provide clear and
24 reasonable warnings regarding the carcinogenic hazards of styrene to individuals in the
25 neighborhoods surrounding Defendants' Facilities. By committing the acts alleged above,
26 Defendants have at all times relevant to this Complaint violated Proposition 65 by knowingly and
27 intentionally exposing individuals to styrene.

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1 neighborhoods surrounding Defendants' Facilities to styrene, as CEH shall specify in further
2 application to the Court;

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

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

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

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Dated: January 9, 2019

Respectfully submitted,

LEXINGTON LAW GROUP



Mark N. Todzo
Attorneys for Plaintiff
CENTER FOR ENVIRONMENTAL HEALTH