

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Patricia Nieto

Electronically FILED by Superior Court of California, County of Los Angeles on 04/27/2020 02:41 PM Sherri R. Carter, Executive Officer/Clerk of Court, by M. Barel, Deputy Clerk

1 Lucas Novak (SBN 257484)  
2 LAW OFFICES OF LUCAS T. NOVAK  
3 8335 W Sunset Blvd., Suite 217  
4 Los Angeles, CA 90069  
5 Telephone: (323) 337-9015  
6 Email: lucas.nvk@gmail.com

7 Attorney for Plaintiff, APS&EE, LLC

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF LOS ANGELES

10	APS&EE, LLC, a limited liability company,	)	CASE NO. <u>20STCV15975</u>
11		)	
12	Plaintiff,	)	<b>PLAINTIFF'S COMPLAINT FOR</b>
13	v.	)	<b>CIVIL PENALTIES AND INJUNCTIVE</b>
14		)	<b>RELIEF</b>
15	BEEHIVE PIPE PRODUCTS, LLC, a limited	)	(Health & Safety Code § 25249.6 et seq.)
16	liability company, STANDARD PLUMBING	)	
17	SUPPLY COMPANY, INC., a corporation,	)	Judge:
18	and DOES 1 through 100, inclusive,	)	Dept.:
19		)	Compl. Filed:
20	Defendants.	)	
21		)	
22		)	Unlimited Jurisdiction

18  
19 ///  
20 ///  
21 ///  
22 ///  
23 ///  
24 ///  
25 ///  
26 ///  
27 ///  
28 ///

1 **INTRODUCTION**

2 1. This Complaint is brought by Plaintiff, APS&EE, LLC (“Plaintiff”) in the public  
3 interest of the citizens of the State of California, a representative action to enforce the People’s  
4 right to be informed of the presence of lead (“Lead”), a chemical known to the State of  
5 California to cause cancer and birth defects or other reproductive harm, found in Beehive Pipe  
6 Products galvanized fittings sold by Defendants.

7 2. The purpose of this Complaint is to remedy Defendants’ continuing failure to  
8 warn California residents about the risk of exposure to the Lead in the Beehive Pipe Products  
9 galvanized fittings manufactured, distributed, sold, and/or offered for sale to consumers in  
10 California.

11 3. Defendants have and continue to manufacture, distribute, sell, and/or offer to sell  
12 the Beehive Pipe Products galvanized fittings, including ¾” x 5”. The products described in this  
13 paragraph shall hereinafter be referred to as the “Products”.

14 4. Children and adults are exposed to the Lead when they use, touch, handle, play  
15 with, repair, maintain, install, or drink downstream from, the Products.

16 5. Hazardous levels of the Lead are found in the accessible surface areas of the  
17 Products manufactured, distributed, sold, and/or offered for sale by Defendants to consumers in  
18 California.

19 6. California Health and Safety Code section 25249.6 et seq. (“Proposition 65”)  
20 provides in pertinent part: “[n]o person in the course of doing business shall knowingly and  
21 intentionally expose any individual to a chemical known to the state to cause cancer or  
22 reproductive toxicity without first giving clear and reasonable warning to such individual...”

23 7. Studies repeatedly conclude that exposure to the Lead is hazardous to the health  
24 of children and adults. Children are especially vulnerable to the toxic effects of Lead.  
25 Accordingly, California has listed the Lead as a chemical known to the state to cause cancer and  
26 birth defects or other reproductive harm, and therefore subject to Proposition 65 warning  
27 requirements.

28 8. Defendants have and continue to manufacture, distribute, sell, and/or offer to sell

1 the Products without the required warnings. Defendants' conduct violates the warning  
2 requirements of Proposition 65.

### 3 PARTIES

4 9. Plaintiff is an organization based in California acting in the public interest.  
5 Plaintiff brings this action in the public interest pursuant to California Health and Safety Code  
6 section 25249.7(d).

7 10. Defendant, BEEHIVE PIPE PRODUCTS, LLC is a person in the course of doing  
8 business within the meaning of California Health and Safety Code section 25249.11. BEEHIVE  
9 PIPE PRODUCTS, LLC manufactures, distributes, and/or sells the Products for sale and use in  
10 California.

11 11. Defendant, STANDARD PLUMBING SUPPLY COMPANY, INC. is a person in  
12 the course of doing business within the meaning of California Health and Safety Code section  
13 25249.11. STANDARD PLUMBING SUPPLY COMPANY, INC. manufactures, distributes,  
14 and/or sells the Products for sale and use in California.

15 12. DOES 1 through 100 are each a person in the course of doing business within the  
16 meaning of California Health and Safety Code section 25249.11. DOES 1 through 100  
17 manufacture, distribute, and/or sell the Products for sale and use in California. The true names of  
18 DOES 1 through 100 are unknown to Plaintiff at this time. When their identities are discovered,  
19 Plaintiff's Complaint shall be amended to reflect their true names.

20 13. The defendants identified in paragraphs 10-12 shall collectively be referred to  
21 herein as "Defendants".

### 22 JURISDICTION AND VENUE

23 14. This Court has jurisdiction over this action pursuant to California Health and  
24 Safety Code section 25249.7, which allows enforcement in any court of competent jurisdiction,  
25 and pursuant to California Constitution Article VI, Section 10, because this lawsuit is based on a  
26 cause not given by statute to other trial courts. Moreover, this action belongs in unlimited  
27 jurisdiction since the amount in controversy exceeds \$25,000 and Plaintiff seeks permanent  
28 injunctive relief.



1 constructive knowledge that the Products contain Lead from widespread media coverage and/or  
2 other channels of information (such as California’s “lead-free” law in plumbing fittings)  
3 concerning the presence of Lead in plumbing fittings.

4 23. Lead is a chemical listed by the State of California as known to cause cancer and  
5 birth defects or other reproductive harm.

6 24. Defendants’ Products contain sufficient quantities of the Lead such that  
7 consumers, including children, who use, touch, handle, play with, repair, maintain, install, or  
8 drink downstream from the Products are exposed to unsafe levels of Lead. Lead is present in the  
9 Products in such a way as to expose individuals to Lead, as exposure is defined by 27 CCR  
10 section 25600.1(e): “...that results from a person’s acquisition, purchase, storage, consumption,  
11 or any reasonably foreseeable use...” Direct and indirect exposure occurs through inhalation,  
12 ingestion and/or dermal contact during the reasonably foreseeable use of the Products.

13 25. Defendants knew or should have known that the reasonably foreseeable use of the  
14 Products exposes individuals to Lead through inhalation, ingestion and/or dermal contact.

15 26. Defendants failed to provide a “clear and reasonable warning” to individuals in  
16 the State of California who were or could become exposed to Lead during the reasonably  
17 foreseeable use of the Products.

18 27. By committing the acts alleged in this Complaint, Defendants have violated  
19 California Health & Safety Code section 25249.6 et seq. by knowingly and intentionally  
20 exposing individuals to Lead without first giving clear and reasonable warnings to such  
21 individuals regarding the toxicity of Lead.

22 28. As a result of Defendants’ wrongful conduct, individuals in the State of California  
23 have been exposed to Lead through the inhalation, ingestion and/or dermal contact during the  
24 reasonably foreseeable use of the Products without a “clear and reasonable warning”, and have  
25 suffered and continue to suffer harm, each and every day since at least January 23, 2017.

26 **PRAYER FOR RELIEF**

27 **WHEREFORE**, Plaintiff prays for judgment against Defendants as follows:

28 1. That the Court, pursuant to California Health & Safety Code section 25249.7(b),

1 assess civil penalties against Defendants in the amount of \$2,500 per day for each violation  
2 alleged herein;

3 2. That the Court, pursuant to California Health & Safety Code section 25249.7(a),  
4 preliminarily and permanently enjoin Defendants from manufacturing, distributing, or offering  
5 the Products for sale in California without providing “clear and reasonable warnings” as defined  
6 by 27 CCR section 25601;

7 3. That the Court, pursuant to California Health & Safety Code section 25249.7(a),  
8 order Defendants to take action to stop ongoing unwarned exposures to Lead resulting from use  
9 of Products sold by Defendants;

10 4. That the Court, pursuant to California Code of Civil Procedure section 1021.5, or  
11 any other applicable theory, grant Plaintiff’s reasonable attorneys’ fees and costs of suit; and

12 5. Such other and further relief as may be just and proper.

13  
14 Dated: April 27, 2020

LAW OFFICES OF LUCAS T. NOVAK

15  
16 By:   
17 LUCAS T. NOVAK  
Attorney for Plaintiff, APS&EE, LLC