

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Mark Mooney

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

10 APS&EE, LLC, a limited liability company,)
11)
12 Plaintiff,)
13 v.)
14 ABB INSTALLATION PRODUCTS, INC., a)
15 corporation, DO IT BEST CORP., a)
16 corporation, and DOES 1 through 100,)
17 inclusive,)
18 Defendants.)

CASE NO. 22STCV30703

**PLAINTIFF'S COMPLAINT FOR
CIVIL PENALTIES AND INJUNCTIVE
RELIEF**

(Health & Safety Code § 25249.6 et seq.)

Judge:
Dept.:
Compl. Filed:

Unlimited Jurisdiction

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INTRODUCTION

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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 heavy duty
6 ground clamps and conduits 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 heavy duty ground clamps
9 and conduits manufactured, distributed, sold, and/or offered for sale to consumers in California.

10 3. Defendants have and continue to manufacture, distribute, sell, and/or offer to sell
11 (1) Heavy Duty Ground Clamps, including #36020, 510389, 0-51411-36020-7 as well as ½” to
12 1” T&B heavy duty ground clamp #510423, and (2) T&B brand of conduits, including elbow
13 #524481, throughout California. The products described in this paragraph shall hereinafter be
14 referred to as the “Products”.

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

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

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

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

1 8. Defendants have and continue to manufacture, distribute, sell, and/or offer to sell
2 the Products in California without the required warnings. Defendants' conduct violates the
3 warning requirements of Proposition 65.

4 **PARTIES**

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

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

12 11. Defendant, DO IT BEST CORP. is a person in the course of doing business
13 within the meaning of California Health and Safety Code section 25249.11. DO IT BEST CORP.
14 manufactures, distributes, 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 touch, handle, play with, repair, maintain, or install the Products.

2 22. Defendants knew that the Products contain Lead. Defendants, who are in the
3 business of marketing brass and galvanized metals, also should have known or have constructive
4 knowledge that the Products contain Lead from widespread media coverage and/or other
5 channels of information concerning the presence of Lead in brass and galvanized metals.

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

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

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

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

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

24 28. As a result of Defendants' wrongful conduct, individuals in the State of California
25 have been exposed to Lead through the inhalation, ingestion and/or dermal contact during the
26 reasonably foreseeable use of the Products without a "clear and reasonable warning", and have
27 suffered and continue to suffer harm, each and every day since at least October 1, 2018.

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1 **PRAYER FOR RELIEF**

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

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

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


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

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

15 5. Such other and further relief as may be just and proper.
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17 Dated: September 19, 2022

LAW OFFICES OF LUCAS T. NOVAK

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19 By: 
20 LUCAS T. NOVAK
21 Attorney for Plaintiff, APS&EE, LLC
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