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9 Attorneys for Plaintiff  
RAMY KAUFLEDER EDEN

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **COUNTY OF RIVERSIDE**

14  
15 RAMY KAUFLEDER EDEN

16 Plaintiff,

17 v.

18 TOWER ENERGY GROUP and DOES 1  
through 50, inclusive,

19 Defendants.

Case No.: CVPS2401807

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

(Violation of Health & Safety Code section  
25249.5, *et seq.*)

Dept: PS1  
Judge: Hon. Kira L. Klatchko

1 Plaintiff Ramy Kaufler Eden (“Plaintiff”), by and through his attorneys, alleges the following  
2 based on information and belief and investigation of counsel:

3 **INTRODUCTION**

4 1. California’s Proposition 65, codified in California Health & Safety Code section  
5 25249.5, *et seq.*, makes it unlawful for businesses to knowingly and intentionally expose individuals  
6 in California to chemicals known to the State to cause cancer, birth defects or other reproductive harm  
7 without first providing clear and reasonable warnings to the exposed individuals.

8 2. Unleaded Gasoline (Wholly Vaporized) (herein, “Gasoline”) is known to the State of  
9 California to cause cancer.

10 3. Defendant Tower Energy Group (“Defendant”) owns and operates service stations  
11 located at 84417 Indio Blvd, Indio, California 92201 (“Indio Station”), 77985 Avenida Montezuma,  
12 La Quinta, California 92253 (“La Quinta Station”), and 83498 Ave 50, Coachella, California 92236  
13 (“Coachella Station”). These stations are collectively referred to herein as the “Subject Service  
14 Stations.”

15 4. Defendant exposes individuals who come onto the Subject Service Stations’ premises  
16 to Gasoline without first warning of such exposure.

17 5. By exposing individuals to Gasoline at the Subject Service Stations without providing  
18 any warnings whatsoever about the carcinogenic hazards associated with Gasoline exposure,  
19 Defendant violates the warning provision of Proposition 65. *See* Health & Saf. Code § 25249.6.

20 6. This Complaint (“Complaint”) seeks to remedy Defendant’s failure to warn of these  
21 toxic exposures and hold Defendant accountable for violating California’s Proposition 65.

22 **PARTIES**

23 7. Plaintiff is a citizen of the State of California acting in the interest of the general public  
24 to promote awareness of exposures to toxic chemicals in California. He brings this action in the public  
25 interest pursuant to Health & Safety Code section 25249.7(d).

26 8. Defendant is incorporated or organized in the State of California, has its principal place  
27 of business in California, and is a “person in the course of doing business” within the meaning of  
28 Health & Safety Code section 25249.11. Defendant owns and operates the Subject Service Stations

1 and exposes individuals at each to Gasoline without first providing any warnings of the carcinogenic  
2 hazards associated with such exposure.

3 9. DOES 1 through 50 are each a “person in the course of doing business” within the  
4 meaning of Health & Safety Code section 25249.11.

5 10. The true names of DOES 1 through 50 are either unknown to Plaintiff at this time or  
6 the applicable time period before which Plaintiff may file a Proposition 65 action against them has not  
7 yet run. When their identities are ascertained or the applicable time period before which Plaintiff may  
8 file a Proposition 65 action against them has run, the Complaint shall be amended to reflect their true  
9 names. Defendant and DOES 1 through 50 are collectively referred to herein as “Defendant.”

### 10 **JURISDICTION AND VENUE**

11 11. The Court has jurisdiction over this action pursuant to Health & Safety Code section  
12 25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to California  
13 Constitution Article VI, Section 10, because this case is a cause not given by statute to other trial  
14 courts.

15 12. This Court has jurisdiction over Defendant because it is either a citizen of the State of  
16 California, has sufficient minimum contacts with the State of California, and/or intentionally avails  
17 itself of the California market through operation of the Subject Service Stations in California or by  
18 having such other contacts with California so as to render the exercise of jurisdiction over it by the  
19 California courts consistent with traditional notions of fair play and substantial justice.

20 13. Venue is proper in Riverside County Superior Court because the violations alleged  
21 herein arise in the County of Riverside.


### 22 **STATUTORY BACKGROUND**

23 14. The People of the State of California have declared by initiative under Proposition 65  
24 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other  
25 reproductive harm.” Proposition 65, § 1(b).

26 15. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals listed by  
27 the State of California as known to cause cancer, birth defects or other reproductive harm without a  
28 “clear and reasonable warning” unless the business responsible for the exposure can prove that it fits

1 within a statutory exemption. Health & Safety Code section 25249.6 states, in pertinent part: “No  
2 person in the course of doing business shall knowingly and intentionally expose any individual to a  
3 chemical known to the state to cause cancer or reproductive toxicity without first giving clear and  
4 reasonable warning to such individual . . . .” Health & Saf. Code § 25249.6

5 16. California Code of Regulations Title 27, sections 25607.26 and 25607.27 set forth  
6 “clear and reasonable warnings” for environmental exposures from service stations. Such warnings  
7 consist of the following content—printed in no smaller than 22-point type and enclosed in a box—  
8 posted on a sign at each gas pump of the service station:

9  **WARNING:** Breathing the air in this area or skin contact with petroleum products  
10 can expose you to chemicals including benzene, motor vehicle exhaust and carbon  
11 monoxide, which are known to the State of California to cause cancer and birth  
12 defects or other reproductive harm. Do not stay in this area longer than necessary.  
13 For more information go to [www.P65Warnings.ca.gov/service-station](http://www.P65Warnings.ca.gov/service-station)  
14

15  
16 17. Additionally, if other signage at the service station is provided for the public in a  
17 language other than English, the warning content set forth above must be provided in both English and  
18 that other language.

19 18. Proposition 65 provides that any “person who violates or threatens to violate” the  
20 statute may be enjoined in a court of competent jurisdiction. Health & Saf. Code § 25249.7. Violators  
21 are liable for civil penalties of up to \$2,500 per day for each violation of the Act. *See id.* Any person  
22 acting in the public interest has standing to enforce violations of Proposition 65 provided that such  
23 person has supplied the requisite public enforcers with a valid 60-Day Notice of Violation and such  
24 public enforcers are not diligently prosecuting the action within such time. *See* Health & Saf. Code §  
25 25249.7(d).

26 19. On April 1, 1988, the State of California officially listed Gasoline as a chemical known  
27 to cause cancer and one year later, Gasoline became subject to the clear and reasonable warning  
28 requirement under Proposition 65. Health & Saf. Code § 25249.10(b).

1 **FACTUAL BACKGROUND**

2 20. At all relevant times—including the period from at least one year preceding the filing  
3 of this Complaint and continuing through the filing of this Complaint—Defendant knowingly and  
4 intentionally exposed individuals who came onto the premises of the Subject Service Stations to  
5 Gasoline without first providing a “clear and reasonable” warning of such exposure. The primary route  
6 of exposure to Gasoline at the Subject Service Stations is through inhalation.

7 21. At all such times, Defendant was a “person in the course of doing business” within the  
8 meaning of Health & Safety Code section 25249.11. During such times, as a proximate result of acts  
9 by Defendant, individuals have been exposed to Gasoline on the premises of the Subject Service  
10 Stations without first being provided a clear and reasonable warning concerning such exposure.

11 **SATISFACTION OF NOTICE REQUIREMENTS**

12 22. More than sixty days prior to naming Defendant in this lawsuit, Plaintiff served a 60-  
13 Day Notice of Violation of Proposition 65 concerning each of the Subject Service Stations (“Notices”)  
14 upon the named Defendant, the California Attorney General, and the Riverside County District  
15 Attorney.

16 23. The Notices complied with all procedural requirements of Proposition 65, including  
17 the attachment of a Certificate of Merit.

18 24. After receiving the Notices, and to the best of Plaintiff’s information and belief, as of  
19 the filing of this Complaint, none of the noticed public enforcement agencies have commenced and  
20 diligently prosecuted a cause of action against Defendant under Proposition 65 to enforce the alleged  
21 violations set forth in the Notices.

22 25. Plaintiff is commencing this action more than sixty days from the date of the Notices  
23 to Defendant.

24 **FIRST CAUSE OF ACTION**

25 **(Against Defendant for Violations of Health & Safety Code Section 25249.6 at Indio Station)**

26 26. Plaintiff hereby repeats and incorporates by reference the preceding paragraphs of this  
27 Complaint as though fully set forth herein.

28 27. Defendant has, at all times mentioned herein, acted as a person in the course of doing

1 business within the meaning of Health & Safety Code section 25249.11.

2 28. Defendant, through its ownership and operation of the Indio Station, has exposed  
3 individuals who come onto the Indio Station's premises to Gasoline, a hazardous chemical known to  
4 the State of California to cause cancer.

5 29. Defendant knows that individuals will be exposed to Gasoline when those individuals  
6 come onto the Indio Station's premises.

7 30. Defendant failed to provide such individuals with any clear or reasonable warnings  
8 concerning Gasoline exposure on the Indio Station's premises.

9 31. Plaintiff is informed and believes that at all relevant times herein, and at least as of one  
10 year preceding the filing of this Complaint, Defendant knowingly and intentionally exposed  
11 individuals who came onto the premises of the Indio Station to Gasoline without providing the  
12 warnings required by Proposition 65—and Defendant continues to do so.

13 32. Plaintiff has engaged in good faith efforts to resolve the claims set forth in this Cause  
14 of Action prior to filing this Complaint.

15 33. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-  
16 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day.

17 34. Pursuant to Health and Safety Code section 25249.7(a), this Court is specifically  
18 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

19 **SECOND CAUSE OF ACTION**

20 **(Against Defendant for Violations of Health & Safety Code Section 25249.6 at La Quinta**  
21 **Station)**

22 35. Plaintiff hereby repeats, and incorporates by reference, paragraphs 1 through 25 of this  
23 Complaint as though fully set forth herein.

24 36. Defendant has, at all times mentioned herein, acted as a person in the course of doing  
25 business within the meaning of Health & Safety Code section 25249.11.

26 37. Defendant, through its ownership and operation of the La Quinta Station, has exposed  
27 individuals who come onto that station's premises to Gasoline, a hazardous chemical known to the  
28 State of California to cause cancer.

1 38. Defendant knows that individuals will be exposed to Gasoline when those individuals  
2 come onto that station’s premises.

3 39. Defendant failed to provide such individuals with any clear or reasonable warnings  
4 concerning Gasoline exposure on the La Quinta Station’s premises.

5 40. Plaintiff is informed and believes that at all relevant times herein, and at least as of one  
6 year preceding the filing of this Complaint, Defendant knowingly and intentionally exposed  
7 individuals who came onto the premises of the La Quinta Station to Gasoline without providing the  
8 warnings required by Proposition 65—and Defendant continues to do so.

9 41. Plaintiff has engaged in good faith efforts to resolve the claims set forth in this Cause  
10 of Action prior to filing this Complaint.

11 42. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-  
12 described acts at the La Quinta Station, Defendant is liable for an additional maximum civil penalty  
13 of \$2,500 per day.

14 43. Pursuant to Health and Safety Code section 25249.7(a), this Court is specifically  
15 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

16 **THIRD CAUSE OF ACTION**

17 **(Against Defendant for Violations of Health & Safety Code Section 25249.6 at Coachella**  
18 **Station)**

19 1. Plaintiff hereby repeats, and incorporates by reference, paragraphs 1 through 25 of this  
20 Complaint as though fully set forth herein.

21 2. Defendant has, at all times mentioned herein, acted as a person in the course of doing  
22 business within the meaning of Health & Safety Code section 25249.11.

23 3. Defendant, through its ownership and operation of the Coachella Station, has exposed  
24 individuals who come onto that station’s premises to Gasoline, a hazardous chemical known to the  
25 State of California to cause cancer.

26 4. Defendant knows that individuals will be exposed to Gasoline when those individuals  
27 come onto that station’s premises.

28 5. Defendant failed to provide such individuals with any clear or reasonable warnings

1 concerning Gasoline exposure on the Coachella Station’s premises.

2 6. Plaintiff is informed and believes that at all relevant times herein, and at least as of one  
3 year preceding the filing of this Complaint, Defendant knowingly and intentionally exposed  
4 individuals who came onto the premises of the Coachella Station to Gasoline without providing the  
5 warnings required by Proposition 65—and Defendant continues to do so.

6 7. Plaintiff has engaged in good faith efforts to resolve the claims set forth in this Cause  
7 of Action prior to filing this Complaint.

8 8. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-  
9 described acts at the Coachella Station, Defendant is liable for an additional maximum civil penalty  
10 of \$2,500 per day.

11 9. Pursuant to Health and Safety Code section 25249.7(a), this Court is specifically  
12 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

13 **PRAYER FOR RELIEF**

14 Plaintiff prays for judgment against Defendant as follows:

15 1. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and  
16 permanently enjoin Defendant from exposing individuals to Gasoline at each of the Subject Service  
17 Stations without providing prior clear and reasonable warnings as to such exposure;

18 2. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties  
19 against Defendant in the amount of \$2,500 per day per Subject Service Station for each violation of  
20 Proposition 65 according to proof;

21 3. That the Court, pursuant to Health & Safety Code §25249.7(a), order Defendant to take  
22 action to stop ongoing unwarned exposures to Gasoline at the Subject Service Stations;

23 4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other applicable  
24 theory, grant Plaintiff his reasonable attorneys’ fees and costs of suit; and

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

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Dated: May 24, 2024

JARRETT CHARO APC

By: 

Jarrett S. Charo, Esq.  
Attorneys for Plaintiff

MANNING LAW APC

And By: 

Joseph Manning, Jr., Esq.  
Attorneys for Plaintiff