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Attorneys for Plaintiff
RAMY KAUFLEDER EDEN

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

RAMY KAUFLEDER EDEN

Plaintiff,

v.

APRO, LLC, UP2 HOLDINGS, LLC, and
DOES 1 through 50, inclusive,

Defendants.

Case No.: **CVRI2401613**

**COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES**

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

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 Apro, LLC (“Apro”) and UP2 Holdings, LLC (“UP2” and, together with
11 Apro, “Defendants”) own and operate the service station located at 510 N. Main St., Lake Elsinore,
12 California (“Subject Service Station”).

13 4. Defendants expose individuals who come onto the Subject Service Station’s premises
14 to Gasoline without first warning of such exposure.

15 5. By exposing individuals to Gasoline at the Subject Service Station without providing
16 any warnings whatsoever about the carcinogenic hazards associated with Gasoline exposure,
17 Defendants violate the warning provision of Proposition 65. *See* Health & Saf. Code § 25249.6.

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


20 **PARTIES**

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

24 8. Defendant Apro is incorporated or organized in the State of Delaware, has its principal
25 place of business in the State of California, and is a “person in the course of doing business” within
26 the meaning of Health & Safety Code section 25249.11. Apro owns and operates the Subject Service
27 Station and exposes individuals there to Gasoline without first providing any warnings of the
28 carcinogenic hazards associated with such exposure.

1 16. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals listed by
2 the State of California as known to cause cancer, birth defects or other reproductive harm without a
3 “clear and reasonable warning” unless the business responsible for the exposure can prove that it fits
4 within a statutory exemption. Health & Safety Code section 25249.6 states, in pertinent part: “No
5 person in the course of doing business shall knowingly and intentionally expose any individual to a
6 chemical known to the state to cause cancer or reproductive toxicity without first giving clear and
7 reasonable warning to such individual” Health & Saf. Code § 25249.6

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

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

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

22 19. Proposition 65 provides that any “person who violates or threatens to violate” the
23 statute may be enjoined in a court of competent jurisdiction. Health & Saf. Code § 25249.7. Violators
24 are liable for civil penalties of up to \$2,500 per day for each violation of the Act. *See id.* Any person
25 acting in the public interest has standing to enforce violations of Proposition 65 provided that such
26 person has supplied the requisite public enforcers with a valid 60-Day Notice of Violation and such
27 public enforcers are not diligently prosecuting the action within such time. *See* Health & Saf. Code §
28 25249.7(d).

1 Complaint as though fully set forth herein.

2 28. Defendants have, at all times mentioned herein, acted as a person in the course of doing
3 business within the meaning of Health & Safety Code section 25249.11.

4 29. Defendants, through their ownership and operation of the Subject Service Station, have
5 exposed individuals who come onto the station's premises to Gasoline, a hazardous chemical known
6 to the State of California to cause cancer.

7 30. Defendants know that individuals will be exposed to Gasoline when those individuals
8 come onto the station's premises.

9 31. Defendants failed to provide such individuals with any clear or reasonable warnings
10 concerning Gasoline exposure on the Subject Service Station's premises.

11 32. Plaintiff is informed and believes that at all relevant times herein, and at least as of one
12 year preceding the filing of this Complaint, Defendants knowingly and intentionally exposed
13 individuals who came onto the premises of the Subject Service Station to Gasoline without providing
14 the warnings required by Proposition 65—and Defendants continue to do so.

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

17 34. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-
18 described acts at the Subject Service Station, Defendants are each liable for a maximum civil penalty
19 of \$2,500 per day.

20 35. Pursuant to Health and Safety Code section 25249.7(a), this Court is specifically
21 authorized to grant injunctive relief in favor of Plaintiff and against Defendants.

22 **PRAYER FOR RELIEF**

23 Plaintiff prays for judgment against Defendants as follows:

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

27 2. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties
28 against each Defendant in the amount of \$2,500 per day for each violation of Proposition 65 according

1 to proof;

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

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

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

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8 Dated: March 26, 2024

JARRETT CHARO APC

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10 By: 

Jarrett S. Charo, Esq.
Attorneys for Plaintiff

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MANNING LAW APC

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15 And By: 

Joseph Manning, Jr., Esq.
Attorneys for Plaintiff

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