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Superior Court of California,
County of Alameda

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By: Damaree Franklin,
Deputy Clerk

1 JARRETT CHARO APC
Jarrett Charo, Esq. (SBN 224001)
2 4079 Governor Dr., No. 1018
San Diego, California 92122
3 P: (619) 350-3334
jcharo@charolaw.com

4 Joseph R. Manning, Jr., Esq. (State Bar No. 223381)
5 MANNING LAW, APC
26100 Towne Centre Drive
6 Foothill Ranch, CA 92610
(949) 200-8755 Phone
7 (866) 843-8308 Fax
GasVaporProp65@manninglawoffice.com

8 Attorneys for Plaintiff
9 RAMY KAUFLEDER EDEN

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF ALAMEDA**

14 RAMY KAUFLEDER EDEN

15 Plaintiff,

16 v.

17 ANABI REAL ESTATE
18 DEVELOPMENT, LLC; RADC
ENTERPRISES, INC., and DOES 1
19 through 50, inclusive,

20 Defendants.

Case No.: **24CV075510**

**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 Anabi Real Estate Development, LLC (“Anabi”) and RADC Enterprises,
11 Inc. (“RADC” and, together with Anabi, “Defendants”) own and operate service stations located at
12 285 Hegenberger Road, Oakland, California 94621 (“Hegenberger Station”) and 4530 Las Positas
13 Road, Livermore, California 94551 (“Las Positas Station”). These service stations are collectively
14 referred to herein as the (“Subject Service Stations”).

15 4. Defendants expose 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 Defendants violate the warning provision of Proposition 65. *See* Health & Saf. Code § 25249.6.

20 6. This Complaint (“Complaint”) seeks to remedy Defendants’ failure to warn of these
21 toxic exposures and hold Defendants 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 Anabi is incorporated or organized in the State of Delaware, has its principal
27 place of business in the County of San Bernardino, State of California, and is a “person in the course
28 of doing business” within the meaning of Health & Safety Code section 25249.11. Anabi owns and

1 operates the Subject Service Stations and exposes individuals there to Gasoline without first providing
2 any warnings of the carcinogenic hazards associated with such exposure.

3 9. Defendant RADC is incorporated or organized in the State of California, has its
4 principal place of business in the County of San Bernardino, State of California, and is a “person in
5 the course of doing business” within the meaning of Health & Safety Code section 25249.11. RADC
6 owns and operates the Subject Service Stations and exposes individuals there to Gasoline without first
7 providing any warnings of the carcinogenic hazards associated with such exposure.

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

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

15 **JURISDICTION AND VENUE**

16 12. The Court has jurisdiction over this action pursuant to Health & Safety Code section
17 25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to California
18 Constitution Article VI, Section 10, because this case is a cause not given by statute to other trial
19 courts.

20 13. This Court has jurisdiction over Defendants because each is either a citizen of the State
21 of California, has sufficient minimum contacts with the State of California, and/or intentionally avails
22 itself of the California market through operation of the Subject Service Stations in California or by
23 having such other contacts with California so as to render the exercise of jurisdiction over it by the
24 California courts consistent with traditional notions of fair play and substantial justice.

25 14. Venue is proper in Alameda County Superior Court because the violations alleged
26 herein arise in the County of Alameda.

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1 **STATUTORY BACKGROUND**

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

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

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

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

21
22
23 18. Additionally, if other signage at the service station is provided for the public in a
24 language other than English, the warning content set forth above must be provided in both English and
25 that other language.

26 19. Proposition 65 provides that any “person who violates or threatens to violate” the
27 statute may be enjoined in a court of competent jurisdiction. Health & Saf. Code § 25249.7. Violators
28 are liable for civil penalties of up to \$2,500 per day for each violation of the Act. *See id.* Any person

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

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

8 **FACTUAL BACKGROUND**

9 21. At all relevant times—including the period from at least one year preceding the filing
10 of this Complaint and continuing through the filing of this Complaint—Defendants knowingly and
11 intentionally exposed individuals who came onto the premises of the Subject Service Stations to
12 Gasoline without first providing a “clear and reasonable” warning of such exposure. The primary route
13 of exposure to Gasoline at the Subject Service Stations is through inhalation.

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

18 **SATISFACTION OF NOTICE REQUIREMENTS**

19 23. More than sixty days prior to naming Defendants in this lawsuit, Plaintiff served a 60-
20 Day Notice of Violation of Proposition 65 (“Notice”) concerning the Hegenberger Station upon the
21 named Defendants, the California Attorney General, and the Alameda County District Attorney, and
22 the Notice concerning the Las Positas Station upon the named Defendants, the California Attorney
23 General, the Alameda County District Attorney.

24 24. Both Notices complied with all procedural requirements of Proposition 65, including
25 the attachment of a Certificate of Merit.

26 25. After receiving the Notices, and to the best of Plaintiff’s information and belief, as of
27 the filing of this Complaint, none of the noticed public enforcement agencies have commenced and
28 diligently prosecuted a cause of action against Defendants under Proposition 65 to enforce the alleged

1 violations set forth in either of the Notices.

2 26. Plaintiff is commencing this action more than sixty days from the date of the Notices
3 to Defendants.

4 **FIRST CAUSE OF ACTION**

5 **(Against Defendants for Violations of Health & Safety Code Section 25249.6 at Hegenberger
6 Station)**

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

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

11 29. Defendants, through their ownership and operation of the Hegenberger Station, have
12 exposed individuals who come onto that station's premises to Gasoline, a hazardous chemical known
13 to the State of California to cause cancer.

14 30. Defendants know that individuals will be exposed to Gasoline when those individuals
15 come onto that station's premises.

16 31. Defendants failed to provide such individuals with any clear or reasonable warnings
17 concerning Gasoline exposure on the Hegenberger Station's premises.

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

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

24 34. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-
25 described acts at the Hegenberger Station, Defendants are each liable for a maximum civil penalty of
26 \$2,500 per day.

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

1 **SECOND CAUSE OF ACTION**

2 **(Against Defendants for Violations of Health & Safety Code Section 25249.6 at Las Positas**
3 **Station)**

4 36. Plaintiff hereby repeats, and incorporates by reference, paragraphs 1 through 26 of this
5 Complaint as though fully set forth herein.

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

8 38. Defendants, through their ownership and operation of the Las Positas Station, have
9 exposed individuals who come onto that station’s premises to Gasoline, a hazardous chemical known
10 to the State of California to cause cancer.

11 39. Defendants know that individuals will be exposed to Gasoline when those individuals
12 come onto that station’s premises.

13 40. Defendants failed to provide such individuals with any clear or reasonable warnings
14 concerning Gasoline exposure on the Las Positas Station’s premises.

15 41. Plaintiff is informed and believes that at all relevant times herein, and at least as of one
16 year preceding the filing of this Complaint, Defendants knowingly and intentionally exposed
17 individuals who came onto the premises of the Las Positas Station to Gasoline without providing the
18 warnings required by Proposition 65—and Defendants continue to do so.

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

21 43. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-
22 described acts at the Las Positas Station, Defendants are each liable for an additional maximum civil
23 penalty of \$2,500 per day.

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

26 **PRAYER FOR RELIEF**

27 Plaintiff prays for judgment against Defendants as follows:

28 1. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and

1 permanently enjoin Defendants from exposing individuals to Gasoline at each of the Subject Service
2 Stations without providing prior clear and reasonable warnings as to such exposure;

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

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

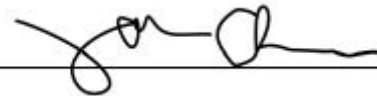
8 4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other applicable
9 theory, grant Plaintiff his reasonable attorneys' fees and costs of suit; and

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

11
12 Dated: May 14, 2024

JARRETT CHARO APC

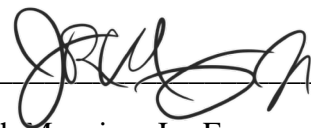
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14 By: _____



Jarrett S. Charo, Esq.
Attorneys for Plaintiff

15
16
17 MANNING LAW APC

18
19 And By: _____



Joseph Manning, Jr., Esq.
Attorneys for Plaintiff