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Superior Court of California,  
County of Alameda

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10  
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF ALAMEDA**

14 RAMY KAUFLEDER EDEN

15 Plaintiff,

16 v.

17 GAWFCO ENTERPRISES,  
18 INCORPORATED; GAWFCO  
ENTERPRISES, LLC, and DOES 1  
19 through 50, inclusive,

20 Defendants.

Case No.: **24CV075569**

**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 GAWFCO Enterprises, Incorporated, (“GAWFCO”) and GAWFCO  
11 Enterprises, LLC (“GAWFCO LLC” and, together with GAWFCO, “Defendants”) own and operate  
12 the service station located at 2492 Whipple Road, Hayward, California 94544 (“Subject Service  
13 Station”).

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

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

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

21 **PARTIES**

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

25 8. Defendant GAWFCO is incorporated or organized in the State of California, has its  
26 principal place of business in the County of Contra Costa, State of California, and is a “person in the  
27 course of doing business” within the meaning of Health & Safety Code section 25249.11. GAWFCO  
28 owns and operates the Subject Service Station and exposes individuals there to Gasoline without first

1 providing any warnings of the carcinogenic hazards associated with such exposure.

2 9. Defendant GAWFCO LLC is incorporated or organized in the State of California, has  
3 its principal place of business in the County of Contra Costa, State of California, and is a “person in  
4 the course of doing business” within the meaning of Health & Safety Code section 25249.11.  
5 GAWFCO LLC owns and operates the Subject Service Station and exposes individuals there to  
6 Gasoline without first providing any warnings of the carcinogenic hazards associated with such  
7 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 Station 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](http://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 Station 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 Station 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 Station 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 Subject Service Station upon the  
21 named Defendants, the California Attorney General, and the Alameda County District Attorney.

22 24. The Notice complied with all procedural requirements of Proposition 65, including the  
23 attachment of a Certificate of Merit.

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

28 26. Plaintiff is commencing this action more than sixty days from the date of the Notices

1 to Defendants.

2 **FIRST CAUSE OF ACTION**

3 **(Against Defendants for Violations of Health & Safety Code Section 25249.6)**

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

6 28. 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 29. Defendants, through their ownership and operation of the Subject Service Station, have  
9 exposed individuals who come onto the station’s premises to Gasoline, a hazardous chemical known  
10 to the State of California to cause cancer.

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

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

15 32. 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 Subject Service Station to Gasoline without providing  
18 the warnings required by Proposition 65—and Defendants continue to do so.

19 33. 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 34. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-  
22 described acts at the Subject Service Station, Defendants are each liable for a maximum civil penalty  
23 of \$2,500 per day.

24 35. 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 Station 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 for each violation of Proposition 65 according  
5 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 Station;

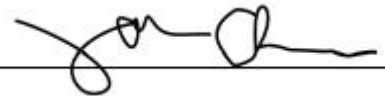
8 4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other applicable  
9 theory, grant Plaintiff his reasonable attorneys' fees and costs of suit; and

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

13  
14 By: \_\_\_\_\_



Jarrett S. Charo, Esq.  
Attorneys for Plaintiff

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16  
17 MANNING LAW APC

18  
19 And By: \_\_\_\_\_



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