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

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

Attorneys for Plaintiff
RAMY KAUFLEDER EDEN

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Clerk of Court
Superior Court of CA,
County of Santa Clara
24CV433951
Reviewed By: M. Suarez

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

RAMY KAUFLEDER EDEN

Plaintiff,

v.

BONFARE MARKETS, INC., and DOES 1
through 50, inclusive,

Defendants.

24CV433951

Case No.:

**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 Bonfare Markets, Inc., (“Defendant”) owns and operates service stations
11 located at 2800 Grant St., Concord, California 94520 (“Grant Station”), 4102 Railroad Ave., Pittsburg,
12 California 94565 (“Railroad Station”), 3598 Willow Pass Rd., Concord, California 94519 (“Willow
13 Station”), 1500 Petersen Rd., Suisun City, California 94585 (“Petersen Station”), and 2240
14 Sacramento St., Vallejo, California 94590 (“Sacramento Station”). These service stations are
15 collectively referred to herein as the (“Subject Service Stations”).

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

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

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

23 **PARTIES**

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

27 8. Defendant is incorporated or organized in the State of California, has its principal place
28 of business in California, and is a “person in the course of doing business” within the meaning of

1 Health & Safety Code section 25249.11. Defendant owns and operates the Subject Service Stations
2 and exposes individuals there to Gasoline without first providing any warnings of the carcinogenic
3 hazards associated with such exposure.

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

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

11 **JURISDICTION AND VENUE**

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

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

21 13. Venue is proper in Santa Clara County Superior Court because one or more of the
22 violations arise in the County of Santa Clara and because Defendant resides in the County of Santa
23 Clara.


24 **STATUTORY BACKGROUND**

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

28 15. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals listed by

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

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

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

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

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

28 19. On April 1, 1988, the State of California officially listed Gasoline as a chemical known

1 to cause cancer and one year later, Gasoline became subject to the clear and reasonable warning
2 requirement under Proposition 65. Health & Saf. Code § 25249.10(b).

3 **FACTUAL BACKGROUND**

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

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

13 **SATISFACTION OF NOTICE REQUIREMENTS**

14 22. More than sixty days prior to naming Defendant in this lawsuit, Plaintiff served a 60-
15 Day Notice of Violation of Proposition 65 (“Notice”) concerning each of the Subject Service Stations
16 upon the named Defendant and the California Attorney General. Plaintiff also served the Notice
17 concerning the Willow Station upon the Santa Clara County District Attorney, the Notice concerning
18 the Grant Station and the Notice concerning the Railroad Station upon the Contra Costa County
19 District Attorney, and the Notice concerning the Petersen Station and the Notice concerning the
20 Sacramento Station upon the Solano County District Attorney.

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

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

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

1 **FIRST CAUSE OF ACTION**

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

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

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

7 28. Defendant, through its ownership and operation of the Grant Station, has exposed
8 individuals who come onto that station's premises to Gasoline, a hazardous chemical known to the
9 State of California to cause cancer.

10 29. Defendant knows that individuals will be exposed to Gasoline when those individuals
11 come onto that station's premises.

12 30. Defendant failed to provide such individuals with any clear or reasonable warnings
13 concerning Gasoline exposure on the Grant Station's premises.

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

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

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

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

24 **SECOND CAUSE OF ACTION**

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

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

1 State of California to cause cancer.

2 47. Defendant knows that individuals will be exposed to Gasoline when those individuals
3 come onto that station's premises.

4 48. Defendant failed to provide such individuals with any clear or reasonable warnings
5 concerning Gasoline exposure on the Willow Station's premises.

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

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

12 51. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-
13 described acts at the Willow Station, Defendant is liable for an additional maximum civil penalty of
14 \$2,500 per day.

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

17 **FOURTH CAUSE OF ACTION**

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

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

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

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

27 56. Defendant knows that individuals will be exposed to Gasoline when those individuals
28 come onto that station's premises.

1 year preceding the filing of this Complaint, Defendant knowingly and intentionally exposed
2 individuals who came onto the premises of the Sacramento Station to Gasoline without providing the
3 warnings required by Proposition 65—and Defendant continues to do so.

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

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

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

11 **PRAYER FOR RELIEF**

12 Plaintiff prays for judgment against Defendant as follows:

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

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

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

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

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

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Dated: March 26, 2024

JARRETT CHARO APC

By: 

Jarrett S. Charo, Esq.
Attorneys for Plaintiff

MANNING LAW APC

And By: 

Joseph Manning, Jr., Esq.
Attorneys for Plaintiff