

1 Jarrett S. Charo, Esq. (State Bar No. 224001)
JARRETT CHARO, APC
2 4079 Governor Dr., No. 1018
San Diego, California 92122
3 P: (619) 350-3334
jcharo@charolaw.com
4

5 Joseph R. Manning, Jr., Esq. (State Bar No. 223381)
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

9 Attorneys for Plaintiff
RAMY KAUFLEDER EDEN
10

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SANTA CRUZ**
13

14 RAMY KAUFLEDER EDEN
15 Plaintiff,
16

17 v.

18 HOUTAN PETROLEUM, INC., and
DOES 1 through 50, inclusive,
19 Defendants.
20
21
22
23
24
25
26
27
28

Case No.: 24CV01853

**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 HOUTAN PETROLEUM, INC. (“Defendant”) owns and operates a service
11 station located at 2178 41st Avenue, Capitola, California 95010 (“Subject Service Station”).

12 4. Defendant exposes individuals who come onto the Subject Service Station’s premises
13 to Gasoline without first providing a clear and reasonable warning of such exposure.

14 5. By exposing individuals to Gasoline at the Subject Service Station without providing a
15 clear and reasonable warning about the carcinogenic hazards associated with Gasoline exposure,
16 Defendant violates the warning provision of Proposition 65. *See* Health & Saf. Code § 25249.6.

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

19 **PARTIES**

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

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

28 9. DOES 1 through 50 are each a “person in the course of doing business” within the

1 meaning of Health & Safety Code section 25249.11.

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

7 **JURISDICTION AND VENUE**

8 11. The Court has jurisdiction over this action pursuant to Health & Safety Code section
9 25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to California
10 Constitution Article VI, Section 10, because this case is a cause not given by statute to other trial
11 courts.

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

17 13. Venue is proper in Santa Cruz County Superior Court because the violations alleged
18 herein arise in the County of Santa Cruz.


19 **STATUTORY BACKGROUND**

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

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

1 reasonable warning to such individual” Health & Saf. Code § 25249.6

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

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

11
12
13 17. Additionally, if other signage at the service station is provided for the public in a
14 language other than English, the warning content set forth above must be provided in both English and
15 that other language.

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

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

26 **FACTUAL BACKGROUND**

27 20. At all relevant times—including the period from at least one year preceding the filing
28 of this Complaint and continuing through the filing of this Complaint—Defendant knowingly and

1 intentionally exposed individuals who came onto the premises of the Subject Service Station to
2 Gasoline without first providing a “clear and reasonable” warning of such exposure. The primary route
3 of exposure to Gasoline at the Subject Service Station is through inhalation.

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

8 **SATISFACTION OF NOTICE REQUIREMENTS**

9 22. More than sixty days prior to naming Defendant in this lawsuit, Plaintiff served a 60-
10 Day Notice of Violation of Proposition 65 (“Notice”) upon the named Defendant, the California
11 Attorney General, the Santa Cruz County District Attorney.

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

14 24. After receiving the Notice, and to the best of Plaintiff’s information and belief, as of
15 the filing of this Complaint, none of the noticed public enforcement agencies have commenced and
16 diligently prosecuted a cause of action against Defendant under Proposition 65 to enforce the
17 violations set forth in the Notice.

18 25. Plaintiff is commencing this action more than sixty days from the date of the Notice to
19 Defendant.

20 **FIRST CAUSE OF ACTION**

21 **(Against Defendant for Violations of Health & Safety Code Section 25249.6)**

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

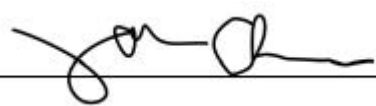
24 27. Defendant has, at all times mentioned herein, acted as a person in the course of doing
25 business within the meaning of Health & Safety Code section 25249.11.

26 28. Defendant, through its ownership and operation of the Subject Service Station, has
27 exposed individuals who come onto the Subject Service Station’s premises to Gasoline, a hazardous
28 chemical known to the State of California to cause cancer.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: June 28, 2024

JARRETT CHARO APC

By: 

Jarrett S. Charo, Esq.
Attorneys for Plaintiff

MANNING LAW APC

And By: 

Joseph Manning, Jr., Esq.
Attorneys for Plaintiff