

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

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By: Ryan Carle, Deputy Clerk

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
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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SONOMA**
13

14 RAMY KAUFLEDER EDEN

15 Plaintiff,

16 v.

17 AU ENERGY, LLC, and DOES 1 through
18 50, inclusive,

19 Defendants.
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Case No.: 24CV03845

**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 Palomar Airport Partners, LLC (“Defendant”) owns and operates service
11 stations located at 6301 Hembree Lane, Windsor, California 95492 (“Hembree Station”), 5085
12 Redwood Drive, Rohnert Park, California 95407 (“Redwood Station”), 3453 Cleveland Avenue, Santa
13 Rosa, California 95401 (“Cleveland Station”), 2005 Guerneville Road, California 95401
14 (“Guerneville Station”), 1484 E Cotati Avenue, Rohnert Park, California 94928 (“Cotati Station”) and
15 255 Dutton Avenue, Santa Rosa, California 91702 (“Dutton Station”). These service stations are
16 collectively referred to herein as the (“Subject Service Stations”).

17 4. Defendant exposes individuals who come onto the Subject Service Stations’ premises
18 to Gasoline without first providing a clear and reasonable warning of such exposure.

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

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

24 **PARTIES**

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

28 8. Defendant is incorporated or organized in the State of California, has its principal place

1 of business in California, and is a “person in the course of doing business” within the meaning of
2 Health & Safety Code section 25249.11. Defendant owns and operates the Subject Service Stations
3 and exposes individuals there to Gasoline without first providing clear and reasonable warnings of the
4 carcinogenic hazards associated with such exposures.

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

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

12 **JURISDICTION AND VENUE**

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

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

22 13. Venue is proper in Sonoma County Superior Court because one or more of the
23 violations alleged herein arise in the County of Sonoma.


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, the California Attorney General, the Sonoma County District Attorney.

17 23. The Notices complied with all procedural requirements of Proposition 65, including
18 the attachment of a Certificate of Merit.

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

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

25 **FIRST CAUSE OF ACTION**

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

28 26. Plaintiff hereby repeats and incorporates by reference the preceding paragraphs of this

1 Complaint as though fully set forth herein.

2 27. Defendant has, 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 28. Defendant, through its ownership and operation of the Hembree Station, has exposed
5 individuals who come onto that station's premises to Gasoline, a hazardous chemical known to the
6 State of California to cause cancer.

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

9 30. Defendant failed to provide such individuals with any clear or reasonable warnings
10 concerning Gasoline exposure on the Hembree Station's premises.

11 31. 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, Defendant knowingly and intentionally exposed
13 individuals who came onto the premises of the Hembree Station to Gasoline without providing the
14 warnings required by Proposition 65—and Defendant continues to do so.

15 32. 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 33. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-
18 described acts at the Hembree Station, Defendant is liable for a maximum civil penalty of \$2,500 per
19 day.

20 34. 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 Defendant.

22 **SECOND CAUSE OF ACTION**

23 **(Against Defendant for Violations of Health & Safety Code Section 25249.6 at Redwood**
24 **Station)**

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

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

1 37. Defendant, through its ownership and operation of the Redwood Station, has exposed
2 individuals who come onto that station's premises to Gasoline, a hazardous chemical known to the
3 State of California to cause cancer.

4 38. Defendant knows that individuals will be exposed to Gasoline when those individuals
5 come onto that station's premises.

6 39. Defendant failed to provide such individuals with any clear or reasonable warnings
7 concerning Gasoline exposure on the Redwood Station's premises.

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

12 41. Plaintiff has engaged in good faith efforts to resolve the claims set forth in this Cause
13 of Action prior to filing this Complaint.

14 42. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-
15 described acts at the Redwood Station, Defendant is liable for an additional maximum civil penalty of
16 \$2,500 per day.

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

19 **THIRD CAUSE OF ACTION**

20 **(Against Defendant for Violations of Health & Safety Code Section 25249.6 at Cleveland**
21 **Station)**

22 44. Plaintiff hereby repeats, and incorporates by reference, paragraphs 1 through 25 of this
23 Complaint as though fully set forth herein.

24 45. 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 46. Defendant, through its ownership and operation of the Cleveland Station, has exposed
27 individuals who come onto that station's premises to Gasoline, a hazardous chemical known to the
28 State of California to cause cancer.

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

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

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

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

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

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

16 **FOURTH CAUSE OF ACTION**

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

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

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

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

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

28 5. Defendant failed to provide such individuals with any clear or reasonable warnings

1 concerning Gasoline exposure on the Guerneville Station’s premises.

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

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

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

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

13 **FIFTH CAUSE OF ACTION**

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

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

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

19 3. Defendant, through its ownership and operation of the Cotati Station, has exposed
20 individuals who come onto that station’s premises to Gasoline, a hazardous chemical known to the
21 State of California to cause cancer.

22 4. Defendant knows that individuals will be exposed to Gasoline when those individuals
23 come onto that station’s premises.

24 5. Defendant failed to provide such individuals with any clear or reasonable warnings
25 concerning Gasoline exposure on the Cotati Station’s premises.

26 6. Plaintiff is informed and believes that at all relevant times herein, and at least as of one
27 year preceding the filing of this Complaint, Defendant knowingly and intentionally exposed
28 individuals who came onto the premises of the Cotati Station to Gasoline without providing the

1 warnings required by Proposition 65—and Defendant continues to do so.

2 7. Plaintiff has engaged in good faith efforts to resolve the claims set forth in this Cause
3 of Action prior to filing this Complaint.

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

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

9 **SIXTH CAUSE OF ACTION**

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

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

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

15 3. Defendant, through its ownership and operation of the Dutton Station, has exposed
16 individuals who come onto that station’s premises to Gasoline, a hazardous chemical known to the
17 State of California to cause cancer.

18 4. Defendant knows that individuals will be exposed to Gasoline when those individuals
19 come onto that station’s premises.

20 5. Defendant failed to provide such individuals with any clear or reasonable warnings
21 concerning Gasoline exposure on the Dutton Station’s premises.

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

26 7. Plaintiff has engaged in good faith efforts to resolve the claims set forth in this Cause
27 of Action prior to filing this Complaint.

28 8. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-

1 described acts at the Dutton Station, Defendant is liable for an additional maximum civil penalty of
2 \$2,500 per day.

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

5 **PRAYER FOR RELIEF**

6 Plaintiff prays for judgment against Defendant as follows:

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

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

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

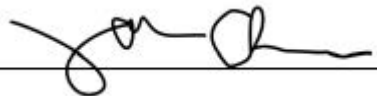
15 4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other applicable
16 theory, grant Plaintiff his reasonable attorneys' fees and costs of suit; and

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

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19 Dated: June 28, 2024

JARRETT CHARO APC

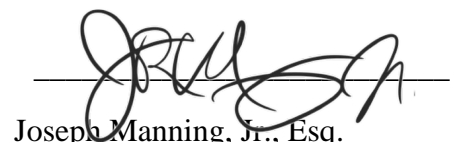
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Jarrett S. Charo, Esq.
Attorneys for Plaintiff

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24 MANNING LAW APC

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26 And By: _____



Joseph Manning, Jr., Esq.
Attorneys for Plaintiff