1 2 3 4 5 6 7 8 9 10 11 12		By: Graviela Martines, Deputy
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14	RAMY KAUFLER EDEN	24CV002695 Case No.:
15	Plaintiff,	
16	V.	COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES
17 18	STURDY OIL COMPANY, and DOES 1 through 50, inclusive,	(Violation of Health & Safety Code section 25249.5, et seq.)
19	Defendants.	
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	Complaint for Civil Penalties and Injunctive Relief	

1 Plaintiff Ramy Kaufler Eden ("Plaintiff"), by and through his attorneys, alleges the following 2 based on information and belief and investigation of counsel: **INTRODUCTION** 3 1. California's Proposition 65, codified in California Health & Safety Code section 4 5 25249.5, et seq., makes it unlawful for businesses to knowingly and intentionally expose individuals in California to chemicals known to the State to cause cancer, birth defects or other reproductive harm 6 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 STURDY OIL COMPANY ("Defendant") owns and operates service

stations located at 2347 San Miguel Canyon Road., Salinas, California 93907 ("San Miguel Station"),
 1511 Abbott Street, California 93901 ("Abbott Station"), and 633 W. Market Street, California 93901
 ("Market Station"). These service stations are collectively referred to herein as the ("Subject Service
 Stations").

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

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

20 6. This Complaint ("Complaint") seeks to remedy Defendant's failure to warn of these
21 toxic exposures and hold Defendant accountable for violating California's Proposition 65.

PARTIES

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

8. Defendant is incorporated or organized in the State of California, has its principal place
of business in California, and is a "person in the course of doing business" within the meaning of
Health & Safety Code section 25249.11. Defendant owns and operates the Subject Service Stations

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- and exposes individuals there to Gasoline without first providing clear and reasonable warnings of the 1 carcinogenic hazards associated with such exposures.
  - 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. The true names of DOES 1 through 50 are either unknown to Plaintiff at this time or 5 the applicable time period before which Plaintiff may file a Proposition 65 action against them has not 6 7 yet run. When their identities are ascertained or the applicable time period before which Plaintiff may 8 file a Proposition 65 action against them has run, the Complaint shall be amended to reflect their true 9 names. Defendant and DOES 1 through 50 are collectively referred to herein as "Defendant."
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#### JURISDICTION AND VENUE

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

12. 15 This Court has jurisdiction over Defendant because it is either a citizen of the State of 16 California, has sufficient minimum contacts with the State of California, and/or intentionally avails 17 itself of the California market through operation of the Subject Service Stations in California or by having such other contacts with California so as to render the exercise of jurisdiction over it by the 18 19 California courts consistent with traditional notions of fair play and substantial justice.

20 13. Venue is proper in Monterey County Superior Court because one or more of the 21 violations alleged herein arise in the County of Monterey.

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#### STATUTORY BACKGROUND

23 14. The People of the State of California have declared by initiative under Proposition 65 24 their right "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other 25 reproductive harm." Proposition 65, § 1(b).

15. 26 To effectuate this goal, Proposition 65 prohibits exposing people to chemicals listed by 27 the State of California as known to cause cancer, birth defects or other reproductive harm without a 28 "clear and reasonable warning" unless the business responsible for the exposure can prove that it fits

within a statutory exemption. Health & Safety Code section 25249.6 states, in pertinent part: "No
person in the course of doing business shall knowingly and intentionally expose any individual to a
chemical known to the state to cause cancer or reproductive toxicity without first giving clear and
reasonable warning to such individual . . . ." Health & Saf. Code § 25249.6

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

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

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

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

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

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# FACTUAL BACKGROUND

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

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

# SATISFACTION OF NOTICE REQUIREMENTS

22. More than sixty days prior to naming Defendant in this lawsuit, Plaintiff served a 60-2 3 Day Notice of Violation of Proposition 65 ("Notice") concerning each of the Subject Service Stations upon the named Defendant, the California Attorney General, the Monterey County District Attorney. 4 5 23. The Notices complied with all procedural requirements of Proposition 65, including

б the attachment of a Certificate of Merit.

7 24. After receiving the Notice, and to the best of Plaintiff's information and belief, as of the filing of this Complaint, none of the noticed public enforcement agencies have commenced and 8 diligently prosecuted a cause of action against Defendant under Proposition 65 to enforce the 9 violations set forth in the Notices. 0

25. Plaintiff is commencing this action more than sixty days from the date of the Notices to Defendant. 2

FIRST CAUSE OF ACTION

(Against Defendant for Violations of Health & Safety Code Section 25249.6 at San Miguel

Station)

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26. Plaintiff hereby repeats and incorporates by reference the preceding paragraphs of this 6 Complaint as though fully set forth herein.

27. Defendant has, at all times mentioned herein, acted as a person in the course of doing

business within the meaning of Health & Safety Code section 25249.11.

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

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

7 30. Defendant failed to provide such individuals with any clear or reasonable warnings
8 concerning Gasoline exposure on the San Miguel Station's premises.

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

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

33. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the abovedescribed acts at the San Miguel Station, Defendant is liable for a maximum civil penalty of \$2,500
per day.

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

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# SECOND CAUSE OF ACTION

(Against Defendant for Violations of Health & Safety Code Section 25249.6 at Abbott Station)

22 23 35. Plaintiff hereby repeats, and incorporates by reference, paragraphs 1 through 25 of this Complaint as though fully set forth herein.

24 36. 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.

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

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

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

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

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

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

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

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# THIRD CAUSE OF ACTION

# (Against Defendant for Violations of Health & Safety Code Section 25249.6 at Market Station)

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

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

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

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

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

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1	49. Plaintiff is informed and believes that at all relevant times herein, and at least as of one		
2	year preceding the filing of this Complaint, Defendant knowingly and intentionally exposed		
3	individuals who came onto the premises of the Market Station to Gasoline without providing the		
4	warnings required by Proposition 65—and Defendant continues to do so.		
5	50. Plaintiff has engaged in good faith efforts to resolve the claims set forth in this Cause		
6	of Action prior to filing this Complaint.		
7	51. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-		
8	described acts at the Market Station, Defendant is liable for an additional maximum civil penalty of		
9	\$2,500 per day.		
10	52. Pursuant to Health and Safety Code section 25249.7(a), this Court is specifically		
11	authorized to grant injunctive relief in favor of Plaintiff and against Defendant.		
12	PRAYER FOR RELIEF		
13	Plaintiff prays for judgment against Defendant as follows:		
14	1. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and		
15	permanently enjoin Defendant from exposing individuals to Gasoline at each of the Subject Service		
16	Stations without providing prior clear and reasonable warnings as to such exposure;		
17	2. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties		
18	against Defendant in the amount of \$2,500 per day per Subject Service Station for each violation of		
19	Proposition 65 according to proof;		
20	3. That the Court, pursuant to Health & Safety Code §25249.7(a), order Defendant to take		
21	action to stop ongoing unwarned exposures to Gasoline at the Subject Service Stations;		
22	4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other applicable		
23	theory, grant Plaintiff his reasonable attorneys' fees and costs of suit; and		
24	5. That the Court grant such other and further relief as may be just and proper.		
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	7 Complaint for Civil Penalties and Injunctive Relief		
	Complaint for Civil Fenalues and injunctive Relief		

1	Dated: <u>June 28, 2024</u>	JARRETT CHARO APC
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3		By:
4		Jarrett S. Charo, Esq.
5		Attorneys for Plaintiff
6		MANNING LAW APC
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8		And By:
9		Joseph Manning, Jr., Esq.
10		Attorneys for Plaintiff
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		8 Complaint for Civil Penalties and Injunctive Relief