

State of California - Department of Justice - Attorney General's Office - Proposition 65 Enforcement Reporting

Attention: Prop 65 Coordinator, 1515 Clay Street, Suite 2000, Oakland, CA 94612

FORM JUS 1500  
(03/01)

PRIVATE ENFORCEMENT FILING - Health and Safety Code section 25249.7(e) and (f)

**REPORT OF CIVIL COMPLAINT FILING**

Original Filing     Supplemental Filing     Corrected Filing

Please print or type required information

<b>PARTIES TO THE ACTION</b>	PLAINTIFF(S)		
	DEFENDANT(S)		
<b>CASE INFO</b>	COURT DOCKET NUMBER		COURT NAME
	SHORT CASE NAME		
<b>REPORT INFO</b>	TYPE OF CLAIM (Check All That Apply) <input type="checkbox"/> Proposition 65 Unlawful Discharge <input type="checkbox"/> Proposition 65 Failure to Warn <input type="checkbox"/> B&P Code section 17200 <input type="checkbox"/> Other _____		RELIEF SOUGHT (Check All That Apply) <input type="checkbox"/> Warning <input type="checkbox"/> Discharge Ban <input type="checkbox"/> Civil Penalty
	<b>COPY OF COMPLAINT MUST BE ATTACHED</b>		
<b>FILER INFO</b>	NAME OF CONTACT		
	ORGANIZATION		TELEPHONE NUMBER (       )
	ADDRESS		FAX NUMBER (       )
	CITY	STATE    ZIP	E-MAIL ADDRESS

**FILING INSTRUCTIONS:** This form can be completed online and printed. If electronic filing is not available, mail the completed form with a copy of the complaint to the attention of the Prop 65 Coordinator at the address shown above. If you need additional space to complete this form please use an attachment.

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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**02/27/2024** at 02:09:24 PM  
Clerk of the Superior Court  
By Veronica Navarro, Deputy Clerk

ATTORNEYS FOR PLAINTIFF

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO**

10 SANDRA ASSAREH

11 Plaintiff,

12 vs.

13 CARLSBAD GAS & PROPANE, INC; and  
14 DOES 1-100, inclusive

15 Defendants

CASE NO.: 37-2024-00009022-CU-NP-NC

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

Cal. Health & Safety Cod §§ 25249.5, *et seq.*

16 Plaintiff Sandra Assareh, in the public interest, by and through her undersigned counsel, alleges  
17 the following based on information and belief, or where she lacks personal knowledge, upon  
18 information and belief including the investigation of her counsel.

19 **INTRODUCTION & FACTUAL ALLEGATIONS**

- 20 1. Plaintiff brings this representative action on behalf of all California citizens to remedy  
21 Defendant Carlsbad Gas & Propane, Inc's ("CARLSBAD" or "Defendant")  
22 failure to warn California consumers that they are being exposed to Unleaded Gasoline  
23 (Wholly Vaporized), a substance known to the State of California to cause cancer and birth  
24 defects or other reproductive harm (hereinafter, the "Listed Chemical").
- 25 2. Such exposures have occurred and continue to occur when consumers enter  
26 CARLSBAD's Gas station. Such exposures have occurred and continue to occur through  
27 inhalation of Listed Chemical's vapors, ingestion and dermal absorption through the skin.
- 28 3. California's Safe Drinking Water and Toxic Enforcement Act of 1986, Health &  
Safety Code §§ 25249.5, *et seq.* ("Proposition 65") requires a "clear and reasonable

1 warning” for exposure to such Listed Chemicals.

- 2 4. CARLSBAD failed to provide a clear and reasonable warning to consumers on each gas  
3 pump, printed in no smaller than 22-point type, and enclosed in a box. CARLSBAD’s  
4 failure to post required warnings causes individuals to be involuntarily and unwittingly  
5 exposed to the Listed Chemicals in violation of Proposition 65.
- 6 5. Plaintiff seeks an injunctive order compelling CARLSBAD to bring its business practices  
7 into compliance with Proposition 65 by providing a clear and reasonable warning to each  
8 individual who in the future may be exposed to the Listed Chemical at its service station.
- 9 6. In addition to injunctive relief, Plaintiff seeks civil penalties authorized by Proposition 65  
10 to remedy CARLSBAD’s failure to provide clear and reasonable warnings regarding  
11 the Listed Chemicals.

### 12 **PARTIES**

- 13 7. Plaintiff Sandra Assareh is a citizen of the State of California acting in the public interest  
14 to promote awareness of toxic chemicals in products sold in California and to improve  
15 public health through the reduction of hazardous substances contained in such items or to  
16 inform consumers of their presence. She brings this action in the public interest pursuant  
17 to Cal. Health & Safety Code § 25249.7(d).
- 18 8. Plaintiff is informed and believes that Defendant CARLSBAD is doing business as a gas  
19 station in the State of California.
- 20 9. Plaintiff is informed and believes that CARLSBAD is a person doing business within the  
21 meaning of California Health & Safety Code § 25249.11(a).
- 22 10. Plaintiff is informed and believes, and alleges thereon, that CARLSBAD employs ten or  
23 more people.

### 24 **JURISDICTION AND VENUE**

- 25 11. This Court has jurisdiction over this action pursuant to Health and Safety Code § 25249.7  
26 which allows for the enforcement of violations of Proposition 65 in any Court of  
27 competent jurisdiction and pursuant to California Constitution Article VI, Section 10,  
28 which grants the Superior Court “original jurisdiction in all causes except those given by  
statute or other trial courts.” The statute under which this action is brought does not  
specify any other basis for jurisdiction.

1 12. This court has jurisdiction over CARLSBAD because, based on information and belief,  
2 CARLSBAD has sufficient minimum contacts with California, or has otherwise  
3 intentionally availed itself of the California market through doing business in the State of  
4 California. Such purposeful availment has rendered the exercise of jurisdiction by  
5 California courts consistent and permissible with traditional notions of fair play and  
6 substantial justice.

7 13. The California Superior Court also has jurisdiction in this matter because there is no  
8 federal question at issue, as the issues herein are based solely on California statutes and  
9 law.

10 **CAUSE OF ACTION**

11 **VIOLATIONS OF CALIFORNIA**

12 **HEALTH AND SAFETY CODE §§ 25249.5 *ET SEQ.***

13 14. Plaintiff realleges and incorporates all preceding paragraphs as if fully set forth herein.

14 15. The Citizens of California have expressly stated in the Safe Drinking Water and Toxic  
15 Enforcement Act of 1986, California Health & Safety Code §§ 25249.5, *et seq.*  
16 (Proposition 65), that they must be informed “about exposures to chemicals that cause  
17 cancer, birth defects and other reproductive harm.” Cal. Health & Safety Code § 25249.6.

18 16. CARLSBAD, at all times relevant to this action has violated Cal. Health & Safety Code §  
19 25249.6 by, in the course of doing business, knowingly and intentionally exposing  
20 individuals to the Listed Chemicals, without first providing a clear and reasonable warning  
21 to such individuals pursuant to Health & Safety Code § 25249.6.

22 17. CARLSBAD, at all times relevant to this action was required to provide a clear and  
23 reasonable warning on each gas pump, printed in no smaller than 22-point type, and  
24 enclosed in a box. CARLSBAD’s failure to post required warnings causes individuals  
25 to be involuntarily and unwittingly exposes to the Listed Chemical in violation of  
26 Proposition 65.

27 18. On or about September 18, 2023, Plaintiff sent a 60-day Notice and Certificate of Merit to  
28 CARLSBAD, as well as the State Attorney General and additional district and city  
attorney generals, pursuant to Cal. Health & Safety Code § 25249.7(a) & (d)(1)  
 (“Notice”).

- 1 19. After receipt of Plaintiff's Notice, the appropriate public enforcement agencies have not  
2 commenced and diligently prosecuted a cause of action against CARLSBAD under  
3 Proposition 65.
- 4 20. CARLSBAD knew or should have known that conducting business as a gas station in the  
5 State of California would lead to the exposure of individuals to the Listed Chemical  
6 through typical usage, including inhalation of its vapor.
- 7 21. CARLSBAD knew that typical and reasonably foreseeable presence of individuals at its  
8 gas station would expose them to the Listed Chemical and failed to provide a "clear and  
9 reasonable warning" to those individuals.
- 10 22. By the above-described acts, CARLSBAD is liable, pursuant to Cal. Health & Safety  
11 Code § 25249.7(b), for a civil penalty for each unlawful exposure to the Listed Chemical.

12 **PRAYER FOR RELIEF**

- 13 24. Wherefore, Plaintiff accordingly prays for the following relief:
- 14 a. An assessment of civil penalties pursuant to Cal. Health & Safety Code § 25249.7(b),  
15 against CARLSBAD for each violation alleged herein;
- 16 b. A preliminary and permanent injunction, pursuant to Cal. Health & Safety Code §  
17 25249.7(b), enjoining CARLSBAD from doing business without first providing a clear  
18 and reasonable warning to the individuals who are exposed to the Listed Chemical;
- 19 c. An award to Plaintiff of her reasonable attorney's fees and costs of suit; and
- 20 d. Such other and further relief as may be just and proper.

21 Dated: February 28, 2024

22 Gilbert Alvandi, Esq.  
23 Nooshin Didarmorshedi, Esq.

24 /s/ Gilbert Alvandi, Esq.  
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