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9 RAMY KAUFLEDER EDEN

Electronically
FILED
by Superior Court of California, County of San Mateo
ON 7/26/2024
By /s/ Una Finau
Deputy Clerk

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN MATEO**

14 RAMY KAUFLEDER EDEN
15 Plaintiff,
16 v.
17 KN PETROLEUM, LLC; KN STATIONS,
18 LLC, and DOES 1 through 50, inclusive,
19 Defendants.

Case No.: 24-CIV-04637
**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 KN PETROLEUM, LLC, (“KN PETROLEUM”) and KN STATIONS,
11 LLC, (“KN STATIONS” and, together with KN PETROLEUM, “Defendants”) own and operate
12 service stations located at 1999 Pescadero Creek Road, Pescadero, California 94060 (“Pescadero
13 Station”) and 120 Hwy 92, Half Moon Bay, California 94019 (“Hwy 92 Station”). These service
14 stations are collectively referred to herein as the (“Subject Service Stations”).

15 4. Defendants expose individuals who come onto the Subject Service Stations’ premises
16 to Gasoline without first providing a clear and reasonable warning of such exposure.

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

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

22 **PARTIES**

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

26 8. Defendant KN PETROLEUM is incorporated or organized in the State of California,
27 has its principal place of business in California, and is a “person in the course of doing business”
28 within the meaning of Health & Safety Code section 25249.11. KN PETROLEUM owns and operates

1 the Subject Service Stations and exposes individuals there to Gasoline without first providing clear
2 and reasonable warnings of the carcinogenic hazards associated with such exposures.

3 9. Defendant KN STATIONS is incorporated or organized in the State of California, has
4 its principal place of business in the State of California, and is a “person in the course of doing
5 business” within the meaning of Health & Safety Code section 25249.11. KN STATIONS owns and
6 operates the Subject Service Stations and exposes individuals there to Gasoline without first providing
7 clear and reasonable warnings of the carcinogenic hazards associated with such exposures.

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

15 **JURISDICTION AND VENUE**

16 12. The Court has jurisdiction over this action pursuant to Health & Safety Code section
17 25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to California
18 Constitution Article VI, Section 10, because this case is a cause not given by statute to other trial
19 courts.

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

25 14. Venue is proper in San Mateo County Superior Court because one or more of the
26 violations alleged herein arise in the County of San Mateo.


27 **STATUTORY BACKGROUND**

28 15. The People of the State of California have declared by initiative under Proposition 65

1 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other
2 reproductive harm.” Proposition 65, § 1(b).

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

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

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

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

24 19. Proposition 65 provides that any “person who violates or threatens to violate” the
25 statute may be enjoined in a court of competent jurisdiction. Health & Saf. Code § 25249.7. Violators
26 are liable for civil penalties of up to \$2,500 per day for each violation of the Act. *See id.* Any person
27 acting in the public interest has standing to enforce violations of Proposition 65 provided that such
28 person has supplied the requisite public enforcers with a valid 60-Day Notice of Violation and such

1 public enforcers are not diligently prosecuting the action within such time. *See* Health & Saf. Code §
2 25249.7(d).

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

6 **FACTUAL BACKGROUND**

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

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

16 **SATISFACTION OF NOTICE REQUIREMENTS**

17 23. More than sixty days prior to naming Defendants in this lawsuit, Plaintiff served a 60-
18 Day Notice of Violation of Proposition 65 (“Notice”) concerning each of the Subject Service Stations
19 upon the named Defendants, the California Attorney General, and the San Mateo County District
20 Attorney.

21 24. The Notices complied with all procedural requirements of Proposition 65, including
22 the attachment of a Certificate of Merit.

23 25. 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 Defendants under Proposition 65 to enforce the
26 violations set forth in the Notices.

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

1 **FIRST CAUSE OF ACTION**

2 **(Against Defendants for Violations of Health & Safety Code Section 25249.6 at Pescadero**
3 **Station)**

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

6 28. Defendants have, at all times mentioned herein, acted as a person in the course of doing
7 business within the meaning of Health & Safety Code section 25249.11.

8 29. Defendants, through their ownership and operation of the Pescadero Station, have
9 exposed individuals who come onto that station's premises to Gasoline, a hazardous chemical known
10 to the State of California to cause cancer.

11 30. Defendants know that individuals will be exposed to Gasoline when those individuals
12 come onto that station's premises.

13 31. Defendants failed to provide such individuals with any clear or reasonable warnings
14 concerning Gasoline exposure on the Pescadero Station's premises.

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

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

21 34. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-
22 described acts at the Pescadero Station, Defendants are each liable for a maximum civil penalty of
23 \$2,500 per day.

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

26 **SECOND CAUSE OF ACTION**

27 **(Against Defendants for Violations of Health & Safety Code Section 25249.6 at Hwy 92**
28 **Station)**

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

3 37. Defendants have, at all times mentioned herein, acted as a person in the course of doing
4 business within the meaning of Health & Safety Code section 25249.11.

5 38. Defendants, through their ownership and operation of the Hwy 92 Station, have
6 exposed individuals who come onto that station's premises to Gasoline, a hazardous chemical known
7 to the State of California to cause cancer.

8 39. Defendants know that individuals will be exposed to Gasoline when those individuals
9 come onto that station's premises.

10 40. Defendants failed to provide such individuals with any clear or reasonable warnings
11 concerning Gasoline exposure on the Hwy 92 Station's premises.

12 41. Plaintiff is informed and believes that at all relevant times herein, and at least as of one
13 year preceding the filing of this Complaint, Defendants knowingly and intentionally exposed
14 individuals who came onto the premises of the Hwy 92 Station to Gasoline without providing the
15 warnings required by Proposition 65—and Defendants continue to do so.

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

18 43. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-
19 described acts at the Hwy 92 Station, Defendants are each liable for an additional maximum civil
20 penalty of \$2,500 per day.

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

23 **PRAYER FOR RELIEF**

24 Plaintiff prays for judgment against Defendants as follows:

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

28 2. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties

1 against each Defendant in the amount of \$2,500 per day per Subject Service Station for each violation
2 of Proposition 65 according to proof;

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

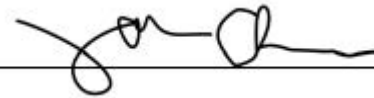
5 4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other applicable
6 theory, grant Plaintiff his reasonable attorneys' fees and costs of suit; and

7 5. That the Court grant such other and further relief as may be just and proper.
8

9 Dated: July 26, 2024

JARRETT CHARO APC

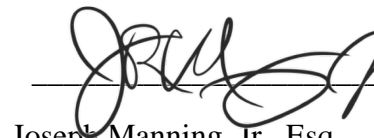
10
11 By: _____



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