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RAMY KAUFLEDER EDEN

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Placer  
**04/17/2024 at 10:26:35 AM**

By: Breanne E Sanders  
Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF PLACER**

RAMY KAUFLEDER EDEN

Plaintiff,

v.

FIVE STAR ROSEVILLE INC., a  
California corporation; COLUSA GRAY,  
INC., a California corporation; and DOES 1  
through 50, inclusive,

Defendants.

Case No.: S-CV-0052653

**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 Five Star Roseville Inc. (“Five Star”) owns and operates a service station  
11 located at 808 Sunrise Ave. in Roseville, California (“Sunrise Location”).

12 4. Defendant Colusa Gray, Inc. (“Colusa”) owns and operates a service station located at  
13 886 Colusa Ave., in Yuba City, California (“Colusa Location”).

14 5. The Sunrise Location and the Colusa Location service stations are collectively referred  
15 to herein as the (“Subject Service Stations”).

16 6. Five Star exposes individuals who come onto the Sunrise Location’s premises, and  
17 Colusa exposes individuals who come onto the Colusa Location’s premises, to Gasoline without first  
18 warning of such exposure.

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

23 8. This Complaint (“Complaint”) seeks to remedy the failure of defendant Five Star, and  
24 the failure of defendant Colusa (together, “Defendants”), to warn of these toxic exposures and hold  
25 Defendants accountable for violating California’s Proposition 65.

26 **PARTIES**

27 9. Plaintiff is a citizen of the State of California acting in the interest of the general public  
28 to promote awareness of exposures to toxic chemicals in California. He brings this action in the public

1 interest pursuant to Health & Safety Code section 25249.7(d).

2 10. Defendant Five Star is incorporated or organized in the State of California, has its  
3 principal place of business in the State of California, and is a “person in the course of doing business”  
4 within the meaning of Health & Safety Code section 25249.11. Five Star owns and operates the Sunrise  
5 Location and exposes individuals there to Gasoline without first providing any warnings of the  
6 carcinogenic hazards associated with such exposure.

7 11. Defendant Colusa is incorporated or organized in the State of California, has its  
8 principal place of business in the State of California, and is a “person in the course of doing business”  
9 within the meaning of Health & Safety Code section 25249.11. Colusa owns and operates the Colusa  
10 Location and exposes individuals there to Gasoline without first providing any warnings of the  
11 carcinogenic hazards associated with such exposure.

12 12. Five Star and Colusa are related entities in that both entities share the same Chief  
13 Executive Officer, same Chief Financial Officer, same Secretary, and the same Directors.

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

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

21 **JURISDICTION AND VENUE**

22 15. The Court has jurisdiction over this action pursuant to Health & Safety Code section  
23 25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to California  
24 Constitution Article VI, Section 10, because this case is a cause not given by statute to other trial  
25 courts.

26 16. This Court has jurisdiction over Defendants because each is either a citizen of the State  
27 of California, has sufficient minimum contacts with the State of California, and/or intentionally avails  
28 itself of the California market through operation of the Subject Service Stations in California or by

1 having such other contacts with California so as to render the exercise of jurisdiction over it by the  
2 California courts consistent with traditional notions of fair play and substantial justice.


3 17. Venue is proper in Placer County Superior Court because one or more of the violations  
4 arise in the County of Placer and one or more Defendants reside in the County of Placer.

5 **STATUTORY BACKGROUND**

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

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

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

20  **WARNING:** Breathing the air in this area or skin contact with petroleum products  
21 can expose you to chemicals including benzene, motor vehicle exhaust and carbon  
22 monoxide, which are known to the State of California to cause cancer and birth  
23 defects or other reproductive harm. Do not stay in this area longer than necessary.

24 For more information go to [www.P65Warnings.ca.gov/service-station](http://www.P65Warnings.ca.gov/service-station)

25  
26  
27 21. Additionally, if other signage at the service station is provided for the public in a  
28 language other than English, the warning content set forth above must be provided in both English and

1 that other language.

2 22. Proposition 65 provides that any “person who violates or threatens to violate” the  
3 statute may be enjoined in a court of competent jurisdiction. Health & Saf. Code § 25249.7. Violators  
4 are liable for civil penalties of up to \$2,500 per day for each violation of the Act. *See id.* Any person  
5 acting in the public interest has standing to enforce violations of Proposition 65 provided that such  
6 person has supplied the requisite public enforcers with a valid 60-Day Notice of Violation and such  
7 public enforcers are not diligently prosecuting the action within such time. *See* Health & Saf. Code §  
8 25249.7(d).

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

#### 12 **FACTUAL BACKGROUND**

13 24. At all relevant times—including the period from at least one year preceding the filing  
14 of this Complaint and continuing through the filing of this Complaint—Defendants knowingly and  
15 intentionally exposed individuals who came onto their respective Subject Service Stations to Gasoline  
16 without first providing a “clear and reasonable” warning of such exposure. The primary route of  
17 exposure to Gasoline at the Subject Service Stations is through inhalation.

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

#### 22 **SATISFACTION OF NOTICE REQUIREMENTS**

23 26. More than sixty days prior to filing this lawsuit, Plaintiff served a 60-Day Notice of  
24 Violation of Proposition 65 (“Notice”) concerning the Sunrise Location upon Five Star and all  
25 requisite public enforcement agencies.

26 27. More than sixty days prior to filing this lawsuit, Plaintiff also served a Notice  
27 concerning the Colusa Location upon Colusa and all requisite public enforcement agencies.

28 28. Each Notice (collectively referred to herein as the “Notices”) complied with all

1 procedural requirements of Proposition 65, including the attachment of a Certificate of Merit.

2 29. After receiving the Notices, and to the best of Plaintiff's information and belief, as of  
3 the filing of this Complaint, none of the noticed public enforcement agencies have commenced or  
4 diligently prosecuted a cause of action against either of the Defendants under Proposition 65 to enforce  
5 the alleged violations set forth in either of the Notices.

6 30. Plaintiff is commencing this action more than sixty days from the date of the Notices  
7 to Defendants.

8 **FIRST CAUSE OF ACTION**

9 **(Against Defendant Five Star for Violations of Health & Safety Code Section 25249.6 at the**  
10 **Sunrise Location)**

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

13 32. Five Star 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 33. Five Star, through its ownership and operation of the Sunrise Location, 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 34. Five Star knows that individuals will be exposed to Gasoline when those individuals  
19 come onto that station's premises.

20 35. Five Star failed to provide such individuals with any clear or reasonable warnings  
21 concerning Gasoline exposure on the Sunrise Location's premises.

22 36. 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, Five Star knowingly and intentionally exposed individuals  
24 who came onto the premises of the Sunrise Location to Gasoline without providing the warnings  
25 required by Proposition 65—and Five Star continues to do so.

26 37. 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 38. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-

1 described acts at the Sunrise Location, Five Star is liable for a maximum civil penalty of \$2,500 per  
2 day.

3 39. 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 Five Star.

5 **SECOND CAUSE OF ACTION**

6 **(Against Colusa for Violations of Health & Safety Code Section 25249.6 at the Colusa**  
7 **Location)**

8 40. Plaintiff hereby repeats, and incorporates by reference, paragraphs 1 through 30 of this  
9 Complaint as though fully set forth herein.

10 41. Colusa has, at all times mentioned herein, acted as a person in the course of doing  
11 business within the meaning of Health & Safety Code section 25249.11.

12 42. Colusa, through its ownership and operation of the Colusa Location, has exposed  
13 individuals who come onto that station's premises to Gasoline, a hazardous chemical known to the  
14 State of California to cause cancer.

15 43. Colusa knows that individuals will be exposed to Gasoline when those individuals  
16 come onto that station's premises.

17 44. Colusa failed to provide such individuals with any clear or reasonable warnings  
18 concerning Gasoline exposure on the Colusa Location's premises.

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

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

25 47. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-  
26 described acts at the Colusa Location, Colusa is liable for a maximum civil penalty of \$2,500 per day.

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

1 **PRAYER FOR RELIEF**

2 Plaintiff prays for judgment against Defendants as follows:

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

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

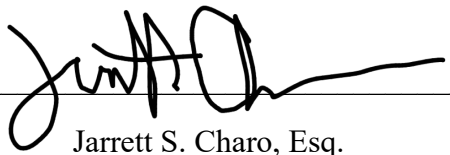
9 3. That the Court, pursuant to Health & Safety Code §25249.7(a), order Defendants to  
10 take action to stop ongoing unwarned exposures to Gasoline at their respective Subject Service  
11 Stations;

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

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

15  
16 Dated: April 17, 2024

JARRETT CHARO APC

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18 By:   
19 Jarrett S. Charo, Esq.  
20 Attorneys for Plaintiff  
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