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Superior Court of California,

County of Imperial

03/11/2024 at 01:10:07 PM

By: Lizette Hendry, Deputy Clerk

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RAMY KAUFLEDER EDEN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF IMPERIAL

RAMY KAUFLEDER EDEN

Plaintiff,

v.

R & EM CORPORATION and DOES 1
through 50, inclusive,

Defendants.

Case No.: ECU003420

**COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES**

(Violations 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 R & EM Corporation (“Defendant”) owns and operates service stations
11 located at 250 S. Imperial Avenue, Calexico, California (“250 S. Imperial Station”) and 324 S.
12 Imperial Avenue, Calexico, California (“324 S. Imperial Station”). These service stations are
13 collectively referred to herein as the (“Subject Service Stations”).

14 4. Defendant exposes individuals who come onto the Subject Service Stations’ premises
15 to Gasoline without first warning of such exposure.

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

19 6. This Complaint (“Complaint”) seeks to remedy Defendant’s failure to warn of this
20 toxic exposure and hold Defendant accountable for violating California’s Proposition 65.

21 **PARTIES**

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

25 8. Defendant is incorporated or organized in the State of California, has its principal place
26 of business in California, and is a “person in the course of doing business” within the meaning of
27 Health & Safety Code section 25249.11. Defendant owns and operates the Subject Service Stations
28 and exposes individuals there to Gasoline without first providing any warnings of the carcinogenic

1 hazards associated with such exposure.

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

4 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 yet run. When their identities are ascertained or the applicable time period before which Plaintiff may
7 file a Proposition 65 action against them has run, the Complaint shall be amended to reflect their true
8 names. Defendant and DOES 1 through 50 are collectively referred to herein as “Defendant.”

9 **JURISDICTION AND VENUE**

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

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

19 13. Venue is proper in Imperial County Superior Court because the violations alleged
20 herein arise in the County of Imperial.


21 **STATUTORY BACKGROUND**

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

25 15. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals listed by
26 the State of California as known to cause cancer, birth defects or other reproductive harm without a
27 “clear and reasonable warning” unless the business responsible for the exposure can prove that it fits
28 within a statutory exemption. Health & Safety Code section 25249.6 states, in pertinent part: “No

1 person in the course of doing business shall knowingly and intentionally expose any individual to a
2 chemical known to the state to cause cancer or reproductive toxicity without first giving clear and
3 reasonable warning to such individual” Health & Saf. Code § 25249.6

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

8  **WARNING:** Breathing the air in this area or skin contact with petroleum products
9 can expose you to chemicals including benzene, motor vehicle exhaust and carbon
10 monoxide, which are known to the State of California to cause cancer and birth
11 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

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

15 18. Proposition 65 provides that any “person who violates or threatens to violate” the
16 statute may be enjoined in a court of competent jurisdiction. Health & Saf. Code § 25249.7. Violators
17 are liable for civil penalties of up to \$2,500 per day for each violation of the Act. *See id.* Any person
18 acting in the public interest has standing to enforce violations of Proposition 65 provided that such
19 person has supplied the requisite public enforcers with a valid 60-Day Notice of Violation and such
20 public enforcers are not diligently prosecuting the action within such time. *See* Health & Saf. Code §
21 25249.7(d).

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

25 **FACTUAL BACKGROUND**

26 20. At all relevant times—including the period from at least one year preceding the filing
27 of this Complaint and continuing through the filing of this Complaint—Defendant knowingly and
28 intentionally exposed individuals who came onto the premises of the Subject Service Stations to

1 Gasoline without first providing a “clear and reasonable” warning of such exposure. The primary route
2 of exposure to Gasoline at the Subject Service Stations is through inhalation.

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

7 **SATISFACTION OF NOTICE REQUIREMENTS**

8 22. More than sixty days prior to naming Defendant in this lawsuit, Plaintiff served a 60-
9 Day Notice of Violation of Proposition 65 for each of the Subject Service Stations (“Notices”) upon
10 the named Defendant, the California Attorney General, and the Imperial County District Attorney.

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

13 24. After receiving the Notices, and to the best of Plaintiff’s information and belief, as of
14 the filing of this Complaint, none of the noticed public enforcement agencies have commenced and
15 diligently prosecuted a cause of action against Defendant under Proposition 65 to enforce any of the
16 alleged violations set forth in the Notices.

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

19 **FIRST CAUSE OF ACTION**

20 **(Against Defendant for Violations of Health & Safety Code Section 25249.6 at 250 S. Imperial**
21 **Station)**

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

24 27. 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 28. Defendant, through its ownership and operation of the 250 S. Imperial Station, has
27 exposed individuals who come onto that station’s premises to Gasoline, a hazardous chemical known
28 to the State of California to cause cancer.

1 concerning Gasoline exposure on the 324 S. Imperial Station’s premises.

2 40. 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 324 S. Imperial Station to Gasoline without providing
5 the warnings required by Proposition 65—and Defendant continues to do so.

6 41. 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 42. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-
9 described acts at the 324 S. Imperial Station, Defendant is liable for an additional maximum civil
10 penalty of \$2,500 per day.

11 43. 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.

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1 **PRAYER FOR RELIEF**

2 Plaintiff prays for judgment against Defendant as follows:

3 1. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and
4 permanently enjoin Defendant from exposing individuals to Gasoline at each of the Subject Service
5 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 Defendant in the amount of \$2,500 per day for each violation of Proposition 65 at the 250 S.
8 Imperial Station and in the amount of \$2,500 per day for each violation of Proposition 65 at the 324
9 S. Imperial Station according to proof;


10 3. That the Court, pursuant to Health & Safety Code §25249.7(a), order Defendant to take
11 action to stop ongoing unwarned exposures to Gasoline at each of the Subject Service 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.

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16 Dated: March 11, 2024

JARRETT CHARO APC

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