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ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco  
**09/13/2024**  
Clerk of the Court  
BY: AUSTIN LAM  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO - UNLIMITED CIVIL JURISDICTION

BLUE SKY FOREVER,  
  
Plaintiff,  
  
v.  
  
CHEMOIL PRODUCTS CORP.; and DOES 1-  
30, inclusive,  
  
Defendants.

Case No. **CGC-24-618158**  
  
**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**  
  
Violations of Health & Safety Code  
§ 25249.5, *et seq.* (Proposition 65)

1 Plaintiff BLUE SKY FOREVER (“BSF” or “Plaintiff”), acting in the public interest, alleges a  
2 cause of action against defendants CHEM OIL PRODUCTS CORP., and DOES 1-30 (“Defendants”)  
3 for their alleged violations of Health & Safety Code § 25249.6, et seq., as follows:

4 **INTRODUCTION AND NATURE OF THE ACTION**

5 1. BSF brings this representative action in the public interest on behalf of the citizens of  
6 the State of California. By this action, BSF seeks to enforce the People’s right to be informed of the  
7 health hazards caused by exposures to Lead, a heavy metal found in and on Brass Valves  
8 manufactured, imported, distributed, sold and offered for sale by Defendants in the State of  
9 California.

10 2. By this Complaint, plaintiff seeks to remedy Defendants’ failure to warn individuals not  
11 covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et seq.* (“consumers”)  
12 exposed to substances known to cause cancer and birth defects or other reproductive harm through  
13 exposures to Lead when they purchase, use and handle Defendants’ Brass Valves.

14 3. Detectable levels of Lead are found in and on the Brass Valves Defendants manufacture,  
15 import, sell and distribute for sale in California.

16 4. Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
17 Health and Safety Code § 25249.6 *et seq.* (“Proposition 65”), it is unlawful for a person in the course  
18 of doing business to knowingly and intentionally expose consumers and end-users in California to  
19 chemicals known to the State to cause cancer, birth defects or other reproductive harm, without first  
20 providing a “clear and reasonable warning” regarding the presence of these chemicals in Defendants’  
21 products and the harms associated with exposures to such chemicals.

22 5. Defendants manufacture, distribute, import, sell, and offer for sale, in and into  
23 California, Brass Valves (“PRODUCTS”) containing Lead, without providing a warning regarding  
24 the presence of and the harms associated with exposures to Lead in Defendants’ PRODUCTS. Such  
25 PRODUCTS include, without limitation, the *Chem Oil 3000B07 Ball Valve, 1¼", 2-piece forged*  
26 *brass*. Defendants’ violations subject them to civil penalties, injunction, preliminary and  
27 permanent injunctive relief. Health & Safety Code § 25249.7(a) and (b).

1 **PARTIES**

2 6. BSF is a non-profit corporation organized under the laws of California and acting in the  
3 public interest to reduce the presence of toxic chemicals found in consumer products and to enforce  
4 California citizens' right to be informed about the presence of toxic chemicals in the products they  
5 purchase and use, and the harms associated with exposures to such chemicals. BSF is a "person"  
6 within the meaning of Health & Safety Code § 25249.11(a). It brings this action in the public interest,  
7 pursuant to Health and Safety Code § 25249.7(d).

8 7. At all relevant times, defendant CHEM OIL PRODUCTS CORP. ("CHEM OIL")  
9 operates as a "person in the course of doing business" with ten (10) or more employees within the  
10 meaning of and as defined by Health and Safety Code §§ 25249.6 and 25249.11.

11 8. CHEM OIL manufactures, imports, distributes, sells, and offers the PRODUCTS for  
12 sale or use in California, or implies by its conduct that it manufactures, imports, distributes, sells,  
13 and/or offers the PRODUCTS for sale or use to consumers and other individuals in California.

14 9. Doe Defendants 1-10 ("MANUFACTURER DEFENDANTS") are each a "person in the  
15 course of doing business" within the meaning of and as defined by Health and Safety Code  
16 §§ 25249.6 and 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble,  
17 fabricate, and manufacture, or they each imply by their conduct they do so for one or more of the  
18 PRODUCTS sold and/or offered for sale or use to consumers and other individuals in California.

19 10. Doe Defendants 11-20 ("DISTRIBUTOR DEFENDANTS") are each a person in the  
20 course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
21 DISTRIBUTOR DEFENDANTS, and each of them, distribute, transfer, and transport the  
22 PRODUCTS sold and offered for sale to consumers and other individuals in California, or they each  
23 imply by their conduct they distribute, transfer, and transport one or more of the PRODUCTS to  
24 individuals, businesses, and retailers for sale or use in California.

25 11. Doe Defendants 21-30 ("RETAILER DEFENDANTS") are each a person in the course  
26 of doing business, within the meaning of and as defined by Health and Safety Code §§ 25249.6 and  
27 25249.11. RETAILER DEFENDANTS, and each of them, offer the PRODUCTS for sale to  
28 consumers and other individuals in California.



1 **REGULATORY BACKGROUND AND LAW**

2 17. Formally known as the Safe Drinking Water and Toxic Enforcement Act of 1986 and  
3 codified at Health & Safety Code § 25249.6 *et seq.*, Proposition 65 states, in relevant part, “[n]o  
4 person in the course of doing business shall knowingly and intentionally expose any individual to a  
5 chemical known to cause cancer or reproductive toxicity without first giving a clear and reasonable  
6 warning to such individual . . .”

7 18. Under the Act, a “person in the course of doing business” is defined as a business with  
8 ten (10) or more employees. Health & Safety Code § 25249.11(b). The Act prohibits businesses from  
9 exposing consumers to hazardous chemicals without first giving a “clear and reasonable warning.”  
10 Health & Safety Code § 25249.6.

11 19. Exposing consumers to hazardous chemicals means to cause consumers to ingest, inhale,  
12 contact via body surfaces or otherwise come into contact with a listed chemical. California Code of  
13 Regulations (“Cal. Code Regs.”) Title 27, § 25102(i). An exposure to a hazardous chemical is  
14 defined as one that “results from a person’s acquisition, purchase, storage, consumption or other  
15 reasonably foreseeable use of a product...” Cal. Code Regs. Tit. 27, § 25600(h).

16 20. Under Proposition 65, persons violating the statute may be enjoined in any court of  
17 competent jurisdiction and may be subject to civil penalties of up to \$2,500 per day, per violation.  
18 Health & Safety Code § 25249.7.

19 21. On February 27, 1987, pursuant to Proposition 65 implementing regulations, California  
20 listed Lead as a chemical known to cause birth defects or other reproductive harm. Lead became  
21 subject to the “clear and reasonable warning” requirements one year later, on February 27, 1988. Cal.  
22 Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8, 25249.10(b).

23 22. On October 1, 1992, pursuant to Proposition 65 implementing regulations, California  
24 listed Lead as a chemical known to cause cancer. Lead became subject to the “clear and reasonable  
25 warning” requirements one year later, on October 1, 1993. Cal. Code Regs. tit. 27, § 27001(c);  
26 Health & Safety Code §§ 25249.8, 25249.10(b).

1 **STATEMENT OF FACTS**

2 23. DEFENDANTS sell and offer their PRODUCTS for sale in California without a clear  
3 and reasonable warning in violation of Cal. Code Regs. Tit. 27, § 25600, *et seq.*

4 24. DEFENDANTS' PRODUCTS expose consumers and end-users in California to Lead at  
5 levels requiring a warning under Proposition 65 when they touch, handle or otherwise contact the  
6 PRODUCTS during reasonably foreseeable and intended use.

7 25. On April 29, 2024, BSF served a 60-Day Notice of Violation ("Notice"), together with  
8 the required certificate of merit, on CHEM OIL, the Office of the Attorney General, and all requisite  
9 public enforcement agencies, alleging, as a result of DEFENDANTS' sales of the PRODUCTS,  
10 consumers and end-users in California were, and are, exposed to Lead without first receiving the  
11 "clear and reasonable warning" required by Proposition 65.

12 26. After receiving plaintiff's Notice, no public enforcement agency has commenced or is  
13 diligently prosecuting a cause of action against DEFENDANTS to enforce the alleged violations of  
14 Proposition 65 that are the subject of the Notices.

15 **FIRST CAUSE OF ACTION**

16 **(Violation of Proposition 65 - Against All DEFENDANTS)**

17 27. BSF realleges and incorporates by reference, as if fully stated herein, the allegations set  
18 forth in Paragraphs 1 through 26, inclusive.

19 28. DEFENDANTS' PRODUCTS contain Lead in levels requiring a clear and reasonable  
20 warning under Proposition 65.

21 29. DEFENDANTS know or should have known their PRODUCTS contain Lead. As a  
22 result of plaintiff's Notice, DEFENDANTS now possess actual knowledge of the presence of Lead in  
23 their PRODUCTS.

24 30. DEFENDANTS' PRODUCTS expose consumers, end-users, and other individuals in  
25 California to Lead through dermal contact and ingestion during the reasonably foreseeable and  
26 intended use of the PRODUCTS.

27 31. The normal and reasonably foreseeable use of the PRODUCTS causes exposure to Lead.  
28

1           32. DEFENDANTS know the normal and reasonably foreseeable use of the PRODUCTS  
2 exposes consumers, end-users, and other individuals to Lead through dermal contact and/or ingestion.

3           33. DEFENDANTS intend to expose consumers, end-users, and other individuals in  
4 California to Lead during their reasonably foreseeable and intended use of the PRODUCTS. Such  
5 exposures to Lead occur through DEFENDANTS deliberate and non-accidental participation in the  
6 California market.

7           34. The exposures to Lead caused by DEFENDANTS and endured by consumers and other  
8 individuals in California are not exempt from the “clear and reasonable warning” requirements of  
9 Proposition 65.

10          35. DEFENDANTS failed to provide a “clear and reasonable warning” to consumers and  
11 other individuals in California exposed to Lead through dermal contact and/or ingestion during their  
12 reasonably foreseeable and intended use of the PRODUCTS. Defendants continue to fail to provide  
13 such warning.

14          36. Contrary to the express policy and statutory prohibition of Proposition 65, consumers  
15 are exposed to Lead through dermal contact and ingestion during their use of PRODUCTS  
16 DEFENDANTS sold, sell and offer for sale without a “clear and reasonable warning.” Such  
17 consumers and other individuals in California suffer irreparable harms for which they have no plain,  
18 speedy, or adequate remedy at law.

19          37. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS for sale  
20 or use in violation of Health and Safety Code § 25249.6. DEFENDANTS’ violations continue beyond  
21 their receipt of BSF’s Notices. As such, DEFENDANTS’ violations are ongoing and continuous in  
22 nature and, unless enjoined, will continue in the future.

23          38. Pursuant to Health and Safety Code § 25249.7(b), and as a consequence their acts and  
24 omissions, DEFENDANTS, and each of them, are liable for a maximum civil penalty of \$2,500 per  
25 violation.

26          39. As a consequence of DEFENDANTS’ acts and omissions, Health and Safety Code  
27 § 25249.7(a) specifically authorizes the Court to grant the relief prayed for herein.

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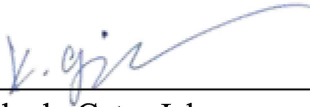
**PRAYER FOR RELIEF**

Wherefore, BSF prays for relief and judgment against DEFENDANTS, and each of them, as follows:

- 1. That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, importing, marketing or otherwise offering the PRODUCTS for sale or use in California without first providing a “clear and reasonable warning” to consumers regarding the presence of, and the harms associated with, exposures to Lead;
- 2. That the Court, pursuant to Health and Safety Code § 25249.7(a), issue preliminary and permanent injunctions mandating DEFENDANTS recall PRODUCTS intended for sale in or into California that do not bear a clear and reasonable warning;
- 3. That the Court assess civil penalties against DEFENDANTS, and each of them, in the amount of \$2,500 per violation, according to proof at trial;
- 4. That the Court award plaintiff its reasonable attorneys’ fees and costs of suit; and
- 5. That the Court grant such further relief as it deems just and equitable.

Dated: September 13, 2024

Respectfully submitted,  
SEVEN HILLS LLP

By:   
\_\_\_\_\_  
Kimberly Gates Johnson  
Attorneys for Plaintiff  
BLUE SKY FOREVER