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ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
12/5/2024 10:57 AM
By: Erin Josie , Deputy

7 Attorney for Plaintiff, APS&EE, LLC

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SANTA BARBARA

10 APS&EE, LLC, a limited liability company,)
11 Plaintiff,)
12 v.)
13 THRIFTY SUPPLY CO., a corporation,)
14 AMERICAN GENERAL TOOL GROUP, a)
15 corporation, OUTDOOR SUPPLY)
16 HARDWARE, a corporation, CENTRAL)
17 NETWORK RETAIL GROUP, a corporation,)
18 and DOES 1 through 100, inclusive,)
19 Defendants.)

CASE NO. 24CV06820

**PLAINTIFF'S COMPLAINT FOR
CIVIL PENALTIES AND INJUNCTIVE
RELIEF**

(Health & Safety Code § 25249.6 et seq.)

Judge:
Dept.:
Compl. Filed:

Unlimited Jurisdiction

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1 **INTRODUCTION**

2 1. This Complaint is brought by Plaintiff, APS&EE, LLC (“Plaintiff”) in the public
3 interest of the citizens of the State of California, a representative action to enforce the People’s
4 right to be informed of the presence of lead (“Lead”), a chemical known to the State of
5 California to cause cancer and birth defects or other reproductive harm, in Thrifco brand of brass
6 fittings sold by Defendants.

7 2. The purpose of this Complaint is to remedy Defendants’ continuing failure to
8 warn California residents about the risk of exposure to the Lead in the brass fittings
9 manufactured, distributed, sold, and/or offered for sale to consumers in California.

10 3. Defendants have and continue to manufacture, distribute, sell, and/or offer to sell
11 Thrifco brand of brass fittings, including but not limited to 3/8” Comp X 3/8” FIP 90* Elbow, 0-
12 48314-01392-7. The products described in this paragraph shall hereinafter be referred to as the
13 “Products”.

14 4. Children and adults are exposed to the Lead when they use, touch, mouth, handle,
15 play with, repair, maintain, clean, and/or install the Products.

16 5. Hazardous levels of the Lead are found in the accessible surface areas of the
17 Products manufactured, distributed, sold, and/or offered for sale by Defendants to consumers in
18 California.

19 6. California Health and Safety Code section 25249.6 et seq. (“Proposition 65”)
20 provides in pertinent part: “[n]o person in the course of doing business shall knowingly and
21 intentionally expose any individual to a chemical known to the state to cause cancer or
22 reproductive toxicity without first giving clear and reasonable warning to such individual...”

23 7. Studies repeatedly conclude that exposure to the Lead is hazardous to the health
24 of children and adults. Children are especially vulnerable to the toxic effects of Lead.
25 Accordingly, California has listed the Lead as a chemical known to the state to cause cancer and
26 birth defects or other reproductive harm, and therefore subject to Proposition 65 warning
27 requirements.

28 8. Defendants have and continue to manufacture, distribute, sell, and/or offer to sell

1 the Products without the required warnings. Defendants' conduct violates the warning
2 requirements of Proposition 65.

3 PARTIES

4 9. Plaintiff is an organization based in California acting in the public interest.
5 Plaintiff brings this action in the public interest pursuant to California Health and Safety Code
6 section 25249.7(d).

7 10. Defendant, THRIFTY SUPPLY CO. is a person in the course of doing business
8 within the meaning of California Health and Safety Code section 25249.11. THRIFTY SUPPLY
9 CO. manufactures, distributes, and/or sells the Products for sale and use in California.

10 11. Defendant, AMERICAN GENERAL TOOL GROUP is a person in the course of
11 doing business within the meaning of California Health and Safety Code section 25249.11.
12 AMERICAN GENERAL TOOL GROUP manufactures, distributes, and/or sells the Products for
13 sale and use in California.

14 12. Defendant, OUTDOOR SUPPLY HARDWARE is a person in the course of
15 doing business within the meaning of California Health and Safety Code section 25249.11.
16 OUTDOOR SUPPLY HARDWARE manufactures, distributes, and/or sells the Products for sale
17 and use in California.

18 13. Defendant, CENTRAL NETWORK RETAIL GROUP is a person in the course of
19 doing business within the meaning of California Health and Safety Code section 25249.11.
20 CENTRAL NETWORK RETAIL GROUP manufactures, distributes, and/or sells the Products
21 for sale and use in California.

22 14. DOES 1 through 100 are each a person in the course of doing business within the
23 meaning of California Health and Safety Code section 25249.11. DOES 1 through 100
24 manufacture, distribute, and/or sell the Products for sale and use in California. The true names of
25 DOES 1 through 100 are unknown to Plaintiff at this time. When their identities are discovered,
26 Plaintiff's Complaint shall be amended to reflect their true names.

27 15. The defendants identified in paragraphs 10-14 shall collectively be referred to
28 herein as "Defendants".

1 **JURISDICTION AND VENUE**

2 16. This Court has jurisdiction over this action pursuant to California Health and
3 Safety Code section 25249.7, which allows enforcement in any court of competent jurisdiction,
4 and pursuant to California Constitution Article VI, Section 10, because this lawsuit is based on a
5 cause not given by statute to other trial courts. Moreover, this action belongs in unlimited
6 jurisdiction since the amount in controversy exceeds \$25,000 and Plaintiff seeks permanent
7 injunctive relief.

8 17. This Court has jurisdiction over Defendants because each is a person, firm,
9 corporation, or association with sufficient minimum contacts in the State of California, or
10 otherwise purposefully avails itself to the California market as to render jurisdiction by the
11 California courts consistent with traditional notions of fair play and substantial justice.

12 18. Venue is proper in Santa Barbara County Superior Court because one or more
13 occurrences of the wrongful conduct occurred, and continues to occur, in Santa Barbara County,
14 and/or because Defendants conducted, and continue to conduct, business in this County with
15 respect to the Products.

16 **FIRST CAUSE OF ACTION**

17 **(Violations of Health & Safety Code Section 25249.6 et seq.)**

18 19. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein,
19 Paragraphs 1 through 18, inclusive.

20 20. On March 13, 2024, Plaintiff served a Sixty-Day Notice of Violation with a
21 Certificate of Merit, to THRIFTY SUPPLY CO., AMERICAN GENERAL TOOL GROUP,
22 OUTDOOR SUPPLY HARDWARE, CENTRAL NETWORK RETAIL GROUP, and the
23 various public enforcement agencies with respect to the Proposition 65 violations related to Lead
24 in the Products. In addition, on said date, in compliance with Health & Safety Code section
25 25249.7(d), Plaintiff provided confidential factual information sufficient to establish the basis for
26 the Certificate of Merit to the California Attorney General. On May 20, 2024, Plaintiff served an
27 Amended Sixty-Day Notice of Violation with a Certificate of Merit (collectively with the
28 original Sixty-Day Notice of Violation, hereinafter referred to as the “Notices”), to the

1 aforementioned entities with respect to the Proposition 65 violations related to Lead in the
2 Products. In addition, on said date, in compliance with Health & Safety Code section 25249.7(d),
3 Plaintiff provided confidential factual information sufficient to establish the basis for the
4 Certificate of Merit to the California Attorney General.

5 21. None of the public prosecutors with the authority to prosecute Proposition 65
6 violations has commenced and/or is diligently prosecuting the causes of action against
7 Defendants based on the claims asserted in Plaintiff's Notices.

8 22. By placing the Products into the stream of commerce, each Defendant is a person
9 in the course of doing business within the meaning of Health & Safety Code section 25249.11.

10 23. Defendants knew and intended that consumers, including children, will use,
11 touch, mouth, handle, play with, repair, maintain, clean, and/or install the Products.

12 24. Defendants knew that the Products contain Lead. Defendants, who are in the
13 business of marketing plumbing products, have in the past been served with Proposition 65
14 notices of violation related to lead exposure from their products. Defendants also should have
15 known or have constructive knowledge that the Products contain Lead from widespread media
16 coverage and/or other channels of information concerning the presence of Lead in similar
17 products.


18 25. Lead is a chemical listed by the State of California as known to cause cancer and
19 birth defects or other reproductive harm.

20 26. Defendants' Products contain sufficient quantities of the Lead such that
21 consumers, including children, who use, touch, mouth, handle, play with, repair, maintain, clean
22 and/or install the Products are exposed to unsafe levels of Lead. Lead is present in the Products
23 in such a way as to expose individuals to Lead, as exposure is defined by 27 CCR section
24 25600.1(e): "...that results from a person's acquisition, purchase, storage, consumption, or any
25 reasonably foreseeable use..." Direct and indirect exposure occurs through inhalation, ingestion
26 and/or dermal contact during the reasonably foreseeable use of the Products.

27 27. Defendants knew or should have known that the reasonably foreseeable use of the
28 Products exposes individuals to Lead through inhalation, ingestion and/or dermal contact.

1 Dated: December 5, 2024

LAW OFFICES OF LUCAS T. NOVAK

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3 By: 

4 LUCAS T. NOVAK
Attorney for Plaintiff, APS&EE, LLC

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