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ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**09/09/2025**  
**Clerk of the Court**  
BY: RONNIE OTERO  
Deputy Clerk

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF SAN FRANCISCO  
14 UNLIMITED CIVIL JURISDICTION  
15

16 JAY EPPS,

17 Plaintiff,

18 v.

19 S3 STORES, INC.,

20 Defendant.

Case No. CGC-25-627672

**AMENDED COMPLAINT FOR CIVIL  
PENALTIES AND INJUNCTIVE RELIEF**

(Health & Safety Code §25249.5 *et seq.*)

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiff Jay Epps in the  
3 public interest of the citizens of the State of California to enforce the People's right to be  
4 informed of the health hazards caused by exposures to (i) lead, a toxic chemical found in: Art  
5 Pigments, Artist Paste Paints (branded, supplied or made by Natural Pigment under its registered  
6 trademark "Rublev Colours"), and Oil-Based Grounds (branded, supplied or made by Natural  
7 Pigment under its registered trademark "Rublev Colours") (the Lead Products); and (ii) cadmium  
8 and cadmium compounds, toxicants found in Artist Paste Paints (the Cadmium Products). The  
9 Lead Products and the Cadmium Products shall be referred to collectively as the "Product" or  
10 "Products." The Products are repackaged, produced, stored, distributed, shipped and/or sold  
11 online (sold) to California citizens by defendant S3 Stores, Inc. (S3 or defendant).

12 2. By this Complaint, plaintiff seeks to remedy defendant's continuing failure to warn  
13 consumers and businesses not covered by California's Occupational Safety Health Act, Labor  
14 Code §§6300 *et seq.* about the risks of exposure to lead, cadmium and cadmium compounds (the  
15 listed chemicals) present in the Products that are manufactured, distributed, and/or offered for  
16 online sale for used by California citizens. Individuals, consumers and businesses not covered by  
17 California's Occupational Safety Health Act, Labor Code §§6300 *et seq.* who purchase, and/or use  
18 or handle the Products are referred to hereinafter as "consumers."

19 3. Defendant has actual knowledge of the listed chemicals of the Products which were  
20 and continue to be offered for purchase and/or transacted through [www.s3stores.com](http://www.s3stores.com).

21 4. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
22 Health & Safety Code §§25249.6 *et seq.* (Proposition 65), "[n]o person in the course of doing  
23 business shall knowingly and intentionally expose any individual to a chemical known to the state  
24 to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such  
25 individual..." Health & Safety Code §25249.6.

26 5. Pursuant to Proposition 65, on February 27, 1987, California identified and listed  
27 lead as a chemical known to cause birth defects and other reproductive harm. 27 Cal. Code Regs.  
28

1 §27001(b). Lead became subject to the “clear and reasonable warning” requirements of the act  
2 one year later on February 27, 1988. 27 Cal. Code Regs. §27001(b); Health & Safety Code  
3 §25249.8 and §25249.10(b).

4 6. Defendant imports, distributes, facilitates and/or otherwise offers for sale the Lead  
5 Products without the mandated health hazard warning in California. Examples of the Products  
6 are: (i) Rublev Colours Lead White Pigment, SKU # NAP-475-15, (ii) Lead-Tin Yellow Light  
7 (Type I) Oil Paint, SKU #NAP-820-341, and (iii) Rublev Colours Lead Oil Ground: Superior  
8 Foundation For Oil Paintings, Size: 8 Fl Oz (236.5 ML), SKU # NAP-510-8LWG08. Defendant’s  
9 failure to warn consumers and other individuals in California of the reproductive hazards  
10 associated with exposures to lead in conjunction with each online sale of the Lead Products are  
11 violations of Proposition 65 which subjects defendant to be enjoined of such further conduct as  
12 well as assessed civil penalties for such acts. Health & Safety Code §25249.7(a) and (b)(1).

13 7. Pursuant to Proposition 65, on October 1, 1987, California identified and listed  
14 cadmium and cadmium compounds as a chemical known to cause cancer. 27 Cal. Code Regs.  
15 §27001(b). Cadmium and cadmium compounds became subject to the “clear and reasonable  
16 warning” requirements of the act one year later on October 1, 1988. 27 Cal. Code Regs.  
17 §27001(b); Health & Safety Code §25249.8 and §25249.10(b).

18 8. Pursuant to Proposition 65, on May 1, 1997, California identified and listed  
19 cadmium as a chemical also known to cause developmental and male reproductive harm  
20 (reproductive toxicity). 27 Cal. Code Regs. §27001(b). Cadmium became subject to the “clear  
21 and reasonable warning” requirements of the act for its reproductive toxicity one year later on  
22 May 1, 1998. 27 Cal. Code Regs. §27001(b); Health & Safety Code §25249.8 and §25249.10(b).

23 9. Defendant imports, distributes, facilitates and/or otherwise offers for sale the  
24 Cadmium Products without the mandated health hazard warning in California. Examples of the  
25 Cadmium Products are: (i) Rublev Colours Modern Oil Colours Cadmium Yellow Deep, Series 7  
26 Lightfastness I, 50 ml, SKU # NAP-820-364, (ii) Maimeri Puro Oil Paint 054, Cadmium Orange,  
27 40 ml, SKU # SLP-M0012054, and (iii) Richeson Casein The Shiva Series, Cadmium Yellow  
28

1 Medium, 1.25 Oz, SKU # SLP-120514. Defendant's failure to warn consumers and other  
2 individuals in California of the risk of cancer associated with exposures to cadmium and cadmium  
3 compounds and reproductive toxicity associated with exposures to cadmium in conjunction with  
4 each online sale of the Cadmium Products are violations of Proposition 65 which subjects  
5 defendant to be enjoined of such further conduct as well as assessed civil penalties for such acts.  
6 Health & Safety Code §25249.7(a) and (b)(1).

7 10. For defendant's violations and threatened (i.e., continuing) violations of Proposition  
8 65, plaintiff seeks preliminary and permanent injunctive relief to compel defendant to provide  
9 purchasers of the Products with the required warning regarding the specific health hazards  
10 associated with exposures to the listed chemicals prior to the sale. Health & Safety Code  
11 §25249.7(a).

12 11. Pursuant to Health & Safety Code §25249.7(b), plaintiff also seeks civil fines  
13 against defendant for its violations of Proposition 65, dating back as far as September 9, 2021.

#### 14 **PARTIES**

15 12. Plaintiff Jay Epps is a citizen of the State of California who is dedicated to  
16 protecting the health of California citizens through the elimination or reduction of toxic exposures  
17 from consumer products, and he brings this action in the public interest pursuant to Health &  
18 Safety Code §25249.7(d).

19 13. S3 is a person in the course of doing business within the meaning of Health &  
20 Safety Code §§25249.6 and 25249.11.

21 14. S3 imports, distributes, sells, facilitates, and/or offers the Products for sale online  
22 and are shipped to an address in California, or implies by its conduct that it imports, distributes,  
23 sells, and/or offers the Products for sale online and are shipped to an address in California. One or  
24 more of the Products that were offered for sale by S3 were or likely to have been supplied to it by  
25 entities that are not subject to enforcement under Proposition 65 because: (i) they have fewer than  
26 ten employees during all relevant periods; and/or (ii) do not have an agent for process of service in  
27 California.

1 **VENUE AND JURISDICTION**

2 15. Venue is proper in the Superior Court for the County of San Francisco pursuant to  
3 Code of Civil Procedure §§393, 395, and 395.5, because this Court is a court of competent  
4 jurisdiction, because plaintiff seeks civil penalties against defendant, one or more instances of  
5 wrongful conduct occurred, and continue to occur, in this county, and/or defendant conducted, and  
6 continue to conduct business in San Francisco.

7 16. The California Superior Court has jurisdiction over this action pursuant to  
8 California Constitution Article VI, section 10, which grants the Superior Court “original  
9 jurisdiction in all causes except those given by statute to other trial courts.” The statute under  
10 which this action is brought does not specify any other basis of subject matter jurisdiction.

11 17. The California Superior Court has jurisdiction over defendant based on plaintiff’s  
12 information and good faith belief that defendant is a person, firm, corporation has a principal  
13 office or association that is a citizen of the State of California, has sufficient minimum contacts in  
14 the State of California, and/or otherwise purposefully avails itself of the California market.  
15 Defendant’s purposeful availment renders the exercise of personal jurisdiction (specific, limited or  
16 both) by California courts consistent with traditional notions of fair play and substantial justice.

17 **FIRST CAUSE OF ACTION**

18 **(Violation of Proposition 65)**

19 18. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
20 Paragraphs 1 through 17 inclusive.

21 19. In enacting Proposition 65, in the preamble to the Safe Drinking Water and Toxic  
22 Enforcement Act of 1986, the People of California expressly declared their right “[t]o be informed  
23 about exposures to chemicals that cause cancer, birth defects, or other reproductive harm.”

24 20. Proposition 65 states, “[n]o person in the course of doing business shall knowingly  
25 and intentionally expose any individual to a chemical known to the state to cause cancer or  
26 reproductive toxicity without first giving clear and reasonable warning to such individual...”  
27 Health & Safety Code §25249.6.  
28

**A. Lead Products**

21. On February 28, 2025, plaintiff served a 60-Day Notice of Violation (Pigments Notice), together with the requisite certificate of merit, on S3, the California Attorney General’s Office, and the requisite public enforcement agencies alleging that, as a result of defendant’s sales of art pigments, consumers in California were and likely continue to be exposed to lead from the reasonably foreseeable use of the Lead Products, without them first receiving a “clear and reasonable warning” at the time of their online purchase of the art pigments on s3stores.com regarding the reproductive and developmental harms associated with such exposures, as required by Proposition 65.

22. On March 22, 2025, plaintiff served a 60-Day Notice of Violation (Paint Notice), together with the requisite certificate of merit, on S3, the California Attorney General’s Office, and the requisite public enforcement agencies alleging that, as a result of defendant’s sales of artist paste paints (branded, supplied or made by Natural Pigment under its registered trademark “Rublev Colours”), consumers in California were and likely continue to be exposed to lead from the reasonably foreseeable use of the Lead Products, without them first receiving a “clear and reasonable warning” at the time of their online purchase of the Rublev Colours artist paste paints on s3stores.com regarding the reproductive and developmental harms associated with such exposures, as required by Proposition 65.

23. On April 15, 2025, plaintiff served a 60-Day Notice of Violation (Grounds Notice), together with the requisite certificate of merit, on S3, the California Attorney General’s Office, and the requisite public enforcement agencies alleging that, as a result of defendant’s sales of oil-based grounds (branded, supplied or made by Natural Pigment under its registered trademark “Rublev Colours”), consumers in California were and likely continue to be exposed to lead from the reasonably foreseeable use of the Lead Products, without them first receiving a “clear and reasonable warning” at the time of their online purchase of the Rublev Colours oil-based grounds on s3stores.com regarding the reproductive and developmental harms associated with such

1 exposures, as required by Proposition 65. The Pigments Notice, Paint Notice and the Grounds  
2 Notice shall be referred to collectively as the “Lead Notices.”

3       24. Defendant imported, distributed, facilitated for sale, sold, and/or offered the  
4 Products for sale or use on its website in violation of Health & Safety Code §25249.6, as far back  
5 as September 9, 2021 (relevant period). Defendant’s violations likely have continued beyond its  
6 receipt of the Notices. As such, defendant’s violations are allegedly ongoing and continuous in  
7 nature and, unless enjoined, will continue to occur.

8       25. The Lead Products that defendant offers for sale and sold cause exposure to lead as  
9 a result of the reasonably foreseeable use. Defendant did not provide a compliant warning for the  
10 risk of developmental toxicity linked to lead exposure on its website in a clear and conspicuous  
11 manner, if at all, during the relevant period.

12       26. Defendant has (and has had at all relevant times) actual knowledge that the Lead  
13 Products contain lead.

14       27. Lead is present in or on the Lead Products in such a way as to expose consumers  
15 through dermal contact, ingestion and/or inhalation during reasonably foreseeable use.

16       28. The normal and reasonably foreseeable use of the Lead Products has caused, and  
17 continues to cause, consumer product exposures to lead as defined by 27 California Code of  
18 Regulations §25600.1(e) and other types of exposures set forth in the Pigments Notice, the Paint  
19 Notice and the Grounds Notice.

20       29. Defendant knows that the normal and reasonably foreseeable use of the Lead  
21 Products exposes individuals to lead through dermal contact, ingestion and/or inhalation.

22       30. Defendant intends that exposures to lead from the reasonably foreseeable use of the  
23 Lead Products will occur by its deliberate, non-accidental participation in the importation,  
24 distribution, sale, and/or offering of the Lead Products for online sale or use to consumers and  
25 others in California.

1           31. Defendant failed to provide a “clear and reasonable warning” on its website to  
2 those consumers and other citizens in California who have been, or who will be, exposed to lead  
3 through dermal contact, ingestion and/or inhalation resulting from their use of the Lead Products.

4 **B. Cadmium Products**

5           32. On June 5, 2025, plaintiff served a 60-Day Notice of Violation (Cadmium Notice),  
6 together with the requisite certificate of merit, on S3, the California Attorney General’s Office,  
7 and the requisite public enforcement agencies alleging that, as a result of defendant’s sales of artist  
8 paste paints, consumers in California were and likely continue to be exposed to cadmium and  
9 cadmium compounds from the reasonably foreseeable use of the Cadmium Products, without them  
10 first receiving a “clear and reasonable warning” at the time of their online purchase of the artist  
11 paste paints on s3stores.com regarding the risk of cancer and/or reproductive toxicity associated  
12 with such exposures, as required by Proposition 65. The Pigments Notice, the Paint Notice, the  
13 Grounds Notice and the Cadmium Notice shall be referred to collectively as the “Notices.”

14           33. The Cadmium Products that defendant offers for sale and sold cause exposure to  
15 cadmium and cadmium compounds as a result of the reasonably foreseeable use. Defendant did  
16 not provide a clear and conspicuous warning on its website, if at all, during the relevant period,  
17 regarding either or both the risk of cancer linked with exposure to cadmium and cadmium  
18 compounds, and the risk of reproductive toxicity linked with cadmium exposure.

19           34. Defendant has (and has had at all relevant times) actual knowledge that the  
20 Cadmium Products contain cadmium and cadmium compounds.

21           35. Cadmium and cadmium compounds are present in or on the Cadmium Products in  
22 such a way as to expose consumers through dermal contact, ingestion and/or inhalation during  
23 reasonably foreseeable use.

24           36. The normal and reasonably foreseeable use of the Cadmium Products has caused,  
25 and continues to cause, consumer product exposures to cadmium and cadmium compounds as  
26 defined by 27 California Code of Regulations §25600.1(e) and other types of exposures set forth  
27 in the Cadmium Notice.



37. Defendant knows that the normal and reasonably foreseeable use of the Cadmium Products exposes individuals to cadmium and cadmium compounds through dermal contact, ingestion and/or inhalation.

38. Defendant intends that exposures to cadmium and cadmium compounds from the reasonably foreseeable use of the Cadmium Products will occur by its deliberate, non-accidental participation in the importation, distribution, sale, and/or offering of the Cadmium Products for online sale or use to consumers and others in California.

39. Defendant failed to provide a “clear and reasonable warning” on its website to those consumers and other citizens in California who have been, or who will be, exposed to cadmium and cadmium compounds through dermal contact, ingestion and/or inhalation resulting from their use of the Cadmium Products.

40. Contrary to the express policy and statutory prohibition of Proposition 65 enacted directly by California voters, consumers exposed to the listed chemicals as a result of their use of the listed chemicals that defendant sold without a “clear and reasonable” health hazard warning, have suffered, and continue to suffer, irreparable harm for which they have no plain, speedy, or adequate remedy at law.

41. After receiving the Notices, no public enforcement agency has commenced and diligently prosecuted a cause of action against defendant under Proposition 65 to enforce the alleged violations that are the subject of plaintiff's sixty-day letters dated February 28, 2025, March 22, 2025, April 15, 2025 and June 5, 2025.

42. Pursuant to Health & Safety Code §25249.7(b), as a consequence of the above-described acts, defendant is liable for a maximum civil penalty of \$2,500 per day for each violation (e.g., each unit sale).

43. As a consequence of the above-described acts, Health & Safety Code §25249.7(a) also specifically authorizes the Court to grant injunctive relief against defendant.

## PRAYER FOR RELIEF

Wherefore, plaintiff prays for judgment against defendant as follows:

1           1.       That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil  
2 penalties against defendant, in the amount of \$2,500 per day for each violation that occurred since  
3 September 9, 2021;

4           2.       That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and  
5 permanently enjoin defendant from manufacturing, importing, distributing, or offering the  
6 Products for sale online or use in California without first providing a “clear and reasonable  
7 warning” regarding the harms associated with exposures to the listed chemicals unless they are  
8 reformulated to eliminate the toxicants;

9           3.       That the Court, pursuant to Health & Safety Code §25249.7(a), mandate defendant  
10 to contact each California online purchaser of the Products that were sold in violation of Health &  
11 Safety Code §25249.6 and refund them of the monies paid to S3 for each such transaction;

12           4.       That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and

13           5.       That the Court grant such other and further relief as may be just and proper.  
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15 Dated: September 9, 2025

Respectfully submitted,

CHANLER, LLC

17   
18 By: \_\_\_\_\_

19 Clifford A. Chanler  
20 Attorneys for Plaintiff  
21 JAY EPPS  
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