

1 Clifford A. Chanler, State Bar No. 135534
CHANLER, LLC
2 72 Huckleberry Hill Road
New Canaan, CT 06840
3 Telephone: (203) 722-4514
Facsimile: (203) 702-5011
4 Email: Clifford@ChanlerLLC.com

5 Steven Y. Chen, State Bar No. 243200
STEVEN Y. CHEN, APLC
6 2650 River Avenue, Unit A
Rosemead, CA 91770
7 Telephone: (626) 782-5017
Facsimile: (626) 307-1657
8 Email: Schen@Schenlaw.com

9 Attorneys for Plaintiff
JAY EPPS

ELECTRONICALLY
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Superior Court of California,
County of San Francisco

07/28/2025
Clerk of the Court
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Deputy Clerk

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF SAN FRANCISCO

CGC-25-627672

14 UNLIMITED CIVIL JURISDICTION

16 JAY EPPS,

17 Plaintiff,

18 v.

19 S3 STORES, INC.,

20 Defendant.

Case No. _____

**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 lead, a toxic chemical found in: (i) Art
5 Pigments, (ii) Artist Paste Paints (branded, supplied or made by Natural Pigment under its
6 registered trademark "Rublev Colours"), and (iii) Oil-Based Grounds (branded, supplied or made
7 by Natural Pigment under its registered trademark "Rublev Colours") (the Products). The
8 Products are repackaged, produced, stored, distributed, shipped and/or sold online (sold) to
9 California citizens (or to a non-California citizen and shipped to an address in California) by
10 defendant S3 Stores, Inc. (S3 or defendant).

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

18 3. Defendant has actual knowledge of the lead contents of the Products which were
19 and do continue to be offered for purchase and/or transacted through www.s3stores.com.

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

25 5. Pursuant to Proposition 65, on February 27, 1987, California identified and listed
26 lead as a chemical known to cause birth defects and other reproductive harm. 27 Cal. Code Regs.
27 §27001(b). Lead became subject to the "clear and reasonable warning" requirements of the act
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one year later on February 27, 1988. 27 Cal. Code Regs. §27001(b); Health & Safety Code §25249.8 and §25249.10(b).

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

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

8. Pursuant to Health & Safety Code §25249.7(b), plaintiff also seeks civil fines against defendant for its violations of Proposition 65, dating back as far as July 28, 2021.

PARTIES

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

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

11. S3 imports, distributes, sells, facilitates, and/or offers the Products for sale online and are shipped to an address in California, or implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale online and are shipped to an address in California. One or

1 more of the Products that were offered for sale by S3 were or likely to have been supplied to it by
2 entities that are not subject to enforcement under Proposition 65 because: (i) they have fewer than
3 ten employees during all relevant periods; and/or (ii) do not have an agent for process of service in
4 California.

5 **VENUE AND JURISDICTION**

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

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

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

21 **FIRST CAUSE OF ACTION**

22 **(Violation of Proposition 65)**

23 15. Plaintiff realleges and incorporates by reference, as if fully set forth herein,
24 Paragraphs 1 through 15 inclusive.

25 16. In enacting Proposition 65, in the preamble to the Safe Drinking Water and Toxic
26 Enforcement Act of 1986, the People of California expressly declared their right “[t]o be informed
27 about exposures to chemicals that cause cancer, birth defects, or other reproductive harm.”
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1 17. Proposition 65 states, “[n]o person in the course of doing business shall knowingly
2 and intentionally expose any individual to a chemical known to the state to cause cancer or
3 reproductive toxicity without first giving clear and reasonable warning to such individual...”
4 Health & Safety Code §25249.6.

5 18. On February 28, 2025, plaintiff served a 60-Day Notice of Violation (Pigments
6 Notice), together with the requisite certificates of merit, on S3, the California Attorney General’s
7 Office, and the requisite public enforcement agencies alleging that, as a result of defendant’s sales
8 of art pigments, consumers in California were and likely continue to be exposed to lead from the
9 reasonably foreseeable use of the Products, without them first receiving a “clear and reasonable
10 warning” at the time of their online purchase of the art pigments on s3stores.com regarding the
11 reproductive and developmental harms associated with such exposures, as required by Proposition
12 65.

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

22 20. On April 15, 2025, plaintiff served a 60-Day Notice of Violation (Grounds Notice),
23 together with the requisite certificates of merit, on S3, the California Attorney General’s Office,
24 and the requisite public enforcement agencies alleging that, as a result of defendant’s sales of oil-
25 based grounds (branded, supplied or made by Natural Pigment under its registered trademark
26 “Rublev Colours”), consumers in California were and likely continue to be exposed to lead from
27 the reasonably foreseeable use of the Products, without them first receiving a “clear and
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1 reasonable warning” at the time of their online purchase of the Rublev Colours oil-based grounds
2 on s3stores.com regarding the reproductive and developmental harms associated with such
3 exposures, as required by Proposition 65. The Pigments Notice, Paint Notice and the Grounds
4 Notice shall be referred to collectively as the “Notices.”

5 21. Defendant imported, distributed, facilitated for sale, sold, and/or offered the
6 Products for sale or use on its website in violation of Health & Safety Code §25249.6, as far back
7 as July 28, 2021 (relevant period). Defendant’s violations likely have continued beyond its receipt
8 of the Notices. As such, defendant’s violations are allegedly ongoing and continuous in nature
9 and, unless enjoined, will continue to occur.

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

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

18 24. Defendant has (and has had at all relevant times) actual knowledge that the Products
19 contain lead.

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

22 26. The normal and reasonably foreseeable use of the Products has caused, and
23 continues to cause, consumer product exposures to lead as defined by 27 California Code of
24 Regulations §25600.1(e) and other types of exposures set forth in the Notices.

25 27. Defendant knows that the normal and reasonably foreseeable use of the Products
26 exposes individuals to lead through dermal contact, ingestion and/or inhalation.

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

29. 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 lead through dermal contact, ingestion and/or inhalation resulting from their use of the Products.

30. Contrary to the express policy and statutory prohibition of Proposition 65 enacted directly by California voters, consumers exposed to lead as a result of their use of the Products 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.

31. 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).

32. 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. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties against defendant, in the amount of \$2,500 per day for each violation that occurred since July 28, 2021;

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

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

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

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

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7 Dated: July 28, 2025

Respectfully submitted,

8 CHANLER, LLC

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10 By: _____

11 Clifford A. Chanler
12 Attorneys for Plaintiff
13 JAY EPPS
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