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ENDORSED
FILED
ALAMEDA COUNTY

OCT 20 2011

CLERK OF THE SUPERIOR COURT
By H. Lovett Deputy

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF ALAMEDA

12 CENTER FOR ENVIRONMENTAL HEALTH,)
13 a non-profit corporation,)

14 Plaintiff,)

15 v.)

16 AERODYNAMIC AVIATION; AIR 88, INC.;)
17 AIRFLITE, INC.; AIRPORT PROPERTY)
PARTNERS LLC; AMELIA REID AVIATION)
18 LLC; AMERICAN AIRPORTS)
CORPORATION; AMERICAN FLYERS FBO;)
19 APP JETCENTER; ATLANTIC AVIATION OF)
SANTA MONICA, L.P.; BRIDGEFORD)
20 FLYING SERVICES; BUSINESS JET)
CENTER; BUSINESS JET CENTER)
21 OAKLAND, L.P.; CALIFORNIA IN NICE,)
INC.; CASTLE & COOKE, INC.; CASTLE &)
22 COOKE AVIATION SERVICES, INC.;)
CHANNEL ISLANDS AVIATION, INC.;)
23 CLAY LACY AVIATION, INC.; CROWNAIR)
AVIATION; CROWNAIR HOLDINGS, INC.;)
24 ENCORE JET CENTER; ENCORE JET)
CENTER, LLC; EPIC JET CENTER, LLC;)
25 JETFLITE, INC.; JETFLITE)
INTERNATIONAL; KAISERAIR, INC.;)
26 LANDMARK AVIATION; LOYD'S)
AVIATION; LP ENTERPRISES, LLC;)
27 MAGUIRE AVIATION, INC.; MAGUIRE)
AVIATION GROUP, LLC; MERCURY AIR)
28 CENTER; MERCURY AIR CENTER LONG)

Case No. ^{RG} 11600721

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

Health & Safety Code § 25249.6, *et seq.*

(Other)

1 BEACH, INC.; MERCURY AIR GROUP, INC.;)
NICE AIR; PACIFIC STATES AVIATION)
2 INC.; PENTASTAR AVIATION OF)
CALIFORNIA, LLC; R.A. BRIDGEMORE,)
3 INC.; ROSSI AIRCRAFT, INC.; SOUTH BAY)
AVIATION, INC.; STERLING AVIATION;)
4 STERLING AVIONICS, INC.; SUN AIR JETS,)
LLC; THRESHOLD TECHNOLOGIES, INC.;)
5 TORRANCE FLITE PARK, LLC; WESTERN)
CARDINAL, INC.; and DOES 1 through 200,)
6 inclusive,)

7 Defendants.)
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1 Plaintiff Center for Environmental Health, in the public interest, based on
2 information and belief and investigation of counsel, except for information based on knowledge,
3 hereby makes the following allegations:

4 **INTRODUCTION**

5 1. This Complaint seeks to remedy Defendants' continuing failure to warn
6 individuals in California that they are being exposed to lead and lead compounds (collectively,
7 "Lead"), chemicals known to the State of California to cause cancer and birth defects and other
8 reproductive harm. Such exposures have occurred, and continue to occur, through the
9 distribution, sale and use of Defendants' Leaded aviation gasoline ("Avgas"). Individuals,
10 including children and pregnant women, living and/or working near the airports at which
11 Defendants operate are exposed to Lead emitted from Avgas supplied by Defendants. In a recent
12 study of children living near airports where Avgas is used, it was determined that such children
13 have elevated blood Lead levels.

14 2. Under California's Proposition 65, Health & Safety Code § 25249.5, *et*
15 *seq.*, it is unlawful for businesses to knowingly and intentionally expose individuals in California
16 to chemicals known to the State to cause cancer, birth defects or other reproductive harm without
17 first providing clear and reasonable warnings to individuals prior to their exposure. Defendants
18 supply Avgas, which emits Lead as airplanes are fueled and as the airplanes fueled and/or
19 operated by Defendants using Avgas take off and land. Defendants' use of Avgas exposes
20 individuals to Lead.

21 3. Despite the fact that Defendants expose children, pregnant women and
22 other individuals to Lead, Defendants provide no warnings whatsoever about the carcinogenic or
23 reproductive hazards associated with Lead exposure. Defendants' conduct thus violates the
24 warning provision of Proposition 65 set forth at Health & Safety Code § 25249.6.

25 **PARTIES**

26 4. Plaintiff CENTER FOR ENVIRONMENTAL HEALTH ("CEH") is a
27 non-profit corporation dedicated to protecting the public from environmental health hazards and
28 toxic exposures. CEH is based in Oakland, California and incorporated under the laws of the

1 State of California. CEH is a “person” within the meaning of Health & Safety Code
2 § 25249.11(a) and brings this enforcement action in the public interest pursuant to Health &
3 Safety Code § 25249.7(d). CEH is a nationally recognized non-profit environmental advocacy
4 group that has prosecuted a large number of Proposition 65 cases in the public interest. These
5 cases have resulted in significant public benefit, including the reformulation of thousands of
6 products to remove toxic chemicals and to make them safer. CEH also provides information to
7 Californians about the health risks associated with exposure to hazardous substances, where
8 manufacturers and other responsible parties fail to do so.

9 5. Defendant AERODYNAMIC AVIATION is a person in the course of
10 doing business within the meaning of Health & Safety Code § 25249.11. AeroDynamic Aviation
11 distributes, sells and/or uses Avgas in California. AeroDynamic Aviation operates out of Reid-
12 Hillview Airport. AeroDynamic Aviation exposes individuals living and/or working near Reid-
13 Hillview Airport to Lead without first providing such individuals with clear and reasonable
14 warnings.

15 6. Defendant AIR 88, INC. is a person in the course of doing business within
16 the meaning of Health & Safety Code § 25249.11. Air 88, Inc. distributes, sells and/or uses
17 Avgas in California. Air 88, Inc. operates out of Montgomery Field. Air 88, Inc. exposes
18 individuals living and/or working near Montgomery Field to Lead without first providing such
19 individuals with clear and reasonable warnings.

20 7. Defendant AIRFLITE, INC. is a person in the course of doing business
21 within the meaning of Health & Safety Code § 25249.11. AirFlite, Inc. distributes, sells and/or
22 uses Avgas in California. AirFlite, Inc. operates out of Long Beach Airport (Daugherty Field).
23 AirFlite, Inc. exposes individuals living and/or working near Long Beach Airport (Daugherty
24 Field) to Lead without first providing such individuals with clear and reasonable warnings.

25 8. Defendant AIRPORT PROPERTY PARTNERS LLC is a person in the
26 course of doing business within the meaning of Health & Safety Code § 25249.11. Airport
27 Property Partners LLC distributes, sells and/or uses Avgas in California. Airport Property
28 Partners LLC operates out of Hayward Executive Airport. Airport Property Partners LLC

1 exposes individuals living and/or working near Hayward Executive Airport to Lead without first
2 providing such individuals with clear and reasonable warnings.

3 9. Defendant AMELIA REID AVIATION LLC is a person in the course of
4 doing business within the meaning of Health & Safety Code § 25249.11. Amelia Reid Aviation
5 LLC distributes, sells and/or uses Avgas in California. Amelia Reid Aviation LLC operates out
6 of Reid-Hillview Airport. Amelia Reid Aviation LLC exposes individuals living and/or working
7 near Reid-Hillview Airport to Lead without first providing such individuals with clear and
8 reasonable warnings.

9 10. Defendant AMERICAN AIRPORTS CORPORATION is a person in the
10 course of doing business within the meaning of Health & Safety Code § 25249.11. American
11 Airports Corporation distributes, sells and/or uses Avgas in California. American Airports
12 Corporation operates out of Brackett Field and El Monte Airport. American Airports
13 Corporation exposes individuals living and/or working near Brackett Field and El Monte Airport
14 to Lead without first providing such individuals with clear and reasonable warnings.

15 11. Defendant AMERICAN FLYERS FBO is a person in the course of doing
16 business within the meaning of Health & Safety Code § 25249.11. American Flyers FBO
17 distributes, sells and/or uses Avgas in California. American Flyers FBO operates out of Santa
18 Monica Municipal Airport. American Flyers FBO exposes individuals living and/or working
19 near Santa Monica Municipal Airport to Lead without first providing such individuals with clear
20 and reasonable warnings.

21 12. Defendant APP JETCENTER is a person in the course of doing business
22 within the meaning of Health & Safety Code § 25249.11. APP JetCenter distributes, sells and/or
23 uses Avgas in California. APP JetCenter operates out of Hayward Executive Airport. APP
24 JetCenter exposes individuals living and/or working near Hayward Executive Airport to Lead
25 without first providing such individuals with clear and reasonable warnings.

26 13. Defendant ATLANTIC AVIATION OF SANTA MONICA, L.P. is a
27 person in the course of doing business within the meaning of Health & Safety Code § 25249.11.
28 Atlantic Aviation of Santa Monica, L.P. distributes, sells and/or uses Avgas in California.

1 Atlantic Aviation of Santa Monica, L.P. operates out of Santa Monica Municipal Airport.
2 Atlantic Aviation of Santa Monica, L.P. exposes individuals living and/or working near Santa
3 Monica Municipal Airport to Lead without first providing such individuals with clear and
4 reasonable warnings.

5 14. Defendant BRIDGEFORD FLYING SERVICES is a person in the course
6 of doing business within the meaning of Health & Safety Code § 25249.11. Bridgeford Flying
7 Services distributes, sells and/or uses Avgas in California. Bridgeford Flying Services operates
8 out of Napa County Airport. Bridgeford Flying Services exposes individuals living and/or
9 working near Napa County Airport to Lead without first providing such individuals with clear
10 and reasonable warnings.

11 15. Defendant BUSINESS JET CENTER is a person in the course of doing
12 business within the meaning of Health & Safety Code § 25249.11. Business Jet Center
13 distributes, sells and/or uses Avgas in California. Business Jet Center operates out of Oakland
14 International Airport. Business Jet Center exposes individuals living and/or working near
15 Oakland International Airport to Lead without first providing such individuals with clear and
16 reasonable warnings.

17 16. Defendant BUSINESS JET CENTER OAKLAND, L.P. is a person in the
18 course of doing business within the meaning of Health & Safety Code § 25249.11. Business Jet
19 Center Oakland, L.P. distributes, sells and/or uses Avgas in California. Business Jet Center
20 Oakland, L.P. operates out of Oakland International Airport. Business Jet Center Oakland, L.P.
21 exposes individuals living and/or working near Oakland International Airport to Lead without
22 first providing such individuals with clear and reasonable warnings.

23 17. Defendant CALIFORNIA IN NICE, INC. is a person in the course of
24 doing business within the meaning of Health & Safety Code § 25249.11. California in Nice, Inc.
25 distributes, sells and/or uses Avgas in California. California in Nice, Inc. operates out of Reid-
26 Hillview Airport. California in Nice, Inc. exposes individuals living and/or working near Reid-
27 Hillview Airport to Lead without first providing such individuals with clear and reasonable
28 warnings.

1 18. Defendant CASTLE & COOKE, INC. is a person in the course of doing
2 business within the meaning of Health & Safety Code § 25249.11. Castle & Cooke, Inc.
3 distributes, sells and/or uses Avgas in California. Castle & Cooke, Inc. operates out of Van Nuys
4 Airport. Castle & Cooke, Inc. exposes individuals living and/or working near Van Nuys Airport
5 to Lead without first providing such individuals with clear and reasonable warnings.

6 19. Defendant CASTLE & COOKE AVIATION SERVICES, INC. is a person
7 in the course of doing business within the meaning of Health & Safety Code § 25249.11. Castle
8 & Cooke Aviation Services, Inc. distributes, sells and/or uses Avgas in California. Castle &
9 Cooke Aviation Services, Inc. operates out of Van Nuys Airport. Castle & Cooke Aviation
10 Services, Inc. exposes individuals living and/or working near Van Nuys Airport to Lead without
11 first providing such individuals with clear and reasonable warnings.

12 20. Defendant CHANNEL ISLANDS AVIATION, INC. is a person in the
13 course of doing business within the meaning of Health & Safety Code § 25249.11. Channel
14 Islands Aviation, Inc. distributes, sells and/or uses Avgas in California. Channel Islands
15 Aviation, Inc. operates out of Camarillo Airport. Channel Islands Aviation, Inc. exposes
16 individuals living and/or working near Camarillo Airport to Lead without first providing such
17 individuals with clear and reasonable warnings.

18 21. Defendant CLAY LACY AVIATION, INC. is a person in the course of
19 doing business within the meaning of Health & Safety Code § 25249.11. Clay Lacy Aviation,
20 Inc. distributes, sells and/or uses Avgas in California. Clay Lacy Aviation, Inc. operates out of
21 Van Nuys Airport. Clay Lacy Aviation, Inc. exposes individuals living and/or working near Van
22 Nuys Airport to Lead without first providing such individuals with clear and reasonable
23 warnings.

24 22. Defendant CROWNAIR AVIATION is a person in the course of doing
25 business within the meaning of Health & Safety Code § 25249.11. CrownAir Aviation
26 distributes, sells and/or uses Avgas in California. CrownAir Aviation operates out of
27 Montgomery Field. CrownAir Aviation exposes individuals living and/or working near
28 Montgomery Field to Lead without first providing such individuals with clear and reasonable

1 warnings.

2 23. Defendant CROWNAIR HOLDINGS, INC. is a person in the course of
3 doing business within the meaning of Health & Safety Code § 25249.11. CrownAir Holdings,
4 Inc. distributes, sells and/or uses Avgas in California. CrownAir Holdings, Inc. operates out of
5 Montgomery Field. CrownAir Holdings, Inc. exposes individuals living and/or working near
6 Montgomery Field to Lead without first providing such individuals with clear and reasonable
7 warnings.

8 24. Defendant ENCORE JET CENTER is a person in the course of doing
9 business within the meaning of Health & Safety Code § 25249.11. Encore Jet Center distributes,
10 sells and/or uses Avgas in California. Encore Jet Center operates out of Chino Airport. Encore
11 Jet Center exposes individuals living and/or working near Chino Airport to Lead without first
12 providing such individuals with clear and reasonable warnings.

13 25. Defendant ENCORE JET CENTER, LLC is a person in the course of
14 doing business within the meaning of Health & Safety Code § 25249.11. Encore Jet Center, LLC
15 distributes, sells and/or uses Avgas in California. Encore Jet Center, LLC operates out of Chino
16 Airport. Encore Jet Center, LLC exposes individuals living and/or working near Chino Airport
17 to Lead without first providing such individuals with clear and reasonable warnings.

18 26. Defendant EPIC JET CENTER, LLC is a person in the course of doing
19 business within the meaning of Health & Safety Code § 25249.11. Epic Jet Center, LLC
20 distributes, sells and/or uses Avgas in California. Epic Jet Center, LLC operates out of Meadows
21 Field Airport. Epic Jet Center, LLC exposes individuals living and/or working near Meadows
22 Field Airport to Lead without first providing such individuals with clear and reasonable
23 warnings.

24 27. Defendant JETFLITE, INC. is a person in the course of doing business
25 within the meaning of Health & Safety Code § 25249.11. JetFlite, Inc. distributes, sells and/or
26 uses Avgas in California. JetFlite, Inc. operates out of Long Beach Airport (Daugherty Field).
27 JetFlite, Inc. exposes individuals living and/or working near Long Beach Airport (Daugherty
28 Field) to Lead without first providing such individuals with clear and reasonable warnings.

1 28. Defendant JETFLITE INTERNATIONAL is a person in the course of
2 doing business within the meaning of Health & Safety Code § 25249.11. JetFlite International
3 distributes, sells and/or uses Avgas in California. JetFlite International operates out of Long
4 Beach Airport (Daugherty Field). JetFlite International exposes individuals living and/or
5 working near Long Beach Airport (Daugherty Field) to Lead without first providing such
6 individuals with clear and reasonable warnings.

7 29. Defendant KAISERAIR, INC. is a person in the course of doing business
8 within the meaning of Health & Safety Code § 25249.11. KaiserAir, Inc. distributes, sells and/or
9 uses Avgas in California. KaiserAir, Inc. operates out of Oakland International Airport.
10 KaiserAir, Inc. exposes individuals living and/or working near Oakland International Airport to
11 Lead without first providing such individuals with clear and reasonable warnings.

12 30. Defendant LANDMARK AVIATION is a person in the course of doing
13 business within the meaning of Health & Safety Code § 25249.11. Landmark Aviation
14 distributes, sells and/or uses Avgas in California. Landmark Aviation operates out of Los
15 Angeles International Airport. Landmark Aviation exposes individuals living and/or working
16 near Los Angeles International Airport to Lead without first providing such individuals with
17 clear and reasonable warnings.

18 31. Defendant LOYD'S AVIATION is a person in the course of doing
19 business within the meaning of Health & Safety Code § 25249.11. Loyd's Aviation distributes,
20 sells and/or uses Avgas in California. Loyd's Aviation operates out of Meadows Field Airport.
21 Loyd's Aviation exposes individuals living and/or working near Meadows Field Airport to Lead
22 without first providing such individuals with clear and reasonable warnings.

23 32. Defendant LP ENTERPRISES, LLC is a person in the course of doing
24 business within the meaning of Health & Safety Code § 25249.11. LP Enterprises, LLC
25 distributes, sells and/or uses Avgas in California. LP Enterprises, LLC operates out of Reid-
26 Hillview Airport. LP Enterprises, LLC exposes individuals living and/or working near Reid-
27 Hillview Airport to Lead without first providing such individuals with clear and reasonable
28 warnings.

1 33. Defendant MAGUIRE AVIATION, INC. is a person in the course of
2 doing business within the meaning of Health & Safety Code § 25249.11. Maguire Aviation, Inc.
3 distributes, sells and/or uses Avgas in California. Maguire Aviation, Inc. operates out of Van
4 Nuys Airport. Maguire Aviation, Inc. exposes individuals living and/or working near Van Nuys
5 Airport to Lead without first providing such individuals with clear and reasonable warnings.

6 34. Defendant MAGUIRE AVIATION GROUP, LLC is a person in the course
7 of doing business within the meaning of Health & Safety Code § 25249.11. Maguire Aviation
8 Group, LLC distributes, sells and/or uses Avgas in California. Maguire Aviation Group, LLC
9 operates out of Van Nuys Airport. Maguire Aviation Group, LLC exposes individuals living
10 and/or working near Van Nuys Airport to Lead without first providing such individuals with
11 clear and reasonable warnings.

12 35. Defendant MERCURY AIR CENTER is a person in the course of doing
13 business within the meaning of Health & Safety Code § 25249.11. Mercury Air Center
14 distributes, sells and/or uses Avgas in California. Mercury Air Center operates out of Long
15 Beach Airport (Daugherty Field). Mercury Air Center exposes individuals living and/or working
16 near Long Beach Airport (Daugherty Field) to Lead without first providing such individuals with
17 clear and reasonable warnings.

18 36. Defendant MERCURY AIR CENTER LONG BEACH, INC. is a person
19 in the course of doing business within the meaning of Health & Safety Code § 25249.11.
20 Mercury Air Center Long Beach, Inc. distributes, sells and/or uses Avgas in California. Mercury
21 Air Center Long Beach, Inc. operates out of Long Beach Airport (Daugherty Field). Mercury Air
22 Center Long Beach, Inc. exposes individuals living and/or working near Long Beach Airport
23 (Daugherty Field) to Lead without first providing such individuals with clear and reasonable
24 warnings.

25 37. Defendant MERCURY AIR GROUP, INC. is a person in the course of
26 doing business within the meaning of Health & Safety Code § 25249.11. Mercury Air Group,
27 Inc. distributes, sells and/or uses Avgas in California. Mercury Air Group, Inc. operates out of
28 Long Beach Airport (Daugherty Field). Mercury Air Group, Inc. exposes individuals living

1 and/or working near Long Beach Airport (Daugherty Field) to Lead without first providing such
2 individuals with clear and reasonable warnings.

3 38. Defendant NICE AIR is a person in the course of doing business within
4 the meaning of Health & Safety Code § 25249.11. Nice Air distributes, sells and/or uses Avgas
5 in California. Nice Air operates out of Reid-Hillview Airport. Nice Air exposes individuals
6 living and/or working near Reid-Hillview Airport to Lead without first providing such
7 individuals with clear and reasonable warnings.

8 39. Defendant PACIFIC STATES AVIATION INC. is a person in the course
9 of doing business within the meaning of Health & Safety Code § 25249.11. Pacific States
10 Aviation Inc. distributes, sells and/or uses Avgas in California. Pacific States Aviation Inc.
11 operates out of Buchanan Field. Pacific States Aviation Inc. exposes individuals living and/or
12 working near Buchanan Field to Lead without first providing such individuals with clear and
13 reasonable warnings.

14 40. Defendant PENTASTAR AVIATION OF CALIFORNIA, LLC is a person
15 in the course of doing business within the meaning of Health & Safety Code § 25249.11.
16 Pentastar Aviation of California, LLC distributes, sells and/or uses Avgas in California.
17 Pentastar Aviation of California, LLC operates out of Van Nuys Airport. Pentastar Aviation of
18 California, LLC exposes individuals living and/or working near Van Nuys Airport to Lead
19 without first providing such individuals with clear and reasonable warnings.

20 41. Defendant R.A. BRIDGEFORD, INC. is a person in the course of doing
21 business within the meaning of Health & Safety Code § 25249.11. R.A. Bridgeford, Inc.
22 distributes, sells and/or uses Avgas in California. R.A. Bridgeford, Inc. operates out of Napa
23 County Airport. R.A. Bridgeford, Inc. exposes individuals living and/or working near Napa
24 County Airport to Lead without first providing such individuals with clear and reasonable
25 warnings.

26 42. Defendant ROSSI AIRCRAFT, INC. is a person in the course of doing
27 business within the meaning of Health & Safety Code § 25249.11. Rossi Aircraft, Inc.
28 distributes, sells and/or uses Avgas in California. Rossi Aircraft, Inc. operates out of Palo Alto

1 Airport. Rossi Aircraft, Inc. exposes individuals living and/or working near Palo Alto Airport to
2 Lead without first providing such individuals with clear and reasonable warnings.

3 43. Defendant SOUTH BAY AVIATION, INC. is a person in the course of
4 doing business within the meaning of Health & Safety Code § 25249.11. South Bay Aviation,
5 Inc. distributes, sells and/or uses Avgas in California. South Bay Aviation, Inc. operates out of
6 Zamperini Field. South Bay Aviation, Inc. exposes individuals living and/or working near
7 Zamperini Field to Lead without first providing such individuals with clear and reasonable
8 warnings.

9 44. Defendant STERLING AVIATION is a person in the course of doing
10 business within the meaning of Health & Safety Code § 25249.11. Sterling Aviation distributes,
11 sells and/or uses Avgas in California. Sterling Aviation operates out of Buchanan Field. Sterling
12 Aviation exposes individuals living and/or working near Buchanan Field to Lead without first
13 providing such individuals with clear and reasonable warnings.

14 45. Defendant STERLING AVIONICS, INC. is a person in the course of
15 doing business within the meaning of Health & Safety Code § 25249.11. Sterling Avionics, Inc.
16 distributes, sells and/or uses Avgas in California. Sterling Avionics, Inc. operates out of
17 Buchanan Field. Sterling Avionics, Inc. exposes individuals living and/or working near
18 Buchanan Field to Lead without first providing such individuals with clear and reasonable
19 warnings.

20 46. Defendant SUN AIR JETS, LLC is a person in the course of doing
21 business within the meaning of Health & Safety Code § 25249.11. Sun Air Jets, LLC distributes,
22 sells and/or uses Avgas in California. Sun Air Jets, LLC operates out of Camarillo Airport. Sun
23 Air Jets, LLC exposes individuals living and/or working near Camarillo Airport to Lead without
24 first providing such individuals with clear and reasonable warnings.

25 47. Defendant THRESHOLD TECHNOLOGIES, INC. is a person in the
26 course of doing business within the meaning of Health & Safety Code § 25249.11. Threshold
27 Technologies, Inc. distributes, sells and/or uses Avgas in California. Threshold Technologies,
28 Inc. operates out of Chino Airport. Threshold Technologies, Inc. exposes individuals living

1 and/or working near Chino Airport to Lead without first providing such individuals with clear
2 and reasonable warnings.

3 48. Defendant TORRANCE FLITE PARK, LLC is a person in the course of
4 doing business within the meaning of Health & Safety Code § 25249.11. Torrance Flite Park,
5 LLC distributes, sells and/or uses Avgas in California. Torrance Flite Park, LLC operates out of
6 Zamperini Field. Torrance Flite Park, LLC exposes individuals living and/or working near
7 Zamperini Field to Lead without first providing such individuals with clear and reasonable
8 warnings.

9 49. Defendant WESTERN CARDINAL, INC. is a person in the course of
10 doing business within the meaning of Health & Safety Code § 25249.11. Western Cardinal, Inc.
11 distributes, sells and/or uses Avgas in California. Western Cardinal, Inc. operates out of
12 Camarillo Airport. Western Cardinal, Inc. exposes individuals living and/or working near
13 Camarillo Airport to Lead without first providing such individuals with clear and reasonable
14 warnings.

15 50. DOES 1 through 200 are each a person in the course of doing business
16 within the meaning of Health & Safety Code § 25249.11. DOES 1 through 200 distribute, sell
17 and/or use Avgas in California.

18 51. The true names of DOES 1 through 200 are unknown to CEH at this time.
19 When their identities are ascertained, the Complaint shall be amended to reflect their true names.

20 52. The defendants identified in paragraphs 5 through 49 and DOES 1 through
21 200 are collectively referred to herein as "Defendants."

22 **JURISDICTION AND VENUE**

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

27 54. This Court has jurisdiction over Defendants because each is a business
28 entity that does sufficient business, has sufficient minimum contacts in California or otherwise

1 intentionally avails itself of the California market through the distribution, sale or use of Avgas
2 in California and/or by having such other contacts with California so as to render the
3 exercise of jurisdiction over it by the California courts consistent with traditional notions of fair
4 play and substantial justice.

5 55. Venue is proper in the Alameda County Superior Court because one or
6 more of the violations arise in the County of Alameda.

7 **BACKGROUND FACTS**

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

11 57. To effectuate this goal, Proposition 65 prohibits exposing people to
12 chemicals listed by the State of California as known to cause cancer, birth defects or other
13 reproductive harm above certain levels without a “clear and reasonable warning” unless the
14 business responsible for the exposure can prove that it fits within a statutory exemption. Health
15 & Safety Code § 25249.6 states, in pertinent part:

16 No person in the course of doing business shall knowingly and
17 intentionally expose any individual to a chemical known to the
18 state to cause cancer or reproductive toxicity without first giving
19 clear and reasonable warning to such individual. . .

20 58. On February 27, 1987, the State of California officially listed lead as a
21 chemical known to cause reproductive toxicity. Lead is specifically identified as a reproductive
22 toxicant under three subcategories: “developmental reproductive toxicity,” which means harm to
23 the developing fetus, “female reproductive toxicity,” which means harm to the female
24 reproductive system, and “male reproductive toxicity,” which means harm to the male
25 reproductive system. 27 California Code of Regulations (“C.C.R.”) § 27001(c). On February 27,
26 1988, one year after it was listed as a chemical known to cause reproductive toxicity, lead
27 became subject to the clear and reasonable warning requirement regarding reproductive toxicants
28 under Proposition 65. *Ibid.*; Health & Safety Code § 25249.10(b).

59. On October 1, 1992, the State of California officially listed lead and lead

1 compounds as chemicals known to cause cancer. On October 1, 1993, one year after they were
2 listed as chemicals known to cause cancer, lead and lead compounds became subject to the clear
3 and reasonable warning requirement regarding carcinogens under Proposition 65. 27 C.C.R.
4 § 27001(c); Health & Safety Code § 25249.10(b).

5 60. Use of Avgas is the single largest source of airborne Lead pollution in the
6 United States. *See* U.S. Environmental Protection Agency, "Development and Evaluation of an
7 Air Quality Modeling Approach for Lead Emissions from Piston-Engine Aircraft Operating on
8 Leaded Aviation Gasoline," EPA-420-R-10-007, February 2010. Avgas usage results in *over*
9 **650 tons of Lead emissions every year** in the United States. *Ibid.*

10 61. Young children are especially susceptible to the toxic effects of Lead.
11 Children show a greater sensitivity to Lead's effects than do adults. Adverse health impacts from
12 Lead exposure generally occur in children at lower blood Lead levels than in adults. Children
13 absorb and retain more Lead in proportion to their weight than do adults. Young children also
14 show a greater prevalence of iron deficiency, a condition that can increase gastrointestinal
15 absorption of Lead. The body accumulates Lead over a lifetime and releases it slowly, so even
16 small doses received in childhood, over time, can cause adverse health impacts, including but not
17 limited to reproductive toxicity, later in life. For example, in times of physiological stress, such
18 as pregnancy, the body can mobilize accumulated stores of Lead in tissue and bone, thereby
19 increasing the level of Lead in the blood and increasing the risk of harm to the fetus.

20 62. There is no safe level of exposure to Lead and even minute amounts of
21 Lead exposure have been proven harmful to children and adults. Studies have repeatedly
22 concluded that concentrations of Lead in children's blood previously deemed acceptable can
23 have adverse health effects. *See, e.g.,* Canfield, R.L., *et al.*, "Intellectual Impairment in Children
24 with Blood Lead Concentrations below 10 ug per Deciliter," *New England Journal of Medicine*
25 348:16, 2003. Another study on the effect of childhood Lead exposure declared that even the
26 smallest detectable amount of blood Lead levels in children can mean the difference between an
27 A or B grade in school. Lanphear, B.P., Dietrich, K., Auinger, P., Cox, C., "Subclinical Lead
28 Toxicity in U.S. Children and Adolescents," *Neurodevelopmental Disabilities II Platform*, 2000.

1 63. Children living near airports at which Avgas is used have increased blood
2 Lead levels and the impacts of Avgas are highest among those children living closest to the
3 airport. *See, e.g.,* Miranda, M.L., Anthopolos, R., Hastings, D., “A Geospatial Analysis of the
4 Effects of Aviation Gasoline on Childhood Blood Lead Levels,” *Environmental Health*
5 *Perspectives*, 2011.

6 64. Lead exposures for pregnant women are also of particular concern in light
7 of evidence that even short term Lead exposures *in utero* may have long-term harmful effects.
8 *See* Hu, H., *et al.*, “Fetal Lead Exposure at Each State of Pregnancy as a Predictor of Infant
9 Mental Development,” *Environmental Health Perspectives* 114:11, 2006; *and* Schnaas, Lourdes,
10 *et al.*, “Reduced Intellectual Development in Children with Prenatal Lead Exposure,”
11 *Environmental Health Perspectives* 114:5, 2006.

12 65. Avgas contains approximately 2.12 grams of Lead per gallon. Defendants
13 supply Avgas to planes that take off and land at the airports at which they operate. Defendants’
14 facilities aggregate the airplanes in such a concentrated area that emissions from the airplanes
15 fueled and/or operated by Defendants expose individuals living and/or working near the airports
16 to Lead emitted from Avgas. The routes of exposure for the violations are primarily through
17 inhalation, when individuals breathe the Lead emitted by the airplanes fueled and/or operated by
18 Defendants; and also through ingestion via hand-to-mouth contact and dermal absorption directly
19 through the skin when individuals touch or handle dust laden with Lead from Avgas. The
20 exposures to Lead from Avgas occur in the neighborhoods surrounding airports where
21 Defendants operate.

22 66. Defendants control the circumstances of the exposures which result from
23 the use of the Avgas they distribute, sell and/or use. They control how many airplanes they fuel
24 each day and when they provide fuel to those airplanes, which also impacts when the airplanes
25 take off and land. Many Defendants have their own airplanes which use Avgas and control not
26 only when those airplanes are fueled, but also when they take off and land.

27 67. No clear and reasonable warning is provided to individuals living and/or
28 working near the airports at which Defendants operate regarding the carcinogenic or reproductive

1 hazards of Lead.

2 68. Any person acting in the public interest has standing to enforce violations
3 of Proposition 65 provided that such person has supplied the requisite public enforcers with a
4 valid 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the
5 action within such time. Health & Safety Code § 25249.7(d).

6 69. More than sixty days prior to naming each Defendant in this lawsuit, CEH
7 provided a 60-Day “Notice of Violation of Proposition 65” to the California Attorney General,
8 the District Attorneys of every county in California, the City Attorneys of every California city
9 with a population greater than 750,000 and to each of the named Defendants. In compliance with
10 Health & Safety Code § 25249.7(d) and 27 C.C.R. § 25903(b), each Notice included the
11 following information: (1) the name and address of each violator; (2) the statute violated; (3) the
12 time period during which violations occurred; (4) specific descriptions of the violations,
13 including (a) the routes of exposure to Lead from Avgas, (b) the locations of the exposures; and
14 (c) a description of the individuals exposed; and (5) the name of the specific Proposition 65-
15 listed chemical that is the subject of the violations described in each Notice.

16 70. CEH also sent a Certificate of Merit for each Notice to the California
17 Attorney General, the District Attorneys of every county in California, the City Attorneys of
18 every California city with a population greater than 750,000 and to each of the named
19 Defendants. In compliance with Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3101, each
20 Certificate certified that CEH’s counsel: (1) has consulted with one or more persons with
21 relevant and appropriate experience or expertise who reviewed facts, studies or other data
22 regarding the exposures to Lead alleged in each Notice; and (2) based on the information
23 obtained through such consultations, believes that there is a reasonable and meritorious case for a
24 citizen enforcement action based on the facts alleged in each Notice. In compliance with Health
25 & Safety Code § 25249.7(d) and 11 C.C.R. § 3102, each Certificate served on the Attorney
26 General included factual information – provided on a confidential basis – sufficient to establish
27 the basis for the Certificate, including the identity of the person(s) consulted by CEH’s counsel
28 and the facts, studies or other data reviewed by such persons.

1 71. None of the public prosecutors with the authority to prosecute violations
2 of Proposition 65 has commenced and/or is diligently prosecuting a cause of action against
3 Defendants under Health & Safety Code § 25249.5, *et seq.*, based on the claims asserted in each
4 of CEH's Notices.

5 72. Defendants both know and intend that individuals will be exposed to the
6 Lead from the Avgas sold and/or used by Defendants.

7 73. Under Proposition 65, an exposure is "knowing" where the party
8 responsible for such exposure has:

9 knowledge of the fact that a[n] . . . exposure to a chemical listed
10 pursuant to [Health & Safety Code § 25249.8(a)] is occurring. No
11 knowledge that the . . . exposure is unlawful is required.

12 27 C.C.R. § 25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final
13 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2,
14 § 12201).

15 74. Defendants know that Avgas contains Lead due to Avgas being marketed
16 and sold as "leaded."

17 75. The fact that individuals living and/or working near airports where Avgas
18 is sold and/or used are exposed to Lead from the Avgas has also been widely discussed in
19 government reports and in the media in recent years such that Defendants have actual or at least
20 constructive knowledge of the exposures which result from their sale and use of Avgas.

21 76. Defendants know or should have known that emissions from airplanes
22 which use Avgas taking off and landing at the airports where Defendants operate would result in
23 emissions of Lead into the vicinity of those airports. Every airplane fueled and/or operated by a
24 Defendant necessarily takes off from and lands at the airport where such Defendant operates.
25 Defendants thus know and intend that the airplanes fueled and/or operated by them will emit
26 Lead into the neighborhoods surrounding the airports where they operate. The Lead exposures to
27 individuals who use Avgas are a natural and foreseeable consequence of Defendants' placing
28 Avgas into the stream of commerce.

