

State of California - Department of Justice - Attorney General's Office - Proposition 65 Enforcement Reporting

Attention: Prop 65 Coordinator, 1515 Clay Street, Suite 2000, Oakland, CA 94612

FORM JUS 1500
(03-01)

PRIVATE ENFORCEMENT FILING - Health and Safety Code section 25249.7(e) and (f)

REPORT OF CIVIL COMPLAINT FILING

Original Filing Supplemental Filing Corrected Filing

Please print or type required information

PARTIES TO THE ACTION	PLAINTIFF(S)	RBC Four Co., LLC; and William Dunlap Individually			
	DEFENDANT(S)	Hixson Metal Finishing			
CASE INFO	COURT DOCKET NUMBER	30-2014-00762137-CU-MC-CJC		COURT NAME	ORANGE COUNTY SUPERIOR COURT
	SHORT CASE NAME	RBC, et al v Hixson, et al			
REPORT INFO	TYPE OF CLAIM (Check All That Apply)		RELIEF SOUGHT (Check All That Apply)		For Internal Use Only
	<input checked="" type="checkbox"/> Propostion 65 Unlawful Discharge <input type="checkbox"/> Proposition 65 Failure to Warn <input type="checkbox"/> B&P Code section 17200 <input checked="" type="checkbox"/> Other <u>PRIVATE TORT CAUSE OF ACTION</u>		<input type="checkbox"/> Warning <input checked="" type="checkbox"/> Discharge Ban <input checked="" type="checkbox"/> Civil Penalty		
COPY OF COMPLAINT MUST BE ATTACHED					
FILER INFO	NAME OF CONTACT Kurt S. Bollin, Esq.				
	ORGANIZATION RBC Four Co., LLC			TELEPHONE NUMBER (818) 599-8020	
	ADDRESS 1016 Oak Street-D			FAX NUMBER (626) 399-0124	
	CITY S. Pasadena	STATE CA	ZIP 91030-1506	E-MAIL ADDRESS kurt@bollinlaw.com	

FILING INSTRUCTIONS: This form can be completed online and printed. If electronic filing is not available, mail the completed form with a copy of the complaint to the attention of the Prop 65 Coordinator at the address shown above. If you need additional space to complete this form please use an attachment.

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ELECTRONICALLY FILED
Superior Court of California,
County of Orange
12/17/2014 at 09:31:58 PM
Clerk of the Superior Court
By Jaime Cordero, Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ORANGE

11 RBC FOUR CO. LLC., and WILLIAM)
12 DUNLAP, INDIVIDUALLY AND IN THE)
13 PUBLIC INTEREST.)
14 Plaintiffs,)

15 vs.)

16 HIXSON METAL FINISHING)
17 [Facility ID No. 11818])
18)

19 Defendant.)
20)
21)
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25)
26)
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28)

CASE NO. 30-2014-00762137-CU-MC-CJC
[Related to 30-2014-00745416-CU-TT-
CXC, 30-2014-00729353-CU-MC-CJC]

COMPLAINT FOR DAMAGES:

1. CIVIL PENALTIES AND
INJUNCTIVE RELIEF UNDER
CALIFORNIA'S PROPOSITION 65
(H&S 25249.5)

2. FAILURE TO WARN REGARDING
CARBON MONOXIDE (H&S 25249.6)

Judge Andrew Banks

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
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1 The above Plaintiffs William Dunlap individually and RBC FOUR CO. LLC., (“RBC”)
2 (collectively, “Plaintiffs” unless specifically complained as otherwise) complain against HIXSON METAL
3 FINISHING, a California Corporation; (“Hixson” or “Defendant”), and alleges as follows:

4 **FACTS RELEVANT TO ALL CAUSES OF ACTION**

5 **THE PARTIES**

6
7 1. This Complaint is a representative action brought by Plaintiffs in the public interest of the
8 citizens of the State of California, to enforce the Safe Drinking Water and Toxic Enforcement Act of 1986,
9 California Health and Safety Code Section 25249.5, *et seq.* (commonly known as “Proposition 65”).

10 2. Plaintiffs are all interested in the protection of our environment and enforcement of private
11 attorney general statutes to effectuate these goals.

12 3. Defendant Hixson Metal Finishing was, and at all times herein mentioned, is registered with
13 the California Secretary of State as a California Corporation with headquarters located at 817-853
14 Production Place, Newport Beach, California (“the Facility”). Hixson was, and at all times herein
15 mentioned is, the owner and operator of the Facility. The Facility is a multi-building complex containing
16 extensive metal polishing, anodizing, metal fabricating and production equipment.

17 4. Plaintiffs are informed and believe, and based upon information and belief allege, that
18 Defendant Does 1 through 100, inclusive, (hereinafter all said Defendant Does will collectively be referred
19 to as “Doe Defendants”), are each persons doing business within the meaning of Health & Safety Code
20 Section 25249.11.

21 5. Plaintiffs are unaware of the true names and capacities, whether individual, corporate,
22 associate, or otherwise, of Doe Defendants sued herein as does 1 through 100, inclusive, and therefore
23 sues said Doe Defendants by such fictitious names. Plaintiffs will seek leave of the Court to amend this
24 Complaint to allege the true names and capacities of said fictitiously named Doe Defendants when the
25 same have been ascertained. Said Doe Defendants are sued as principals, and all of the acts performed by
26 them as agents, servants and employees were performed within the course and scope of their authority and
27 employment.
28

1 11. Venue is proper in the Orange County Superior Court because: the Defendant Hixson is
2 headquartered in Orange County at 817-853 Production Place, Newport Beach, California; Defendants
3 have violated one or more laws as alleged herein in Orange County; Plaintiffs are located in Orange County
4 or previously lived near the Facility, and persons knowledgeable about the allegations herein (Plaintiff
5 William Dunlap) reside and/or resided in Southern California and in the midst of the most severe Cr VI
6 environmental contamination in the state.

7 12. Since at least February 27, 1998 Hixson failed to provide those persons that resided in
8 the immediate vicinity to its Facility and Plaintiffs still living adjacent to the Facility with a clear and
9 reasonable warning regarding all known carcinogens and reproductive toxins among Proposition 65
10 chemicals being released from the Hixson Facility.

11 13. As a result of Defendants' violations of Health and Safety Code section 25249.5 et seq,
12 Defendants are liable to the individual Plaintiffs and/or the state of CA.

13
14 **FIRST CAUSE OF ACTION:**
15 **DISCHARGE TO DRINKING WATER**
16 **PROPOSITION 65, H&S CODE 25249.5**
17 **(By RBC Four Co. LLC and**
18 **William Dunlap Individually)**

19 14. Plaintiffs re-allege and incorporate by reference as if specifically set forth herein Paragraphs
20 1 through 13 inclusive.

21 15. Proposition 65 states "no person in the course of doing business shall knowingly discharge
22 or release a chemical known to the state to cause cancer or reproductive toxicity into water or onto or into
23 land where such chemical passes or probably will pass into any source of drinking water, notwithstanding
24 any other provision or authorization of law except as provided in Section 25249.9." Plaintiff is informed
25 and believes, and based upon such information and belief alleges, that discharges of Chrome VI, carbon
26 monoxide, and other Proposition 65 chemicals from the Facility have entered into water or on land where it
27 has passed into a source or potential source of drinking water in violation of Health and Safety Code
28 section 25249.5.

1
2 16. On April 2, 2014, RBC and Dunlap sent the required 60-day notices of Proposition 65
3 violations to public agencies responsible for enforcement of these environmental laws and to Defendants or
4 their corporate agent for service, informing them that their Facility was exposing individuals and Plaintiffs
5 to carcinogens and reproductive toxins on the Proposition 65 list of chemicals, including Chrome VI and
6 carbon monoxide.

7
8 17. Said 60-day notices were filed with the Justice Department, and the Orange County District
9 Attorney. Only the Justice Dept, via the Attorney Generals Prop 65 enforcement office, has chosen to
10 pursue the claims of RBC on Sept 17, 2014, and only for failure to warn under § 25249.6 with respect to
11 Chrome VI and Business and Professions Code §17200, et seq. Neither of those first jurisdictional agencies
12 chose to enforce the RBC and Dunlap cause of action for discharges to sources of drinking water under
13 §25249.5 within said 60-day period pursuant to Health and Safety Code section 25249.7 (c). Plaintiffs
14 RBC/Dunlap are now within the authority of Health and Safety Code section 25249.7 (d) to pursue the
15 discharge violation and now seeks remedy as provided by law.
16

17 18. Plaintiff seeks to collect civil penalties against Defendants for violating the law under
18 Proposition 65; specifically Health and Safety Code section 25249.7 (b) and section 25249.9 and other
19 damages.
20

21 **SECOND CAUSE OF ACTION**
22 **(FAILURE TO WARN REGARDING CARBON MONOXIDE)**
23 **(By William Dunlap)**

24 19. Plaintiffs incorporate herein by reference, as if set forth in full, each of the
25 allegations contained in paragraphs 1 through 18, inclusive, herein above.

26 20. On information and belief, Defendants used carbon monoxide at the Facility after June 1989.
27 Carbon monoxide is listed on the Proposition 65 list of chemicals.
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21. Defendants failed to warn about these releases or discharges of carbon monoxide in violation of statute and no (current) action has addressed these violations.

WHEREFORE, Plaintiffs pray judgment against Defendants as follows:

1. For civil penalties according to proof;
2. For Attorneys' fees pursuant to Cal. Code of Civ. Pro. § 1021.5;
3. For costs of suit incurred herein; and
4. For such other and further relief as the Court deem proper.

Dated: Dec. 17, 2014

By: 
Kurt S. Bollin, Esq.
Attorney for Plaintiffs