

Paint Manufacturers Held Liable for \$1.1 Billion in California Lead Paint Case

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Attorneys

Joseph W. Cotchett

Sherwin-Williams Co., NL Industries Inc. and ConAgra Grocery Products LLC were ordered by a judge to pay \$1.1 billion to replace or contain lead paint in millions of homes after losing a public-nuisance lawsuit brought by 10 California cities and counties.

Superior Court Judge James Kleinberg in San Jose, California, on Tuesday tentatively ruled against the companies after a non-jury trial that lasted about five weeks. Two other defendants, Atlantic Richfield Co., a Los Angeles-based unit of BP Plc, and Wilmington, Delaware-based DuPont Co., won dismissal of the claims against them.

The local governments that sued, including Los Angeles County and the cities of San Diego and San Francisco, broke the companies' streak of victories in similar suits in seven other states. Los Angeles County will get \$605 million for lead abatement in the ruling.

Kleinberg rejected the manufacturers' arguments that paint was "not the whole problem," and that alternate sources of lead contribute to poisoning.

"Consistent with their arguments throughout the trial the defendants rely on statistics and percentages," Kleinberg wrote. "When translated into the lives of children that is not a persuasive position. The court is convinced there are thousands of California children in the jurisdictions whose lives can be improved, if not saved through a lead abatement plan."

15 Days

The companies were given 15 days to object to the ruling.

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If the ruling isn't overturned on appeal, which could take years, it could set a precedent for additional lawsuits, Ghansham Panjabi, a New York-based analyst at Robert W. Baird & Co. who recommends buying Sherwin-Williams shares, said in a note today. Sherwin-Williams could "easily" pay the penalty from free cash flow that exceeds \$750 million a year, he said.

Bonnie J. Campbell, a spokeswoman for the paint manufacturers, said in an e-mailed statement that Kleinberg's decision is "at odds with California law and judicial decisions across the country that have uniformly rejected similar public nuisance claims."

The ruling penalizes the manufacturers for "the truthful advertising of lawful products, done at a time when government officials routinely specified those products for use in residential buildings," and "rewards scofflaw landlords who are responsible for the risk to children from poorly maintained lead paint," according to the statement.

Mistrial, Appeal

The companies will file objections with the trial judge, Campbell said. If those aren't accepted, the defendants will ask for a new trial or mistrial, and if that's rejected, they will appeal, she said.

Public nuisance cases filed in Ohio, Rhode Island, Missouri, New Jersey, Illinois, New York and Wisconsin all were by courts or by a jury, or voluntarily dismissed, Campbell said.

ConAgra Grocery, a unit of the Omaha, Nebraska-based maker of Pam cooking spray and Chef Boyardee, said it will appeal. The judge found that ConAgra assumed the liabilities of W.P. Fuller & Co. as the result of a series of mergers.

"We are absolutely not an appropriate defendant," Lanie Friedman, a spokeswoman for ConAgra, said in an e-mail. "ConAgra Foods was never even in the paint business. As a food maker who employs thousands of people in California, we believe this case is an unfortunate example of extreme overreach." *(To read the entire article, please click [HERE](#))*