

CPM Prevails as Court Makes Final Ruling on \$1.15 Billion Award to Remove Lead Paint from Homes in CA Counties

2014

Santa Clara Superior Court Judge James P. Kleinberg issued his **final verdict** ordering Sherwin Williams, National Lead and ConAgra to pay **\$1.15 billion** into a fund to remove lead paint from homes in various counties and cities in California. This decision is the largest public nuisance award in history of the State of California and comes after 13 years of vigorous litigation. The case has already gone up to the Court of Appeal twice and the California Supreme Court once. The Court increased the final verdict and Judgment from the tentative **1.1 Billion** to **1.15 Billion** by increasing the amount payable for the cost of remediation.

The removal of lead paint will have a dramatic effect on the health of young children who live in homes in these counties, most of them poor and minority. The removal will prevent this toxic metal from damaging the children's kidneys, brains and nervous systems.

Joseph Cotchett of Cotchett, Pitre & McCarthy, who began this fight nearly 14 years ago stated that: *"All Californians should be outraged by the Lead Paint Industry's sour grapes statement that California is out of step with the country. California has made it clear that irresponsible corporations like Sherwin Williams are out of step with America . . . This is a landmark decision that will dramatically improve the lives of children throughout the state and holds the lead paint companies responsible for removing the toxic paint. The companies promoted lead paint while knowing that it was poisonous to children."*

Bela Matyas, a medical doctor and public health officer for one of the counties, stated: *"The number of children poisoned by lead remains unacceptably high, and if we are to make any further inroads in tackling this enormous problem we need to address the root of the problem: we need to abate the lead in older housing. This decision represents a huge*

Attorneys

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Practice Areas

Consumer Protection Class
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victory for our children and our communities throughout California. It also represents a huge victory for public health and for common sense.”

The court has now rejected the paint companies’ latest arguments contesting their liability after the judge’s tentative ruling of December 16, 2013. Judge Kleinberg stated: *“Consistent with their arguments throughout the trial the Defendants rely on statistics and percentages. 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.”*

The Judge found that Sherwin Williams, National Lead and ConAgra or their predecessors were liable for promoting lead paint while knowing of its poisonous effects on children. The medical literature and the companies’ own internal documents demonstrate that the companies knew by the early 1900s that lead paint was injurious to children. Although banned in 1978, lead paint remains on millions of homes in the Counties of Santa Clara, Alameda, Los Angeles, Monterey, San Mateo, Solano, and Ventura; the City and County of San Francisco; and the Cities of San Diego and Oakland, California.

The decision affects largely minority children of color as the houses affected are in poor neighborhoods throughout the state.

Nancy Fineman, a partner with the Cotchett firm who also tried the case, added that: *“For too long, government, home owners and parents had to pay the costs to stop lead poisoning. Now, those who created the nuisance are being responsible to help remedy the problem.”*

The case is *The People of the State of California v. Atlantic Richfield et al.*, Santa Clara Superior Court Case No. CV-788657.