

CPM Victory for Clients as California Supreme Court Denies Defendant Paint Companies Hearing In Lead Paint Poisoning Case

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On February 14, 2018, The California Supreme Court denied the petitions for review by Sherwin-Williams Company, NL Industries, Inc. and ConAgra Grocery Products Company LLC, in the lead paint case that allegedly caused lead poisoning in young children in several cities and counties in California.

On November 14, 2017, the California Court of Appeal affirmed a trial court's decision that defendants Sherwin-Williams, ConAgra and NL Industries are liable for public nuisance because they promoted lead paint for use in the inside of homes with knowledge that such promotion would create a serious risk of harm to children, in homes built pre-1950.

After 18 years of litigation, the Supreme Court upheld a judgment that defendants must pay into a fund for removal and abatement, which will be used to remove interior lead paint from homes in 10 California jurisdiction. The Trial Court found damages of over one billion dollars and the Appellate Court reduce the award to only pre-1950 homes.

As the Court of Appeal recognized, the public has a right to housing that does not poison children and "it cannot be that the highly insidious character of the public nuisance created by defendants renders it beyond the reach of a public nuisance abatement action." Interior residential lead paint has been causing and will continue to cause harm to children, the court stated. The Court of Appeal limited the homes subject to the abatement plan to the millions of homes built before 1951, the time when the defendants actively promoted lead paint for interior use.

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Joe Cotchett, of Cotchett, Pitre & McCarthy, one of the lead Co-Counsel trial lawyers for the cities and counties said, “This is a wonderful result for the children of our state who have been exposed to lead paint poisoning for decades. The time has come to remove the lead from our older homes. The delay is over.”