

Court Upholds Landmark Judgment for CPM Clients Against Sherwin-Williams, Conagra and NL Industries Ordering Removal of Lead Paint from Homes

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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.

The 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.

Joseph Cotchett of Cotchett, Pitre & McCarthy, who began this fight nearly 17 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 Sherman Williams are out of step with America . . . This Appellate decision will dramatically improve the lives of children throughout the state and holds the lead paint companies responsible for*

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removing the toxic paint. The companies promoted lead paint while knowing that it was poisonous to children” as found by the Trial Court.

The Trial 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 as the houses affected are in poor neighborhoods throughout the state.

The case is ***The People of the State of California v. Atlantic Richfield et al.***, Santa Clara Superior Court Case No. CV-788657 and Appellate Court Case No. H040880.

[Click here to read the Lead Paint Opinion.](#)