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After 13 years, a \$1.1 billion verdict for California counties in lead paint case

Ten California counties and cities receive massive award holding three corporations liable for poisoning California children

SANTA CLARA COUNTY, CALIF. --After a thirteen year legal battle that broke new legal ground, the County of Santa Clara, the City and County of San Francisco, and eight other California cities and counties won a \$1.1 billion judgment from the Santa Clara County Superior Court. The Honorable James P. Kleinberg ruled today that three lead paint manufacturers are jointly liable for the cost of removing their products from homes in the ten counties and cities that prosecuted the case.

The first complaint in this case was filed in 2000 by then-Santa Clara County Counsel Ann Ravel. Nine other cities and counties joined the litigation, and together they pursued the case aggressively for over a decade. Thirteen years of pre-trial maneuvers, appeals, false starts and delays finally ended Monday with a judgment that will allow local governments to eliminate the health hazards posed by lead paint in homes.

Santa Clara County – which will received \$99 million for lead inspection and remediation – has been the lead public entity in the case over the last thirteen years. “This is a tremendous victory not only for the many dedicated people that have worked tirelessly to reduce lead poisoning of young children, but for the parents and children who are still endangered by the lead paint in their homes,” said Santa Clara Assistant County Counsel Danny Chou. “The Court’s ruling holds lead paint manufacturers responsible for the danger that they created and sends a thundering message about the protection that California provides to its most vulnerable citizens.”

Santa Clara County’s co-plaintiffs were also extremely happy with the ruling. San Francisco City Attorney Dennis Herrera, celebrated a historic win for the City and County of San Francisco,

which will receive \$77 million for its lead remediation efforts. “This has been a long time in coming,” Herrera said. “We’re overjoyed for the people that will get help in righting a great wrong as we remove this harmful toxin and prevent untold harm to future generations of children. But the real legacy of this victory is that manufacturers now know that in California they’ll be held accountable if they put a harmful product into the stream of commerce. This ruling will have an effect on future corporate conduct that will protect consumers all across California, and hopefully beyond.”

During the trial the plaintiffs presented evidence that the three defendant companies aggressively promoted and sold lead paints for use in homes despite knowing that those paints were highly toxic, particularly to children. The Court ruled that NL Industries, ConAgra and Sherwin-Williams are liable for cleaning up the hazard they created. It ruled in favor of two other defendants, E.I. du Pont de Nemours, and Atlantic Richfield Company (ARCO).

The harmfulness of lead paint, especially to children, is so great and so conclusively proven that the California legislature declared in 1986 that lead exposure is “the most significant childhood environmental health problem in the state.” It also declared in 1999 that paint found on structures built prior to 1979 is presumed to be lead-based. There are more than 5 million homes in the plaintiff jurisdictions that fit that description. As the Court found, “thousands of children in the jurisdictions are still presently and potentially victimized by [lead paint].”

The plaintiffs are the County of Santa Clara, the County of Alameda, the City of Oakland, the City and County of San Francisco, the City of San Diego, the County of Los Angeles, the County of Monterey, the County of San Mateo, the County of Solano, and the County of Ventura. The plaintiffs are represented by their own County Counsel and City Attorney’s Offices, working in collaboration with the law firms of Cotchett Pitre & McCarthy LLP, Motley Rice LLP, Mary Alexander and Associates, and the Law Offices of Peter Earle.

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