

People of the State of California v. ConAgra Grocery Products Company

In 2000, the County of Santa Clara filed this landmark case to hold former lead paint manufacturers responsible for promoting lead paint for use in homes despite their knowledge that the product was highly toxic. Young children are especially vulnerable to lead poisoning, and lead paint is the predominance source of lead poisoning. There is no known level of exposure to lead that is considered safe, and the effects of lead poisoning are irreversible. Lower level exposure can result in reduced IQ and attention, and high level exposure can result in coma, convulsions and death.

Nine other California cities and counties joined the lawsuit, with the County of Santa Clara taking the lead role in prosecuting the case on behalf of the People of the State of California. The other cities and counties involved are the City and County of San Francisco, the Cities of Oakland and San Diego, and the Counties of Alameda, Los Angeles, Monterey, San Mateo, Solano, and Ventura.

In 2014, the Santa Clara County Superior Court issued a lengthy decision holding The Sherwin-Williams Company, ConAgra Grocery Products Company, and NL Industries, Inc. (collectively, “Manufacturers”) accountable for creating a public nuisance in the ten cities and counties involved in the lawsuit. The public nuisance created by these Manufacturers consists of the collective presence of lead paint in the interiors of homes in the ten cities and counties.¹ The

¹ Notably, the court did *not* find that lead paint on any individual property is a public nuisance.

Manufacturers were ordered to pay \$1.15 billion to fund (1) inspection for, and abatement of, lead paint and lead-contaminated dust from the interiors of homes and lead-contaminated soil around homes built in 1980 or earlier in the ten cities and counties, (2) remediation of any structural deficiencies in the homes that would cause the lead control measures to fail, and (3) public education and outreach necessary for the program. The ten cities and counties were designated to oversee the lead inspection and abatement program in their respective jurisdictions. Property owners’ participation would be entirely voluntary, and any unspent funds after four years would revert back to the Manufacturers.

In 2017, the Court of Appeal upheld the Superior Court’s determination that the Manufacturers were liable for creating a public nuisance in the ten cities and counties. (*People v. ConAgra Grocery Products Co.* (2017) 17 Cal.App.5th 51.) However, the Court of Appeal limited their responsibility to homes built before 1951 in the ten jurisdictions.

In February 2018, the California Superior Court announced that it would not review the Court of Appeal’s decision. The Manufacturers plan to further appeal the decision to the U.S. Supreme Court. In the meantime, however, the case is returning to the Superior Court to (1) calculate the amount that the Manufacturers must pay for pre-1951 homes only and (2) decide on a receiver to administer the fund and distribute the monies to the ten cities and counties.