

The Legal-EASE

News You Can Use from the City of Oakland Office of the City Attorney

The Legal-Ease is a regular series of essays by City Attorney John Russo to update the community on key projects, major initiatives and important legal developments in the Office of the City Attorney. This essay will be made available to neighborhood and community publications.

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A CENTURY OF WILLFUL NEGLIGENCE How the Lead Paint Industry Has Poisoned America's Children

By John Russo, Oakland City Attorney

Remember the enigmatic Mad Hatter from the surreal tale *Alice's Adventures in Wonderland*? Author Lewis Carroll derived this odd character from the "mad hatters" of his day—19th century hat factory workers who literally went mad from exposure to mercury, a neurotoxin used in the felting process. According to Purdue University, mercury poisoning causes "personality changes, nervousness, trembling, and even dementia."

Another well-known neurotoxin—lead—causes similar debilitating effects, particularly in children. Lead poisoning can cause brain damage, slowed growth, learning disabilities, mood changes, and behavioral problems.

Lead Hazards Known for Generations

The issue of lead poisoning is not a new one. Research shows that the poisonous effects of lead on the human body have been studied and understood by science since the 1700s. By the late 1800s, Australians documented lead poisoning in children who ingested lead-based paint chips from porch railings. By the early 1900s, the toxic effects of lead on children were so well known that several modern European nations, including France and Belgium, restricted the use of lead-based paint in 1909. Other European nations followed suit in the early 1920s.

Yet the United States did not ban lead in interior paint until 1978, almost 70 years after European countries acted to protect their children from the devastating and long-term impacts of lead.

The Lead Paint Industry Betrayed the Public's Trust

Why the delay? Because for nearly 100 years, the lead industry has willfully misled Americans. They aggressively promoted the use of lead in consumer products, including paint, while vehemently denying the well-known toxic effects of lead, particularly on children.

During the 1930s, 40s and 50s, as public awareness grew about the poisonous effects of lead, the paint industry launched numerous advertising and public relations campaigns to hide the truth and target their products to children, hospitals and schools, claiming that lead paint was safe, healthy and sanitary.

For example, the popular Dutch Boy trademark appealed to children and was used in coloring books to promote lead-based paint. A 1927 ad called "Finger Prints" showed a toddler finger painting a wall and extolled the virtues of Dutch Boy white-lead paint. The ad copy reads, "Painted walls are *sanitary*, cheerful and bright." Lead paint was widely used to paint children's cribs, windowsills and toys.

Under closer public scrutiny, the industry downplayed the health risks associated with lead-based paint, claiming that lead poisoning was a problem limited to the slums and caused by uneducated parents living in unsanitary conditions. The industry wielded this classic "blame-the-victim" approach to redirect responsibility away from the truth: that lead paint posed a significant health hazard, particularly to children.

Lead Poisoning is Serious AND Preventable

The facts are compelling:

- Lead poisoning is the number one environmental health threat faced by children in the United States today.
- Locally, the Alameda County Lead Poisoning Prevention Department estimates that there may be 7,900 lead-poisoned children living in the City of Oakland alone.
- There are 85,400 houses built prior to 1950 most likely painted with lead-based paint in the City of Oakland.

We now recognize that the problem of lead in our older homes, recreation centers, schools and public buildings *is* serious and *was* preventable. The risk of lead poisoning can be drastically reduced by eliminating lead paint from older

buildings. Remediation is many times cheaper than the medical costs associated with lead poisoning, not to mention the social costs of lead-poisoned children who grow up with limited cognitive abilities, lower paying jobs, and anti-social or aggressive behavior.

Fortunately for the public at large and especially for those who have suffered the harmful effects of toxic materials, this country has a well-established legal expectation that “the polluter pays.” This practice places the responsibility for public health squarely on the shoulders of those who profit from selling products known to be harmful. Tobacco, environmental contamination at Superfund sites and product liability cases are prime examples of how industry is held accountable in court for the damage caused by harmful products or industrial activities.

A Landmark Class Action Lawsuit

On January 22, 2001, I joined Louise Renne, San Francisco’s City Attorney, in a news conference announcing that Oakland and San Francisco would join a landmark class-action lawsuit against the manufacturers of lead paint. The lawsuit was initiated by Santa Clara County and includes Alameda, Solano, Santa Cruz and Kern counties.

As representatives of public agencies, we are charged with safeguarding the health and welfare of our community; likewise, we are responsible for demanding accountability from those who have violated the public trust and jeopardized public safety.

The lead paint industry demonstrated callous disregard for the health of our children; their actions were grossly negligent, willfully fraudulent and created a public nuisance which we as public agencies are burdened with resolving.

This class action lawsuit contends that the lead paint industry should be held accountable under product liability laws designed to protect consumers from harmful and dangerous products.

On behalf of the citizens of Oakland, I am pleased to join forces with San Francisco and the counties of Santa Clara, Alameda, Solano, Santa Cruz and Kern to hold the lead paint industry accountable for the poisoning of thousands of children during a century of willful deceit.

For more information about lead poisoning and prevention:

Alameda County Lead Poisoning Prevention Program

<http://www.aclppp.org>

National Safety Council

<http://www.nsc.org/library/facts/lead.htm>

U.S. Environmental Protection Agency

<http://www.epa.gov/opptintr/lead/index.html>

Coalition to End Childhood Lead Poisoning

<http://www.lead-safe.org>