

Lead paint: Courageous Bay Area counties fought for kids' health

By Dr. Bela Matyas Special to the Mercury News San Jose Mercury News

Posted:

MercuryNews.com

Santa Clara County Superior Court Judge James Kleinberg handed down a decision on Dec. 16 finding that three manufacturers of lead-based paint pigment had contributed significantly to the creation of a public nuisance, placing children at risk of lead poisoning.

This comes after 13 years of litigation of a suit brought by 10 California counties and cities -- including Santa Clara, San Mateo and Alameda counties -- against lead-based paint manufacturers to correct the enormous and widespread hazard they helped create that has resulted in tens of thousands of California children being harmed by lead each year.

Kleinberg carefully considered volumes of complex, often contradictory information, documents and testimony to render his decision. His thoughtful analysis is captured in the details of his written decision, and his wisdom in its conclusion.

Kleinberg has correctly ruled that children are significantly harmed by lead contained in paint in older housing in California, that the paint in question was actively sold by manufacturers even well after they were (or clearly should have been) aware of the harms of lead to children, and that the only reasonable remedy is to abate the leaded paint.

This trial has also demonstrated the usefulness of California's nuisance law as a vehicle to protect the public from harm.

At its core, Kleinberg's decision reinforces common sense: lead-based paint was widely sold for use in homes even though it was known to be harmful to children, and the industry responsible should help to reduce the risk it created.

The evidence that lead causes significant, permanent harm to young children is overwhelming. There is no safe level of lead in a child's body. There is overwhelming evidence that lead in the form of paint is widespread in our communities, represents the primary source of exposure for children and will eventually deteriorate and result in a hazard for children unless it is abated is similarly overwhelming.

Lead poisoning represents one of the most important environmental health problems we face in our communities. And lead poisoning is completely preventable. It is also an equity issue, disproportionately affecting poorer families and racial and ethnic minority communities.

As Kleinberg's decision notes, public programs using taxpayer dollars to address a hazard created by a for-profit industry have done what they reasonably can to address the childhood lead poisoning problem.

However, we continue to see tens of thousands of children in California harmed by lead

each year; the number of children annually identified with toxic levels of lead significantly exceeds the number of children reported with such common diseases as pertussis or with other important health issues.

The number of children poisoned by lead remains unacceptably high, and if we are to make any further inroads in tackling this enormous problem we need to address the root of the problem: we need to abate the lead in older housing.

The size of the proposed remedy, \$1.1 billion for the 10 counties and cities involved in the suit, is an indication of the scale of the problem. A very large amount of lead remains in older housing in California.

This decision represents a huge victory for our children and our communities. It also represents a huge victory for public health and for common sense. We greatly applaud Judge Kleinberg for his wisdom.

Dr. Bela Matyas is Solano County's public health officer. He wrote this for the Bay Area News Group.