

A.G. Whitehouse Sues Lead Paint Industry

Seeks Treatment, Education and Abatement

Documents Nearly a Century-Long Record of Industry Culpability

PAWTUCKET — Calling on the lead paint industry "to take responsibility and clean up its mess," Rhode Island Attorney General Sheldon Whitehouse has made his state the first in the nation to file suit against eight manufacturers of lead paint and the industry's trade association.

The 10-count lawsuit seeks damages to "get the lead out of Rhode Island's children, homes and buildings, by paying to treat children with lead poisoning, meet the education needs of affected children, and abate lead paint from buildings and homes.

"Every Rhode Island child knows, if you make a mess you are supposed to clean it up," said Whitehouse at a news conference today. "However, there is one difference," he added. "Children often make a mess by accident. Lead dust is in our homes by design. This silent, invisible poison is the result of intentional, deliberate, informed decisions by the lead paint industry."

"We are doing this for the health of Rhode Island's children," Whitehouse said, citing reports that this year, one in five kindergartners in the state — and nearly one in three children in Providence, Pawtucket, Woonsocket, Newport and Central Falls combined — have elevated lead levels in their blood.

"We know now that this industry knew lead paint was toxic dating back as early as 1904, yet promoted its use and profited by that use," Whitehouse charged. "It willfully made the mess that has endangered the health of many children and imposed great burdens on Rhode Island families and the State."

The lawsuit, filed yesterday in Rhode Island Superior Court, alleges that the defendants marketed and sold lead-based paint with the full knowledge that it was toxic.

For example, the complaint cites a 1904 Sherwin-Williams article warning that "white lead is poisonous in a large degree, both for the workmen and for the inhabitants of a house painted with white lead colors," but notes that the company subsequently made and sold lead paint until 1978 when lead was banned.

The lawsuit explains that, "By at least 1912, National Lead excluded women and children from working in its white lead processes because of risk of lead poisoning." Yet in 1923, National Lead's publication, "Dutch Boy Painter," claimed, "Lead Helps to Guard Your Health."

In 1930, the Lead Industries Association (LIA) acknowledged the dangers of lead paint on children's toys and furniture, and three years later "the LIA internally suggested that its members consider discontinuing the use of Lead on children's toys and furniture," according to the complaint. Yet in 1936, LIA member Glidden was recommending lead-containing "Jap-A-Lac" paint for children's furniture.

The 10 counts in Rhode Island v. Lead Industries Association, et als allege Public Nuisance, Violation of Rhode Island Unfair Trade Practice and Consumer Protection Act, Strict Liability, Negligence, Negligent Misrepresentations and Omissions, Fraudulent Misrepresentations and Omissions, Civil Conspiracy, Unjust Enrichment, Indemnity, and Equitable Relief to Protect Children.

The relief demanded by the State of Rhode Island includes:

Ø Damages to compensate the State for lead-poisoning related health, education and abatement costs;

Ø Punitive damages;

Ø Funding of a lead-poisoning public education campaign and "lead-poisoning detection and preventative screening programs in the State";

"Judgment ordering the Defendants to detect and abate Lead in all residences, schools, hospitals, and public and private buildings within the State accessible to children"; and

Ø "An order awarding the State such other extraordinary, declaratory and/or injunctive relief . . . to assure that the State has an effective remedy" to the problem of lead poisoning.

The defendants in this case are: the Lead Industries Association (a lead industry trade group), and eight manufacturers: American Cyanamid Company, Atlantic Richfield Company, E.I. duPont De Nemours and Company, The O'Brien Corporation, The Glidden Company, NL Industries, Inc., SCM Chemicals, and The Sherwin-Williams Company.

The civil law suit will be prosecuted on behalf of the State for ½ the standard contingency fee by Leonard Decof, Esq. of Decoff & Grimm (Providence), Jack McConnell of Ness, Motley, Providence, and by Special Assistant Attorney General Linn Freedman.