

## Asphalt Roofing Contractors Settle Cases Brought by Attorney General and Consumer Advocacy Group

A landmark "opt-in" settlement has been reached in a case brought against roofing contractors by the Attorney General of California and a parallel "bounty-hunter" suit by Consumer Advocacy Group, Inc. ("CAG"). *People of the State of California v. Blue's Roofing Company, Inc., et al., RG 03-082954; Consumer Advocacy Group, Inc., v. Blue's Roofing Company, et. al., RG 03-083526 (Alameda County)*. The settlements allow hundreds of California roofing contractors to resolve liabilities arising from Proposition 65 warning claims and establish uniform warning methods for roofing operations.

The settlement of these cases should resolve the Proposition 65 controversy that began in December, 2001, when Consumer Advocacy Group served hundreds of Notices of Intent to Sue on roofing contractors throughout California, shortly before regulations implementing the Proposition 65 "certificate of merit" requirement took effect. CAG and another Proposition 65 "citizen enforcer" organization, Environmental World Watch, served subsequent notices in March and April, 2002, accompanied by certificates of merit.

The Attorney General sued five contractors on February 14, 2003, alleging that roofers are exposed to one Proposition 65-listed chemical, and that warnings provided to employees were not adequate to comply with Proposition 65 requirements for these "occupational" exposures. CAG filed its suit against the same contractors on February 20, 2003, alleging violations of the Proposition 65 warning requirement for "consumer product," "occupational," and "environmental" exposures and derivative violations of California's Unfair Competition Law, and seeking civil penalties, attorneys' fees and injunctive relief. The settlements were executed in December, 2003.

The National Roofing Contractors Association and its California affiliates negotiated the settlements on behalf of the named defendants and member companies. Key features of both agreements allow all contractors to settle as "Doe" defendants on identical terms. The Attorney General's settlement allows contractors to "opt in" by agreeing to incorporate Proposition 65 warnings in their employee training programs and to post workplace warning signs, and by reimbursing the State's attorneys' fees and costs. The CAG settlement reiterates the same requirements, and provides an opportunity for opt-in defendants to resolve remaining claims.

### Contact Info

If you would like more information, please contact any of the McKenna Long & Aldridge attorneys with whom you regularly work. You may also contact:

#### San Francisco:

415.267.4000

**Stanley W. Landfair**

**Ann G. Grimaldi**

**Eric S.C. Lindstrom**

#### Los Angeles:

213.688.1000

**Charles H.**

**Pomeroy**

**Michael J. Stiles**

#### Washington, DC:

202.496.7500

**Charles A.**

**O'Connor, III**

**Peter L. Gray**

#### Atlanta:

404.575.1900

**William L. Floyd**

**James D. Levine**

All California roofing contractors are well-advised to review the settlement agreements and consider opting in. Any contractor who does not opt in may be sued separately by the Attorney General or by CAG. For further information, please contact one of the attorneys above.

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