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14
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **IN AND FOR THE COUNTY OF SANTA CLARA**

17 THE PEOPLE OF THE STATE OF)
18 CALIFORNIA, acting by and through Santa)
19 Clara County Counsel Miguel Márquez;)
20 San Francisco City Attorney Dennis Herrera;)
21 Alameda County Counsel Richard Winnie;)
22 Los Angeles County Counsel Andrea Sheridan)
23 Ordin; Monterey County Counsel Charles)
24 McKee; Oakland City Attorney John Russo;)
25 San Diego City Attorney Jan Goldsmith; San)
26 Mateo County Counsel Michael Murphy;)
27 Solano County Counsel Dennis Bunting; and)
28 Ventura County Counsel Leroy Smith,)

Plaintiff,)

v.)

26 ATLANTIC RICHFIELD COMPANY,)
27 successor-in-interest to International Smelting)
28 and Refining Company, Anaconda Lead)
Products Company, Anaconda Sales Company,)
Anaconda Copper Mining Company, and)

CASE NO. 1-00-CV-788657

**FOURTH AMENDED COMPLAINT
FOR: PUBLIC NUISANCE**

1 International Lead Refining Company;)
2 CONAGRA GROCERY PRODUCTS)
3 COMPANY, successor-in-interest to W.P.)
4 Fuller Company, the W.P. Fuller Paint)
5 Company, and WPF, Inc., a corporation; E.I.)
6 DU PONT DE NEMOURS AND COMPANY,)
7 a corporation; NL INDUSTRIES, INC.,)
8 formerly known as the National Lead)
9 Company, a corporation; THE)
10 SHERWIN-WILLIAMS COMPANY, a)
11 corporation; and DOES 1-50, inclusive,)
12)
13 Defendants.)
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V. CAUSE OF ACTION

 (Public Nuisance On Behalf of the People of the State of California)
 (Against All Defendants) 19

VII. PRAYER FOR RELIEF 21

I.

INTRODUCTION

1
2
3 1. The presence of lead products for use in paint and coatings (hereinafter "Lead") in, on
4 and around homes and buildings throughout the State of California has caused a massive public
5 health crisis in the State of California. Lead poses serious health hazards which include causing
6 acute and chronic damage to the renal system and red blood cells as well as affecting the
7 development of the brain and nervous system in the unborn and in children under six (6). In
8 utero and childhood exposure to Lead causes difficulty in learning and behavioral problems that
9 can persist for life.

10 2. Lead poisoning knows no geographic, cultural or class boundaries; all are at risk. As
11 the director of the Centers for Disease Control and Prevention has stated:

12 Children are particularly susceptible to lead's toxic effects. Lead
13 poisoning, for the most part, is silent: most poisoned children have no
14 symptoms. The vast majority of cases, therefore, go undiagnosed and
15 untreated. Lead poisoning is widespread. It is not solely a problem of
16 inner city or minority children. No socioeconomic group, geographic area,
17 or racial or ethnic population is spared.

18 3. In response to this public health crisis, County Counsel and City Attorneys from
19 throughout the State of California ("the Prosecuting Entities") have brought this action on behalf
20 of the People of the State of California to remedy the devastation caused by Lead poisoning, a
21 clear and present danger to the health and well-being of people throughout the State of
22 California, particularly millions of children. This Fourth Amended Complaint sets forth a public
23 nuisance claim seeking an order requiring abatement of all Lead from private and public homes,
24 buildings, and property in the Prosecuting Entities' jurisdictions. The Prosecuting Entities bring
25 this claim to protect the public health as statutorily appointed representatives of the People of the
26 State of California pursuant to California Code of Civil Procedure section 731.

27 4. Defendants are the former manufacturers, distributors, and promoters of Lead. As
28 detailed below, the Defendants created and/or assisted in the creation of this nuisance by, among
other things, concealing the dangers of Lead, mounting a campaign against regulation of Lead,

1 and promoting Lead for interior and exterior use even though Defendants had known for nearly a
2 century that such use of Lead was hazardous to human beings.

3 5. The damage caused by Lead is a public welfare problem. All of society is damaged
4 from the effects of Lead. Children who are injured by Lead have extra medical and educational
5 needs. Societal costs of Lead poisoning include lowered productivity, increased need for special
6 education services, substantial reductions in lifetime earnings, and anti-social behavior. The
7 People have been directly injured due to Defendants' century-long scheme of promoting
8 misinformation and material falsehoods which caused and continue to cause governments to
9 expend money in an effort to arrest the harms and remedy the hazards caused by Defendants'
10 Lead. This suit seeks to hold the makers of Lead responsible for the harm they have caused.

11 **II.**

12 **VENUE AND JURISDICTION**

13 6. Venue is proper in this Court pursuant to California Code of Civil Procedure section
14 394 because Defendants are residents of Santa Clara County for venue purposes since they
15 conduct business in the County and the wrongful acts and damages complained of herein
16 occurred in part in Santa Clara County.

17 7. Jurisdiction is proper in this Court because Defendants have contributed to the
18 creation of a public nuisance in California and the Prosecuting Entities have the right and
19 authority to seek abatement of that nuisance on behalf of the People of the State of California.

20 **III.**

21 **THE PARTIES**

22 **A. PLAINTIFF**

23 8. Plaintiff, the People of the State of California ("the People"), by and through the
24 County Counsel of Santa Clara, Alameda, Los Angeles, Monterey, San Mateo, Solano and
25 Ventura Counties and the City Attorneys of Oakland, San Diego, and San Francisco, bring this
26 suit pursuant to California Code of Civil Procedure section 731, and California Civil Code
27 sections 3479, 3480, 3491, and 3494 to abate the public nuisance caused by Lead in the
28 Prosecuting Entities' respective jurisdictions.

1 **B. DEFENDANTS**

2 9. Defendant ATLANTIC RICHFIELD COMPANY, the successor-in-interest to
3 International Smelting and Refining Company, Anaconda Lead Products Company, Anaconda
4 Sales Company, Anaconda Copper Mining Company, and International Lead Refining Company,
5 is a Delaware corporation with its principal place of business in Illinois.

6 10. Defendant CONAGRA GROCERY PRODUCTS COMPANY, as a
7 successor-in-interest to W.P. Fuller Company, the W.P. Fuller Paint Company, and WPF, Inc., is
8 a Delaware corporation with its principal place of business in Nevada.

9 11. Defendant E.I. DU PONT DE NEMOURS AND COMPANY, is a Delaware
10 corporation with its principal place of business in Delaware.

11 12. Defendant NL INDUSTRIES, INC., formerly known as the National Lead Company
12 (“NATIONAL LEAD”), is a New Jersey corporation with its principal place of business in
13 Texas.

14 13. Defendant THE SHERWIN-WILLIAMS COMPANY, is an Ohio corporation with its
15 principal place of business in Ohio.

16 14. Defendants ATLANTIC RICHFIELD COMPANY, successor-in-interest to
17 International Smelting and Refining Company, Anaconda Lead Products Company, Anaconda
18 Sales Company, Anaconda Copper Mining Company, and International Lead Refining Company,
19 CONAGRA GROCERY PRODUCTS COMPANY, successor-in-interest to W.P. Fuller
20 Company, the W.P. Fuller Paint Company, and WPF, Inc., E.I. DU PONT DE NEMOURS AND
21 COMPANY, NL INDUSTRIES, INC., formerly known as the National Lead Company, THE
22 SHERWIN-WILLIAMS COMPANY, and their agents, servants, aiders and/or abettors and
23 co-conspirators (collectively referred to herein as the “Lead Manufacturing Defendants” or
24 “Defendants”) manufactured, processed, marketed, promoted, supplied, distributed, and/or sold
25 all or substantially all Lead during the relevant time period.

26 **C. DOE DEFENDANTS**

27 15. The true names and capacities, whether individual, corporate, associate, or otherwise
28 of Defendants Does 1 through 50, inclusive, are unknown to the People, who therefore sue said

1 Defendants by such fictitious names pursuant to California Code of Civil Procedure section 474.
2 Does 1 through 10, inclusive, are other Lead manufacturers engaged in the business of, or were
3 successors-in-interest to entities engaged in the business of, researching, formulating, testing,
4 manufacturing, producing, distributing, marketing, promoting, advertising for sale, and/or selling
5 Lead. Does 11-50 are other individuals, corporations, or other business entities. The People are
6 informed and believe, and on that basis allege, that each of the fictitiously named Defendants is
7 responsible in some manner for the acts and occurrences herein alleged, and contributed to the
8 creation of the public nuisance alleged herein.

9 **D. AGENTS OF EACH**

10 16. At all times herein mentioned, each of the Defendants was the agent, servant, partner,
11 aider and abettor, co-conspirator, and/or joint venturer of each of the remaining Defendants
12 herein and were at all times operating and acting within the purpose and scope of said agency,
13 service, employment, partnership, conspiracy, and joint venture and rendered substantial
14 assistance and encouragement to the other Defendants, knowing that their conduct was wrongful
15 and/or constituted a breach of duty.

16 **IV.**

17 **FACTUAL BACKGROUND**

18 17. Lead is an inherently dangerous product.

19 18. Lead is hazardous because exposure of children to Lead causes severe and permanent
20 injuries, including, but not limited to learning disabilities, decrements in intelligence, and deficits
21 in a wide range of neuropsychological areas including visual motor skills, fine motor skills,
22 verbal skills, attention and concentration, memory, comprehension and impulse control. It can
23 also cause coma, seizure and death.

24 19. The California Legislature has declared that "childhood lead exposure represents the
25 most significant childhood environmental health problem in the state today." It further found:

26 that too little is known about the prevalence, long-term health care costs,
27 severity, and location of these problems in California; that it is well known
28 that the environment is widely contaminated with lead; that excessive lead
exposure causes acute and chronic damage to a child's renal system, red
blood cells, and developing brain and nervous system; that at least one in

1 every 25 children in the nation has an elevated blood lead level; and that
2 the cost to society of neglecting this problem may be enormous.

3 The Legislature further finds and declares that knowledge about where and
4 to what extent harmful childhood lead exposures are occurring in the state
5 could lead to the prevention of these exposures, and to the betterment of
6 the health of California's future citizens. Therefore, it is the intent of the
7 Legislature in enacting this article to establish a state Childhood Lead
8 Poisoning Prevention Program within the department to accomplish all of
9 the following:

10 (a) To compile information concerning the prevalence, causes, and
11 geographic occurrence of high childhood blood lead levels.

12 (b) To identify and target areas of the state where childhood lead
13 exposures are especially significant.

14 (c) To analyze information collected pursuant to this article and, where
15 indicated, design and implement a program of medical follow up and
16 environmental abatement and follow up that will reduce the incidence of
17 excessive childhood lead exposures in California.

18 Health & Safety Code § 124125 (emphasis added).

19 20. The Legislature also has determined that “[l]ead poisoning poses a serious health
20 threat for significant numbers of California children” and that “[l]evels of lead found in soil and
21 paint around and on housing constitute a health hazard to children living in the housing.” Health
22 & Safety Code §124150 (c) & (e).

23 21. Although the use of Lead was banned for residential use in the United States in 1978,
24 Lead is still present in, on and around many homes, schools, hospitals and other public and
25 private buildings throughout California. This Lead is the primary source of lead poisoning in
26 California's children and poses a health hazard to citizens of California.

27 22. The Journal of Applied Toxicology in its May-June 1999 issue published a study
28 entitled “Neurodevelopmental evaluation of 9-month-old infants exposed to low levels of lead in
uterio: involvement of monoamine neurotransmitters.” This study revealed that low-level Lead
exposure in utero could harm brain development and sociability.

29 23. Other recent studies focused on the risks to children from low-level Lead exposure.
30 The Journal of Developmental and Behavioral Pediatrics in its December 1999 issue published a
study entitled “Low-level lead exposure and cognitive development in early childhood” which
found that exposure to Lead caused deleterious health effects even at very low levels, and which

1 concluded that public health entities should continue its efforts to reduce the Lead burden
2 through environmental control and ongoing surveillance. Another study entitled "Low-level
3 lead-induced neurotoxicity in children: an update on central nervous system effects," published
4 in July 1998 in Brain Research Reviews, concluded that there is no threshold below which Lead
5 remains without effect on the central nervous system.

6 24. In the November 1998 issue of Environmental Health Perspectives, a study entitled
7 "Exposure of the U.S. population to lead, 1991-1999" concluded that almost 900,000 children in
8 the United States continue to have excessive blood Lead levels, and encouraged the government
9 to undertake new efforts to address the difficult problem of Lead.

10 25. In the May-June 1998 issue of the Canadian Journal of Public Health, a study entitled
11 "Issues in developmental neurotoxicology: interpretation and implications of the data"
12 dramatically stated the harm caused by childhood exposure to lead, concluding that a 1
13 microgram/dL decrease in blood lead concentration in children in the United States with raised
14 blood lead levels would result in a savings of 5-7.5 billion dollars a year in increased earning
15 power.

16 26. In 1998, it was learned that exposure to Lead can cause damage to the heart. A study
17 in the September 1998 issue of the American Journal of Cardiology entitled
18 "Electrocardiographic conduction disturbances in association with low-level lead exposure (the
19 Normative Aging Study)" concluded that cumulative exposure to Lead may be more toxic than
20 previously thought and that, even at low levels, exposure to Lead may damage heart functions.

21 27. A 1999 study entitled "Lead and hypertension in a sample of middle-aged women,"
22 published in the American Journal of Public Health, found that low-level Lead exposure is a risk
23 factor for hypertension in women.

24 **A. DEFENDANTS' KNOWLEDGE OF THE DANGERS OF LEAD**

25 28. In 1907, an account of a case of childhood lead poisoning was published in the United
26 States. Before that date, numerous reports of childhood lead poisoning were published in other
27 countries. Between 1904 and 1955, scores of articles were published in medical and scientific
28 literature relating to the health hazards of Lead exposure.

1 29. The Defendants also had actual knowledge that Lead is hazardous to human health.
2 The Defendants obtained knowledge of the hazards of their Lead products independently and
3 through membership and involvement in trade associations.

4 30. Notwithstanding their knowledge, the Defendants made affirmative
5 misrepresentations about the safety of Lead, failed to disclose the knowledge that they had, and
6 took active steps to discredit any information that suggested that Lead was hazardous.

7 31. For example, in 1904, Defendant THE SHERWIN-WILLIAMS COMPANY
8 published an article in its internal magazine reporting that white Lead had been found to be
9 “poisonous in a large degree, both for the workmen and for the inhabitants of a house painted
10 with lead colors,” and that a French report had recommended that zinc-based paints be used
11 instead. Defendant THE SHERWIN-WILLIAMS COMPANY began manufacturing white Lead
12 six years after this article was published.

13 32. Defendant NL INDUSTRIES, INC.’s predecessor NATIONAL LEAD excluded
14 women and children from working with its Lead processes because of the risks of poisoning as
15 early as 1912, yet it continued to manufacture Lead for use in homes.

16 33. Defendant NL INDUSTRIES, INC.’s predecessor NATIONAL LEAD, Defendant
17 THE SHERWIN-WILLIAMS COMPANY, and others were members of a trade association
18 called National Paint, Varnish, and Lacquer Association (“NPVLA”). In 1939, the Executive
19 Committee of the NPVLA sent a letter stating “CONFIDENTIAL Not For Publication” to its
20 members stating that white Lead pigments were toxic, and further observing that “children’s
21 toys, equipment, furniture, etc. are not the only consideration.” The memo also warned its
22 members about their potential legal liability: a “manufacturer who puts out a dangerous article or
23 substance without accompanying it with a warning as to its dangerous properties is ordinarily
24 liable for any damage which results from such failure to warn.”

25 34. The Defendants also had knowledge and obtained knowledge of Lead’s hazardous
26 properties through the LEAD INDUSTRIES ASSOCIATION, INC. (“LIA”), which was
27 organized in 1928. LIA is a New York corporation, with its principal place of business in the
28 State of New York. It is presently under the protection of the bankruptcy laws of the United

1 States. From at least 1928 through the present, the LIA was the agent, servant, employee, alter
2 ego, co-conspirator, aider and/or abettor of one or more of the Lead Manufacturing Defendants
3 and acted individually and/or within the scope of its agency, servitude, employment and
4 conspiracy.

5 35. By 1931, each of the Lead Manufacturing Defendants, except E.I DU PONT DE
6 NEMOURS AND COMPANY, was a member of the LIA.

7 36. The LIA provided information to the Defendants concerning the dangers of Lead by at
8 least 1930 when the Lead industry internally acknowledged the dangers of Lead used on
9 children's toys and furniture.

10 37. In about 1933, the LIA advised the Lead Manufacturing Defendants that they should
11 consider discontinuing the use of Lead on children's toys and furniture because of the hazards
12 that Lead posed. The Lead Manufacturing Defendants disregarded this warning and the LIA
13 assisted them in concealing the information from the public.

14 38. In 1955, the Director of "Health and Safety" of the LIA explained the problem of
15 Lead poisoning to the Lead Manufacturing Defendants as follows:

16 Childhood lead poisoning is common enough to constitute perhaps my
17 major "headache," this being in part due to the very poor prognosis in
18 many such cases, and also to the fact that the only real remedy lies in
19 educating a relatively ineducable category of parents. It is mainly a slum
20 problem with us, estimated by Kehoe to run into four figures annually, and
21 as we have no monopoly on either substandard housing or substandard
22 mentalities in the USA.

23 39. In 1958, the LIA Quarterly Report informed the Lead Manufacturing Defendants
24 about the costs to society of Lead poisoning. Quoting from a letter written by the Baltimore
25 Commission of Health, the report stated:

26 A tragic note was struck in the city's health picture on Monday of this
27 week when a two-year old died of lead paint poisoning. . . Any
28 preventable death is a tragic circumstance, but in lead paint poisoning in
children, the outlook is bleak for those who do not recover from the
disease. There may be permanent brain damage and paralysis, and the
child becomes a life-long drain on the family, if it can bear the expense
and the mental stain, or on the community.

1 40. The LIA's response is summarized in a different part of the report:

2 One can readily understand why, to the operator of a smelter in California
3 or a lead products plant in Texas, the doings of slum children in our
4 eastern cities may seem of little consequence, and it is with the hope of
5 emphasizing the adverse effects on the Lead Industries, in terms of
6 continuing detrimental publicity, of the extremely difficult problem of
7 childhood lead poisoning.

8 41. Defendants' callous attitude towards the problem and their self-serving concern, not
9 about the lives of children, but of the adverse publicity that they would receive, is set forth quite
10 frankly in another section of the report:

11 Childhood Lead Poisoning - This seemingly unending problem of lead
12 poisoning in small children, mainly confined to the slums of our older
13 cities, is a continuing study and preventive effort . . . [I]t must be borne in
14 mind that every such case is a potential source of damaging publicity,
15 and that many of the surviving children may be permanently mentally
16 retarded.

17 42. By 1930, there were safe and feasible alternatives to Lead including zinc oxide,
18 titanium pigments, and lithopone pigments. Lithopone production surpassed that of white Lead
19 in 1926. Titanium pigments were first produced commercially around 1918, and by 1932,
20 NATIONAL LEAD's own sales of titanium pigments exceeded the total sales of white Lead by
21 all manufacturers. In the mid-1930's, Defendant THE SHERWIN-WILLIAMS COMPANY
22 concluded that there were better and cheaper white pigments suitable for use in most interior
23 paints. Even though there were feasible alternatives to Lead by 1930, Defendants continued to
24 manufacture, promote, and advertise Lead.

25 43. The Defendants should have known since the early 1900's that Lead is hazardous to
26 human health.

27 **B. DEFENDANTS' AFFIRMATIVE CONDUCT CREATED A HAZARDOUS**
28 **CONDITION**

44. Despite Defendants' knowledge of the serious hazards of Lead, they engaged in a
successful course of conduct to assure the public.

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1 **1. REPRESENTATIONS THAT LEAD WAS SAFE AND EFFECTIVE**

2 45. Magazines and other periodicals from the early part of the 20th century through the
3 early 1970s demonstrate a concerted effort by the Lead Manufacturing Defendants to
4 misrepresent the benefits of Lead and omit the life-threatening health hazards Lead causes. The
5 Defendants continually emphasized the benefits of Lead for toys and the exteriors and interiors of
6 homes, playgrounds, schools, hotels, hospitals, and office buildings – many of the places
7 frequented by children.

8 46. For example, the October 1920 issue of The Dutch Boy Painter (copies of the
9 sections cited are attached to this Fourth Amended Complaint as Exhibit A) displayed photos of
10 Episcopal Hospital, Philadelphia; St. Luke's Hospital, New York; Hotel Statler, Cleveland; the
11 Washington, D.C. home of Senator L. Heisler of Delaware; Port Huron (Michigan) High School;
12 and the Balfour building in San Francisco -- and bragged that all buildings utilized Dutch Boy
13 Lead.

14 47. An earlier The Dutch Boy Painter, self-described as “a magazine devoted to the
15 interest of good painting,” ran similar photos in one of its 1916 editions (copies of the sections
16 cited are attached to this Fourth Amended Complaint as Exhibit B) in which it boasted that
17 “eighteen tons of Dutch Boy white lead paint” was used at New Central High School in
18 Washington, D.C. and that the same paint graced the home of “Mrs. Mary W. Harriman, widow
19 of the renowned E.H. Harriman.”

20 48. The Defendants never disclosed that Lead could cause brain and nervous system
21 disorders, damage to the renal system, difficulty in learning, and behavioral problems.

22 49. Instead, Defendants' advertising campaigns misrepresented Lead as a safe pigment for
23 paints.

24 50. For example, in 1918, a NATIONAL LEAD advertisement explained “How Paint
25 Protects Public Health.”

26 51. In 1923, NATIONAL LEAD proclaimed: “Lead Helps To Guard Your Health.” The
27 same year, Defendants also stated: “White lead is invaluable in assuring comfort and proper
28 sanitation, its best-known and most widespread use is as white lead in paint” and “If a wall is

1 covered with a good water proof coat of paint such as produced with white-lead-oil, its smooth
2 surface is easily washed and need never afford a resting place for germs. That is why every inch
3 of a surface in a hospital is painted.”

4 52. In 1928, NATIONAL LEAD represented: “In short we recommend pure lead paint
5 without reservation as a safe, time-tested paint to use on your home.”

6 53. Other NATIONAL LEAD ads stated: “Remember, also, that the more white-lead you
7 use, the better the paint,” “The highest protective power is found in those paints which contain
8 the most white lead,” and “lead is a lasting metal . . .”

9 54. NATIONAL LEAD also aimed its ads specifically at children by telling its retailers,
10 “Do Not Forget the Children – Someday They May Be Customers.” NATIONAL LEAD
11 recognized and capitalized on the strong appeal that its paint had on children:

12 The appeal [of the Dutch Boy] was particularly strong to children and the
13 company has never overlooked the opportunity to plant the trademark
14 image in young and receptive minds. One of the most successful
15 promotions for many years was a children’s paint book containing paper
16 chips of paint from which the pictures (including, of course, several Dutch
17 Boys) could be colored.

18 55. NATIONAL LEAD devised a marketing campaign aimed at children using children
19 dressed in Dutch clothing. For example, in 1930, it distributed a coloring book which contained
20 the following poem: “The girl and boy felt very blue. Their toys were old and shabby too, They
21 couldn’t play in such a place; The room was really a disgrace.”

22 56. Another ad (a copy of which is attached to this Fourth Amended Complaint as Exhibit
23 C) shows the little Dutch Boy and makes the following representations:

24 Let it RAIN! Lead paint sheds water like a duck’s back. Everybody talks
25 about the weather, but nobody does anything about it. . . . Rain, snow, sun
26 – all the causes of weathering and deterioration, are turned aside when
27 they strike the protective film of an all-lead paint. Boards can’t warp and
28 decay when protected with Dutch Boy white-lead paint. Made from the
metal lead, Dutch Boy white-lead paint is impervious to moisture. Spread
over any surface, it forms a tough yet resilient film that will not crack with
expansion and contraction. Instead, this long-lasting paint film wears
down gradually and evenly, making repainting easy.

1 57. Defendant THE SHERWIN-WILLIAMS COMPANY also touted what it called the
2 “sanitary” aspects of its paint. The Home Painting Manual, copyright 1922 by Defendant THE
3 SHERWIN-WILLIAMS COMPANY (copies of the sections cited are attached to this Fourth
4 Amended Complaint as Exhibit D), said on page 15: “Well painted buildings are necessary to
5 the most sanitary conditions possible. Paint resists moisture, vermin, germ life.” “Paint meets
6 the problem of sanitation at its source; accomplishing its results by the prevention rather than the
7 destruction of filth. Nothing more need be said on this subject, as certainly everybody wants his
8 home to be as sanitary as possible.” The manual also said on page 24: “SWP (Sherwin-
9 Williams Paint, Prepared) is a correct combination of oxide of zinc, carbonate of lead, sulphate
10 of lead and pure linseed oil, with the necessary turpentine and drier. These materials are all of
11 the highest quality and are intelligently and scientifically handled so as to give the maximum
12 paint value in each can and color.”

13 58. An advertisement of Defendant THE SHERWIN-WILLIAMS COMPANY in 1922
14 represents that Lead should be used for toys. In 1924, one of its advertisements gave the
15 following testimonial: “Cousin Susie says her health improved instantly after painting her home
16 with lead-containing paints.” In 1936, Defendant THE SHERWIN-WILLIAMS COMPANY
17 represented that its “semi-Lustre” paint was unexcelled for nurseries, recreational rooms, and
18 other rooms in the house.

19 59. Each of the other Defendants made similar representations about the safety of Lead
20 through advertisements, promotions, and marketing efforts.

21 **2. LEAD INDUSTRIES ASSOCIATION ADVERTISED ON BEHALF OF THE**
22 **DEFENDANTS THAT LEAD WAS SAFE AND EFFECTIVE**

23 60. Each of the Defendants’ promotion and marketing efforts was assisted by the efforts
24 of their trade association, the LIA. Acting on behalf of the individual Lead Manufacturing
25 Defendants, the LIA engaged in a long-term course of conduct to misrepresent, omit, and conceal
26 the dangers of Lead.

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* * *

Remember, white lead is made from lead – a metal that’s second to none in durability, in resistance to exposure. White lead endows a paint with this same toughness and ‘weather ability.’

* * *

White lead is also the backbone of other quality paints. In buying exterior paint it is a safe rule to follow: ‘the higher the lead content, the better the paint.’

67. In Lead in Modern Industry, published in 1952, the LIA misrepresented:

“[W]hite lead . . . has practically no undesirable qualities to nullify its advantages [T]he profitable application of white lead is not confined to exterior use. Pure white lead paints can be utilized to advantage for interior decoration. (Emphasis added).

68. When issues were raised about Lead poisoning of children, the LIA was strident in falsely claiming that “most inside paints and paints used by manufacturers on children’ furniture and toys contained no lead.”

69. In 1946, Felix Wormser, the first Secretary and Treasurer of the LIA, presented a paper entitled “Facts and Fallacies Concerning Exposure to Lead.” In this paper, and despite his and the LIA’s knowledge that Lead was dangerous to human health, Wormser claimed: “[c]onsidering the thousands and thousands of homes painted and protected with white lead and the rare and doubtful occurrence of any lead poisoning to the public because of its use, I think that the record here is also in favor of lead.”

70. A report from the 1954 annual meeting of the LIA describes some of the activities which the LIA carried out to suppress true information about the dangers of Lead:

Hygiene: The following is a summary of our principal activities in the field of lead hygiene in 1953. The importance of this work is tremendous in preventing undue discrimination against lead.

1. Childhood lead poisoning continues to be our major “headache” and source of adverse publicity. Threats of poison labeling regulations for lead paints have come from health authorities in New York, Chicago, and some other cities. We are working with the Paint Association to combat these moves.
2. The research on childhood plumbism at Johns-Hopkins, supported by our grant of \$10,000 was completed in October and a report is expected momentarily.

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3. Results of similar work, supported by us for a number of years at Harvard, will soon be published in two papers in the American Journal of Diseases of Children. These findings and those in item 2 should provide us with valuable facts in combating the movements reported in 1.

* * *

9. Our investigation, including over 150 analyses of water from red-lead painted tanks, has enabled us to stop publication of a paper somewhat unfavorable to red lead and secure a promise of revision.

* * *

13. Adverse publicity at the rate of 30 to 40 newspaper items per month has appeared on the effects of lead on children, adults, livestock and wildfowl. Wherever possible these have been followed up with a view to correcting misconceptions and misstatements, often with gratifying results.

71. The LIA continued to advocate the use of Lead for interiors until at least 1962. In 1999, the LIA developed a ten minute video about childhood Lead poisoning which features Loretta Long, PhD, who played "Susan" on the children's show Sesame Street. The video minimizes and misrepresents the dangers posed by Lead and the ways to avoid Lead exposure. Dr. Long states in the video: "Lead poisoning prevention begins with good hygiene, a clean home, proper nutrition and regular visits to the doctor. . . . Overall, the chances of your child getting lead poisoning are slim and dropping rapidly." The United States Centers for Disease Control and Prevention has identified the following factors as increasing the chances of being exposed to Lead: living in large cities, living in older (pre-1946) housing, being a low income family, and being a minority. However, Dr. Long states: "If you fall into any of these categories, don't panic. It doesn't mean that your child will be lead poisoned. It just means you need to know more about lead to protect your children, because you can reduce the risks of lead poisoning." Rather than offering full and complete information about the harms of Lead exposure and the need to remove Lead, Dr. Long offers the following advice to prevent Lead poisoning:

- 1 a. Make sure children eat healthy, nutritious foods as part of a well-balanced diet;
- 2 b. Have your children examined regularly by a doctor;
- 3 c. Keep your home clean, wet-wiping floors, countertops, and window sills;
- 4 d. Leave dirty shoes at the door or wipe them to avoid bringing lead dust indoors;
- 5 e. In older homes, check for flaking, peeling, or chipping of old paint;
- 6 f. Regularly wash toys, bottles, pacifiers, and stuffed animals;
- 7 g. Wash your children's hands regularly, especially before meals, after snacks, and at
- 8 bedtime;
- 9 h. Don't use folk remedies containing lead;
- 10 i. Practice lead-using hobbies like stained glass in isolated, well-ventilated places;
- 11 j. Don't use ceramics that are homemade, or from unreliable sources, for food.

12 **C. DEFENDANTS ENGAGED IN A CONCERTED CAMPAIGN AGAINST**
13 **GOVERNMENT REGULATIONS, INCLUDING OPPOSING WARNINGS**

14 72. One of the primary reasons for the formation of the LIA was to provide the public
15 with the Lead industry's own "information" on what the Lead Manufacturing Defendants termed
16 "the health problem." The goal of the LIA was that the industry "should always be in the
17 forefront so far as medical knowledge of lead is concerned."

18 73. The government and the public did not know that the information they were receiving
19 from the LIA and the Lead Manufacturing Defendants was false information designed to increase
20 the Lead Manufacturing Defendants' profits at the expense of the public health and productivity.

21 74. The LIA and the Defendants engaged in a concerted action to jointly work together to
22 stop regulation of Lead and to stop all requirements that Lead contain warnings about its hazards.
23 The LIA, the Defendants, and other industry organizations, including the NPVLA, lobbied
24 against any restrictions on the use of Lead.

25 75. For example, in or about 1956, Defendants stopped objectionable requirements of the
26 U.S. General Services Administration and modified, to their advantage and the detriment of the
27 public, a New York City Lead labeling regulation.

1 76. Further efforts by the LIA and the Defendants defeated proposed regulations
2 restricting the use of white Lead in Massachusetts in 1933.

3 77. In 1945, in California, there was a proposed regulation that toxic chemicals had to be
4 listed on a paint can's label. Defendants lobbied so that the final warning stated "Warning --
5 Flammable -- . . . Do Not Take Internally. After Using, Cleanse Hands Thoroughly" and omitted
6 any mention of toxic chemicals.

7 78. In 1949, Maryland passed a "Toxic Finishes Law" which made it a misdemeanor to
8 manufacture or sell without a warning label any toy or object of furniture painted with any
9 substance poisonous to small children. The law was repealed a year later because of Defendants'
10 lobbying efforts.

11 79. A 1956 LIA report credited the health and safety division with thwarting government
12 attempts to impose labeling requirements on a product that Defendants knew to be toxic and
13 poisonous:

14 This has been quite successful to date, with the elimination of
15 objectionable wording from a labeling requirement of the U.S. General
16 Services Administration the most recent episode. Modification of the New
17 York City lead paint labeling regulation was secured by means of
18 American Standard 266.1, prepared by a committee of the American
19 Standards Association, sponsored by the Lead Industries Associations.

20 80. In a 1962 Quarterly Report, the LIA once again congratulated itself with thwarting
21 government attempts to impose labeling requirements on a product that it knew to be toxic,
22 poisonous, and deadly:

23 Poison Labels: In cooperation with the National Paint, Varnish and
24 Lacquer Association approval was obtained from the Food and Drug
25 Administration to drop panel poison labels from lead-containing paint.
26 We were able to satisfy the F.D.A. that lead paints were not poisonous
27 under the Federal Hazardous Substances Labeling Act.

28 81. According to Scientific Integrity in Policymaking, the Lead industry has continued to
misrepresent the evolving science of low-level lead exposure and to oppose government effects
to responsibly address the health consequences of low-level lead exposure: "In the summer of
2002, the CDC Advisory Committee on Childhood Lead Poisoning Prevention was preparing to
consider, whether to revise the federal standard for lead poisoning set in 1991. . . . Just a few

1 weeks before the committee's scheduled meeting, at which the question of toughening the
2 standard further would be discussed, the Bush administration intervened. . . . Tommy
3 Thompson, Secretary of Health and Human Services, rejected nominees selected by CDC staff
4 scientists. . . . In place of the respected researchers selected by the CDC staff, Thompson's office
5 appointed five individuals who were all distinguished by the likelihood that they would oppose
6 tightening the federal lead poisoning standard. . . . Furthermore, a review by congressional staff
7 members soon uncovered the fact that at least two of the new appointees had financial ties to the
8 lead industry. One of them, Dr. William Banner, had previously testified in court on behalf of
9 Sherwin Williams paint company."

10 82. In March 2002, the CDC released a report developed in part by its Advisory
11 Committee. The Advisory Committee issued a recommendation entitled "Managing Elevated
12 Blood Lead Levels Among Young Children" which provides health care case managers guidance
13 on how to assess and treat children with elevated blood lead levels. This report reveals
14 substantial changes to the membership of the Advisory Committee. "The nominations of
15 renowned scientists with long records of researching the health effects of childhood lead
16 poisoning were rejected, and vacancies were filled by individuals with direct ties to the lead
17 industry, which has a financial interest in the policies adopted by the Advisory Committee."

18 83. According to an article in the Government Reform Minority Office: "In the summer
19 of 2002, the CDC Advisory Committee on Childhood Lead Poisoning Prevention was preparing
20 to confront the controversial issue of whether to expand the diagnosis of lead poisoning to
21 include children with lower levels of blood lead. . . . For more than a decade, the committee had
22 advised intervention if levels measured 10 micrograms per deciliter or greater. . . . While the lead
23 industry had opposed lowering the standard, recent research suggests that the cognitive
24 development of children may be impaired at level of 5 ug/dL or lower. As the committee
25 prepared to consider changing the standard, HHS Secretary Thompson removed or rejected
26 several qualified scientists and replaced them with lead industry consultants."

27 ///

28 ///

V.

CAUSE OF ACTION

(Public Nuisance On Behalf of the People of the State of California)

(Against All Defendants)

84. The People hereby incorporate by reference the allegations set forth in all of the foregoing paragraphs above, as though fully set forth hereinafter.

85. The People of the State of California have a common right to be free from the detrimental effects of Lead in, on and around homes, buildings, and property in the State of California.

86. Lead is present in, on and around large numbers of homes, buildings, and other property throughout the State of California.

87. The presence of Lead in, on and around homes, buildings, and other property throughout the State of California is injurious to the health of the public so as to substantially and unreasonably interfere with the comfortable enjoyment of life and/or property.

88. The presence of Lead in, on and around homes, buildings, and other property throughout the State of California causes significant harm and its social utility is outweighed by the gravity of the harm inflicted.

89. The presence of Lead in, on and around homes, buildings, and other property throughout the State of California above constitutes a nuisance pursuant to California Civil Code section 3479.

90. The presence of Lead in, on and around each of the homes, buildings, and other property throughout the State of California affects and/or interferes with an entire community's and/or a considerable number of persons' right to health, safety, peace, comfort, and convenience in the State of California, thereby constituting a public nuisance pursuant to California Civil Code section 3480.

91. Defendants are liable in public nuisance in that they created and/or contributed to the creation of and/or assisted in the creation and/or were a substantial contributing factor in the

1 creation of the public nuisance described herein through the conduct described in this cause of
2 action and elsewhere throughout the Fourth Amended Complaint, including, but not limited to:

- 3 a. Engaging in a massive campaign to promote the use of Lead on the interiors and
4 exteriors of private residences and public and private buildings and for use on
5 furniture and toys;
- 6 b. Failing to warn the public about the nature of Lead and its attendant health hazards;
- 7 c. Systematically selling, promoting, and distributing Lead throughout California for
8 exterior and interior use, including use on furniture and toys, despite medical reports
9 indicating that children were dying and suffering from serious injuries from Lead;
- 10 d. Engaging in a campaign to discredit the medical and scientific literature linking Lead
11 poisoning to Lead;
- 12 e. Engaging in a concerted campaign to stop regulation of, and restrictions on, the use of
13 Lead;
- 14 f. Developing and establishing programs to increase the market for Lead.

15 92. As a direct and proximate result of Defendants' conduct, Lead is present in, on and
16 around large numbers of private and public buildings and property throughout the State of
17 California, including residential homes.

18 93. Lead promoted and distributed by Defendants for use in, on and around each of these
19 homes, buildings, and property inevitably has deteriorated and/or is deteriorating and/or will
20 deteriorate thereby contaminating these homes, buildings, and property.

21 94. As a direct and proximate result of Defendants' conduct, large numbers of people
22 throughout the State of California, and particularly children, have been exposed and/or are being
23 exposed and/or will be exposed to Lead in, on and around the contaminated homes, buildings,
24 and other property throughout the State of California, thereby affecting the health, safety, and
25 welfare of each of those children.

26 95. Defendants' actions are a direct and legal cause of the public nuisance.

27 96. The People of the State of California, acting through the County Counsel of Santa
28 Clara, Alameda, Los Angeles, Monterey, San Mateo, Solano and Ventura Counties, and the City

1 Attorneys of Oakland, San Diego and San Francisco, have a clearly ascertainable right to have
2 the public nuisance created by Defendants abated from all public and private homes and property
3 so affected within the Prosecuting Entities' jurisdictions.

4 97. The abatement of the nuisance described herein is a remedy unique to the public
5 nuisance cause of action.

6 WHEREFORE, the People of the State of California, pray for relief as set forth
7 below.

8 VII.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, the People pray for relief against Defendants, jointly and severally, as
11 follows:

- 12 1. Abatement of the public nuisance that exists within the Prosecuting Entities'
13 jurisdictions;
- 14 2. An order enjoining the wrongful conduct of Defendants;
- 15 3. Costs of the proceedings herein;
- 16 4. Attorneys' fees subject to the approval of the Court; and
- 17 5. All such other and further relief as the Court deems just.

18 Dated: March 16, 2011

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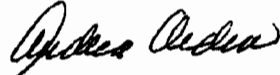
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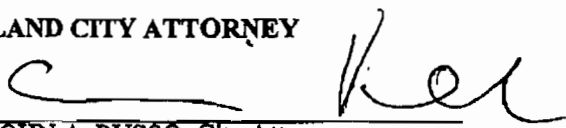
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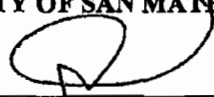
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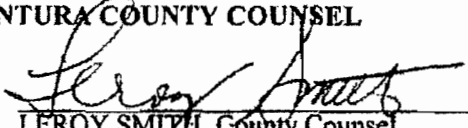
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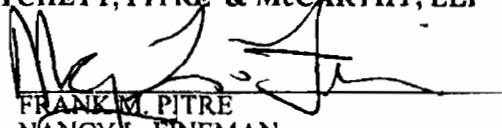
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Exhibit A

OCTOBER 1920

The Dutch Boy Painter



private rooms with southern exposure, particularly if enlivened by window hangings, rugs or furniture showing touches of pink.

Halfways, which are apt to have less natural light than bed rooms, are best painted with sunlight color, this applies also to kitchens, laundries and such rooms as do not get an abundant supply of sunlight, so I would paint these similarly to north rooms.

The operating room, to my mind the most interesting room in the hospital because of its highly technical requirements, should have most careful consideration given to its color scheme.

The surgeon when operating must have a great abundance of light, yet without glare. White glazed tile and white walls, used so much formerly, have largely been displaced by color and texture with less glare. In one hospital a soft olive green wainscot five feet high

was used with light color on walls and ceiling. The green is most agreeable to the eyes of the surgeon as he bends over his work, but on raising his eyes a visual shock is caused by the sudden transition from the absorptive green to the reflecting white. I know of nothing quite so satisfactory as a dull French gray tile for the wainscot and for reflecting surfaces above, a lighter gray. Thus no visual readjustment is necessary to the surgeon on lifting his head as he must do frequently and yet the light in the room is conserved by suitable reflection.

I do not want to close this series of articles without a few words about stencils, and their decorative value as applied to hospitals and sanitariums.

"How much does it cost?" is usually our first question whenever we are about to buy something. To "buy" that which stenciled deco-



Episcopal Hospital, Philadelphia, Pa. Management always uses Dutch Boy white lead in painting the exterior of their buildings. Some time ago they had the walls of several rooms painted with Dutch Boy white lead and Dutch Boy flaring oil and report that the results have been entirely satisfactory.

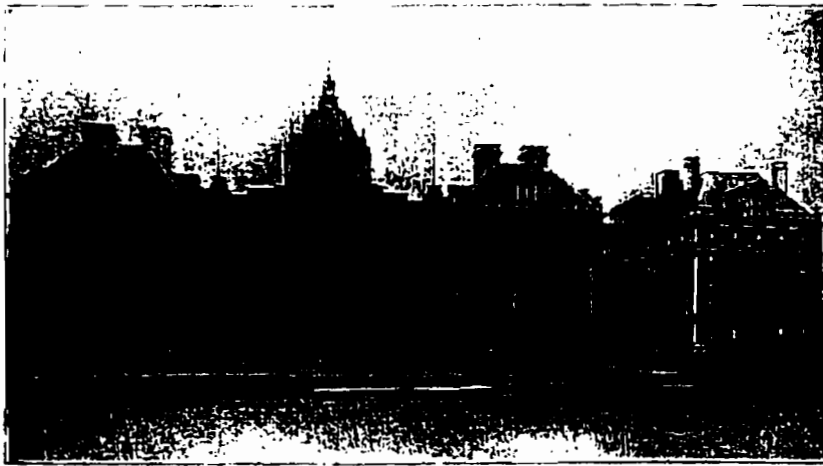
ration gives is a good bargain, for there are not many things that give so much beauty, so much interest, so much cheer and indication of considerate thought at such little cost.

Having no projections, moreover, it cannot be assailed by the ardent advocate of "sanitation first" as a "dust catcher"—those fatigued words which have robbed many a patient of comfort. We all know that a stencil is merely holes cut in paper to form a pattern, and the stenciling is merely brushing paint repeatedly through these holes onto the wall or ceiling, so that the process is quick and inexpensive. A little hand touching in other colors, however, is advisable, to give a sparkle to the design.

The eye wearies with too much plain unbroken surface, and by the eye we mean, of course, the mind,

and that in natural consequence means the physical well-being. After our walls and ceilings, therefore, have been painted the proper tones, let us by all means comfort and entertain the convalescent mind by some fanciful leaf bands, punctuated perhaps by bright berries, or perhaps by suitable conventionalized birds, flowers, and if it is where children will see it, we might use quaint animal forms or the always entertaining brownies. But always in rooms where one must look at it for long stretches of time, make the design one which will have distinctly imaginative qualities.

The therapeutic effect of a mind led away from its own ennui and burdens is often better than medicines, and a contented spirit is one of the steps on the road to health.



St. Luke's Hospital, New York, N. Y. Interior walls throughout painted with Dutch Boy white lead and Dutch Boy fluting oil.

complete purpose. A method of this sort, would, of course, insure the best results, but we know it is too seldom done.

In older times these obstacles were easily overcome by such men as Michael Angelo, in whom were found architect and painter alike, men who were able to conceive the finished result and with a practical knowledge which enabled them to carry out their plans from the corner-stone to the last sweep of their brush in the completed interior.

To-day we find specialists on each line, and because the architect is the first to complete his work, great responsibility falls upon the decorator who must give great thought and care to the work which has gone before, and formulate his plans accordingly. In many cases the structural lines are missing, or we find weak examples in architecture. When this is so, it falls upon the decorator to supply in some way points of decorative interest which will tend to aid in supplying and strengthening the missing structural lines. For instance, in the case of a large

blank wall interesting blends of flat color or panels, frieze or wainscoting could be introduced, not only to emphasize the structural lines, but to make pleasant divisions in a surface which would easily become monotonous.

Many times we come upon rooms whose architectural details must be preserved as permanent features, such, for example, as beautiful woodwork, pilasters, columns, etc., in which case the decorator must arrange his scheme to fall in accord with these structural details so as not to weaken their natural color or strength of line. But if they are to be painted, the decorator should employ the strongest hues he is intending to use in emphasizing these

structural lines, so that they may not be overwhelmed by a blaze of color applied to a less active portion of the building, such as the wall.

On the other hand, care must be taken to avoid painting these structural features in such a way as to make them appear detached from the color scheme as a whole, for whatever scheme is used a careful relationship be-



Hotel Statler, Cleveland, Ohio. Interior walls throughout painted with Dutch Boy white lead and Dutch Boy linseed oil. Exterior walls painted by William Fless, of Cleveland, and the same materials were used.

tween the supporting or active and the less active parts of the building should be preserved.

Every feature of the active and non-active parts should be clearly indicated and yet not unpleasantly

defined by too sharp contrasts, but with a clear and well planned scheme that will assemble it as the seeming natural outcome of a great decorative and harmonious whole.

Water Resisting Power of White-lead

In resistance to water, white lead is unequalled. There is no other pigment except red-lead, which can be mixed with oil when it (the pigment) is wet; all others, if even moist, need to be dried first.

This is a matter of the utmost consequence, since a paint is so generally used to withstand rain and moisture, and is probably the most weighty reason for its remarkable durability.

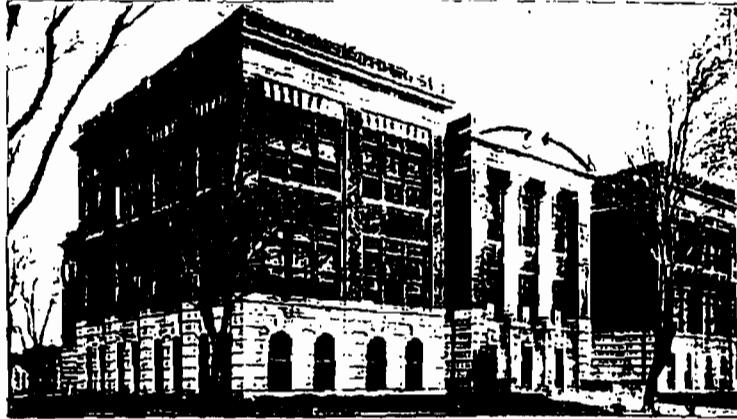
Some years ago an old iron bridge known as the Hammersmith bridge, in London, was taken down,

and, the metal being still in good condition, the engineer in charge took pains to find out what paint had been used on it. Some parts of the surface had never been touched since it was built, sixty-seven years before, because they were inaccessible. The chemical analysis showed the paint to be pure white-lead.

A paint that will last and retain its protective qualities so long a time as this, in such a damp climate, and over a river crowded with boats, certainly is durable.



The Washington, D. C., residence of Senator U. Hooper of Delaware. Interior walls throughout painted with Dutch Boy white-lead and Dutch Boy flinting oil by Ellsworth L. Jones, of Roselle, Delaware.



Post Hornum, Mich., High School. Ditch Boy red-lead is used on all steel work in this building, and Ditch Boy white-lead on the woodwork.

in time get over-baked and brittle.

"I think a rather high temperature baking enamel is more durable, because if it requires a high temperature to oxidize it, it stands to reason that it will resist oxidation at ordinary temperatures. If your men ever look into these cases, to inspect, I would further paint the inside with one or two coats of white-lead, which will pay for itself by making inspection easier, and will show rust if there is any.

"When you talk of ten years' protection, I do not believe any metal coating, like galvanizing or tinning, compares with a good paint. I do not believe that two coats of paint are enough for such a job, or any other job. If you want to paint them, see my specifications for painting bridges in the back of my Red-Lead Book, which I think you have. Two coats of enamel, baked, may do; but these things are heavy, and if they don't get some of the coating

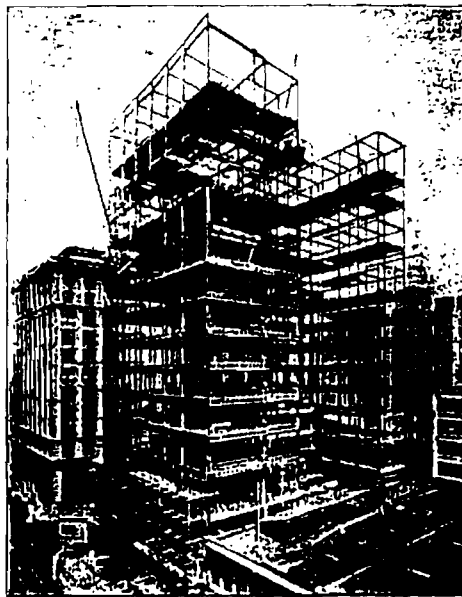
cracked and chipped off by the time they are fastened in place I should think it was a miracle; so I would give them at least one coat, and preferably two, of red-lead, good heavy paint, after erection. If each job is by itself you can, by using Ditch Boy paste red-lead, make up a can, or two cans (different colors), just enough for painting one case, of paint mixed with oil ready to use, and send it along as part of the equipment. I certainly would never put up anything permanent, out in the weather, without a good coat of paint on it after everything else had been done to it. It would not be safe.

"At current prices of material and labor these transformers, in place, must cost a lot of money; and remember that what you are painting is not square feet, or pounds, but dollars' worth; and the company cannot afford to risk all that value without all the insur-

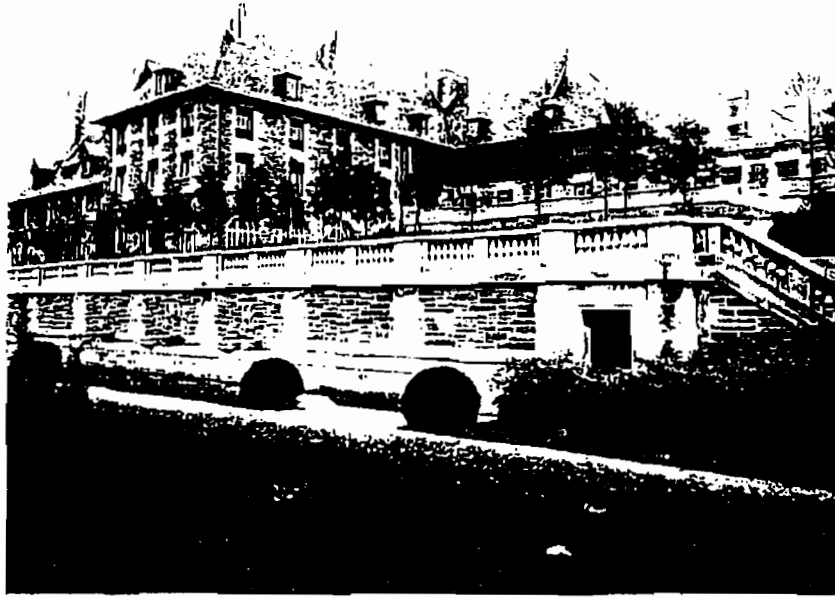
ance that the best kind of painting, etc., will afford. You are painting the dollars' worth of labor you use for assembling and erection, just as much as the dollars' worth of comparatively crude material in the metal case in the shop. You are also painting the dollars' worth of the actual transformer itself, because all the case is there for is to shelter and protect that. The shingles on the roof protect the house from rain; but they also protect the rugs and furniture, and the books and pictures and the food and clothing in the house from rain. And it makes me tired when people consider paint as something

separate and disconnected from the contents of the thing painted, except when it is used purely for decoration. If it is only a question of cheapness it is simple—don't do anything. But if it is one of economy, then, as Mr. Abe Potash says, 'that is something else yet.'

"If anybody tells you that two coats of any air-drying paint will be satisfactory for a ten-year job, don't believe it one minute. I have seen two coats of red-lead protect metal ten years, and longer, but it is not safe; I would never trust two coat work. In England the rule is four coats, and I wish it were so here."



This steel frame of the 13-story Balfour building, San Francisco, Cal., was painted with two coats of Dutch Boy red-lead-in-oil, the second coat being shaded to a brown color by mixing the pigment with lampblack. The consulting engineer, H. G. Brammer, of San Francisco, specifies Dutch Boy red-lead on all his steel work. The architect for the Balfour building was George W. Kelham, and the contractor was the P. J. Walker Company, both of San Francisco. The steel frame was erected by the J. G. Williams Construction Company.



Residence of Mrs. Mary W. Harriman, widow of the renowned E. H. Harriman. All buildings erected by the Harriman Industrial Corporation, Harriman, N. Y., are painted with Dutch Boy white lead by their own men. Architects, Carrere & Hastings, N. Y.

into feet in parts of the Mediterranean. The finest grade of sponges grows best where there is very little current and the water is deep.

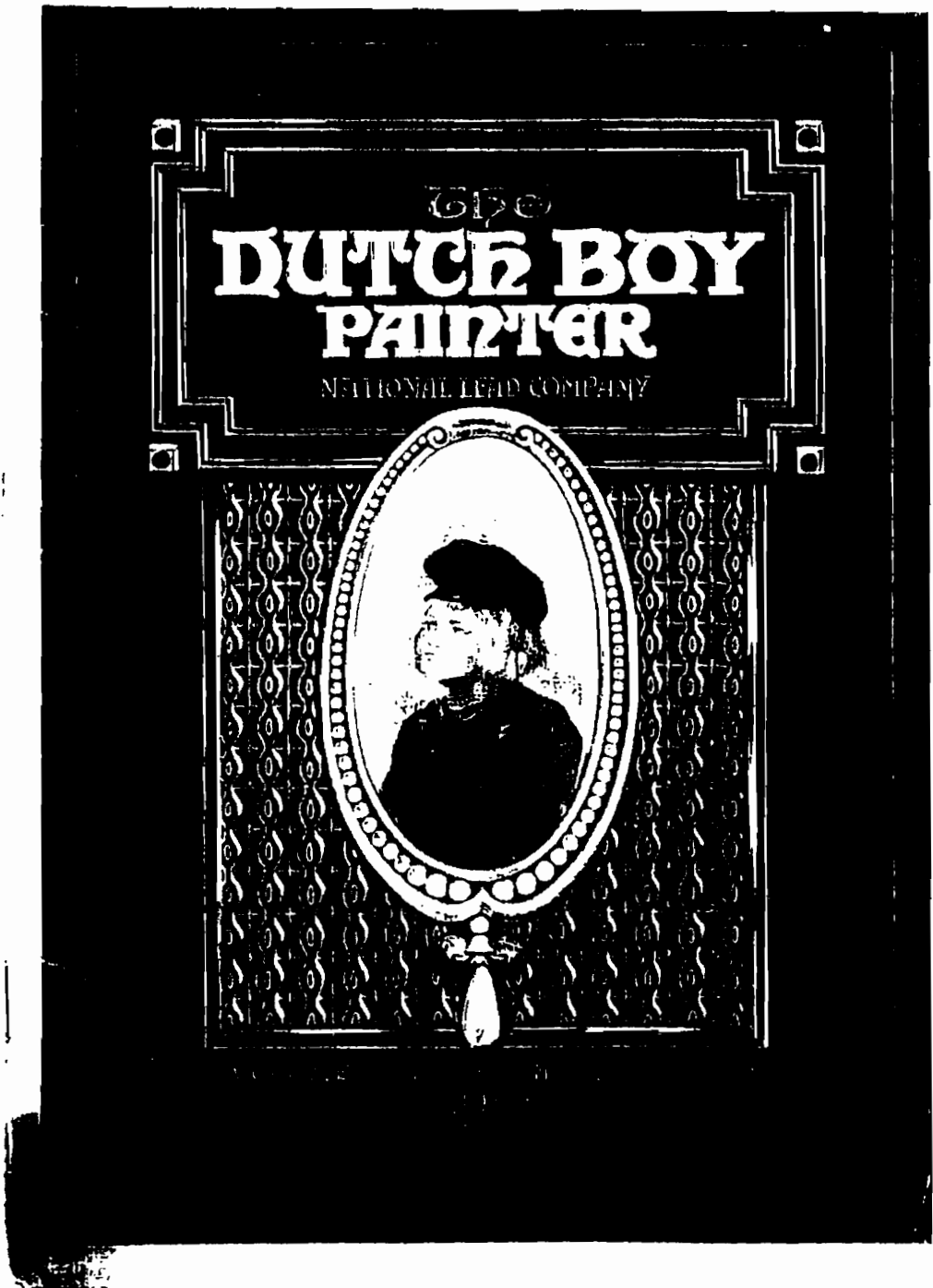
Sponges die almost as soon as they are removed from the water, and the gluey animal matter begins to ooze out of them very soon after. The foul smell that arises from the sponges during this process partly accounts for the fact that a lighted pipe is one of the facial ornaments of every sponge fisherman.

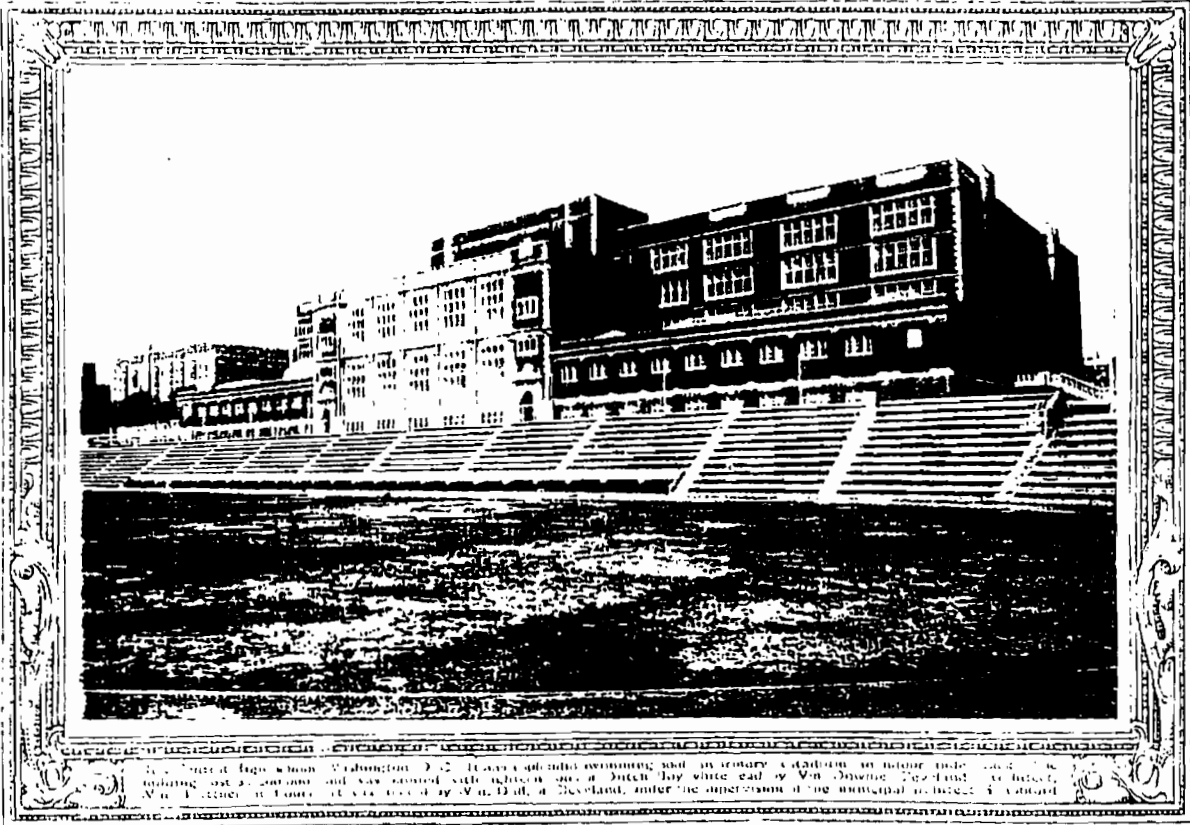
From the boats the sponges are transferred to "kraals," which are enclosures formed by stakes

within the reach of the tides, and are left there till all the animal matter has been washed away, when they are laid out on the beach to dry.

They are now commercially pure sponges. They are entirely free of animal matter, but when washed out in clean water they will lose from fifteen to thirty per cent in weight because during the washing process they acquire more or less sand and other sea matter. This loss, however, must not be confused with that which comes from washing adulterated sponges, which runs from fifty to two hundred per cent.

Exhibit B





This picture depicts the stadium at Washington, D.C. It was originally designed and built as a military stadium in 1917 and was later converted into a civilian stadium. The stadium was designed by Dutch-born architect Van Dine and built by Van Dine and Sons. It was built in Cleveland, under the supervision of the municipal architect.

Exhibit C

Let it RAIN!

*Lead paint sheds water
like a duck's back*



Every pail or keg of white-lead bearing the Dutch Boy trademark is a guaranteed all-lead product.

"EVERYBODY talks about the weather, but nobody does anything about it."

Mark Twain was wrong. Decidedly. But he plied a pencil, not a paint brush. For painters, who work with an all-lead paint, will tell you

that a lot has been done about the weather. Rain, snow, sun—all the causes of weathering and deterioration, are turned aside when they strike the protective film of an all-lead paint.

Boards can't warp and decay when protected with Dutch Boy white-lead paint. Made from the metal lead, Dutch Boy white-lead is impervious to moisture. Spread over any surface, it forms a tough yet resilient film that will not crack with expansion and contraction. Instead, this long-lasting paint film wears down gradually and evenly, making repainting easy.

Dutch Boy white-lead can be easily tinted to any desired color. It can be mixed in any desired quantity—a half pint or twenty gallons. It can be bought in 1-pound tins or 100-pound kegs. It goes far. One gallon covers, hides, protects from 550 to 650 square feet of surface.

Write for our 34-page home-owners' paint guide. "Decorating the Home," it is called. Full color illustrations show unusual outside and interior effects. Easy-to-follow paint formulas, 50 color chips, and many money-saving handy hints alone are well worth a letter.

Just address your request to our Department of Decoration in care of our nearest branch.

- NATIONAL LEAD COMPANY**
New York, 111 Broadway
Boston, 131 State Street
Buffalo, 116 Oak Street
Chicago, 900 West 18th Street
Cincinnati, 659 Freeman Avenue
Cleveland, 820 West Superior Ave.
St. Louis, 722 Chestnut Street
San Francisco, 485 California St.
Pittsburgh, National Lead & Oil Company of Pa., 316 Fourth Ave.
Philadelphia, John T. Lewis & Bros. Co., 437 Chestnut St.

Dutch Boy White-lead

Makes an All-Lead Paint

Exhibit D

THE SHERWIN-WILLIAMS CO.

CLEVELAND, OHIO

MADE IN U.S.A.

THE HOME PAINTING MANUAL



*Complete Handbook of Painting, Staining and Varnishing
of All Exterior and Interior Surfaces
and of All Materials*

Price 10c



SOLELY ESTABLISHED BY

THE SHERWIN-WILLIAMS CO.

100 CANTON ROAD, NEW CLEVELAND, OHIO

it, they decided to paint and decorate it. A neighbor said, "Why on earth are you doing all the painting if you are going to sell?"

"The painting may cost us \$400, but we will get \$1,000 to \$1,500 more for the house and will sell it quicker."

They did so, and as a matter of fact, the decoration so pleased a lady who was looking at it, that her husband closed the deal then and there for cash.

Even if you are not trying to sell your house, if it is attractively painted, there is a possibility of getting an offer any time that will yield so much profit that you cannot afford to turn it down.

Painting is a good investment and anyone can demonstrate this to his own satisfaction with a little reasoning.

For Sanitation

From the standpoint of sanitation and hygiene, buildings should be kept properly painted.

"The future of paint is to add to beauty, preservation and economy the ten million times more important factor, health," said the well known chemist, Henry A. Gardner, of the Institute of Industrial Research at Washington. Well painted buildings are necessary to the most sanitary conditions possible. Paint resists moisture, vermin, germ life. Paint meets the problem of sanitation at its source, accomplishing its results by the prevention rather than the destruction of filth. Nothing more need be said on this subject, as certainly everybody wants his home to be as sanitary as possible.



Weather quickly destroys unpainted property when decay once gets a start - Photo courtesy of H. A. Gardner

Paint resists moisture, vermin, germ life. Paint meets the problem of sanitation at its source, accomplishing its results by the prevention rather than the destruction of filth. Nothing more need be

aid on this subject, as certainly everybody wants his home to be as sanitary as possible.

The problem then was to incorporate these two base metals in the right scientific proportions so that the softness of the lead would be offset by the hardness of the zinc and versa, resulting in a paint having the virtues of both and free of objections of neither, hence greater body and opacity, ease of working and spreading, more absorption of oil and greater durability.

After much experimenting this was accomplished, this combination in the right proportions has for some time been recognized generally and highly endorsed by the most reputable paint authorities as possessing best paint quality. However, the method of mixing is also of utmost importance. For instance, straight carbonate of lead (white lead) alone or straight zinc oxide does not give as high efficiency and thorough incorporation as is the case when a certain percentage of the former is combined in the form of sulphate of lead, the proportions again being an essential factor. This is where accurate laboratory formulae and accurate measuring of each ingredient by weight is of the greatest value in producing the best possible paint. Also, the manner and thoroughness with which these ingredients are mixed together and balanced, is of utmost importance and it is only natural that this can be done much more thoroughly by machinery than by hand.

The foregoing deals principally with the pigment portion of the paint, but the liquid portion (or vehicle) is also of equal importance. The first essential of linseed oil is, of course, to carry and suspend the pigment in such a way that the mass may be perfectly fluid until and during the process of application, after which it has a much more important task to perform. Linseed oil supplies the gloss and is the very life of the paint. It is the oil which fills the pores of the wood and it is the oil which sticks to and grips the surface in a tough, tenacious, waterproof film. It must harden and act as a binder to hold the pigment intact on the surface, yet be elastic and weather-resisting. For these reasons it is necessary that the best linseed oil be used in sufficient proportion.

SWP (Sherwin-Williams Paint, Prepared) is a correct combination of oxide of zinc, carbonate of lead, sulphate of lead and pure linseed oil, with the necessary turpentine and drier. These materials are all of the highest quality and are intelligently and scientifically handled so as to give the maximum paint value in each can and color.

Exhibit E

WHAT PUTS *Weatherproofing* IN PAINT?



IT'S THE LEAD WE MINERS DIG, AND THE MORE THE BETTER, SAY SKILLED PAINTERS



TO OBTAIN UP-TO-THE-MINUTE PAINT STYLING, EMPLOY A SKILLED PAINTER. The decorative color styling now popular requires all those little tricks of application which only a well-trained painter can give.

HOW (HAPPY COATS FOR A GOOD JOB?—

You'll find the answer to this and other interesting paint questions in a free booklet, "WHAT TO EXPECT FROM WHITE LEAD PAINT." Write for your copy today.

FOR a paint to last any length of time it must be able to stand up to weather. That's why for years expert craftsmen have made their paints with white lead.

You see, white lead is derived from lead — and everyone knows what a tough, time-resisting metal that is!

Paints made with white lead are long-lasting, too. They're indifferent to blistering heat and biting cold — to rain, snow or anything else the weatherman serves up.

You don't see any cracking and scaling on white-lead-painted jobs. The paint wears down gradually, keeps its smooth surface.

That means, too, a white lead paint job doesn't require scraping or burning before repainting. The new coat is applied tight over the old one.

So when you buy paint, be sure you know how much white lead it contains. It's a safe rule to follow: *the more white lead, the better the paint!* You can't, for example, get a more durable paint than a 100% white lead paint. This is the kind good painters mix from lead-in-oil.

And don't let the name fool you. White lead can be tinted to virtually any popular color.

To cap it all, white lead costs no more than regular quality paints. Its beauty, economy, durability all go to prove the old maxim, "The best is cheapest."

LEAD INDUSTRIES ASSOCIATION
120 Lexington Avenue, New York, N.Y.

You're money ahead when you paint with

White Lead



Convenient way to buy— in a tin or in a can. It is now obtainable in a ready-to-use form in convenient, 1-gallon containers, at paint stores.



Exhibit F



It's time to think twice before you buy paint

IN times like these, prudent people are looking a long, long way ahead, and taking better care of everything they own.

To protect your house or buildings from weather's ravages, it is more important than ever to use pure white lead paint today—for two common-sense reasons.

First, when you paint with pure white lead paint, you know you're getting top-quality protection. The best painters have used and recommended white lead paint for generations.

Second, white lead paint has no superior when it comes to withstanding weather—and that's vital today because there's no telling how long a paint job may have to last.

Remember, white lead is made from lead—a metal that's second to none in durability, in resistance to exposure. White lead endows paint with this same toughness and "weather ability."

That's why white lead paint gives you such long-lasting protection against the climate's worst. That's

why it keeps its good looks, season after season, wearing down slowly and evenly—without cracking and scaling.

How about cost? No more than regular quality paints! But white lead paint affords such stand-out protection, it's another case where the best is cheapest.

LEAD INDUSTRIES ASSOCIATION
120 Lexington Avenue, New York, N. Y.

CONSUMERS' INFORMATION

Pure white lead is sold by paint stores in two different forms: (1) as a paste, commonly known as "lead in oil," for use in mixing pure white lead paint in order for each job; (2) as pure white lead paint in ready-to-use form, in popular size containers. Remember you do not combine lead with white—a wide range of colors is available.

White lead is also the backbone of other quality paints. In buying exterior paint it is a safe rule to follow: "to judge the lead content, do better the paint."

FREE GUIDE TO BETTER PAINTING

Send for free booklet "WHAT TO EXPECT FROM WHITE LEAD PAINT" contains complete information about lead paint, its benefits, painting in all types of areas.



You're money ahead when you paint with

White Lead

had read that story in the paper and would have a right to think Barry had ducked out. And how were they going to get that permit to cut logs with the supervisor and the ranger both off on an inspection trip?

Nick was in his cabin in the Cape Storm, going over a sheet of figures. He grunted, finished adding a column.

"Hundred and thirty thousand feet," he said. "Here's the forestry permit. Supervisor left last night."

"You mean you went ahead?" Barry demanded. "Why me gone?"

"We had to have the timber and —" Nick looked up. "What dragged you through the brush?" he asked.

"But that yarn in the paper! And I was gone three nights."

"We talked it over," Nick said. "Lars and Chow 'Tay and me. Chow said you were a devil, and Lars thought maybe you'd tried to make his cousin Orvel drink milk. Only, seeing Orvel he's one bird you couldn't lick. I hired him, and that hand logger. We'll pull out tonight. Get you away from Elva."

Barry undressed. This was getting tough. He'd taken on this job for Jim Daniels, and then Ruth had added to the load, and now his crew had capped it. They didn't think he had ducked out.

As Barry told Nick what had happened he didn't try to explain why Ruth had come for him.

"Pure Alaska, that girl," Nick said. "When we get a second growth of people in the territory, about the time Ruth's first grandmother, we can lick the world. But this kidnaping—never heard of such a thing."

"But it happened," Barry said. "How could I build a fish trap when I was stranded on an island?"

"Sure it wasn't just a trick of that spoiled brat in Homer Val's?" Nick asked after a moment.

"She was in on it. For Sedley."

"I don't make sense," Nick said. "You going to tell the marshal?"

"What could I tell him? I can identify Ruth and Elva, and nobody else. I couldn't even swear I was taken away in Tay's boat."

Nick grunted. "You'd get a long way," he said, "accusing two girls. And the marshal ain't going to take much stock in anything you tell, after that murder charge."

Nick put away the papers.

"I been around town," he said, "and salmon men think you're nuts to put

in a trap at Grief Point. I felt out a couple of canners and they wouldn't lead you five cents.

With your money so low, you can't let anything more happen to you or you're sunk."

"We won't need money if we can keep Sedley off our noses," Barry said. "And he can't stop our cutting timber, now you've got the permit."

"They didn't get away that evening. It was nearly dawn before the Cape Storm started down Tongass Narrows. Orvel Rued took in the lines, and he was bigger than Lars.

Andy Grant, the hand logger, was

asleep below. He'd been carried aboard long after midnight, slung over Orvel's shoulder, and he'd seemed no bigger than a sack of flour. Barry turned to Nick when he saw the small, inert body.

"A hand logger packs his weight in his hand," Nick said.

Andy was still dead to the world at noon when they reached the mainland bay where the trap timber stood. Again Orvel carried him, this time to the deck. Nick dumped sea water on his head and Andy got up, snarling, swinging both fists at the grinning Orvel.

"Save it for the timber," Nick said as he plucked Andy off the deck.

Andy Grant blinked, shook himself, looked at the mountain rising from the sea. He was not only small. He was misshapen, scrawny. A hook of a nose thrust out from a head that ended in a bald knob. Gray hair bristled in a tuft. A mustache covered his mouth like a curtain.

"Grab the wood beyond that point," he said in a voice that boomed back from the mountain-side, and pointed to a cove.

Barry wondered how so much sound came from so small a man. He wondered where so much fuel went when they sat down in the galley. Andy ate more than Lars and was first to finish.

"That timber's growned enough!" he roared.

"They went ashore, all except Chow 'Tay. They carried axes, saws, springboards and other tools up a slope so steep and so cluttered with fallen timber and brush that Barry was far behind the others. He slipped and fell, and he couldn't keep the long saw from catching in brush.

He heaved chopping above him and climbed to where Nick and Lars were felling small trees across the slope. Another ax sounded still higher. Nick told Barry to take the saw to Andy Grant. Andy stood on a springboard, a long slender plane thrust into a notch in the side of a tree five feet thick. Andy was high above the ground and the plank swayed. But Andy's ax bit deep and with amazing accuracy. Before Barry had got his breath and quit sweating, the tree had been undercut. Andy looked at the deep notch, sweetly and even as if planned, and dropped to the ground.

"Where's the saw?" he bellowed.

Orvel and Andy sawed for a long while. Lars came and took Andy's

Ada the Ayrshire



the hand logger, was