



Hanson Bridgett Practice Group Proposition 65

Hanson Bridgett has significant experience handling Proposition 65 matters. Our attorneys have represented clients in these types of cases since the proposition's inception in 1986. We assist clients in litigation, counseling, and negotiations, and represent manufacturers, distributors, retailers, and trade associations in a wide range of industries both inside and outside California.

We have handled some of the most significant Proposition 65 cases in California and have been successful both at trial and on appeal. We bring experience and zealous advocacy to bear on our clients' Proposition 65 litigation needs, and develop defense strategies that achieve our clients' business and litigation objectives. In addition, we pride ourselves on our efforts to resolve cases without resorting to litigation.

California's Safe Drinking Water and Toxic Enforcement Act

Manufacturers, processors, distributors, and retailers who do business in the State of California are required to comply with a range of warning requirements and discharge prohibitions. As such, Proposition 65 is a very technical statute. Its standards to establish a violation are unique to its provisions and consequently, require legal advice from attorneys well-versed and experienced in the initiative.

Proposition 65 also contains an unusual provision that grants private citizens the authority to bring lawsuits. Private citizen plaintiffs stand to collect 25 percent of the fines levied in each case, as well as attorney fees and costs. This has encouraged a number of lawsuits and requires attorneys with experience defending court cases brought to enforce Proposition 65.

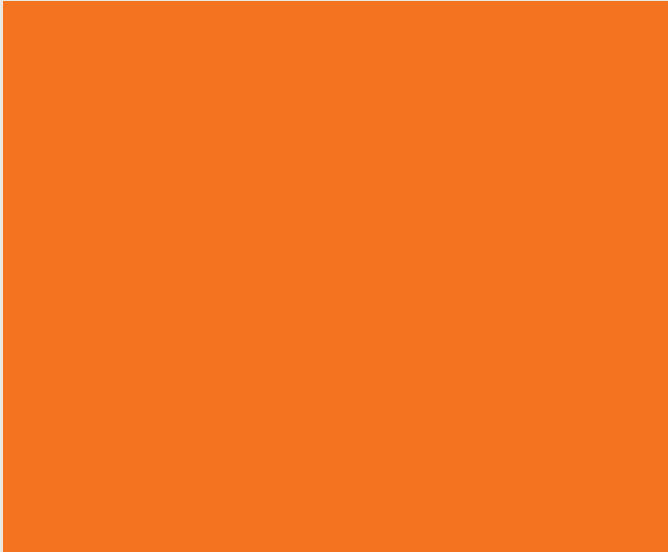
Highlights of Prop 65 Experience

- Acted as coordinating counsel in the first Proposition 65 case decided by the California Supreme Court, *People v. American Standard, Inc.* for a Joint Defense Group of 23 faucet manufacturers and importers. Our attorneys represented a joint defense group of 23 faucet manufacturers and importers, as well as six separate plumbing manufacturers and importers in the defense of claims that their brass or bronze plumbing products leached lead into sources of drinking water. The case proceeded to the California Supreme Court with Hanson Bridgett attorneys representing a national trade association, the Plumbing Manufacturers Institute as amicus curiae. We successfully resolved the case on behalf of our clients prior to appeal. In two additional rounds of litigation, we successfully negotiated settlements for our clients. These cases were brought by the Natural Resource Defense Council. Again the allegations involved lead leachate. In both rounds, our lawyers were able to successfully negotiate favorable terms of settlement.
- Successfully tried the first case under Proposition 65 that addressed the appropriateness of testing protocols used to carry the plaintiff's burden. Our attorneys defended seven plumbing fixture manufacturers and importers in a case involving plumbing valves and backflow preventers, against allegations that these plumbing products leached lead into drinking water in residences and commercial buildings. The case was tried on the issue of whether plaintiff's offered methodology to test for lead leachate from valves was an appropriate test under Proposition 65. The judge ruled that the test was not an appropriate test and dismissed the case with prejudice. The dismissal was successfully defended on appeal to the California Court of Appeals and resulted in the published opinion of *As You Sow v. Conbraco*

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Industries, Inc., 135 Cal.App.4th 431 (1st Dist. 2005). This case will have a significant impact on all future Proposition 65 cases.

- Represented faucet manufacturers in two additional rounds of litigation stemming from *People v. American Standard, Inc.* These cases were brought by the Natural Resource Defense Council. Again the allegations involved lead leachate. In both rounds, our lawyers were able to successfully negotiate favorable terms of settlement.
- Successfully forged the legal strategy that was used to bring the American sportfishing industry into compliance with Proposition 65. Represented the American Sportfishing Association over allegations of lead exposure from fishing tackle. We obtained the dismissal of four companies and negotiated favorable settlements for seven additional companies, establishing a consumer warning program that is fully compliant with Proposition 65.
- Defended a fishing tackle manufacturer in an action brought by a private plaintiff. The case involved allegations that the manufacturer was in violation of a consent judgment that had already been entered into with the California Attorney General. After enlisting the assistance of the California Attorney General in support of the client's position, the plaintiff filed a dismissal of the action with prejudice.
- Participated as amici curiae counsel on behalf of several plumbing manufacturers in *Mateel Environmental Justice Foundation v. Edmund A. Gray Co.* This case involved appropriate test methodology under Proposition 65 and the admissibility of the California Lead and Copper Rule.



- Negotiated a settlement with Citizens for a Better Environment. The matter involved coating material that contained hazardous chemicals used on outdoor furniture where children and adults could be exposed. The manufacturer agreed to replace its coating materials and to use wood that was certified as environmentally safe.
- Counseled trade associations and numerous individual companies on Proposition 65. After they enlisted the assistance of the California Attorney General, our attorneys counseled them on setting up worker safety programs, developing consumer warning programs, and assisting in reformulation of products to eliminate or reduce the amount of Proposition 65 listed chemicals in the products.
- Represented a number of major ceramic ware manufacturers in *People v. Josiah Wedgwood & Sons*. The case involved allegations of lead leaching from the manufacturer's products.
- Represented a seller of ceramic and glass mugs that had decals allegedly containing lead affixed to the outside of the containers.

