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NPCA Files for Injunction Against City of Chicago on Lead Law

— BULLETIN —

Washington, D.C., June 22 — John Montgomery, chief counsel for the NPCA, said today a hearing on the NPCA petition for a temporary restraining order will be held in Chicago at 11 a.m. Tuesday, June 27.

Chicago, June 21 — The National Paint and Coatings Association today filed a petition in the U.S. District Court seeking to prevent the City of Chicago from enforcing its ordinances dealing with lead in paint scheduled to take effect July 1. The court did not immediately set a hearing date, but NPCA was informed it might expect word on such a hearing within the next 48 hours.

Specifically, NPCA asked that the city be enjoined from enforcing two ordinances, both of which carry the July 1 effective date:

1. An ordinance which sets the lead level limit for certain paints at 0.06 per cent, and

2. An ordinance which establishes certain regulations for labeling of coatings containers.

John Montgomery, chief counsel for the NPCA in Washington, D.C. said that the Association also will file a petition with the Federal Food and Drug Administration in the next few days seeking exemptions for certain lead-containing coatings now covered by the regulation recently set by that agency.

Mr. Montgomery said that included among the coatings which NPCA will seek to have exempted are the following: automotive refinishing coatings; industrial and commercial building maintenance coatings; traffic and safety marking coatings; graphic arts coatings; automotive and appliance

touch-up coatings; exterior marine coatings for small craft application; and certain types of exterior roof coatings.

Named as defendants in the Chicago action, filed in the U.S. District Court for the Northern District of Illinois, Eastern Division, were the City of Chicago and Jane Byrne, commissioner, consumer sales, Weights and Measures, City of Chicago. The petition was filed by Larry Thomas, an NPCA counsel, and a representative of an outside law firm hired by the Association.

Mr. Montgomery said the NPCA petition asks the court to enjoin the City of Chicago from enforcing both ordinances and to declare them null and void. Also, he said, it asks the court to declare that the labeling ordinance is preempted by regulations of the Federal Hazardous Substances Act. He said the labeling ordinance will present a tremendous hardship on manufacturers, shippers into the Chicago area, and dealers, because of the large number of containers now on shelves to which stickers would have to be affixed.

The petition for exemptions being prepared by NPCA to file with the FDA asks for an amendment "to define more clearly the scope of the commissioner's order and to exempt from operation certain classes of paint or other similar surface coating material which contains lead in excess of the standards proposed by the regulation, and may be considered to be within the statutory language of the Federal Hazardous Substances Act, as interpreted by the Commissioner, yet do not pose a significant health hazard to children.