

Daily Journal

FEBRUARY 15, 2023



TOP VERDICTS

THE LARGEST AND MOST SIGNIFICANT VERDICTS AND APPELLATE REVERSALS IN CALIFORNIA IN 2022

Lee v. Amazon.com Inc.

“To prevail in the appeal, we had to get five different rulings reversed. Amazon only had to get one of those five rulings sustained,” appellate attorney Jonathan Weissglass of the Law Office of Jonathan Weissglass explained when discussing the challenges he and his team had to overcome in order to reverse the trial court’s original rulings of a Proposition 65 case.

Amazon was taken to court over third-party sales on its website regarding skin-lightening face creams that contained hazardous chemicals (mercury) without warning labels. The company was said to have violated California’s Proposition 65 law, which requires businesses to provide information labels, warning customers of potential expo-



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sure to chemicals in the product that may cause cancer or birth defects.

During its trial court hearings, the case saw five rulings that had gone in favor of the defendant and respondent Amazon. Per the Court of Appeal’s court document, it



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was ultimately concluded that the trial court erred in its view of the law and evidence required to establish the alleged statutory violations.

One of the most significant rulings that saw a reversal consisted of an argument claiming Amazon was im-



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mune from liability under the federal Communications Decency Act, which affects both internet service providers and businesses and the transmission of its material.

This ruling was reversed and remanded for further proceedings after the Court of Appeal found that Proposition 65 imposed liability on Amazon for failing to comply with its own obligation to warn consumers about products containing mercury, not for publishing what a seller said on its website.

Another significant ruling from the trial court was in response to the defendant arguing that Proposition 65’s requirement of a knowing violation required actual rather than constructive knowledge

Case Details

CASE NAME

Lee v. Amazon.com Inc.

TYPE OF CASE

Proposition 65

COURT

1st District Court of Appeal

JUDGE(S)

Justice J. Anthony Kline

APPELLANT LAWYERS

Law Office of Jonathan Weissglass, Jonathan Weissglass; Greenfire Law PC, Rachel S. Doughty, Jessica L. Blome

**APPELLEE/
RESPONDENT
LAWYERS**

Doll Amir & Eley LLP, Gregory L. Doll, Brett H. Oberst, Jamie O. Kendall, Lloyd Vu

(including recall notices). The Court of Appeal rejected the argument and noted that it “would significantly limit the reach of the statute and create incentives to avoid information that might reveal potential sources of exposure.”

A third significant argument that was ruled in favor of the

defendant but ultimately reversed argued that Proposition 65 plaintiffs must prove the consumers actually used the product they purchased to establish liability. The Court of Appeal instead found that liability attaches for potential exposure to a chemical and not just for actual exposure.

“Had Amazon’s position been adopted, it would have been all but impossible to prove liability for more than a minimal number of products as there would need to be evidence that each person who purchased a product actually used it,” Weissglass explained.

The judgement on all original rulings have been reversed and the California Supreme Court denied Amazon review on June 15, 2022. The case is set for a new trial in 2023.

— DEVON BELCHER