



SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT

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Court Declines SMMUSD's Motion for Summary Judgement

A United States District Court judge declined to grant the Santa Monica-Malibu Unified School District's motion for summary judgment on March 28, 2016. As a result of this decision, it is likely the action filed by America Unites for Kids and Public Employees for Environmental Responsibility that alleges a violation by the District of the federal Toxic Substances Control Act (TSCA) will proceed to trial in May 2016.

In his ruling, Judge Percy Anderson, drawing all inferences in favor of plaintiffs as legally required at this stage in the proceedings, concluded that the matter should proceed to trial because there is some question as to whether plaintiffs could present circumstantial evidence to support their case.

The Court did not question the District's 2015 abatement of caulk with known exceedances of the TSCA standard. Instead, the Court, viewing plaintiffs' submissions in the light most favorable to plaintiffs as required by the summary judgment standard, concluded that triable issues of fact exist concerning the continued use of polychlorinated biphenyls (PCBs) at the campus, and questioned the scope of implementation of Best Management Practices (BMPs).

The District respects the Court's decision and stands ready to introduce evidence at trial to address any questions the Court may have about the District's compliance with the Environmental Protection Agency's (EPA) policy, including the implementation of BMPs. Not discussed in the motion were the more than 1,000 air and wipe samples that fall well below EPA's health-based thresholds for PCBs under its national policy. The District is confident that once the full extent of its compliance with EPA's policy and requirements, as well as the pending modernization schedule for Malibu High School and Juan Cabrillo Elementary School, are before the Court, a proper decision will be reached.

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