

This article Reprinted from *Western Roofing* magazine, March/April 2007, Volume 30, number 2

Proposition 65 Lawsuits Filed

Prop 65... Is There No End in Sight?

by Bill Callahan, executive director, ARC of the Bay Area Counties

The new year began on a less than happy note for 62 California roofing contractors, who are being sued by "bounty hunter" attorney Reuben Yeroushalmi for violating Proposition 65. The complaints, which were filed with courts in several jurisdictions, allege that the contractors exposed their employees, passersby, and others to asphalt products and their associated fumes without adequate warnings.

As has been the case with previous actions by Yeroushalmi, there is no apparent rhyme or reason to why these particular roofing contracting companies were selected. Thirty-five of the companies are located in Southern California, while 27 are located in Northern California. The "chosen few" include residential and commercial, large, and small firms.

One characteristic that the companies *do* share is that none of them participated in the settlements with Yeroushalmi's "public interest" client, Consumer Advocacy Group, and the California Attorney General that were engineered by ARCBAC and the NRCA in 2004. Association members will recall that when last we heard from Yeroushalmi in April 2006, he had served 60-Day Notices of Intent to Sue on several dozen roofing firms, many of whom had already settled.

After this embarrassing gaffe, Yeroushalmi withdrew from the roofing arena for the rest of 2006 and focused his attention instead on asphalt paving firms. Now he's back and with something of a vengeance. Not only has he "cleaned up his act" by making sure not to go after anyone who has already settled, but this time he is not bothering with the intermediate step of serving additional 60-Day Notices of Intent to Sue, he's going straight to the Courthouse and filing actual lawsuits.

Yeroushalmi's renewed interest in roofing contractors is certainly not welcome, but neither is it unexpected. It follows a pattern typical of Proposition 65 enforcement actions and about which NRCA and ARCBAC have issued countless warnings. To the extent that there is any "good news" in this story, it is that only one association member is among those being sued. Since this firm does not employ ten or more persons, it is exempt from Proposition 65 and should easily be able to extricate itself from the lawsuit. ●●●