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Proposition 65 Settlements: Lessons from 2018 Data

California's Attorney General (AG) releases annual summaries of Proposition 65 settlements. This settlement data provides important insight into Proposition 65 litigation trends. Here are some of the most important takeaways from the [2018 data](#). **First**, the average settlement amount was \$42,424.52. According to the state AG's report, there were 829 settlements in calendar year 2018. Many of these settlements also entailed injunctive relief, such as the addition of new labeling or reformulation of the products. **Second**, there are numerous repeat players in the Proposition 65 landscape. Certain plaintiffs and certain plaintiffs' law firms were involved in hundreds of the lawsuits. For example, two law firms accounted for over 34 percent of all reported settlements in 2018. **Third**, attorneys' fees and costs represented 77.5 percent of the total amount of 2018 settlements. In other words, of the over \$35 million paid in Proposition 65 settlements in 2018, more than \$27 million went to cover private enforcers' attorneys' fees and costs. What are the lessons for businesses? Given the repeat nature of many plaintiffs and plaintiffs' firms, it is logical that plaintiffs or plaintiffs' law firms could utilize information learned from one lawsuit when litigating in the future. For example, litigation against one product could lead to future lawsuits against other products in the same category. Accordingly, it is important for businesses to be aware of current trends in Proposition 65 litigation in order to successfully prepare for and defend such claims.

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