

Children awarded \$6.2M in lead paint case

Jury: Apartment landlords mostly responsible for poisoning

By **LAURA SUCHOWOLEC**

Gazette Reporter

ALBANY - A jury on Friday awarded \$6.2 million to a sister and brother who became victims of lead poisoning in a city apartment.

It was the largest award ever given by a jury in upstate New York in a lead poisoning case, a lawyer said.

The children - an 8-year-old boy and a 7-year-old girl - suffered permanent brain damage from their exposure to lead paint in a 36 West St. apartment, according to trial testimony. A jury found the landlords, a Clifton Park couple and an Albany man, negligent and financially responsible for the damages to the children.

"They are learning disabled and hyperactive from the lead poisoning. It is very difficult for them to pay attention and stay focused in school. The boy needs a lot of one-to-one attention," said Albany attorney Peter Danziger, who represented the children.

"The brother is more seriously injured; he has motor skill problems. He is 8 years old, and he can't draw a square," Danziger said. "He can't draw. He can't copy. He can't put pegs in a hole the right way. If you told him to go to the market to get milk, eggs and butter, he can't remember that."

The sister has similar difficulties but hers are not as severe as her brother's problems. Both children are in first grade at a public school in the city of Albany - the brother is repeating first grade. Danziger refused to reveal their names.

The jury ruled that the landlords - Norman Chen and his wife, Fui Mei, along with co-owner Jianguo Wang - were 98 percent responsible for the children's lead poisoning.

The jury heard 12 days of testimony and deliberated for two days before reaching a verdict Friday evening. State Supreme Court Justice James Canfield presided over the trial.

"The jury found that the Chens knew there were lead hazards and didn't act reasonably to protect these children and caused them to have permanent brain damage and other injuries," Danziger said.

The jury awarded the boy \$4 million and the girl \$2.2 million.

A painter whom the owners hired for two weeks in 1994 to do lead abatement was found 2 percent responsible for the boy's injuries but not the sister's because she had not been born yet.

The family moved in 1994 into the 36 West St. apartment - a 50-year-old two-family home with lead paint. The boy was tested and found to have lead poisoning. An inspector for Albany County inspected the apartment and found numerous lead hazards and ordered the Chens and Wang to perform lead abatement.

They hired a painter who repainted some chipping and peeling spots of paint but, according to Danziger, made the situation worse. Two weeks after the lead abatement was completed, the boy had to be hospitalized because his blood-lead levels were so high.

"They found that [the painter] was responsible because he was not qualified to do

this job and that he increased the lead poisoning to the boy,” Danziger said.

During the next two years, the family continued to live in the apartment, and the sister was born. The lead exposure and poisoning continued, according to trial testimony.

In 1996, an Albany County Health Department inspector returned to the apartment for the third time after the sister was found to have elevated blood-lead levels and again found lead hazards. The family moved out a few months later.

“Mr. Chen, who has a Ph.D. in chemistry, admitted that he knew the dangers of lead to children and the injuries it could cause,” Danziger said. “Mr. Chen also admitted that he had learned another child at this very same address of 36 West St. had a high blood-lead level before this family moved in in 1994.”

The injuries the children suffered from lead paint exposure will not heal, Danziger said.

“These children will suffer for the rest of their lives as a result of the failure of these landlords to protect them from lead poisoning and as a result of the negligence of the painter,” Danziger said. “This award will help these children and, hopefully, will serve as a warning to landlords and painters that lead inspections must be performed properly. Landlords are responsible [for] routinely inspecting their properties and preventing lead hazards from poisoning children.”

Michael Lonergan, an Albany lawyer who represented the Chens, could not be reached for comment Friday night.

Albany County is also being sued by the family. No trial date has been set.