

Albany Is First Upstate County To Settle a Lead Paint Dispute

BY JOHN CAHER

ALBANY — In the largest reported lead paint settlement upstate — and the first-ever upstate settlement by a county — a total of \$925,000 has been recovered for two children in Albany County.

The settlement agreement, announced this week in *Van Epps v. County of Albany*, 6206-97, includes \$600,000 for an 11-year-old girl and \$325,000 for her 12-year-old brother. For its share of the pact, Albany County will pay \$50,000 to the boy and \$200,000 to the girl. The remainder will be paid by insurance carriers for two landlords.

Peter Danziger, plaintiff's counsel with O'Connell & Aronowitz in Albany, said the suit stemmed from lead poisoning that began in the early 1990s, when the children were about 3 years old. He said the boy registered a blood lead level of 40 micrograms per deciliter (mg/dl), requiring five days of hospitalization for chelation therapy. The girl, Mr. Danziger said, was hospitalized on two separate occasions for chelation therapy and had at one point registered a blood lead level of 56 mg/dl.

The family had sued landlords of two Albany buildings where they resided. It also sued Albany County, alleging that the county had on three occasions over a four-year period conducted inspections and found lead hazards. The claim against the county alleged that inspectors failed to properly supervise lead abatements and certified the apartments as safe when hazards were still present.

Mr. Danziger said there have been two verdicts against counties upstate, but this case marks the first time a county has settled outside the New York City area.

"Although [the county has not] admitted wrongdoing or negligence, it is certainly an acknowledgment that they might have liability in these cases," Mr. Danziger said.

Edwin J. Tobin Jr., of Maynard, O'Connor, Smith & Catalinotto LLP, which represented Albany County, was not available for comment.

The case was scheduled for trial before Supreme Court Justice Joseph R. Cannizzaro next week. Joel Redfield, plaintiff's expert and a neuropsychologist from Manhattan, was expected to testify that the boy had behavioral and cognitive disabilities resulting from lead poisoning, and that the girl had cognitive disabilities in speech and language as a result of ingestion of lead.

Two experts for the defense, Anthony Malone, a specialist in developmental disabilities from Troy, and Robert J. McCaffrey, a neuropsychologist from Albany, were expected to offer testimony that the boy had above-average intellectual capacity and that the girl's learning disabilities were not related to lead poisoning.

Also representing the plaintiffs were O'Connell & Aronowitz attorneys Stephen R. Coffey and Mo Athari. John Stevens, of Williamson, Clune & Stevens in Ithaca, defended one of the landlords, Carl Baggetta. The other landlord, Roseanne Lane Ross, was represented by Michael P. McDermott, of Bouck, Holloway, Kiernan and Casey in Albany.