

Lead Paint Poisoning Case Ends in \$2.8 Million Pact

BY JOHN CAHER

ALBANY — An upstate lead poisoning case involving an 8-year-old girl has settled for a total of \$2.8 million in lump sum and structured payments, an amount that may reflect the largest settlement in a New York lead case outside the metropolitan area.

Five days before trial in Albany County Supreme Court, attorneys representing the girl and the owners of the 90-year-old apartment where she ingested lead agreed on a settlement that results in a \$130,000 initial lump sum and a structured payment of an additional \$2.7 million to be paid over the child's lifetime.

"This is the largest reported settlement in a lead paint poisoning case in upstate New York," asserted attorney Peter Danziger of O'Connell and Aronowitz in Albany. Mr. Danziger, supervising partner of the firm's lead litigation department, represented the plaintiffs along with Mo Athari, also of O'Connell and Aronowitz.

Salvinski v. Langley, Index No. 2806-95, was pending before Supreme Court Justice Harold J. Hughes when it settled.

Mr. Danziger's clients, James Salvinski Jr. and Mary Salvinski as parents and guardians of Ashley Salvinski, had sued the owners of the apartment, Robert W. and Linda L. Langley, after their daughter's blood tests showed extremely high blood lead levels. The apartment is located in Cohoes, a small, onetime industrial city just north of Albany.

Shortly after Ashley was tested with a blood lead level of 16 micrograms per deciliter of blood, just below the poison threshold of 20 micrograms, in September 1993, the four-unit apartment building was inspected by the Albany County Health Department at the request of the parents. The Health Department found chipping paint and lead paint hazards, and notified the owners on Feb. 15, 1994. No action was taken, and by March 25, 1994, the child's blood level rose to 152, resulting in two hospitalizations for chelation therapy.

"Unfortunately," Mr. Danziger said, "the owners took no action to abate the premises before the child was severely lead poisoned."

Question of Handicaps

Experts retained by the plaintiffs were prepared to testify that the child had suffered cognitive and behavioral handicaps. Defendants' experts were expected to note that the child had an average IQ, was performing well in school, had not been diagnosed with any disorders and had no apparent disabilities related to lead paint ingestion.

The attorney for the defendants, Michael E. Maxwell of Hodgson, Russ, Andrews, Woods & Goodyear in Buffalo, said the extraordinarily high March 25, 1994, lead level, coupled with conclusive evidence that poisoning to that degree will eventually cause significant intellectual problems, led to the settlement.

"We had some liability issues," Mr. Maxwell admitted. "We had an extremely high lead level, the highest I've ever seen ... This was a case that made sense to settle. It was a nice young girl in some tough circumstances."

Mr. Maxwell said his clients are insured and the settlement amount is well within the policy.

The settlement in this case marks the second large victory for Mr. Danziger and his lead litigation team in as many months.

Last month, a Supreme Court jury in Albany County awarded \$1.8 million to another of Mr. Danziger's clients, also an 8-year-old girl, in what was apparently the first verdict in New York State in which a municipality was found liable for failing to supervise lead abatement. In that case, *Lafontaine, v. Franzese*, 30 percent of the verdict was assessed against Albany County.