Residents angered over terms of Flint, Michigan water crisis settlement as concerns over bone scans mount

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7 June 2021

As more information comes to light about the Flint, Michigan water crisis settlement it is becoming clear that residents are being victimized once again and that any compensation won by residents will be less than a drop in the bucket to what is owed to those impacted by the lead contamination of the city's water which began in 2014.

Last week, Thermo Fisher Scientific, the manufacturer of the device used to test for lead in the bones of Flint residents, explicitly declared that it is unfit for use on humans in a letter sent to the primary law firm Napoli-Shkolnik. It is believed that the Napoli firm bought or rented at least two devices and has been exposing residents to radiation from the device since as early as September 2019—more than a year before the settlement was given preliminary approval by US District Judge Judith Levy. Only the firm's clients and those who have retained attorneys affiliated with Napoli have access to the device without charge. All other residents are charged a $500 fee.

The $641.25 million settlement is less than 1 percent of the State of Michigan's $67.1 billion annual budget. The present terms of the settlement provide a feeding frenzy for the herd of lawyers involved. The compensation that will actually go to residents will be cut by more than 32 percent after the lawyers are paid, leaving the equivalent of slightly more than one-half of 1 percent of the state's budget going to the victims of the water poisoning.

The situation has further angered residents and medical professionals, particularly because the terms of the settlement—acknowledged by Attorney General Dana Nessel and others—claim the bone lead test is "voluntary" and "optional." However, subjecting adults and children to the test is the only way within the scope of the present settlement that residents can hope to get compensated for more than $1,000 per household.

Jessica, a Flint resident whose children range from 23 years old to two-and-a-half-years-old, told the WSWS, "It appears to me that a lot is going on by all the power players and that they are all in bed together. I'm not sure if the Judge [Judith Levy] is a party to this or not, but they are all fighting for blood money. The judge has marginalized the great concerns of the residents."

Jessica had the bone lead test in March and explained to the WSWS, "I was under the assumption, like many others, that if it wasn't safe it would not be permitted to be used in the first place." Referring to the settlement which includes the bone lead test as "optional," she continued, "This is another indication of the judge's lack of integrity. It comes down to this—those who are interested in the money and those who are interested in the human condition of wounded people.

"Many people in Flint are well aware of the BS. Just because we are the 'little people' doesn't mean we are stupid." Regarding the letter sent by Thermo Fisher to the Napoli-Shkolnik law firm, Jessica remarked, "Again, this is BS. How is it possible that the company which sold the device to Napoli was not aware what the unit would be used for? Now that Napoli is under a microscope, you are now going to say you did not know until recently how it was being used for at least two years? This to me is highly suspect. They took the money though."

Jessica's bone test was administered at Napoli's Flint law office on March 14, 2021. It was on a Sunday, the only day that slots were available for residents who

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were not represented by Napoli. Attorneys who did not have access to the device filed motions objecting to the lack of accessibility. As a result, Napoli opened access for Sundays only, including for those residents who were not represented by any lawyer.

Since the bone lead test, Jessica has been given the runaround trying to get her results. She has had several email exchanges. Typical is the May 19 email from Patrick Lanciotti, one of the attorneys with the Napoli law firm, which read, "I understand you are looking for the results of your bone scan performed on March 14, 2021. Please send Dr. Specht a check in the amount of $500 so he can provide the report." Jessica tried paying for the scan at the time of the test, but her payment was not accepted.

Aaron Specht, PhD is the Harvard research associate who modified the device for Napoli and collects the scan data in his Boston, Massachusetts office. He is not onsite in Flint to administer the bone lead tests, nor is there any record of an Institutional Review Board (IRB) approval for the use of the modified XRF (X-ray fluorescence) analyzer for bone scans.

"I now have a gut feeling of worry about having the scan done," Jessica noted. "But I had no choice. It's like playing Russian Roulette. I found out it was not safe after I pulled the trigger."

Dr. Catherine Wilkerson, a board-certified physician of Public Health and Preventive Medicine, has raised serious ethical concerns about the XRF analyzer. Between 1995 and 2000, Dr. Wilkerson worked in the emergency department at Flint's Hurley Hospital and was the medical director of the urgent care division.

"In their desperation to defend themselves against charges of potentially harmful and unethical misuse of the Thermo Fisher XRF device on human beings, Attorney Paul Napoli reveals what might be construed as willful ignorance of what constitutes medical research versus lawyering," Dr. Wilkerson told the WSWS.

"In Thermo Fisher's letter to Napoli, the company mentions there are limited occasions of support for use of the device in academic research to measure bone lead, research approved by university Institutional Review Boards. The company's letter states, as is indisputable, that the use of the device by the lawyers is neither academic research nor approved by any IRB.

"Napoli apparently believes that his firm could be let off the hook for any ethical breaches by this seeming revelation. Ironically, Napoli may be so desperate that he is blind to the implications that his law firm's defense might amount to claims of engaging in medical experimentation.

"Bizarrely continuing in his efforts to defend the misuse of the scanning device by invoking the issue of medical experimentation, Napoli goes on in the letter to proclaim, 'The same IRB protocols used by these "universities" were utilized in Flint.' Napoli should be made aware that the consents their clients were required to sign do not indicate that they are agreeing to their or their children's bones being scanned for any medical experiment. Does Napoli fail to realize what dangerous ethical and legal territory he has embarked upon with these statements?"

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