

Law firm vows to continue using bone scan device not fit for use on humans on Flint, Michigan residents

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9 June 2021

The primary law firm in the \$641.25 million Flint water crisis settlement is ignoring warnings from the manufacturer that the radiation-emitting device used to measure lead in the bones of Flint residents is not to be used on humans. On June 8, the Napoli-Shkolnik law firm notified Thermo Fisher Scientific that despite its warnings against using the device on humans, the firm will continue using the scanner.

Last week, a May 12 letter sent to Napoli by Thermo Fisher became public. The letter to Napoli is explicit about how the analyzer cannot be used. “As you are aware in your rental agreement with Thermo Fisher, Napoli agreed to be solely responsible for the prudent operation of the XL3t.” Thermo Fisher’s letter to Napoli reiterates the company’s safety instructions, “to never point the analyzer to yourself or another person when the shutter is open. We further advise you that Thermo Fisher has not validated the safety of the XL3t when used in a manner inconsistent with its safety instructions.”

In defiance of this warning however, Napoli’s letter to Chloe Hansen-Toone of Thermo Fisher states, “As you are likely aware, our lead testing of Flint residents has garnered media attention, and recent news reports have included inflammatory and inaccurate statements, accusing our tests of being unethical, unapproved, and unsafe. We refute these accusations. Be advised that we plan to continue providing the tests. They serve an important purpose, provide valuable benefits, and there are no reasonable alternative means of obtaining the lead measurement data the tests produce.”

The law firm has made clear its disdain of medical professionals, including Dr. Mona Hanna-Attisha, Dr. Lawrence Reynolds, Dr. Catherine Wilkerson and others, who have raised legitimate questions of safety, reliability and other related ethical questions—including the possibility of unauthorized medical experimentation.

Dr. Reynolds, a pediatrician and former president and chief executive officer of Mott Children’s Health Center in Flint, previously told the WSWS, “The risk of radiation does not balance out the total lack of benefit, other than getting more dollars in compensation in the settlement. So there is an element of coercion there. This is outrageous.”

The device has been used since at least September 2019 and thousands of residents have had a scan done. However, Dr. Reynolds told the WSWS that the device was not registered by Michigan’s Licensing and Regulatory Agency (LARA) until February 2021.

Dr. Hanna-Attisha, whose analysis of blood testing helped to expose the Flint water catastrophe, does not recommend bone scans for children. She says the risk, even if low, comes without benefits. She described as “maddening” the news that the scanner was used on a pregnant woman at the end of April.

In addition, Dr. Catherine Wilkerson, a board-certified physician of Public Health and Preventive Medicine, has raised serious ethical concerns about the bone scan device. She recently told the WSWS, “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.”

Many Flint residents have also spoken out against the bone scans after they unwittingly had the test administered in the hope of getting a few hundred, or at most a few thousand, dollars from the settlement. The State of Michigan which is a party to the settlement, approved the terms which are designed to limit the amount of compensation that will go to the victims of the water poisoning. It is very likely that the amount of compensation residents receive will not even cover their bills for water they still do not use.

Those who received the bone lead scans were not informed that the device was originally designed for industrial scanning of scrap metal. The tests were not administered in a medical setting but in Napoli’s Flint law offices. Nor were residents told the device was not approved by the FDA. It also appears that women may not have been asked if they were pregnant since 22-year-old Amber Stebbens, visibly pregnant at 28 weeks, was not even provided a shield to protect her fetus from radiation.

Napoli states in his letter to Thermo Fisher that the device “provides valuable benefits.” The lawyers representing Flint residents in the settlement, including the Napoli law firm, will be provided with a 32 percent share of their clients’

settlements. The Napoli firm is the only one with the device and therefore has the majority of the clients. Residents who are represented by firms not affiliated with Napoli, or who do not have legal representation, must pay a \$500 fee which will be deducted from their settlement.

More than seven years ago residents of Flint, a working class city of more than 90,000 people, and the home of the historic 1936-37 sit-down strike by autoworkers, were willfully poisoned when, in the interests of a money-making scheme hatched by the Karegnondi Water Authority (KWA), the city's safe source of water for 50 years, Lake Huron, was switched to the toxic Flint River without adding anti-corrosion controls.

Lead, a dangerous neurotoxin, and other harmful chemicals were leached from pipes into the water, causing deaths, life-long illnesses, miscarriages, loss of income and declining home values. The most vulnerable segment of the affected population is approximately 9,000 children. Due to the rapid development of their bodies, lead poisoning can stunt growth and cause neurological and behavioral damage which can continue for a lifetime.

Public officials on every level from the local, state and federal, Democrat and Republican alike, are implicated in this social crime, as well as its cover-up. For more than seven years, no one has been held accountable. Those responsible include the former Republican administration of Governor Rick Snyder whose token prosecution is slowly winding through the courts. Snyder faces barely a slap on the wrist.

President Barack Obama's trip to Flint in May 2016 will forever be remembered as a major insult as he encouraged residents to "drink the water, your kids will be okay." Obama's Environmental Protection Agency (EPA) turned a blind eye to residents' protests. The present Democratic administration of Governor Gretchen Whitmer signed off on the rotten and paltry settlement and is moving to bury the case.

Also party to the cover-up is the United Auto Workers (UAW) union. Norwood Jewell, a former Flint UAW official who was convicted of bribery, pushed the KWA scheme and has close connections to the Democratic Party. GM quietly switched its water source from the Flint River in the fall of 2014 because its engine parts were being corroded. Neither GM nor the UAW warned the Flint population of the damaging effects of lead even though residents who were protesting the foul-tasting water and rashes went unheard.

It is clear that the requirement that Flint residents must submit themselves and their family members to the degrading and dangerous process of having to prove they were damaged by lead-in-water and other contaminants must be lifted. Given the warnings issued by Thermo Fisher and medical doctors, the use of the bone scan must be halted. Workers must receive full and adequate compensation without having to prove they were harmed.

There must be full disclosure to all Flint residents and the public at large of all information related to the use of the

device, including all correspondence between Thermo Fisher, the manufacturer and all attorneys.

The sealed and confidential 500-page deposition taken from Aaron Specht, the Harvard research associate who modified the device and is collecting data and \$500 fees from residents at his Boston, Massachusetts office, must also be made public.

All Flint residents must be guaranteed lifetime medical care for all children and adults free of charge and on a completely equal basis, as well as lifetime educational and social programs to provide for special needs children.

There must be full replacement not simply of the lead service lines, but of the entire water infrastructure system. All residents must be fully compensated for declining home values, loss of income as well as compensation for seven years of paying high water bills for water that residents do not drink.

Finally, all those responsible for the water poisoning and its cover-up must be criminally prosecuted.

Justice for the people of Flint will not be secured through the capitalist courts or by appealing to the politicians from either capitalist party. The last seven years have proven the futility of directing any appeals to the Democrats or Republicans. They are all beholden and accountable to the financial oligarchs.

A real fight must be waged which involves a political struggle by the working class against the capitalist system for socialism. The vast resources of society must be marshaled to meet the needs of Flint residents as part of the fight of autoworkers, teachers, health care workers and logistics workers in the US and internationally.

We urge those who agree with these demands to form an independent Flint Workers Action Committee which will be affiliated with the International Workers Alliance of Rank-and-File Committees and will fight for what Flint residents need to be made whole.



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