

Charities in the Courtroom, Part 9: Relief for Flint

06.23.17 | Linda J. Rosenthal, JD



For almost three years since April 2014, the beleaguered citizens of Flint, Michigan, have suffered from a shocking decision by an emergency city manager appointed by, and answerable solely to, the state's GOP governor, Rick Snyder.

To save a piddling amount of money, and without performing due diligence, the emergency manager switched the city's water supply from the safe Detroit River to the heavily polluted Flint River.

The result: "lead seepage into the drinking water in Flint ... has caused a massive public health crisis" and has corroded and destroyed "the pipes for all residences." In addition to the property damage and devastation of the everyday lives of Flint residents, the lead poisoning has affected all residents and, in particular, the youngest children, who have already suffered irreversible brain damage.

Despite award-winning national media coverage, primarily by Rachel Maddow of MSNBC, the powers-that-be have failed to correct what can be fixed. Of course, it's too late for the children whose lives are forever changed.

The good news is that – finally – some relief is on the way via the legal system. The first of several lawsuits against the State of Michigan, the EPA, and other defendants has just settled for some \$97 million. At least some economic justice is coming because intrepid nonprofits and individuals persevered in court.

The Flint Story

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The problem began when the city switched its water supply in 2014. Almost immediately, residents of Flint – a majority-black city where 40 percent of people live in poverty – started complaining about the quality of the water. City and state officials denied for months that there was a serious problem. By that time, supply pipes had sustained major corrosion and lead was leaching into the water. The city switched back to its original water supply late [in 2015] but it was too late to reverse the damage to the pipes.

High blood lead levels are especially harmful to children and pregnant women, and can cause ‘learning disabilities, behavioral problems and mental retardation....’

A lengthy description of the entire story (up to about a year ago) is at [“Lead-Laced Water in Flint: A Step-By-Step Look at the Makings of a Crisis.”](#) It’s a story of devastating malfeasance that has not yet been fixed – to the extent that it can be rectified at all. Numerous officials have been criminally charged in connection with these decisions, including numerous coverups.

The Flint Lawsuit

More than a year ago, Flint resident Melissa Mays, along with three nonprofits—Concerned Pastors for Social Action, the Natural Resources Defense Council, and the American Civil Liberties Union of Michigan – [filed suit](#) after heroic attempts to seek redress through the government and political system largely failed.

The recent settlement was facilitated by a mediator appointed in December who passed along recommendations to U.S. District Judge David Lawson, who issued a final ruling on March 27th. The [\\$97-million award must be spent](#) on new water service lines to replace those that have been leaching lead into the city’s water. The water lines for 18,000 households will be examined for possible replacement. Under this settlement, the state also “must continue to operate nine bottled water and filter distribution centers through September 1st, with clearly designated procedures for closing any of them. It also mandates expanded Medicaid services to cover such programs as monitoring the blood of local children for elevated lead levels.

The proposed settlement also requires the state to [pay \\$895,000](#) to the plaintiffs who brought the 2016 lawsuit, to cover their litigation costs.

“This is the [first little battle won in this huge overall war](#),” said Plaintiff Mays. “For the first time, we’ve been able to have a federal court enforce the state to do the right thing, which is to replace the pipes that their agencies and their administration broke. And now people can start to see progress.”

Among the other pending lawsuits against various defendants including local, state, and federal officials as well as private contractors, is [one filed](#) against the U.S. Environmental Protection Agency

late in January 2017. In this litigation, plaintiffs claim that “despite notice of the danger as early as October 2014, the EPA failed to take the mandatory steps to determine that Michigan and Flint authorities were not taking appropriate action to protect the public from toxic water” and also “failed to ensure Flint was ‘in compliance with the requirements of the Safe Drinking Water Safety Act. The claimed damages are over \$700,000.

Conclusion

A sad fact made clear by the Flint, Michigan saga is that many other municipalities also suffer from corroding, lead-filled, pipes and water supplies.

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Flint, ... is not the only community with a poisoned water system, and Mays wants this lawsuit to be seen not only as a win for Flint residents but a model for others fighting for environmental justice. ‘This proves that even while poisoned, even while struggling for survival, that we’re not just victims; we are fighters. And we hope that we can lead a good example for the rest of the cities and states in this country facing this problem in a way that we can be proud of.’