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Inside this issue:

Title X	1
Negligent Contractor	2
Ohio Lead Industry Case	2
Settlement Funds	3
Health Fairs	4

Title X Disclosure Violations

When a lawsuit is filed against a landlord or management company, one of the causes of action that is considered relates to a violation of 42 USC 4852d (Commonly known as Title X).

Title X requires the "lessor" (or landlord) of a rental property provide the "lessee" with a lead paint pamphlet and provide a lead disclosure statement stating whether or not they have knowledge that the rental property contains lead-based paint.

Title X provides for civil liability including the tripling of damages in the event that a landlord or property manager "knowingly" fails to comply with the act.

In several cases, Lessors who have failed to provide the required Title X Disclosure have asked the trial court to dismiss

those claims because the parent or guardian entered into the Lease Agreement is the "lessee," and not the injured child. Lessors therefore argue that the child has no claim under Title X for their damages.

This argument clearly flies in the face of logic because the statute was intended to protect

children from the hazards of lead-paint poisoning. Further, under the Lessor's theory, a lead-poisoned child could never recover damages for this violation because a child is not legally able to enter into a lease agreement based upon his age, and therefore could never be a "lessee." Incredibly, several courts in other jurisdictions have dismissed claims for this very reason, completely ignoring the intent of the legislators.

Our firm has successfully defended motions to dismiss Title X claims in Michigan. However, one favorable ruling by an Ingham County judge was recently appealed to the Michigan Court of Appeals. Oral arguments have not yet been set for this appeal. We are hopeful that the Michigan Court of Appeals will follow clear logic and reasoning and rule in favor of lead poisoned children on this issue.



Flint Landlord Settles Suit

The firm recently obtained a significant settlement for an eight year old boy, who was lead poisoned at a rental property in Flint, Michigan when he was only three years old. During a routine WIC exam, the child was diagnosed with an elevated blood

lead level of 28 ug/dl. The child now suffers from cognitive impairments as a result of the lead poisoning, including speech and language impairments, learning disabilities, and behavioral problems.

A Genessee Health Depart-

ment inspection of the property found significant lead paint and dust hazards. The landlord originally denied liability, but later admitted that it "was the worst house in Flint." Attorney Robert Lantzy represented the child and his mother.

Firm Magnet Attracts Attention

BUCKFIRE &
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LAWYERS FOR LEAD
 POISONED CHILDREN
 (800) 606-1717

TIPS FOR A LEAD SAFE HOME

Homes built before 1978 likely contain lead-based paint.

- Repair peeling and chipping paint immediately
- If you rent, report peeling or chipping paint to your landlord.
- Always wash your children's hands before eating.
- Wash children's bottles, pacifiers, and favorite toys daily.
- Wipe or remove shoes before entering your home.
- Regularly clean floors, windowsills, and other surfaces using wet methods that control dust.
- For more information about making your home lead safe, call 1-800-424-LEAD.

Our law firm created a magnet titled "Tips For A Lead Safe Home." We send it to all of our clients and strongly urge them to place it on their refrigerator so that they can be constantly reminded of important lead-safe practices. We have found that clients frequently read health department and clinic pamphlets on these issues, but do not retain them for future reference or simply never read them again. When on a refrigerator for easy reference, our magnet containing these important tips is always in front of their eyes.

We also distribute the magnets at health fairs and other events. Several clinics are also providing them to parents along with other written materials. It is our hope that these tips will prevent more children from becoming lead poisoned and will reduce the risk of additional exposure to children who have already been diagnosed with elevated blood lead levels.

We will gladly provide our magnets (free of charge of course) to clinics, health departments, and others who believe that these tips will prevent future poisonings.

Contractor found liable for failure to implement lead safe practices.

Negligent Contractor Found Liable

A Wayne County Arbitration Panel recently awarded a ten year old child significant damages for his lead poisoning injuries against a negligent contractor. The child was two years old at the time and resided with his family at his grandmother's home in Detroit, Michigan.

The home previously suf-

fered wind damage in a storm and was eligible for a grant to have repairs made both on the interior and exterior of the home. A contractor was selected for the project based upon his bid for the job.

The child had normal blood lead levels prior to the commencement of the interior work, which consisted

of repairing drywall, replacing windows, and painting both inside and outside the home. The contractor commenced work without utilizing any lead safe practices. The employees disturbed the paint surfaces, causing lead paint and dust hazards throughout the property. Lawrence J. Buckfire represented the child.



Ohio Capitol Building

Bob Lantzy Speaks at Ohio Conference

Attorney Robert Lantzy was an invited guest speaker at the Ohio Conference on Lead Poisoning in Columbus, Ohio in June, 2006. The statewide two day conference featured speakers from numerous professional disciplines on issues related to pediatric lead poisoning.

The four hundred attendees included physicians, nurses, social workers, outreach coordinators, inspectors, health department personnel, and legislators.

Mr. Lantzy lectured on current and relevant issues relating to the rights of lead

poisoned children in civil lawsuits. He also answered questions from the group. He received top ratings from the attendees.

Mr. Lantzy and Mr. Buckfire are available if you are interested in having them participate in your event.

Ohio Lead Paint Industry Case



Several lawsuits were recently filed in Ohio jurisdictions against the makers of lead-based paint. These cases were

filed on behalf of cities, such as Toledo, seeking damages against the manufacturers for reimbursement of remediation expenses, medical expenses, and other damages caused by lead based paint in older properties. Not surprisingly, the makers lobbied state politicians who quickly put a halt on those suits. Sherwin Williams is based in Ohio and was extremely influential with local lawmakers.

Just before the Christmas break, lawmakers did pass legis-

lation to limit damages on these cases and to essentially provide immunity to paint manufacturers. Governor Taft, who lost his re-election bid, did not sign the bill because he assumed it had become law. This was a miscalculation because there was still twelve hours for incoming governor, Ted Strickland (D) to act.

Governor Strickland immediately vetoed the legislation which will allow the suits to proceed.

“We are never too busy for your referrals”

Settlements Establish College Funds

What happens to the child's funds after a civil case has been settled? This is a frequent question from those involved in the health care community. Under Michigan law, a settlement on behalf of a minor child must be approved by either a circuit court judge or a probate court judge before it can be finalized.

Parents and guardians of the

child are not granted access to the settlement funds for personal use. Often, the funds are either placed in a restricted account and require court permission before they can be used for any purpose. The banks do not release funds without an Order from the court.

Most frequently, the funds are placed into a structured insur-

ance policy which provide payments to the child beginning at the age of 18. The payment plans must also be approved by the court.

Our firm is proud to have established over forty college trust funds for our child clients in the year 2006 alone. Our goal is to provide opportunities for a successful future for our clients.

Submit Your Questions

We are often contacted by parents, landlords, and health professionals with excellent questions on legal issues that pertain to child lead poisoning. We answer all calls and provide information to respond to the inquiries free of charge.

Providing free information and advice is part of our commitment to reducing and eliminating childhood lead poisoning in our communities.

If you have questions that you would like answered in future newsletters or would like to see specific topics discussed, please e-mail larry@buckfirelaw.com with your questions or comments. You will either receive a private response or your question will be answered in another newsletter so that other readers can also read it.

If you have a colleague, friend, or know someone who is interested in receiving

future newsletters, please send us their e-mail address and we will send them future issues.

The firm also publishes a newsletter on other legal issues to send to our clients. Anyone interested in receiving that newsletter should send us an e-mail request. We will gladly include you on all publications in the future.



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The law firm of Buckfire & Buckfire P.C. specializes in the representation of lead poisoned children and their families in cases throughout Michigan and the United States. Attorneys Lawrence J. Buckfire and Robert J. Lantzy have earned a national reputation for their advocacy on behalf of children in these cases.

The firm accepts referrals of cases on a regular basis from health care providers, health department personnel, and child advocacy groups. Many of our cases are referred by other attorneys as well as present and former clients.

"We are never too busy for your referrals"



Firm Participates in Health Fairs

Employees of Buckfire & Buckfire participated in several health fairs over the last year at the request of local health departments and HUD. At each event, the firm had a table and offered free information and legal advice to parents, property owners, and health care workers.

Frequently discussed issues included the legal rights of lead poisoned children, landlord-tenant issues relating to rental properties containing lead-based paint hazards, and issues regarding lead-safe practices.

The firm handed out its magnet with "Tips For A Lead Safe Home" and provided other materials to visitors. These included coloring books on lead poisoning and

crayons to children, lead disclosure forms, and other pertinent information. Many visitors contacted the firm at later dates for additional information and advice. Buckfire & Buckfire also donated stuffed animals for nurses to give to children during home visits and at the time of blood draws at the lead clinics.



In the summer of 2006, the EPA, HUD, and City of Detroit sponsored a major event at Detroit's Hart Plaza. The public turnout was excellent.

The event featured the Healthy Homes for Health Kids exhibit which is being displayed throughout the country. It is an actual model lead safe home for participants to walk through and view. Brochures and pamphlets were distributed by the agencies.

The firm will gladly participate in similar health fairs throughout the state and will also consider sponsoring these events. Contact Larry Buckfire at (248) 569-4646 or at larry@buckfirelaw.com to discuss your upcoming events.