

 [Click to Print](#)

[SAVE THIS](#) | [EMAIL THIS](#) | [Close](#)

Posted on Thu, Sep. 16, 2010

Pretrial hearing on New Jersey children exposed to mercury vapors gets heated

By Jan Hefler

Inquirer Staff Writer

The nearly 100 children who breathed mercury vapors at the Kiddie Kollege Day Care in Gloucester County more than four years ago have no symptoms and should not receive medical monitoring, the lawyers for various government agencies argued Wednesday.

But the lack of health problems does not mean the children won't develop brain or kidney problems, cognitive disabilities, or immune-system issues that have been linked to the vapors, the children's lawyers quickly shot back.

The lawyers in the children's class-action lawsuit are proposing up to 10 hours of psychological, neurological, and immune-system testing each year to make sure there is early detection and treatment of any problems.

The arguments were heard in a Woodbury courtroom filled with about 25 lawyers as ground rules were established for a trial set to begin Oct. 12.

Superior Court Judge James E. Rafferty ruled the children's medical experts are qualified to testify despite arguments from the other side that the experts' opinions are not "based on science." He also denied motions for summary judgment, saying there are enough factual issues to warrant a trial that likely will last more than a month.

The children's lawyers want the building's owners, the day-care operator, Franklin Township, the county, the state, and others to share the cost of medical monitoring, saying all were negligent for allowing a day care to open inside a former thermometer factory.

The daylong arguments became quite heated, and not just on the medical front.

Stuart J. Lieberman, one of the children's attorneys, said the state, the county, and the town "didn't do anything" to stop the conversion of the building, despite many warnings that it was greatly

contaminated.

Workers were sickened from mercury spills in the plant before it went bankrupt and closed, and the bank that tried to foreclose on it quickly applied the brakes when it learned how "mercury was all over the place," Lieberman said.

The bank's lawyer then suggested that town officials and others post "hazard" signs to prevent anyone from entering the building, Lieberman said.

Instead, it sat vacant, without a sign, until a prominent Franklinville real estate broker bought it by paying the delinquent taxes and then foreclosing on the tax certificates.

Jim Sullivan III has said he and his family businesses didn't know about the contamination when they bought the building and leased it to a day care in 2004. He blames the town, the county, and the state for failing to warn him, but acknowledges reading an environmental report that noted the contamination. He says he misread it.

Township attorney M. James Maley Jr. asked for a protective order to keep Sullivan and his family from contacting any township witnesses after learning that Sullivan's brother, Drew, has repeatedly tried to arrange a meeting with the zoning officer who approved the building's conversion to discuss the case. But the judge said an order wasn't necessary after Carl B. Poplar, the Sullivans' lawyer, said the family had no plans to contact any township witnesses.

Maley also said the town and the other government agencies should not be held liable in the case because there's a limit to how much the government can do.

The county and state attorneys also argued that their agencies are immune from liability because each had a limited role and did all it could under the law.


The judge disagreed. He said government agencies and employees have a duty "to protect the public from a dangerous condition, a contaminated site" just as police officers must stop criminal acts they observe.

"It somewhat defies logic how a day-care center for preschool children could be opened as a day care with no warning to the public," he said.

Contact staff writer Jan Heflerat 856-779-3224 or jhefler@phillynews.com

Find this article at:

http://www.philly.com/philly/news/local/20100916_Pretial_hearing_on_New_Jersey_children_exposed_to_mercury_vapors_gets_heated.html

 **Click to Print**

[SAVE THIS](#) | [EMAIL THIS](#) | [Close](#)

Check the box to include the list of links referenced in the article.

10/5/2010

Pretrial hearing on New Jersey children...

© Copyright | Philly Online, LLC. All Rights Reserved. Any copying, redistribution or retransmission of any of the contents of this service without the express written consent of Philly Online, LLC is expressly prohibited.