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Bronx Mother to sue over toxic caulk in NYC schools

Formal notice charges Department of Education, School Construction Authority, and Environmental Protection Agency with dangerous inaction on hazardous PCBs

FOR IMMEDIATE RELEASE

New York, NY, March 26, 2009 – Today at 5:30 p.m. at the headquarters of the NYC Department of Education (DOE) (52 Chambers Street), Naomi Gonzalez, a teacher's aide, and New York Lawyers for the Public Interest (NYLPI) will announce the filing of a formal notice of intent to sue the DOE and the School Construction Authority (SCA). Ms. Gonzalez's children Devin (11) and Emelina (6) and other NYC parents will also attend.

The suit will allege that PS 178, the school attended by Devin and Emelina, contains window caulking that is severely contaminated with poly-chlorinated biphenyls (PCBs) in violation of federal law. The DOE and SCA have misrepresented the risks associated with toxic caulk and to date they and the Environmental Protection Agency (EPA) have neglected to take action to rid the school of PCBs, forcing Ms. Gonzalez to file the notice of intent to sue.

"The Department of Education and the School Construction Authority have abdicated their responsibility to the parents and children of this city to provide a safe learning environment and to be clear and candid about the serious risks posed by PCB-contaminated caulk," said Miranda Massie, senior staff attorney for the Environmental Justice program at New York Lawyers for the Public Interest. "We hope that with the new Administration and this notice, the EPA will end its dangerous passivity on this issue. If not, we will bring suit to enforce the law ourselves."

A state-certified laboratory found that a caulk sample from PS 178 contained over 100,000 parts per million (ppm) PCBs – more than 2,000 times the 50 ppm limit above which the EPA has determined that PCBs categorically "present an unreasonable risk of injury to health within the United States." A pending state bill would mandate PCB testing in NYC schools, and New York City parents and the City Council have called on the DOE and SCA to test the caulk in window frames, door frames and expansion joints of potentially contaminated city schools and to remove contaminated caulk. However, no action has been taken by either agency.

"This is about the health of my children, our children. My kids go to school every day in a building that could make it harder for them to learn and make them sick. I'm furious that the DOE knows this and has done nothing. I shouldn't be afraid to send my children to school," said Ms. Gonzalez, who lives with Devin, Emelina, and her husband in Co-op City.

"It is outrageous that schools in New York have not taken necessary precautions to prevent student exposure to PCBs," said Assemblymember Linda B. Rosenthal (D/WF-Manhattan). "Despite repeated requests for comprehensive testing, DOE and DHMH have refused to address this issue at all potential contamination sites. My legislation will require school districts to investigate and report on the status of PCBs in schools constructed or renovated prior to 1977. It will also require schools to follow published protocols for addressing PCBs during school renovations. It is my sincere hope that this issue can be resolved quickly in order to protect children from further exposure to these dangerous toxins."

PCBs are severely poisonous. They threaten the integrity of major body systems, including the immune system, the endocrine system, and the neurological system, and they are considered a probable human carcinogen. PCBs are developmental toxins that disproportionately affect children. PCBs in caulk volatilize into air and migrate into soil, brick, and mortar, exposing children and employees to significant health risks

PCBs were banned in 1978 by Congress in the Toxic Substances Control Act (TSCA). The law is to be enforced by the EPA, which promulgated regulations for the management and disposal of PCBs. .

Under the Bloomberg Administration there has been a centralization of power for making and implementing education policy. In 2002, changes in the school governance law gave the Mayor the authority to appoint all three Trustees of the SCA, including the School's Chancellor who serves as the SCA Chair, and the management of the Department of Education's Capital Program was consolidated under one agency, the SCA. Opponents of Mayoral Control allege that the consolidation of power has frozen out independent neighborhood voices like Naomi Gonzalez's and stymied efforts of parents to provide feedback in their children's school environment forcing them into the court system.

About New York Lawyers for the Public Interest

New York Lawyers for the Public Interest (NYLPI) is a nonprofit civil rights law firm that works with communities to advocate for social justice through community organizing, litigation, policy advocacy and public education. NYLPI's Environmental Justice program works with communities currently and potentially impacted by environmental harms such as toxic sites, environmentally unsafe schools and other noxious facilities to address threats to their health and safety and advocate for positive development. NYLPI also has expertise in health justice, and disability rights as well as coordinating an expansive network of volunteers from New York's top law firms and corporate legal departments to provide pro bono legal assistance to nonprofit organizations and individuals in need.

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