

## Teacher sues DOE over child's fatal birth defect

By Nikki Dowling  
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Nancy Tomassi, who began teaching at PS 51 in 2007, was diagnosed with an anencephalic fetus on Oct. 10, meaning large parts of her unborn child's brain and skull were missing.

At 21 weeks, Ms. Tomassi terminated her pregnancy. About 1 in every 4,859 babies in the United States is born with the disease each year, according to the Centers for Disease Control and Prevention. Most babies born with the disorder die shortly after birth and many do not even live that long.

Now Ms. Tomassi is suing the Department of Education for its role in allowing her to work in a school so riddled with toxins that it was listed as one of the city's Resource Conservation and Recovery Act sites, meaning it housed or produced hazardous waste. The *New York Daily News* first reported the intent to sue.

She and her husband Michael allege that the DOE's failure to inform families and staffers for six months that PS 51 contained toxic levels of the carcinogenic chemical trichloroethylene, or TCE, constitutes "negligence and carelessness," according to an intent to sue filed on Dec. 28.

Lawyer Jeffrey Schietzelt, of Silverson, Pareres & Lombardi, said the law requires claimants to inform city agencies of their intent to sue 90 days before filing a lawsuit but added that the Tomassis may also sue other parties, such as those who leased the site to the DOE.

He is planning to seek a total of \$10 million in damages.

"She was being exposed to this all along ... but the fact that they found out and could have gotten her out of there before she got pregnant is a tough issue for me to understand," Mr. Schietzelt said in a phone interview.

DOE officials confirmed in February that levels of TCE exceeding state guidelines were present in the school's former location, at 3200 Jerome Ave., particularly in the air of the cafeteria and basement. but did not alert the PS 51 community until August. The

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TCE is a colorless, sweet-smelling liquid that is primarily used to remove grease from metal parts. Exposure can result in dizziness, headaches, confusion, euphoria, facial numbness, weakness, developmental issues, cancer (particularly in the liver) and death, according to the Environmental Protection Agency and the Agency for Toxic Substances and Disease Registry. There may be links to birth defects, although most of the research in that area has dealt with contaminated water, which was not present at PS 51.

Ms. Tomassi's claim comes on the heels of another lawsuit. Rhonda Rivera, 50, who has worked as a teacher's aide at PS 51 since 1993, filed a lawsuit on Dec. 9, claiming that working at the toxic site gave her pancreatic and liver cancer.

The Department of Education is not named in the lawsuit, which seeks unspecified damages against building owners. Instead, the suit is against former building owner and lighting manufacturer Nessen Lamps, which allegedly "negligently, recklessly and carelessly" dumped hundreds of gallons of toxic chemicals at the site, according to the complaint.

And more suits are likely to come. Mr. Schietzelt said other parties have contacted him, including Frank Burgos, who told the *New York Daily News* that he was forced to work at PS 51 over the summer to guard the school's technology and cleaning equipment, even after officials had informed families that the site was dangerous.

Mr. Schietzelt said Mr. and Ms. Tomassi do not wish to comment because, their lawyer said, the ordeal has taken an emotional toll on them.

### Keywords

Nikki Dowling, TCE, birth defect, Nancy Tomassi, lawsuit, suing, Department of Education, DOE, PS 51, Bronx New School, trichloroethylene

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