



NEW YORK'S HIGHEST RANKING
VERDICTS AND SETTLEMENTS
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#1

CASE	Yanes v. City of New York
CASE TYPE	School
ATTORNEY	Ben B. Rubinowitz, Richard J. Steigman
COURT	New York County
DATE	07/01/19
TOTAL	\$59,170,000

July 1, 2019

An ALM Publication

NEW YORK

NEW YORK COUNTY

SCHOOL

Student burned during teacher's science-class experiment

Amount: \$59,170,000.00**Venue:** New York County**Judge:** Alexander M. Tisch**Case Name:** Yvonne Yanes, Claudio Yanes, Individually and as Parents and Natural Guardians of, Alonzo Yanes and an Infant v. The City of New York, the New York City Department of Education, the Board of Education of the City of New York and Anna Poole, No. 161066/14**Date:** July 01, 2019**Plaintiff Attorney(s):**

- Richard J. Steigman; Gair, Gair, Conason, Rubinowitz, Bloom, Hersh-horn, Steigman & Mackauf; New York NY for Alonzo Yanes, Claudio Yanes, Yvonne Yanes
- Ben B. Rubinowitz; Gair, Gair, Conason, Rubinowitz, Bloom, Hersh-horn, Steigman & Mackauf; New York NY for Alonzo Yanes, Claudio Yanes, Yvonne Yanes

Defense Attorney(s):

- Mark S. Mixson; Senior Counsel, Zachary W. Carter, Corporation Coun-sel; New York, NY for City of New York, New York City Department of Education, Board of Education of the City of New York, Anna Pool

Facts: On Jan. 2, 2014, plaintiff Alonzo Yanes, 16, attended a school that was located at 522 W. 44th St., in the Hell's Kitchen section of Manhattan. During one class, a teacher, Anna Poole, conducted a flame-test demonstration commonly termed "a rainbow demonstration" or "a rainbow flame." In such demonstrations, methanol is introduced to various salts. When the methanol is ignited, the salts release flames of differing colors. The demonstration was successfully performed. Several students arrived after the demonstration had been completed, so the demonstration was repeated after several minutes had passed. During the second demonstration, a fireball formed and projected toward the area in which Alonzo and other students were seated. Alonzo suffered burns of his arms, his back, his chest, his ears, his face, his hands, his head, his neck and his shoulders. Alonzo's parents, Claudio Yanes and Yvonne Yanes, acting individually and as Alonzo's parents and natural guardians, sued Poole; the school's owner, the city of New York; and the school's operator, the New York City Department of Education, formerly the Board of Education of the City of New York. The lawsuit alleged that Poole was negligent in her performance of the demonstration, that her negligence caused the accident that injured Alonzo, that the remaining defendants were vicariously liable for Poole's actions, that the New York City Department of Education was negligent in its training of Poole, and that the New York City Department of Education's negligence contributed to the accident. Plaintiffs' counsel contended that Poole did not properly perform the demonstration. The demonstration's methanol was obtained from a gallon-sized jug. During the first performance of the demonstration, methanol was poured into a beaker, from which Poole extracted small amounts that were added to the salts that were burned. Alonzo and another student claimed that the second demonstration was not similarly performed. They claimed that methanol was poured directly from the jug. The plaintiffs' science-safety expert opined that the accident was an instance of "flame jetting," which is a torchlike effect that occurs when flammable liquid interacts with an igniter. The expert opined that methanol was applied to heated salt, that unintended ignition occurred, that a resultant flame traveled into the jug of methanol, and that a resultant fireball projected toward Alonzo. Alonzo and the other student claimed that the jug's open end was facing them. The expert contended that the jug should not have been held near the heated salts. The plaintiffs' science-safety expert also suggested that the second demonstration was undertaken without Poole having ensured that the salts had stopped burning. The expert noted that burning methanol emits a clear or slightly blue flame. She contended that detection would have required deactivation of the classroom's lights, and Alonzo claimed that the lights were not deactivated. The plaintiffs' science-safety expert further opined that Poole did not perform a proper pre-demonstration hazard-risk

analysis. The expert contended that Poole should have prepared for each of the hazardous events that could have developed during the demonstration. The expert also opined that the demonstration should have been performed in a classroom that had a fume-removal system, a shower and a fireproof blanket, but that those safeguards were not present. Poole utilized goggles, but the students were not provided goggles. The expert further opined that Poole and the students should have been separated by a distance of eight feet, but Alonzo estimated that the distance measured two or three feet. The expert contended that Poole should have relocated the students. Plaintiffs' counsel also contended that the New York City Department of Education should have undertaken precautionary measures. In December 2013, the U.S. Chemical Safety and Hazard Investigation Board issued a warning and a video that explained the hazardous nature of flame-test demonstrations. Plaintiffs' counsel claimed that the New York City Department of Education had received that warning, but that the warning was not relayed to Poole. The defense claimed that evidence did not establish that a flame-jetting event occurred. He argued that the accident was an extraordinary, unpredictable and unpreventable event. Poole claimed that she could not recall the manner in which she performed the second demonstration, but she claimed that she never employs a process that involves methanol being poured from a jug. She claimed that she always utilizes a beaker, from which methanol is extracted via use of a pipette. She also claimed that she had ensured that the salts had stopped burning after the first demonstration had been completed. The defense's science-education expert reviewed the testimony of witnesses, photographs of the scene of the accident, and the findings of an investigation that was performed by the Fire Department of the City of New York, and she opined that Poole conventionally and appropriately performed the demonstration. However, during cross-examination, she acknowledged that the students should have been relocated before the demonstration began.

Injury: Alonzo suffered burns of his back, his chest, his ears, his face, his forearms, his hands, his head, his neck and his shoulders. The burns covered 31 percent of his body's surface. Plaintiffs' counsel claimed that the burns were third-degree burns. Alonzo was retrieved by an ambulance, and he was transported to a hospital. A coma was induced, and Alonzo underwent intravenous administration of 38 pounds of fluids. The coma lasted three days. During the ensuing two months, Alonzo underwent a total of five procedures that involved grafting of skin. The grafts were harvested from Alonzo and a cadaver. The grafts compromised more than 15 percent of the unburned areas of Alonzo's body. Alonzo also required near-daily debridement of damaged tissue, and he underwent daily sessions of hydrotherapy. His hospitalization lasted 54 days, and it was followed by 167 days of inpatient rehabilitative therapy. During the year that followed the accident, he had to wear special-ized garments that compressed and secured the burned areas of his body. The garments included a facemask. Plaintiffs' counsel claimed that Alonzo suffered complete destruction of the burned areas' nerves and sweat glands, and Alonzo claimed that those areas have lost all sensory ability. He claimed that he suffers constant contractures, itchiness and tightness of skin, and he further claimed that he experiences chronic overheating of skin. He also retains scars of his chest, his face, his forearms, his hands, his head and his neck, and his ears are not intact. Alonzo's parents sought recovery of damages for Alonzo's past and future pain and suffering. They also presented derivative claims, but those claims were discontinued. The defense contended that plaintiffs' counsel exaggerated the extent of the destruction of nerves and sweat glands. Defense counsel also contended that Alonzo can perform all of the activities of a normal person.

Result: The jury found that the defendants were liable for the accident. It determined that Alonzo's damages totaled \$59.17 million.

Post Trial: Defense counsel has moved for remittitur. Defense Counsel's Motion for remittitur was denied.

Editor's Comment: This report is based on information that was provided by plaintiffs' and defense counsel. Additional information was gleaned from court documents.