

Alice Jennings

00:18

[Lets start by talking about – we can go methodically from the first step of processing of filing a lawsuit, what happened in court, your interactions with Judge Rhodes starting with that hearing we were at when you first filed the lawsuit. Even before, the beginning of momentum to file the suit.]

We were looking, (Marilyn Mulane) and I, from Michigan Legal Services to doing some type of litigation or review of the highland park legal situation you know in Highland park there is an issue going on where the citizens are not receiving bills they are just, for year they don't get a bill and then they get a bill and it 7 or 8 thousand dollars, so we were looking at that issue, talking about doing something with that when all of the sudden we were hearing about the shut-offs in Detroit and so Gerry Goldberg one of the attorneys that actually entered an appearance in the bankruptcy case decided to go to a hearing his wife was there she actually spoke at the time and – I'm sorry, I don't remember her name, I do not want to refer to her as Gerry Goldberg's wife – I have a philosophical, well, ok, it's important, could you pause that for a moment, it's important to the story because she's the one who got the judge, Judge Rhodes, to look into the issue of the water cut-offs so not to say her name would be just crazy, Jerry, and (Chris Hammel) so at a certain point, Chris, his wife, spoke up at one of the public hearings with the judge in terms of what people were thinking in Detroit, and Chris said to the judge that, it was outrageous that peoples water was getting cut off, and so Gerry talked to me and I talked to Gerry, we talked to Chris, we decided, and we talked to (Marilyn Milain), from Michigan legal services and we decided we need to file a law suit. we had exactly three days to bring it to the courts attention because the court was going to haul DWSD, Mr. Latimer and his other cohort into court on that Monday, so this is Wednesday...

03:29

[Can we back up. Chirs said something to Judgee Rhodes which prompted him to haul DWSD into court. Can you just rephrase that?]

Chris Hammel said something to Judge Rhodes at the public hearing that DWSD really needs to do something, that this was just outrageous. She spoke up and he said, You're right, I'm going to have DWSD come to court on Monday. In the interim from Wednesday to Sunday night there were was a group of about seven lawyers that worked all night before 7AM to get a complaint file and so we literally jumped on the table, files a class action law suit very specific allegation, people protection, process violations, breach of the executor contract, public health need for water violation of the Michigan constitution we presented to the court and so Monday we went to court and the judge had already read the complaint. He then said to the city of Detroit: I want you to do something about this and I want you to meet with these lawyers and try to get an agreement. That started a process of negotiation with the DWSD. We were not able to

settle the complaint. But we were able to present our views in the negotiations, which I can't speak of publically. Our clients were there, about seven or eight lawyers for the city of Detroit were there as well. That's how we got that going. When we saw they were not going to resolve the case, we files a motion for temporary restraining order. The first day of the hearing, the bankruptcy trial the judge heard our motion firs. By then we had 10 plaintiffs, four organizations: MWR, National action network, moratorium now, people's water board primarily, which was a consortium of all of the groups. We were collecting data, we had already done foil requests and so at a certain point the judge said, well, you know, I'm going to have a hearing on this and were going to give you two days to have the hearing. During the hearing we brought in experts to, an expert who was previously the public health director of the City of Detroit under Coleman Young, George Gains, PhD in Public Health, we brought in RN, one of the young Nurses Union presidents of testify, we brought in people who were actually getting their water cut off, we brought in a plaintiff who had gotten her water gut off for over a year, six children living in the home, but a guardian angel had turned the water back on from the DWSD because she thought it was horrible that they had cut the water off, and we adversely called both Mr. Latimer, the assistant deputy director and Ms McCormick, who was the director to DWSD, paid \$200000 a year, I might add, our position with them was, what ware the rules, what are the regulation, they admitted that they weren't following the rules an regulation that were on the website in terms of giving people the correct amount of time to come in, clear up their bills or engage in a payment plan. They admitted that the Homrich company was basically going right through the neighborhoods in truck, putting blue paint in front of the houses and cutting off the water supply with no notice and by this time, of course, the Judge had given DWSD enough time to make changes to the way, by the time we got to the motion that we had before the court to stop the shut offs he had already gotten them to do some things, that he eventually thought was wonderful, including, that you got a seven day notice that you were getting your water shut off, he had gotten them to decrease the amount that you had to pay on your back bill from 30% to 10% and I said the judge had gotten them to do it but they said they voluntarily did it but I really believe it was because Judge Rhodes had applied moral pressure to them to do certain things.

So, we had our hearing, we got testimony that was just incredibly grossly negligent on the part of the city, the DWSD employees that were supposed to be leaders, and the judge ruled against us. He basically said, he was a bankruptcy judge, he didn't have power to rule on our issues, ven if he had the power to rule on our issues, there were overwhelming issues like financial, money issues that needed to be addressed by the city of Detroit, and basically, boiled all down to it was the need for money was superior to the harm that could happen to people.

This was in the face of Judge Rhode's finding that irreparable harm could occur to people if their water supply was interrupted, even for two or three days, that their families would be disrupted, that there was the risk of real harm, including death. He found all of that. Found the need for Detroit have money coming into its coffers with these shut-offs, even though they had been done bluntly, without due process and without legal protection, and

so, he ruled against us. Needless to say, we filed a motion for reconsideration and while he corrected one of his errors in the law, he still decided the full thing against us and threw us out. So now we are at the district court level, US district court. We've appealed the case and we are continuing to do discovery of information about the shut-offs, the foil requests, as well as discovery about how they are assessing the harm to the citizens. So that's where we are right now. The fight back is continuing, the organizing on grassroots level is continuing, not just our clients but internationally, the United Nations, as you know, came in shortly after the judge ruled against us, they made a finding that the water shut-offs was a humanitarian crisis, it was a retrograde, going backwards in the sense of humanity. It was very important to get an organization of its caliber to come in and basically say that the people who are organizing in Detroit on the ground around these issues are no people who just don't want to pay their water bills. It truly is an issue of poverty, disparity, an issue of the halves getting more and those with little getting even that little bit taken away. The special repertoires that came were phenomenal. We appreciate them coming to town. Since that time the international community has continued to embrace us to the point that we are getting requests from attorneys all over the country, from London, England, there's a worldwide, a group of attorneys that wants to take part as an amicus, filing an amicus curiae brief, so we're working with them as well. And it's just a lot, a lot of love being poured our way and for that we are grateful.

13:53 min

[Wow, that was a really good story. So let me ask, I want to go back, I want to go back systematically, and actually I'll just write down some things so I don't forget. Can you talk a little bit about the challenge and the rigor that it took to galvanize individual homeowners or tenants who had their water shut off and the importance of that and talk a little bit about that process at the beginning of the law suit and mention some dates. And Nicole Hill is in this so if you feel comfortable mentioning her by name.]

15:06

Well in July, this case was filed on July 21st. Just before that Michigan Welfare Rights and Maureen Taylor as well as Marian Kramer, as well as Monica Lewis-Patrick were very involved with the People's Water Board, Lila Cabbil, Raul, I can just name you names of people who stood for organizing at the grassroots level this issues. And the hotline that got put into place has been just outstanding because part of what the hotline has done is - this where people with water issues can call in and get information about what they can do and how they can do it. But Monica's work with the hotline and then the phone call that came to Michigan Welfare rights all came together, so we had lawyers, this team of lawyers that came together, we ended up with about 24-27 lawyers working on this case from all over the country and the lawyers who got involved really dug in with intensity and so the lawyers from the NWACP Legal Defense Fund came in and assisted with going and meeting with me, with clients and affidavits, preparing affidavits, as you know you prepared an affidavit, Kate Levy prepared an affidavit, for one of the pleadings. Personally, we went into the homes, one of the things that was being said and we were

able to debunk it very clearly: Oh, these folks just want to have their big screen TVs and you know that's the whole extension of the Cadillac welfare driving mother stereotype made new, now with big screen TVs. There were no big screen TVs, folks. In fact what we saw unfortunately is that many of the people in Detroit who were experiencing water shut-offs, they were living in poverty, and poverty by any name, I mean abject in some cases, and so we were able to rebut that because we had been with the people, we had sat at their kitchen table or on their couch or their straight-up chair because there was not furniture in the living room. So we came to know the people. We walked some of the streets, and saw the blue signs throughout the neighborhood, and walked through the neighborhood, talked to people who had their water cut off or didn't. And you know one of the things that has to, cannot go untold here: Detroit allowed this situation to be created, in many cases some of the plaintiffs, their water bills were over \$2,000 dollars, one was \$6,000. And I repeat, how do you let a water bill get to be \$6,000? If there was a process in place, to request payment when there was a delinquency, well certainly a 30% request of a \$200 bill that a person would have to pay versus a request of 30% of \$6,000 – you do the math and the thinking behind it. And so we know that this was a set-up to mess-up deal that the city of Detroit had allowed to occur and then basically pointed the finger and said, It's you, it's not us, and we'll take no responsibility for it and we'll make you look very bad and put out the media that you are just, people just don't want to pay your bills.

19:31

[So, yes, (Holimas?), got, her bills was estimated for months and months at a time and she kept calling saying, don't estimate my bill, I want to know how much it is and finally they did a meter reading and she owes \$400.]

19:45

Yes, and so this is the kind of thing where you're responsible for having the process that stands, you're responsible for having to process and rules and regulations. You're responsible for saying if someone has a medical condition it needs to be valued and the person will get additional time, DWSD. And so when you say, No, that's not our responsibility it's the customers responsibility then we see that thing has turned itself upside-on the head. And so the bankruptcy for us: we crawled into the belly of the beast. Kurt Thornblade, who is a bankruptcy lawyer, creatively, theoretically gave us the tools to crawl up into the belly of the bankruptcy beast and to be heard. And I think by our being heard we were able to achieve some good for some people. Is the problem solved? No. And that's why were still fighting, we're still up-hilling it, were still organizing.

21:23

[Talk to me about the hearing, and can you say the date of the hearing. Can you talk more specifically about some of the tings Judge Rhodes said in the courtroom, what weresome of the things that were said by plaintiffs, and the Water Department, and Judge Rhodes.]

21:40

That's a big – the hearing lasted for two days. I think it was September 22nd and 23rd and during that time we had a full day and defending had a full day. We called first some of the people who experienced shut-offs. some of them were Miss Ladelle, for instance, testified about her water being shut off and what it meant to her family, how her family, how children had to leave. She has 4 children, or 5, she had no ability to pay the bill. So we talked, she testified about the harm and what it's like not to have water in the home. Then we had a senior who worked all of her life.

She had been a nursing assistant at one of the local hospitals and how her water was still cut off as she testified. She wept on the stand about what its like to go get your water from the grocery store, about how to wash and take your medication and so forth. Then another person whose water was shut off, who had two teenagers in the home testified about what it was like. She was not a plaintiff but still somebody that had her water turned off. There were about 5 or 6 plaintiffs or (putative?) class member who testified and then Mr. Gains testified, the former deputy director of Public Health, he testified about having germs in a home where the toilet is not being flushed, and what comes with feces and how children will pick those germs up and take them to school and then someone may pick it up and take it to their home, that this has the capacity to be a public health emergency. So he testified and he actually talked about some of the medical conditions and then the nurse, from UofM, whose name is avoiding me right now, he testified about the significance of viral infections and others kinds of medical conditions that could occur. Because without the ability to constantly wash your hands, especially when it's flu season or other conditions are going around – at that time there was a real scare of Ebola coming to the country. So he testified very eloquently about that. Maureen Taylor testified about how children were coming to school without being able to clean themselves so it was creating for the teachers an issue of children who were very unkempt – they had a smell. And the other children would tease them or bully them because they were clearly not able to clean themselves up. And so there was a whole group of social issues that arose, including children being treated differently or less than because they weren't as clean as the other children. Maureen Taylor's testimony was excellent. She's a social worker in some of the Detroit Public Schools. Then we had testimony, we called at first Mr. Latimer, who admitted that there had not been the following of the rules and regulations of DWSD by going to the homes prior to the shut-offs and having a personal contact with the family, which was what was on the website in terms of how water gets cuts off. He testified that instead it was literally Homrich that came and cut the water off and then from there the person just had to figure out how to get there water cut back on. And at that point, if they didn't have 30%, at the point we filed the lawsuit in July: too bad. What we found was many of the organization that were supposed to be helpful in giving out money, did not affect a lot of our clients because they owed more than \$1500 or their bill, more than \$2000 on their bill, some of the organizations had a requirement that you couldn't owe more than, less that \$1000 so, these folks, they weren't going to get any help anyways and the State of Michigan only gives \$175 a year. It was that kind of testimony that led us to know that there really had

not been a societal review of what kind of impact these shut-offs were going to have, not just on the public health – they testified, they had done not public health review. This was an emission that later led Judge Rhodes to say, yes there is a health issue here. When Ms McCormick got on the stand she testified that there was no analysis of – at that point it was like – at the end of the year there were 31,000 homes cut off, but when you go back to 2013, and you add it up, it was over 50,000 homes. So my question was: How many of these homes were still cut off, with people in them, and how many of those homes have children, how many have seniors, how many have disabled? No assessment. No analysis. Not even to say, out of the homes that are still disconnected, 80% still have residents, or, they're all empty. They are not doing that type of evaluation. That really presents a humanitarian crisis at the highest level. Because that means you don't care if somebody lives or dies, turn off their water. We found out that one of - Monique Lynn-Lewis, Veronica, went out to do some review. Veronica, Joyce. One of the shut-off families had a senior who was being fed through a tube through the stomach. You need water to mix the formula to get the tube running. They didn't care. There was no assessment there.

29:29

[I want to know: was the argument brought up in court – just quickly – and I want your assessment of how the power structure enabled them, after all of this evidence, to say no, we're going to continue to do this. Was the power dynamic of the fact that it's just bad for the city to cut peoples' water off when you are trying to build back up the city. The blight that it cost, was that brought up.]

30:00

One of the exhibits we put in was an exhibit on foreclosures in Detroit over the last three years. Homes are being foreclosed because of water bills that have not been paid. There was a process of sending the water bill to the Wayne County tax collector so that if you didn't pay your water bill over three years it would go over to tax collection. So now those water bills were so great then you got 18% added to it. Then that created not only an instant emergency for the people getting their water cut off but it was also creating a secondary huge emergency of losing the home to foreclosure because that water bill was now being used to cut a person off from living in their home. So what we see with the water issue is a symbol, it's a symptom, rather, of the much larger picture of those that have not caring about those who don't have. When we look at it in a more micro-macro view, what we know is, it's part of not caring that people have a place to live, putting the banks over – the profits for the banks – over whether or not a person gets to stay in their home and raise their family there. Putting whether the banks get paid over whether or not a whole city, a city as historical as Detroit, goes into the type of blight that can destroy the very fabric of the city. And so it's much broader and so we could probably talk and wax and wane for hours over the total inability of our system of governance, which is based on money, compared to humanity, being the real culprit, when we boil it all down, but I think with the foreclosure, they were so hell-bent on pushing that bankruptcy through, that we're going to do it by any means necessary. And so even when you get a

finding that is going to have irreparable harm and maybe even death to people – but no, now we need the money, sorry. That shows a callous disregard for humanity.

33:07

[Can you just say what he said in that courtroom, how could he think that, and what's the power structure behind that, with the whole bonds...]

33:18

Well, the whole power structure behind that is that water is the new gold. Water is the new gold, water is the new all. The water shortages around the whole world in the next 50 years are just going to be incredulous. Getting water to people is going to become one of the new issues of our day. What right now is jobs and not having a place to live and – when we get down to it we aren't going to have enough water to survive if you don't have money. If you have money you can get anything at any point in time. What they are doing now is posturing the Great Lakes Water Authority to be this new process to bring in the water for purposes of the folks in this region, Wayne, Macomb County. And they are verifying that certain groups of people will have water. In and of itself I don't have anything wrong with it as long as poor people – people who have low income – and people who have money will all be able to share all of the water. But this is really part and parcel of what we have going on here and it's a lot more complicated then, it's complicated enough having the water cut off and you don't have the money to get it – I mean for people who are dealing with it – but I mean in terms of long-range thinking and planning and organizing. It's a lot of organizing that has to be done and a lot of issues that have to come together. Like right now with Fergusson, with police misconduct, Reverend Pinkney going to jail with no evidence against him, the issue of the foreclosures, the issue of the water, the issue of the no jobs. All of that has to come together to be viewed as a much more integrated process of organizing and activism. And right now we are just symbolic with the water cut-offs

38:34

We (gang-?) For people in every way in terms of humanity. When the special rapporteur Catarina de Albuquerque said it's a retrograde process, I mean it's deep. She is saying what is the truth.

36:08

And she is saying what is the truth. Not only not going forwards, we are going backwards, at the speed of light. And there's a handful of lawyers, that I now know, around the world that are fighting these kind of things. We just managed to stumble right up into it Marilyn Malaine and Gerry. We've always been lawyers for people. I do employment litigation and environmental cases, so I've always been a – I've never done a corporate case. But the time is: we're being called on in this time to do more. Our practices aren't enough.

Did you ever see this piece that Catarina did, on the Right Track?

[Oh good. I've never seen this.]

I'll copy it. Next time is see you.

[Thank you so much, she's just so lovely.]

We've got a new one for water now, he's just appointed.

[I'm also curious to know, what is in that foil request, using that process to benefit the grass roots.]

So the process is definitely to benefit the grass roots. We're going to get some more stuff out of them. I have stuff here from them but until we're going to the next level in the struggle with them. We had quite the year.

[I started working with - do you know Tom Pedroni?]

40:32

[That name sounds familiar. Who is he, tell me?]

He's a Wayne State and he's big in the education stuff, and fighting against the EAA, and closing of schools, and privatization. He's just started this organization called the (C..?) Collaborative at Wayne State, named after an educator there. They had some extra money to start this center and it's his goal, and my goal, since I'm working with him, is to help make Wayne State, the education a public center, as opposed to a private institution and providing that space for researchers and community organizers and parents and people that just come together to organize with a little bit more of a power space around the schools. So I'm going to keep you posted on that and there's a panel...]