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Tall concrete walls with guard towers surround the Oregon State Penitentiary, the state's only maximum-security prison, along State Street in Salem.

DANIELLE PETERSON / STATESMAN JOURNAL FILE

Inmate sues prison for \$975k over medical care

Whitney Woodworth

Salem Statesman Journal
 USA TODAY NETWORK

An inmate at the Oregon State Penitentiary is suing the Oregon Department of Corrections after he allegedly became so sick with an untreated staph infection that he lost 50 pounds in three months and developed a perforated bowel and gangrenous colon.

The inmate, who came down with the infection in 2018, suffered permanent effects and now has to use a colostomy bag.

According to the lawsuit, the infection nearly killed him.

The complaint, filed Tuesday by attorney Lynn Walsh on behalf of Carl Spieler, accuses prison officials of negligence for failing to provide him proper medical care, neglecting to inform him of the infection and allowing his condition to deteriorate to the point that he suffered gangrene.

Oregon Department of Corrections officials declined to comment on the allegations made in the lawsuit, citing the pending litigation.

Spokeswoman Betty Bernt said the department is mandated by state and federal law to provide health care to all inmates.

"Health care services available to (adults in custody) must be comparable to the range and breadth of health care provided in the community, and properly trained and credentialed professionals must provide that care in properly equipped clinical settings," Bernt said.

According to the complaint, Spieler, 56, began experiencing intestinal issues in June 2018. He had just started serving a sentence for attempted second-degree assault and eluding police.

After his condition worsened, he was admitted in 2018 to Salem Hospital, where he was diagnosed with colitis and tested positive for a staph infection.

Spieler was unaware he was diagnosed with a staph infection, and prison medical providers did not conduct any follow-up tests to see if it cleared after he was released from the hospital, according to the complaint.

"Mr. Spieler continued to suffer from severe diarrhea and lost a tremendous amount of weight over the next month," Walsh said in the complaint. "Even though he made numerous trips to the prison infirmary complaining of his

symptoms, the ODOC medical providers returned him to general population stating that he was faking, or that he was otherwise well enough for general population."

The culture of accusing inmates of maligning echos allegations made in another lawsuit involving an inmate who died of the flu at Oregon State Penitentiary in 2018.

The inmate, 54-year-old Michael Barton, had four liters of MRSA-infected fluid drained from his chest shortly before he died, according to a Disability Rights Oregon investigation into his death.

Barton's family later filed a \$15-million wrongful death lawsuit against the Department of Corrections.

In September 2018, seven months after Barton's death, Spieler was back in the infirmary. He had lost 50 pounds in three months and was down to 126 pounds, according to the lawsuit. He had to wear a diaper.

Spieler broke down in the infirmary while talking to a nurse. He cried from the pain, weakness and emaciated state, Walsh said.

"Realizing that Mr. Spieler was gravely ill, (the nurse) told Mr. Spieler that she could send him to the hospital, but he had to tell the hospital he is suffering chest pain," Walsh said in the complaint.

She noted the pains in his records and Spieler was soon in an ambulance, on his way back to the hospital.

"This nurse probably saved Mr. Spieler's life," Walsh said.

Spieler underwent surgery at the hospital and was diagnosed with a perforated bowel and gangrenous colon. As a result, he received a colostomy and now uses a colostomy bag.

The Oregon Department of Corrections and prison employees violated their duty to use the same degree of care, skill and diligence that they would with patients in the community, Walsh said.

The complaint said their actions were unreasonable in light of the risk of harm to Spieler.

The lawsuit requested \$305,000 in economic damages and \$670,000 in non-economic damages.

For questions, comments and news tips, email reporter Whitney Woodworth at wmwwoodworth@statesmanjournal.com, call 503-910-6616 or follow on Twitter @wmwoodworth

Alert

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areas because of how rapidly the fire was spreading," Griffin said.

Concerned that people were not getting evacuation alerts, deputies went door-to-door alerting people to leave immediately.

"It spread so rapidly that we couldn't get to everybody door to door," Griffith said. "We were literally getting ourselves out of there too."

Stories of a narrow escape

Travis Hansen of Gates said he was aware of the wildfires fairly early, but couldn't get answers on whether to evacuate.

"When I talked to the first fire crew they said there was no evacuation or anything," said Hansen, who lost his house in the fire. "My mom sent me the first alert and then the Sheriff came up and said: 'You need to go now!'"

"This was a totally crazy situation. Nobody expected this. But the thing is, I wish there was a little more communication."

Mike Ferris, another Mill City resident, had the same experience. At around 1:30 a.m., he was awakened by a call from his friend Lee Harrington, who implored him to evacuate.

"I looked out the door, saw the orange glow on the horizon, and we got out of there," Ferris said. "As I was loading my car, the Sheriff was knocking on doors telling people to get out, but the horse was kind of out of the barn at that point. There was no communication until it was pretty late. I finally got a text message telling me to evacuate at 3 a.m. as we were driving through Mehama."

Late on Monday night, Dan Lemke watched as the fire glowed red north of his home in Mill City. He could tell it was moving west.

"We just knew there was a good chance it was going to come over the hill and into the North Santiam Canyon," Lemke said. "So I just said, 'We don't need an evacuation notice, we're just going to go.'"

By 12:15 a.m., they were out the door, all without receiving any alert to evacuate.

After seeing rumors that the whole town was burned swirling on social media, he feared the worst.

But Lemke was able to stop in town Tuesday and found his house, the school, his church, the mills and many other homes still standing. He grabbed a few items he forgot, picked the ripe produce from his garden and headed out of town again.

The confusion and lack of notification weren't surprising, he said.

"I know from experience — I was a firefighter for 20 years — when you have a chaotic situation like this, communications are always a problem," he said. "Folks will try to do their best to get the word out to everybody. It's never a 100% deal."

Knowing about the fire

Looking back, Kesterson said she wished she knew more about the possibility of the fires spreading long distances.

Fire officials and the national weather service had made dire warnings, closed off huge areas because of what they knew was going to hit. They put preemptive level 2 evacuation orders in place Sunday afternoon in the Little North Santiam's Elkhorn Community. But there was no warning for Detroit, Gates, Mill City or Lyons.

"The fire weather forecasted is extremely rare and occurs only a few times a century," said Eric Johnson, deputy fire staff for Northwest Oregon Fire Management in a news release issued on Sunday, Sept 6, before the blowup.

The same release, from the Forest Service, said: "Over these next few days, the combination of high winds at 15-30 mph from the east with gusts up to 50 mph, low humidity, and dry fuels could cause rapid fire spread (to the west)."

But perhaps because Oregon has no history with such long-distance fire spread — which is more common in California — most residents figured they were safe down in the Santiam Canyon. No wildfire has ever spread from the wilderness to the canyon previously, even during the 88,000-acre B&B Complex that torched Santiam Pass in 2003.

And, officials have stressed that the lower half of what's become the Santiam/Beachie Creek Fire, was started by downed power lines.

Even so, Kesterson said more knowledge about the critical fire conditions would have helped her pay close attention that evening. If she had known, for example, the Beachie Creek and Lionhead Fires were projected to grow on high winds, she would have been on higher alert heading into the night.

"In hindsight, I feel kind of dumb not being more suspicious when I heard popping noises at night and the power surges," she said. "It would have been really helpful if some alerts made clear that this huge wind storm was coming, and there was fire close enough to impact us."

"It would have changed the entire scope of our thinking. We would have been paying attention to our phone and had a bag packed."

Many misunderstandings exist about the emergency alert system. Some people said they assumed they would get emergency alerts, like ones through the Everbridge system, automatically. But for many, including Everbridge, people have to sign up.

Even on smartphones, people have to opt in to receive emergency alerts in their settings.

Evacuation approaches can vary county-to-county and a statewide alert system has yet to be widely implemented for evacuations like the ones seen earlier this week.

The problems with emergency alerts were highlighted in 2018 after the Oregon Office of Emergency Management mistakenly sent an alert to western Oregonians' phones and televisions warning them of a vague "civil emergency" and to "prepare for action."

The alert was intended to warn Salem residents of cyanotoxins in the water system.

Email Whitney Woodworth at wmwwoodworth@statesmanjournal.com, call 503-910-6616.

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