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Northwest Personal Injury Litigation Reports

TERRYLEE A. WISMAN V. STATE OF WASHINGTON, DSHS; ROBIN RICHARDSON; CLAUDE FERGER;
DAVID AND JUDY EMERSON; EARL AND DAWN WISMAN

Case No. 99-2-02441-3

Settlement Date: November 27, 2000

Date of Publication: March, 2001

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TOPIC: STATE, DSHS & CAREGIVER NEGLIGENCE--*SUMMARY JUDGMENT; PHYSICAL & SEXUAL ABUSE; POST TRAUMATIC STRESS DISORDER.

RESULT: PLAINTIFF SETTLEMENT for \$ 2,250,000. (*Summary Judgment for Defs. Wismans. After the Attorney General's Office concluded their investigation, Def. Ferger plead guilty to Second Degree Rape of Plff, Def. Ferger is currently incarcerated. This is the largest settlement against DSHS in Eastern, Washington history.).

INJURY: The abuse Plff sustained was brutal and lasting in nature. Plff was evaluated by Dr. Samuel Delaney in order to determine the impact the repeated rape and sodomy had on him. As a direct result of the profound abuse and trauma Plff sustained, Plff suffers from Post Traumatic Stress Disorder and will require extensive therapy on a long-term and probably permanent basis. Because of his disability, the therapy Plff requires will need to be specialized and structured in order to take into account the challenges imposed by Plff's developmental disability.

STATE: Washington

COUNTY: Spokane

PLAINTIFF ATTORNEY(S): David P. Moody of Gordon, Thomas & Honeywell (Seattle).

DEFENDANT ATTORNEY(S): For State of Washington: Loretta Lamb, Janet Capps, Jarold P. Cartwright, all Assistant Attorney Generals, Attorney Generals Office (Seattle); James B. King of Keefe, King & Bowman (Spokane) for Robin Richardson: Stanley Bastian of Jeffers, Danielson, Sonn & Aylward (Wenatchee) for Emerson: Doug Andres, Amanda Paye of Bullivant Houser & Bailey (Portland OR) for Wisman: Ronald G. Morrison of Morrison & Associates (Spokane).

SUMMARY: 12/94-4/97 - Plff, male age 27, developmentally disabled. In approx. 1/93, Plff moved into the Emerson Adult Family Home in Spokane, Washington. This Adult Family Home (AFH) was licensed by Def. State of Washington, Def. Department of Social and Health Services (DSHS), and was owned and operated by Defs. David and Judy Emerson. Def. Emerson's AFH catered to developmentally disabled clientele. In approximately 2/94, Defs. hired Def. Claude Dean Ferger as an employee to assist in caring for residents within Def.'s AFH. Plff, Terry Wisman was one of the residents for whom Def. Ferger provided care. There were a total of six (6) residents that resided in Def.'s AFH. Between 12/94, and 4/97, Def. Ferger physically and sexually abused Plff on a repeated and regular basis. Plff continually attempted to report this abuse to the owners and operators of the AFH, Defs. David and Judy Emerson. Defs. in

turn, passed on these reports of abuse to Pliff's State of Washington, DSHS case manager Def. Robin Richardson. Pliff contended that despite receiving clear reports of physical and sexual abuse, Def. Richardson did nothing to act upon the reports she received. All DSHS caseworkers have specific duties relating to reporting allegations of abuse. These duties are clearly laid out in both DSHS policy Washington State Law. The laws and policies in this state specifically state that DSHS caseworkers, such as Def. Richardson, must report allegations of abuse immediately to the proper investigatory bodies within DSHS. Pliff contended that despite her clear duty to do so, Def. Richardson did not report the allegations of physical and sexual abuse she received relating to Pliff. Def. Richardson initially denied ever receiving notice of problems in Def.'s AFH. An investigation conducted by Def. Richardson's DSHS supervisors found otherwise. Ultimately, Def. Richardson did admit to receiving notice of physical and sexual abuse from Def. Judy Emerson on two (2) occasions. Based upon her conduct, Def. Richardson received an official letter of reprimand from the DSHS. Subsequent investigation by the Attorney General's Office determined that Pliff was being brutally raped and tortured during the time frame Def. Richardson was ignoring the allegations of abuse she was receiving from Def. Judy Emerson.

PLAINTIFF EXPERT(S): Samuel W. Delaney, Jr., Ph.D. (Psychologist/Specializing in Disabled Adults) Spokane WA; David T. Rollins Ph.D. (Life Care Planner) Portland OR; Jon R. Conte Ph.D. (Social Work Standards) Seattle.