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Northwest Personal Injury Litigation Reports

LINDA A. DAVID V. STATE OF WASHINGTON, DSHS, DEFENDANT PIERCE COUNTY; DEFENDANT
PIERCE COUNTY; DEFENDANT VICTOR DAVID

Case No. 99-208612-9

Settlement Date: July 12, 2000

Date of Publication: August, 2000

2000 WA Jury Verdicts & Sett. LEXIS 1467

TOPIC: STATE, COUNTY, DSHS NEGLIGENCE; BRAIN DAMAGE; MALNUTRITION; BLINDNESS; NUMEROUS UNTREATED FRACTURES.

RESULT: PLAINTIFF SETTLEMENT for \$ 9,000,000. (Settlement included: Def. DSHS agreed to pay \$ 8,800,00. Def. Pierce County agreed to pay an additional \$ 200,000. The State of Washington has confirmed that this is the largest single Plff settlement against the State of Washington in Washington history.).

INJURY: 1/97 Plff was liberated from the sailboat by Everett Fire Department personnel. Plff was found, covered in dog feces vomit and urine. Plff was profoundly emaciated and smelled like rotting flesh. She had several untreated fractures, including breaks in almost all of her major bones. She was legally blinded from untreated glaucoma and retinal hemorrhaging. Plff's ears were severely deformed and cauliflowered. Plff can no longer ambulate in any manner whatsoever. The lead investigator for the Office of the Attorney General (Karl Parrick) calls this the worst case of spousal abuse he has ever seen. The Everett Fire Chief calls Plff's condition, the worst he has ever seen. Dr. Donald Dutton, the foremost authority on domestic violence in North America refers to this as the worst case of spousal abuse in American History.

STATE: Washington

COUNTY: Snohomish

MEDIATOR: Antonio Piazza

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

DEFENDANT ATTORNEY(S): Rene Tomisser of Attorney General's Office on behalf of State of Washington and DSHS; Daniel Hamilton on behalf of Pierce County, Washington.

SUMMARY: 1984-1997 - Plff, female, age 51 on date of settlement. Plff was profoundly disfigured, beaten, tortured and suffered extensive irreversible brain damage as a result of the injuries sustained between 1984 and 1997. During this span of time, Plff was confined to a 30 foot sailboat, anchored 200 yards away from any other boat or human contact. Between 1984 and 1997, Plff did not have any freedom of contact with any human being other than her husband, there was no phone to use and, at almost all times, she was unable to ambulate due to numerous untreated fractures, malnutrition, brain dysfunction and blindness. The underlying facts cannot be articulated in a few, simple paragraphs.

However, the most important facts are as follows: In 1984, Plff's husband sought to obtain benefits from Def. DSHS on behalf of his wife, Linda. Before authorizing benefits, Def. DSHS requires approval from a doctor. Accordingly Def. DSHS sent Plff to be evaluated by its state-approved physician, Dr. Stephen Tobias. Plff contended that Dr. Tobias wrote a very clear warning to Def. DSHS, expressly advising that "I feel we may be dealing with long term and severe abuse that may have caused significant brain damage - would urge immediate investigation into home situation!" Plff further contended that despite this warning from its own, hired physician, DSHS simply approved funding for Plff without looking into her care giving situation whatsoever. This occurred in 1984. Over the next 13 years, DSHS paid Plff's husband to be her state-approved care provider. Although DSHS received several additional warnings of spousal abuse and neglect from its own state-approved physician's. Plff contended that DSHS did not investigate the appropriateness of the care giver situation nor did DSHS perform its mandatory annual reassessment visits to determine if Plff was receiving appropriate care from her state-paid care provider (her husband). Despite mandatory 1 year reviews, there were periods of time of more than 4 years at a time, when no one from DSHS ever saw Plff or evaluated her situation. In fact, despite a mandatory requirement to interview clients within the client's home environment, Plff contended that DSHS stopped visiting Plff at the boat in 1987. Plff was not rescued for an additional 10 years after that last visit. On the few times when DSHS did "visit" Plff, all interviews were conducted in the presence of her husband, the alleged abuser. Plff contended that in fact, although DSHS caseworkers acknowledged that Mr. David was "very controlling" and was "neglecting" his wife, no one from DSHS ever made an attempt to simply speak with Plff alone to seek an independent evaluation of her condition. The entire time (1984-1997), Def. DSHS took Mr. David's word that Plff was degenerating physically due to Multiple Sclerosis (MS). There was never a formal diagnosis of MS and, despite several DSHS-paid physician requests for positive identification of the disease (MS), DSHS did not order any tests to be performed. As it turns out, Plff does not have MS and never did. In 1996, DSHS transferred Plff's file to Def. Pierce County. Plff contended that Def. Pierce County also failed to perform a mandatory, in-person assessment of Plff. This allowed further profound neglect and abuse to occur.

SETTLEMENT: The Office of the Attorney General (representing DSHS) requested a mediation before taking any discovery. The Office of the Attorney General requested that the mediation take place before Antonio Piazza in San Francisco CA.

PLAINTIFF MEDICAL EXPERT(S): Craig H. Smith MD (Neurologist & Neuro-opthalmogy) Seattle WA; Victoria Harris MD (Forensic Psychiatry) Seattle WA.

PLAINTIFF EXPERT(S): Don Dutton Ph.D. (Domestic Violence) Vancouver B.C.; David T. Rollins Ph.D. (Rehabilitationist) Portland; Theodore Becker Ph.D. (Human Performances) Everett WA; Llyod I. Cripe Ph.D. (Neuropsychologist) Carlsborg WA; Jon R. Conte Ph.D. (Social Work-University of Washington) Seattle WA.