

MAY 2009

SETTLEMENT - SNOHOMISH COUNTY

SHAYNE ABEGB, BY AND THROUGH HIS COURT APPOINTED GUARDIAN, JEANNE MARIE CLAVERE V. STATE OF WASHINGTON; DSHS; GRAYSON ASSOCIATES AND BRAD SIMKINS

Number: 08-2-04108-3

Settlement Date: 3/24/09

Plff Atty: David Moody, Anthony Shapiro & Martin McLean of Hagens Berman Sobol Shapiro (Seattle)

Def. Atty: Pamela Anderson, Assistant Attorney General (Tumwater) for Def. DSHS; Gary Eliassen & Michelle Alig of Merrick Hofstedt & Lindsey (Seattle) for Def. Grayson Associates; Ann McCormick & Mark Dean of Forsberg & Umlauf (Seattle) for Def. Simkins

Plff Med.: Stephen Glass MD (Pediatric Neurologist) Woodinville

Def. Med.: Stephen Back MD (Pediatric Neurologist) Portland OR

Plff Exp.: Jane Ramon LICSW-C (Liability) North Eastham MA; Katherine Kent J.D. (Liability) Seattle; Anthony Urquiza Ph.D. (Damages) Sacramento CA; Cloie Johnson (Vocational Rehabilitation) Bothell; Nora Thompson (Damages) Edmonds

Def. Exp.: Robert Butler Ph.D. (Damages) Portland OR; Kenneth Muscatel Ph.D. (Liability) Seattle; Gary Spector (Liability) Seattle

Mediator: Terrance C. Carroll

STATE & DSHS NEGLIGENCE

COGNITIVE LOSS; EMOTIONAL DISTRESS

3/7/07 - Shayne and his brother Joey lived with his father and his girlfriend. Shayne's mother had lost her parental rights years before. Shayne Abegg was emergently rescued by the Snohomish County Fire Department from the home in which he had been starved and isolated. Shayne was near-death, his heart rate was in the 30's, and his body temperature was 87 degrees. The firefighter who rescued Shayne called it the "worst case of neglect or malnourishment, either in a child or an adult" that he had seen in over 20 years experience. For many months leading up to his eventual rescue, Def. DSHS received several warnings (from multiple sources) that Shayne (age 4) was being abused, neglected and starved. The complaints were graphic, emergent and were made by those with first-hand knowledge of Shayne's peril. Nonetheless Def. DSHS did not take any steps to remove Shayne or Joey. Def.

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Facts Cont'd: Simkins and Def. Grayson are family preservation specialists hired by Def. DSHS to monitor Shayne's condition. Each of these Defs. failed miserably. For example, Def. Simkins' billing records reveal that he checked on Shayne one day before he was rescued. Despite Shayne's severely emaciated and near-death condition, Def. Simkins took no steps to notify law enforcement or fulfill his individual statutory duties as a mandatory reporter. RCW 26.44 et seq. On 4/2/08, this lawsuit was filed against DSHS. On 9/22/08, Shayne's Complaint was amended to include Defs. Grayson and Simkins.

Injuries: Physical and mental abuse; starvation/malnutrition. Cognitive loss.. Permanency claimed; cognitive delays.

Result: PLAINTIFF SETTLEMENT for \$6,000,000. (Plff's counsel negotiated a settlement agreement with all three Defs. The State will pay \$5,000,000 of the settlement. This is the largest single child Plff settlement that Def. DSHS had ever paid. Shayne's father and his girlfriend Marilea Mitchell were each sentenced to eight years in prison after being found guilty of criminal mistreatment.)