

VERDICTS & SETTLEMENTS

FRIDAY, MAY 6, 2022



Yana G. Henriks

\$4 MILLION SETTLEMENT

TORTS

DEPENDENT ABUSE

Wrongful Death

SETTLEMENT: **\$4,050,000**

CASE/NUMBER: Valerie Jimenez, Fabian Nathan Jimenez, A.J., through guardian ad litem Cataline De Alva v. Exodus Foundation dba Exodus Foundation for Recovery, Exodus Recovery Inc., Alejandro Haro, R.N., Albert Santiful / 19STCV05488

COURT/DATE: Los Angeles Superior / Jan. 26, 2022

JUDGE: Mark A. Young

ATTORNEYS:

Plaintiff – Yana G. Henriks (McMurray Henriks LLP); Charles L. Murray III (Law Office of Charles L. Murray, III)

Defendant – Randall H. Romero (Wood, Smith, Henning & Berman LLP); Thomas J. Griffin, Marie S. Masters (Nelson Griffin LLP); Anthony F. Witeman (Theodora Oringer PC)

FACTS:

The decedent, a 40-year-old father of three, presented himself to Martin Luther King, Jr. - Los Angeles Hospital (MLKLA) for psychiatric evaluation and treatment after experiencing suicidal ideation. He had twice attempted suicide in as many days, once by hanging. After the decedent was transferred and admitted into the care of Exodus Recovery Center (“Exodus”) for a “Higher Level of Care,” Exodus stopped monitoring the decedent long enough to find him dead by suicide, hanging by the neck from a bathroom vent at the facility.

PLAINTIFF’S CONTENTIONS:

Plaintiffs, three children of decedent who died by suicide while in the custody of emergency psychiatric intervention medical facility sued the facility, owner,

and attending nurses and doctor in action for dependent abuse, wrongful death, unfair business practices (Bus. & Prof. 17200 et seq.), and medical malpractice. Plaintiffs alleged defendants’ staff-- who were aware their patient had had multiple recent suicide attempts, including by hanging-- failed to afford the decedent even a minimum level of care, failing to conduct the mandatory “intermittent observation[s]” of the patient every 15 minutes. Additionally, discovery supported piercing the corporate veil between the facility and a Non-Physician Owner who appeared to manage the facilities with the goal of cutting costs to the detriment of patients, in violation of the ban against the corporate practice of medicine. (Cal. Bus. & Prof. Code, sections 2052, 2400.).

Later during litigation Exodus defendants took the position that the facility at issue was not a “health care” facility. Plaintiffs successfully argued that defendants’ Evidence Code section 1157 objection to the production of Exodus’ “root cause analysis” report must be overruled. Defendants challenged the discovery referee’s ruling by petitioning to the trial court, which affirmed the ruling. Defense then filed a petition for writ of mandate. The Court of Appeal initially granted a stay but, after extensive briefing denied writ. The Supreme Court denied defendants’ petition for review.

Finally, the reports were produced. The production further established that defendants had altered or withheld several crucial documents.

In anticipation of the hearing on plaintiff’s motion for terminating sanctions, the discovery referee, the Honorable Joyce K. Fahey (Ret.), who had presided over ten depositions and numerous discovery hearings, tentatively indicated that she was inclined to grant the sanctions, citing discovery abuse and

withholding and altering of evidence by the defendants: “I started as a prosecutor in 1977. This is the most egregious case of falsification and perjury that I have ever seen.”

DEFENDANT’S CONTENTIONS:

Defendants denied all contentions.

INJURIES:

Death of a 40-year-old father of three. Loss of society, comfort, support to the decedent’s three surviving children.

SETTLEMENT DISCUSSIONS:

Plaintiffs’ CCP section 998 offer to defendants for \$498,000 was refused. Defense made no offers to settle.

RESULT:

Parties settled on the mediator’s recommendation for \$4 million and \$50,000.00 separate reimbursement to plaintiffs’ attorneys in connection with the terminating sanctions motion pending at the time of settlement.

OTHER INFORMATION:

The case was settled before the motion for terminating sanctions was heard. Defense counsel from Wood, Smith, Henning & Berman, LLP was substituted into the case on December 8, 2021 to try the matter. All depositions and discovery issues underlying plaintiffs’ motion for terminating sanctions preexisted the entry of Wood, Smith, Henning & Berman, LLP into the litigation. Neither the terminating sanctions motion, the discovery referee, nor the CCP 998’s involved Nelson Griffin LLP or their clients. To avoid the uncertainties of trial, defendants contributed \$400,000 to the global settlement.

FILING DATE: Feb. 6, 2019