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Jury awards record verdict after fatal fall

Estate of mentally disabled woman gets \$1.6M in suit against group home where she fell repeatedly

BY LAURAANN WOOD
Law Bulletin staff writer

A Stephenson County jury has awarded \$1.6 million to the family of a woman who died after suffering severe brain damage in one of several falls at her group home.

The record-setting verdict in the northwestern Illinois county came last week in a wrongful-death suit. Rebecca Ruiz sued Willowglen Academy-Illinois Inc. and several of her sister Ivette Ruiz's caretakers in 2012, alleging they failed to provide her sister with adequate medical and nursing care to prevent her from repeatedly falling and eventually suffering a brain injury in December 2010.

Stephenson County's previous record settlement or verdict in a wrongful-death action was a \$1,550,000 settlement reported in 2003 involving the death of a 45-year-old female due to failure to diagnose cancer, according to John L. Kirkton of the Jury Verdict Reporter, a division of Law Bulletin Publishing Company.

Ivette Ruiz, who had shown signs of mental disability since she was in kindergarten, had been living at the group home since 2005 after transferring from a facility in Wisconsin owned by the same parent company — where she had previously lived for 17 years.

Ruiz recognized she was different from other people at an early age and wanted to live with those who were similar to her, said Tara R. Devine, a partner at Salvi, Schostok & Pritchard P.C. who represented Ruiz's estate.

"She was really a 7-year-old girl inside a 40-year-old's body," Devine said. "She's somebody who knew she had to brush her teeth, but she had to have

somebody check to make sure she did it."

Ruiz suffered her first fall in August 2010, fracturing her right heel bone and a toe. She was given a walking boot cast, and physicians ordered her to stay off the foot as much as possible.

Her foot remained sore for several months, and she was given Ibuprofen for the pain.

Ruiz fell again late that November while she was unsupervised and unattended in a bathroom and injured her left knee and ankle. She was diagnosed with a sprain of her left ankle and ordered to only bear as much weight as she could tolerate.

She fell again three days later and needed a wheelchair staff assistance for mobility because of pain in her feet. She suffered another fall the following day while getting out of a van at day

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training — a program in which the home's residents would engage in activities that kept them educationally stimulated.

An assessment performed the next day by nurse Stephen Aho indicated Ruiz had again bruised her feet and experienced pain when she bore weight on them. During a next day follow-up exam in early December 2010, a doctor left instructions that Ruiz endure "weight bearing as tolerated, with assistance as needed."

However, Aho noted only the first half of the doctor's orders. So although Ruiz refused to leave her bed the following



Tara R. Devine

morning because of pain, she still had to attend day training but was not given a wheelchair for mobility assistance.

Ruiz had trouble walking that day at training, and she received help to move across the room but was allowed to go to the bathroom alone. She fell again on her way there, and subsequent examinations indicated her left arm, left leg and eyes began twitching and she couldn't squeeze the examiner's hand on command.

Ruiz required assistance to get home during a time when

shifts were switching at the group home, Devine said, and no one who tended to her during day training relayed information about her fall to the caretakers who took over once she returned to her room.

Despite needing assistance to move around her room, Ruiz was left unattended and fell again while standing by her dresser folding laundry. Caretakers discovered Ruiz reaching for her glasses on the floor, but she grew increasingly confused and eventually became unresponsive as an ambulance transported her to a hospital in Freeport.

"These were the last moments of consciousness of this woman's life, and they were the worst moments of her life," Devine said.

Ruiz suffered severe bleeding on her brain from the fall, and she underwent surgery to drain the blood and relieve pressure. However, Devine said, the brain damage had already been done.

Ruiz remained on life support after the procedure and died of blunt trauma to the head once physicians weaned her off of the machine 13 days later.

Devine said while there is no real criticism of how the staff addressed Ruiz's first fall, it's clear there was a systemic failure to adequately address the ones that came after. "There were no real attempts to try to limit, reduce or prevent it from happening again," she said. "There were multiple failures among the staff members to report important information about Ivette to each other."

Ruiz's estate sued Willowglen Academy, its parent company Phoenix Care Systems Inc., nurse Aho, nurse David Heller and service providers Sarah Martin and Charles Tarpenting in Stephenson County Circuit Court in the 15th Judicial Circuit. The estate argued the defendants failed to adequately supervise and assist Ruiz, implement fall prevention policies or complete and request increased supervision in a timely manner, despite her history of falls.

The defendants denied the allegations and instead contended the sole proximate cause was a change in her medication by an independent psychiatrist who didn't warn anyone that the change would cause such an effect.

The parties attempted two mediations during litigation, but they could not reach an agreement so the case pro-

ceeded to trial before Circuit Judge David L. Jeffrey. The parties entered into a high-low agreement before the jury returned its verdict, said Robert J. Kopka, a partner at Kopka, Pinkus, Dolin who represented the defendants. He declined to share the terms of that agreement citing a confidentiality agreement. After 2½ hours of deliberation, the jury found five of six defendants guilty of negligence and awarded Ruiz's estate \$600,000 for pain and suffering, \$500,000 for grief, sorrow and mental suffering and \$500,000 for loss of society to the estate. Kopka said he and his clients were surprised by the verdict.

"The evidence was compelling that Willowglen provided a very high level of care and also that the family had left the sister to be her own guardian," he said. "We were surprised because we were much more involved in her life than her family was."

Despite the verdict, Kopka said he thought the defense's case went well.

"It was a two-full-week trial, and it was a good jury. I think that they got a little carried away with sympathy," he said.

Devine said the jury's decision became emotional for the attorneys, Ruiz's family and even some jurors.

"There were tears of joy in that courtroom when the verdict was announced," she said. "All the family ever wanted for Ivette was to see that she got the justice she deserved."

Associate John A. Mennie and associate Elizabeth R. Olszewski of Salvi, Schostok & Pritchard also represented Ruiz's estate.

Associate Sheila N. Osei of Kopka, Pinkus, Dolin also represented the defendants. The case is *Rebecca Ruiz v. Willowglen Academy-Illinois, Inc. et al.*, 12 L 5.