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\$54M Awarded in Group Home Rape

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An Albuquerque jury sent a message about the 2004 rape of a profoundly retarded Roswell man on Tuesday when it returned a \$54.5 million damage award against a health services company: Don't let it happen again.

The award included more than \$49 million in punitive, or "punishment," damages, one of the biggest such awards on record in the state.

"They (jurors) were very upset that these corporations would not accept responsibility for anything," said Greg Chase, one of the attorneys who sued ResCare New Mexico and its parent ResCare Inc., the Louisville-based international health services company, over the rape of Larry Selk.

Selk cannot speak or perform daily functions on his own. He was raped, probably by an employee, while living in College House, a group home operated by one of ResCare's New Mexico subsidiaries. The lawsuit was brought on Selk's behalf by his sister, Rani Rubio.

"They (jurors) felt this was not just about Rani's brother, it was about all of us," said Carl Bettinger, whose closing argument included quoting the Rev. Martin Luther King Jr. and singing the lyrics "screaming inside but you can't be heard" from a Sarah McLachlan ballad.

Jurors heard three weeks of testimony before District Judge Nan Nash about what happened to Selk, the aftermath, and the relationship between the health care company's New Mexico operations and Kentucky headquarters. They deliberated most of Tuesday before returning a verdict that found \$4.95 million in compensatory damages, \$1.2 million in punitive damages against the all-but-defunct ResCare New Mexico and \$48 million in punitive damages against ResCare Inc.

Nash discharged jurors late in the afternoon, but they agreed to remain in the courtroom and speak with attorneys afterward. And what jurors told Bettinger, Chase and Roswell lawyer Tom Lilley left no doubt they intended to send a message, Selk's attorneys said.

"One said, 'The further you went up the corporate ladder, the less accountability there was,' " said Bettinger. Another told them that the "silver lining" for ResCare was that the company can take note and "make sure it doesn't happen again," he said.

Jurors also told lawyers that "the most honesty was from the front-line people who were paid \$7 an hour," Lilley said.

ResCare attorney Matthew Connelly said after the verdict that ResCare "believes it has quality assurance and compliance systems in place to try and prevent any possible harm. But sometimes even the best of systems cannot prevent a terrible incident."

ResCare is deeply sorry for "any event that would put the people it serves in any jeopardy," Connelly said. "The company wanted me to express that their hearts go out to the family and (they) understand his distress."

It was one of Selk's care workers who discovered telltale marks on him after giving him a shower, according to testimony. Selk was examined by a nurse specializing in rapes at a unit attached to the Roswell hospital, who said Selk had been assaulted.

Afterward, Rubio tried to get answers about what happened, but was repeatedly told to "talk to the lawyers," Bettinger told the jury.

Roswell police never filed a criminal case. But a group home employee who Selk's lawyers said had been hastily hired and basically untrained was subsequently fired and that he was the most likely perpetrator.

In his closing argument, ResCare attorney Terrance Yenson said it was not anything the company did or didn't do that led to Selk's injuries, but rather the unforeseeable actions of an outside person.

"The reality is abuse, neglect and exploitation occurs ... even when you do everything right," he said.

The New Mexico Department of Health canceled ResCare's contract in 2006 without citing a reason, and it no longer operates any facilities in the state.

No decision has been made about an appeal, Connelly said.

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