

[\\$29 million verdict upheld against Rocklin nursing home firm](#)

Sacramento Bee (California)

July 14, 2010 Wednesday

Copyright 2010 Sacramento Bee (California) All Rights Reserved

Section: B; Pg. 1

Length: 601 words

Byline: Cynthia Hubert

chubert@sacbee.com

Body

In a strongly worded ruling, a Sacramento Superior Court judge has upheld a \$29 million verdict against a Rocklin nursing home company in the 2005 death of an elderly patient.

Judge Roland Candee on Tuesday rejected Horizon West Healthcare's arguments for a new trial or significantly reduced damages in the case involving Stockton native Frances Tanner.

Candee said "overwhelming" and "devastatingly powerful" evidence in the trial in May supported the jury's verdict and damage awards against Horizon, which owns 33 nursing homes mostly in Northern California.

In his written ruling after Tuesday's hearing, the judge called the trial "a classic demonstration of how well the jury system works."

Candee said panel members were unimpressed by the testimony of staffers of Colonial Healthcare in Auburn, one of Horizon's facilities, who came across as "overworked, untrained and uncaring."

Testimony showed that the nursing home company illegally understaffs its facilities and runs its business "based, time and again, predominantly on a concern for the bottom line" instead of compassionate patient care, Candee wrote. He said the jury clearly intended to "discourage future wrongful conduct" in awarding \$28 million in punitive damages.

"There is no way, from the court's perspective, that this case deserves a new trial," the judge said in court Tuesday after Horizon lawyers Kimberly Wells and Michael Levangie argued their points.

But the matter is not necessarily over. Horizon could appeal or seek a settlement with plaintiff attorneys.

The case revolved around the last months in the life of Tanner, 79, a retired public servant who worked for agencies including the FBI and the Internal Revenue Service. Tanner had mild dementia when she moved into Colonial Healthcare. Seven months later, after a fall that resulted in a hip fracture that went undiagnosed for days, she was dead of an infected bed sore.

\$29 million verdict upheld against Rocklin nursing home firm

Ed Dudensing, who represents Tanner's daughter Elizabeth Pao in the case, argued during the trial that Horizon was deliberately understaffed and, as a result, provided inadequate care and monitoring. Among the witnesses was a former staff member who said he would not put a family member in the home.

Horizon disputed the charges, with defense attorneys arguing that Colonial took good care of Tanner and was not responsible for the pressure sore that killed her. They presented witnesses who said that the sore likely occurred after Tanner was transferred to a hospital for hip surgery.

The jury ruled that Horizon and Colonial committed elder abuse and awarded \$1.1 million in damages for Tanner's pain and suffering and for her daughter's loss of companionship. A day later, after hearing evidence about the corporation's finances including its net worth of about \$200 million, the panel made the \$28 million punitive award.

Candee reduced the pain and suffering damages to \$800,000. Including \$1.2 million in attorney's fees, the total judgment is for \$29.1 million, believed to be the largest ever for an elder abuse case in Sacramento County.

In written motions, Horizon's lawyers contended that the punitive damages are excessive and unsupported by evidence presented in the case. They argued those points and others in court on Tuesday, including a charge that the jury engaged in misconduct by reading an article in The Bee about the case while deliberating damages. Candee rejected most of the arguments out of hand.

"If this was a close-call case, maybe some of your arguments would have power," he said. "This was an overwhelming case. It does not deserve to be retried. That would be a travesty."

Load-Date: July 14, 2010

End of Document