

## [Jury orders Auburn nursing home company to pay \\$28 million in death - Correction Appended](#)

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### Correction Appended

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**Byline:** Cynthia Hubert

[chubert@sacbee.com](mailto:chubert@sacbee.com)

### **Body**

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Make them feel it, attorney ***Ed Dudensing*** urged Sacramento Superior Court jurors who were weighing whether to financially punish a Rocklin nursing home company they had earlier found guilty of elder abuse.

Dudensing told the panel Thursday to hit Horizon West Healthcare hard so company leaders would think twice about understaffing facilities and providing substandard care.

The jury listened. In an award believed to be the largest of its kind in Sacramento County history, the panel awarded \$28 million in punitive damages in the death of 79-year-old Stockton native Frances Tanner.

"The jurors obviously felt that this is what they needed to do to send the message, to attempt to deter future bad conduct," Dudensing said.

A Horizon spokesman, Dan Niccum, said the company "will vigorously contest the verdict" and file a motion as early as today based on "constitutional guidelines that were ignored" in the case.

"In our opinion, this verdict was not based on facts but emotion," Niccum said.

The jury announced the award one day after finding Horizon West and one of its nursing homes, Colonial Healthcare of Auburn, committed elder abuse. In that phase of the case, jurors awarded \$1.1 million in damages for Tanner's pain and suffering and for her daughter Elizabeth Pao's loss of companionship.

They decided on punitive damages after hearing evidence about the corporation's finances.

Dudensing, who represents Tanner's daughter in the case, told the panel that Horizon West is worth about \$200 million. He suggested \$10 million would be an appropriate punitive award for the chronic understaffing and inadequate care that he said led to Tanner's death.

The \$28 million is by far the largest elder-abuse award in Sacramento County history, Dudensing said.

Tanner, a career-long civil servant who worked for agencies including the FBI and Internal Revenue Service, had mild dementia when she moved into Colonial in March 2005, her daughter said. 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.

Colonial has a history of problems with state regulators. The Tanner case was the fourth in recent years in which the home was cited in the death of an elderly patient.

The vast majority of cases charging elder abuse are settled out of court, so the Tanner matter offered a rare public window into the inner workings of a nursing home. Dudensing argued 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, which owns 33 nursing homes mostly in Northern California, disputed the charges. Defense attorneys said Colonial took good care of Tanner and that the home was not responsible for the pressure sore that killed her. They argued that the sore occurred after Tanner was transferred to a hospital for hip surgery.

Niccum, the Horizon spokesman, said Tanner's death "was in no way due to any improprieties or failure to provide care by our staff.

"We are proud of our employees and stand behind the level of care provided to all of our residents," he said.

Carole Herman, of the Foundation Aiding the Elderly, said the verdict and awards should put nursing homes on notice across California. "The people spoke today," said Herman. "They wanted to make sure that this company never again puts profits before patient care."

Prior to this week's verdict, the largest personal injury award in county history was believed to be the \$22.5 million given earlier this year to a teenager whose father accidentally ran over her with a big-rig truck, seriously injuring her.

In that case, a judge found Freeway Transport Inc. liable for the girl's injuries because it insured and took legal responsibility for the load of produce that the girl's father was hauling.

In the Tanner case, "the jury rejected Horizon's way of doing business," said Dudensing, a former Sacramento County prosecutor who specializes in elder abuse cases. "They made it loud and clear that Horizon's behavior was despicable."

## Correction

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**SETTING IT STRAIGHT:** In three stories last week about a civil lawsuit and subsequent jury verdict involving the death of an elderly woman at Colonial Healthcare nursing home in Auburn, The Bee incorrectly reported that the home had changed its name to Hilltop Manor. Hilltop is the facility's former name.

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