

NEW MEXICO INJURY ATTORNEY BLOG

PUBLISHED BY
COLLINS & COLLINS, P.C.
ATTORNEYS AT LAW

January 15, 2010

Another Huge Nursing Home Neglect Verdict Handed Down by Jury

It seems that juries across the country are equally appalled by nursing home abuse and neglect as they are in Albuquerque. An Albuquerque jury recently dinged ResCare, Inc. and ResCare New Mexico for \$54 million for nursing home neglect and abuse. Notably, the punitive damages awarded against ResCare approached \$50 million.

The ResCare case involved the rape of a severely disabled man by a staff member. The recent case out of Brooklyn involved severe neglect that led to extremely serious bedsores all over the injured patient's body. In addition, after only 9 months in the facility, John Danzy's weight had dropped right at 90 pounds to 147 pounds. Despite transfer to another facility, Mr. Danzy later died as a result of the infections.

It took the jury 2 days of deliberation to reach a verdict of \$19 million in total damages against the facility in favor of Mr. Danzy's estate. Much like the ResCare verdict, the bulk of the damages were punitive in nature. The jury awarded \$15 million in punitive damages for the facility's cover up of its neglect. The plaintiff was able to establish through expert testimony that the facility had gone back and doctored the file in an attempt to cover up the onset, duration, and aggravation of the bed sores as a result of ongoing medical neglect.

The plaintiff's attorneys believed as did the jury that the nursing home had gone back and altered the records once it was apparent they were facing a lawsuit. The jury sent a message to the nursing home industry, and the medical profession as a whole, that attempted evasion of responsibility for medical or nursing home neglect will not be tolerated. This same message was sent in the ResCare case where the defendant denied responsibility to the bitter end. The case of Mr. Danzy was even more appalling where not only was responsibility denied, the facility actively concealed its medical neglect through the alteration of medical records.

It is interesting that the New Mexico verdict was almost 4 times the New York verdict. It is a good sign for New Mexico nursing home plaintiffs with serious claims of nursing home abuse and neglect. This is particularly so in light of New Mexico's appellate courts reluctance to overturn punitive damage awards, as illustrated in *Jolley v. Energen*. The court there stated that the punitive damages award would not be overturned unless it was so unrelated to the

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plaintiff's injuries as to "plainly suggest passion and prejudice over reason and justice." This gives the plaintiff a lot of bargaining room when it comes time for negotiating the settlement during the inevitable appeals that follow such awards in New Mexico.

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