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Northwest Personal Injury Litigation Reports

JANE DOE V. STATE OF WASHINGTON DEPARTMENT OF SOCIAL AND HEALTH SERVICES; EASTERN
STATE HOSPITAL; HAROLD "HAL" WILSON; ILLA HILLIARD

Case No. CASE NUMBER NOT AVAILABLE

Settlement Date: July 2, 2007

Date of Publication: October, 2007

2007 WA Jury Verdicts & Sett. LEXIS 1065

TOPIC: STATE & DSHS NEGLIGENCE; CIVIL RIGHTS VIOLATION; SEXUAL ASSAULT; EMOTIONAL
DISTRESS.

RESULT: PLAINTIFF SETTLEMENT for \$ 2,500,000.

INJURY: Emotional distress; significant pain and suffering. Permanency claimed.

STATE: Washington

COUNTY: Spokane

MEDIATOR: Gary Bloom

PLAINTIFF ATTORNEY(S): David P. Moody & Tony Shapiro of Hagens Berman Sobol Shapiro (Seattle).

DEFENDANT ATTORNEY(S): Elizabeth Erwin & Jarold P. Cartwright, Office of the Attorney General (Spokane).

SUMMARY: 6/10/04 - Plff, female age 29, a developmentally disabled resident of Spokane, Washington. Plff was raped while she was a patient at Def. Eastern State Hospital (ESH) which is operated by Def. State of Washington DSHS. Plff contended that since at least 1997, the Defs. knew that one of its male staff nurses posed a significant danger to vulnerable female psychiatric patients and that despite several specific instances of patient abuse, administrative code violations, internal policy violations and multiple acts of insubordination, the Defs. failed to terminate the nurse or take any disciplinary action against him. By 7/03, the Defs. knew that the nurse was unstable and dangerous. The Nurse Manager for Def. ESH's Adult Psychiatric Unit warned the Defs. of "grave concerns regarding the nurse's ability to provide safe and effective care to patients" and "concerns regarding the nurse's high potential for violence towards others." However, the Defs. still took no action to terminate or discipline the nurse or prevent him from pursuing one-on-one assignments with female psychiatric patients. On 6/5/04, Plff was admitted to Def. ESH due to "potential harm to self, depression, ineffective individual coping related to alleged sexual assault and substance abuse." The Defs. knew that Plff was particularly vulnerable since she had been admitted to Def. ESH at least eighteen times. Plff needed the guidance, security and therapeutic assistance found at a safe in-patient psychiatric hospital. On 6/10/04, the Defs. placed Plff in a one-on-one assignment with the nurse who trapped her in a laundry room, then violently raped her. After ejaculating in her mouth, the nurse groped her breasts, put his hands down her pants and pushed his fingers into her vagina. Plff had the presence of mind to spit her chewing gum and the nurse's ejaculate into a tissue which she kept in her pocket.

The DNA obtained from the chewing gum was the critical piece of evidence used to convict the nurse of rape. If Pliff had not preserved her chewing gum, it is likely that the nurse would still be employed by the Defs. Pliff's lawsuit also included Defs. Wilson and Hilliard who are executives of Def. DSHS.

PLAINTIFF MEDICAL EXPERT(S): Philip G. Lindsay MD (Psychiatrist) Seattle.

PLAINTIFF EXPERT(S): Jane W. Ramon LICSW-C (Social Work) North Eastham MA; Cloie Johnson M.Ed. (Vocational Rehabilitation) Bothell.