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Jury awards \$20 million

Nursing home ruled negligent in man's 2002 death

By MOLLY WILLIAMSON
State Journal Staff Writer

The verdict's message — not the \$20 million settlement — made Wanda Delaplane and her lawyer happy, they said Thursday after the wrongful death trial against a local nursing home concluded.

"They sent a message loud and clear that they will not put up with (nursing homes) putting profitability over patients and revenue over residents," said Kenneth Connor who represented Delaplane in her suit against Beverly Health and Rehabilitation of Frankfort.

It began four years ago after Delaplane's father, Loren Richards, 84, a patient at Beverly, died March 2, 2002.

Delaplane sued Beverly, alleging staffing cutbacks at the home resulted in a lack of quality care for her father and ultimately led to his death.

Nine of 12 Franklin County Circuit Court jurors believed the evidence showed Beverly deprived Richards of or infringed upon his rights and awarded his estate \$150,000.

Jurors awarded the estate \$50,000 because they felt Beverly did not properly contact Richards' family when he had a sudden change in condition, when he

was vomiting multiple times and moaning from abdominal and side pain.

Punitive damages for the same charges were \$8,799,000.

Beverly was ordered to pay \$1 million for pain, suffering and loss of life and \$10 million for gross negligence.

Nursing supervisor Connie O'Brien and claims investigator Deborah Cunigan were two of 11 nurses listed in the suit. They were the only ones individually ordered to pay a fine. Each was assigned \$500 for gross negligence.

The case lasted four years and the jury trial took seven weeks. However, the ordeal may not be over.

Connor said he expects the defendants to "tie things up in an appeal" and "delay, delay, delay" giving the settlement payout, because "it is more money in their pockets."

Beverly lawyers Norris Cunningham and Kirsten Ullman each declined to comment on the case or whether they would appeal.

When Delaplane heard the gross negligence payment was more than \$10 million alone, she broke down and began to cry.

"I appreciate the judgment,"

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Jury finds nursing home negligent in man's death

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Delaplane said. "It validates our position. We are able to say our position is correct, that our fears and concerns were valid. It is a significant verdict."

She said the trial was a terrible process for her.

"For 30 days straight, I have listened to my father die every day," Delaplane said.

However, she said she stuck with it because it was a promise she made to her father on his grave.

Connor said he has received some higher settlements, such as a \$78 million settlement in Arkansas, and some lower, such as \$10 million, \$12 million and \$15 mil-

lion settlements for similar cases. Thursday's verdict was "on the high end."

However, each case is different, Connor said. He said in this situation the plaintiff had a "clear-cut case" of understaffing to boost corporate profitability and stock prices.

In 2001-2002 alone, Beverly cut \$130 million in wages and labor, Connor said.

"It was an exceedingly profitable course, but quality of care suffered," Connor said.

He said the whole body of evidence throughout the trial showed an "utter disregard" for Richards' rights.

"Things that might seem little,

such as not answering his call light, leaving him on the commode, turning off his call light, not responding to his calls, missing clothing, missing personal items, are symptoms of a larger problem," Connor said. "He complained of pain since 2:30 in the morning and his calls were not heeded. He was in agonizing pain, which escalated and his cries escalated and no one responded."

Delaplane said she hopes the industry takes notice and changes its practices. She also called for more ombudsmen and consumer protection for nursing home patients and their families to prevent this from happening again.