

TEXAS REPORTER®

the premier comprehensive civil trial & settlement magazine in Texas

NURSING HOME—WRONGFUL DEATH \$6,000,000



JUDGE: HONORABLE
JENNIFER WALKER ELROD
COURT: 190TH JUDICIAL
DISTRICT COURT
CAUSE NO: 2003-18381
HARRIS COUNTY
HOUSTON, TEXAS

DATE OF VERDICT: October 14, 2005

PLAINTIFF COUNSEL: MARKS, BALETTE & GIESSEL
from Houston, TX, By: Mr. Jacques G. Balette - represent-
ing the Estate of Marie Frances Larson and Patricia Marie
Schieber

PLAINTIFF COUNSEL: GAUNTT & KRUPPSTADT,
L.L.P. from The Woodlands, TX, By: Mr. Matt Mussalli -
representing the Estate of Marie Frances Larson and
Patricia Marie Schieber

PLAINTIFF COUNSEL: LYONS & RHODES, P.C. from
San Antonio, TX, By: Ms. Laura R. Pazin - representing
the Estate of Marie Frances Larson and Patricia Marie

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Patricia Marie Schieber, Individually and As Representa-
tive of the Estate of Marie Frances Larson, Deceased
vs.

Mariner Post-Acute Network, Inc. n/k/a Mariner Health
Care, Inc.; Living Centers of Texas, Inc., d/b/a Edge-
water Care Center; Thomas Lane Northington; Donna
Kay Alexander, RN; and Margie Fraser Lindenberg, LVN

PLAINTIFF COUNSEL: LYONS & RHODES, P.C. from
San Antonio, TX, By: Mr. J. Thomas Rhodes, III (lead
counsel) - representing the Estate of Marie Frances Lar-
son and Patricia Marie Schieber

PLAINTIFF COUNSEL: MARKS, BALETTE & GIESSEL
from Houston, TX, By: Mr. David Marks - representing
the Estate of Marie Frances Larson and Patricia Marie
Schieber

PLAINTIFF COUNSEL: MARKS, BALETTE & GIESSEL
from Houston, TX, By: Mr. Henry Giessel (of counsel) -
representing the Estate of Marie Frances Larson and
Patricia Marie Schieber

FEATURED CASES

Motor Vehicle—Three-Vehicle
Accident—Harris County—Defense 13
Verdict

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Texas—Dallas Division—Final Judg-
ment and Opinion Issued by Judge

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Schieber

DEFENDANT COUNSEL: GODWIN GRUBER, L.L.P.
from Dallas, TX, By: Mr. G. Michael Stewart - representing Donna Kay Alexander, RN, Living Centers of Texas Inc., Margie Fraser Lindenberg, LVN, Mariner Post-Acute Network Inc., Thomas Lane Northington

DEFENDANT COUNSEL: GODWIN GRUBER, L.L.P.
from Dallas, TX, By: Ms. Jennifer Owens - representing Donna Kay Alexander, RN, Living Centers of Texas Inc., Margie Fraser Lindenberg, LVN, Mariner Post-Acute Network Inc., Thomas Lane Northington

DATE & VENUE OF ACCIDENT, ETC.: April 14, 2001

TYPE OF CASE: Nursing Home - Wrongful Death

SUMMARY: On April 14, 2001, Marie Frances Larson, 77, was found hanged to death in a wheelchair lap restraint at Edgewater Care Center in Kerrville. Individually and on behalf of her mother's estate, Mrs. Larson's only child, Patricia Marie Schieber, sued Mariner Post-Acute Network, Inc., now known as Mariner Health Care Inc.; Living Centers of Texas Inc., operating as Edgewater Care Center; Thomas Lane Northington; Donna Kay Alexander, RN; and Margie Fraser Lindenberg, LVN, alleging negligence in that Mrs. Larson was placed in the restraint without consent or physician's order and not properly monitored. The Plaintiffs alleged that Mrs. Larson died as a result of positional asphyxia.

DEFENDANTS' ALLEGATIONS:

DEFENDANTS' SUMMARY:

On April 14, 2001, Frances Marie Larson was found suspended from a lap restraint attached to her wheelchair at Edgewater Care Center. Ms. Larson was removed from the belt and wheelchair. The nurses attempted CPR and contacted 911. EMS personnel attempted to revive her, and she was transferred to the hospital for care and treatment. However, Ms. Larson could not be saved.

Plaintiff alleged that Ms. Larson died from positional asphyxia. Defendants contended that Ms. Larson

died from a fatal arrhythmia.

DEFENDANTS' ADDITIONAL COMMENTS:

Plaintiffs alleged that the nursing home and its employees attempted to cover up Ms. Larson's death, and this was vehemently denied by Defendants. Defendants attempted to resuscitate Ms. Larson and contacted 911, and there was no evidence of any attempt to cover up Ms. Larson's death or the circumstances surrounding her death. Furthermore, there was no indication that the jury was "angered at the Nursing Home's failure to conduct an adequate investigation . . . and the Nursing Home employees' inconsistent stories regarding the events surrounding Mrs. Larson's death." In fact, the jury members reported that no one believed Ms. Larson died as a result of the lap belt, and it was demonstrated at trial that a person could be suspended from the lap belt for more than 17 minutes with no injury or death.

INSURANCE CARRIER: AIG

PLAINTIFF EXPERTS:

- Robert C. Bux, M.D. - Pathologist - Colorado Springs, CO
- Suzanne Frederick, MSN, R.N. - Nursing - Waco, TX
- Steve Miles, M.D. - Geriatrics - Minneapolis, MN
- Sidney K. Gerber - Licensed Nursing Home Administrator - Bellaire, TX

DEFENDANT EXPERTS:

- Charles Harvey, M.D. - Forensic Pathology - Galveston, TX
- Mark Lambert, M.D. - Cardiology - Houston, TX
- Vladimir Parangao, M.D. - Pathologist - Performed Autopsy - Austin, TX

DEMAND: \$5 million at trial

OFFER: \$500,000 pretrial; \$1.75 million before final arguments

VERDICT: Plaintiff Verdict: \$6,000,000

JURY AWARDED:

\$1,000,000 Past Loss of Companionship and So-

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ciety
\$2,000,000 Past Mental Anguish
\$1,000,000 Future Loss of Companionship and
Society
\$2,000,000 Future Mental Anguish
\$6,000,000 Plaintiff's Total Award

ADDITIONAL COMMENTS: The jurors were angered at the Nursing Home's failure to conduct an adequate investigation following the death of Mrs. Larson and the Nursing Home employees' inconsistent stories regarding the events surrounding Mrs. Larson's death, which Plaintiffs alleged was an attempt to cover up the true facts. The jurors believed that the circumstances surrounding Mrs. Larson's death and the Nursing Home's act and omissions following the death hugely impacted Pat Schieber, due to the home's conduct and the close relationship Ms. Schieber had with her mom. Marie Larson had lived with her daughter, Pat Schieber in her home and under her care for many years. Mrs. Larson was admitted to the Nursing Home temporarily for rehabilitation and was expected to return home with Ms. Schieber within weeks.

LENGTH OF TRIAL: 14 days

JURY DELIBERATION LENGTH: 3.5 days

JURY VOTE: 5 male, 7 female

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VERIFICATION OF CASES

The Texas Reporter will begin attorney verification of cases starting with the January 1, 2005 issue.

Our office procedure has been in the past to publish the cases exactly as the submitting attorney sends them into us, and we will continue this process.

We will also continue to fax the attorneys for both sides of the case.

In order to have more accurate accounting of the cases we publish, we will begin faxing to all the attorneys involved in the case (that we have a record of) as it will appear in our publication. We will allow a 3-day notice period for those involved to respond with changes. After the notice period expires we will publish the case.

Thank you in advance for your time and consideration in instituting this change.