

[Smith](#)**Staff allegedly failed to treat resident's pressure sores**

<b>Settlement</b>	\$2,500,000
<b>Case</b>	Eric Smith, individually and as Administrator of the Estate of Lee Smith, Deceased v. Senior Living Properties, LLC. SLP Management, Inc., Complete Care Services of Texas, Inc., Lindale Healthcare Center, Linda Forrest, R.N., Ruth Nulf, Vickie Steen, L.V.N., No. 01-2553A
<b>Court</b>	Smith County District Court, 7th, TX
<b>Judge</b>	Louis Gohmert
<b>Date</b>	7/23/2003
<b>Plaintiff Attorney(s)</b>	David T. Marks, The Marks Firm, Houston, TX Jacques G. Balette, The Marks Firm, Houston, TX Henry P. Giessel, The Marks Firm, Houston, TX David Hill, Wellborn, Houston, Adkison, Mann & Sadler, Henderson, TX
<b>Defense Attorney(s)</b>	Lee Cameron, Jr., Wilson, Elser, Moskowitz, Edelman & Decker, Dallas, TX Thomas M. Farrell, Nickens, Keeton, Lawless, Farrell & Flack, Houston, TX

**FACTS ALLEGATIONS** & Plaintiff's decedent Lee Smith, 87, resided at Lindale Healthcare Center from Oct. 21, 1997, until Dec. 29, 1999. On admission, his diagnoses were arthritis, hypertension, prior hernia repair and dementia.

Alleging that Smith suffered injuries, including pressure sores, as a result of the facility's neglect, his estate and his adult son sued Senior Living Properties LLC, of Carmel, Ind., operating as Lindale Healthcare Center; SLP Management Inc., of Carmel, Ind., and Complete Care Services of Texas Inc., of Horsham, Pa., one or both of which allegedly staffed and managed the facility; nursing director Linda Forrest, R.N., administrator Ruth Nulf; and Vickie Steen, LVN.

The plaintiffs alleged that the defendants failed to assess Smith's condition timely and adequately, treat his pressure sores, assess his pain, staff the nursing department appropriately, and hire and train competent nurses and nurses' aides. These failures resulted from understaffing, of which the corporate defendants were aware, the plaintiffs alleged.

The defense denied the allegations and contended that the defendants' staffing levels were sufficient to meet the minimum needs of their patients.

**INJURIES/DAMAGES** *Dehydration; Infection; Malnutrition; Pressure Sores*

Smith developed multiple, painful, infected pressure sores; became severely malnourished; suffered multiple episodes of dehydration; and fell at least once.

The defense contended that Smith's injuries were unavoidable and resulted from the natural progression of his underlying medical condition. The defense also contended that, because of Smith's underlying medical condition and age, he could not feel pain.

**RESULT** The case settled for \$2.5 million. At the time of the settlement, Senior Living Properties was in bankruptcy. The bankruptcy court approved the settlement on July 23, 2003.

The settlement funds are payable from the bankruptcy estate only, said defense attorney Thomas Farrell. According to the plaintiff's attorneys, sources of funding for the settlement were insurance proceeds and a solvent third-party general partner.

Although Complete Care of Texas was released, it will not pay any portion of the settlement, said Farrell.

**EXPERT(S)** None reported

**EDITOR'S NOTE** The bankruptcy court also approved a \$1,150,000 settlement for a 74-year old woman who had lived at Senior Living's facility in Palestine, Anderson County. The Marks firm represented her, as well.