

SOUTH CAROLINA LAWYERS WEEKLY

FEBRUARY 6, 2017 | VOL. 16, NO. 23 | SCLAWYERSWEEKLY.COM | \$9.00 PER COPY

\$1.85 million settlement in nursing home neglect case

■ PHILLIP BANTZ

phillip.bantz@sclawyersweekly.com

A wrongful death suit against a nursing home in Aiken has settled for \$1.85 million — which is believed to be the highest pretrial settlement in this type of case in South Carolina history, according to an attorney for the plaintiff, Gary Poliakoff.

Poliakoff and his law partner, Ray Mullman of Poliakoff & Associates in Spartanburg, argued that 81-year-old Daniel Gouveia died as a result of being neglected during a 28-day stay at the Pepper Hill nursing home in Aiken. Stanley Jackson of Aiken also represented Gouveia.

The suit, which settled in November, alleged that Pepper Hill staffers failed to turn and reposition Gouveia, who was bed bound and developed a Stage 4 sacral pressure ulcer that became badly infected.

“It was impossible to save him at that point,” Poliakoff said. “He died a few days later at the hospital.”

An attempt to speak with attorneys for Pepper Hill, which is one of two family-owned facilities in Aiken, was unsuccessful. Poliakoff said Pepper Hill contended that Gouveia’s ulcer was unavoidable.

Poliakoff, meanwhile, alleged that while he and his co-counsel were reviewing documents in the case they discovered that Pepper Hill had altered, falsified or removed electronic records pertaining to Gouveia’s treatment.

“We found that a number of documents had either been removed or altered or inserted on dates other than indicated,” he said. “They [Pepper Hill] didn’t have a direct response to that.”

He added that the alleged discovery played a significant role in the settlement as it could have served as a statutory basis for punitive damages and obviated the state’s damages cap for medical-malpractice suits.

Pepper Hill had a total of \$2 million in insurance and its carrier, CNA, covered the settlement, according to Poliakoff. He said the settlement money went to Gouveia’s three children.

Follow Phillip Bantz on Twitter @SCLWBantz



SETTLEMENT REPORT NURSING HOME NEGLECT

Amount: \$1.85 million

Injuries alleged: Wrongful death

Case name: *Daniel Gouveia v. Pepper Hill Nursing Rehab and Shiloh Management*

Court: Aiken County Circuit Court

Judge: Doyet Early III

Date of settlement: Nov. 8, 2016

Most helpful expert: Kathleen Hill-O’Neill, wound care nurse

Attorneys for plaintiff: Ray Mullman and Gary Poliakoff of Poliakoff & Associates in Spartanburg and Stanley Jackson of the Jackson Law Offices in Aiken

Attorneys for defendants: Ashby Davis and Keith Knowlton of Davis, Snyder, Williford & Lehn in Greenville