

# Jury finds girl partly responsible for her own death

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—the largest jury award in Kansas for medical malpractice in three years.

The jury ruled Lake and Christina were 40 percent responsible for the death, and recommended the judge order Golden West and its parent company, Res-Care of Kansas Inc., to pay \$2.5 million in punitive damages. U.S. Magistrate Judge John Reid is still deciding how much Golden West and Res-Care will have to pay.

Meripat Bowman, executive director of Golden West, who was Christina's case manager, said the jury found Christina partially responsible for her own death because she refused to eat, drink or take her medication.

"I think she was very sad and very homesick," Bowman said, noting that the staff tried to cheer Christina up by buying her special foods and beverages. "The staff cared very much about her, and was sad and shocked when she died."

Bowman said employees at Golden West, which annually pays out \$1.5 million in salaries here, have always treated clients with kindness and respect. She says they did not cause Christina's death.

If the center's staff had been found to blame for killing the young woman, she said, the state would have revoked the facility's license.

"It's common sense that if we treated our individuals this way," she said. "We wouldn't be licensed by the state." Christina was sick from not eating or drinking, Bowman said, but the staff believed her condition was improving. "We thought we were making progress," she said. "I was shocked when I got that Sunday morning call. I don't have a good explanation. It was a mystery then. It is a mystery now."

Lake said the news of her daughter's death turned her life upside down.

An autopsy conducted the day Christina died didn't reveal a cause of death, and Lake, who lives in Denver with her husband Larry and three sons, said she walked around in shock and denial for more than six months.

"People asked me why she died and all I could say was that she died," she said. "I was in such shock."

That changed about eight months after Christina's death, Lake said, when a former Golden West employee called her to say she should investigate her daughter's death. She said the ex-employee told her she had been fired because of the incident.

Lake said she didn't know much about what happened to Christina in the 13 days she was at Golden West, because she was 180 miles away in Denver.

What she did know was that after her daughter — who had recently graduated from high school — entered the facility, she became slightly depressed.

"Information from the home was that she was fine," Lake said, "just a little homesick."

She said the staff mentioned Chris-

tina was not drinking enough water, but said they were taking care of the problem. At one point, Lake said, an employee told her Christina was going to see a doctor at the hospital because she was dehydrated, but would be back soon.

She said she considered driving to Goodland, but the employee told her Christina was fine. Later that day, she said, a staff member said her daughter was back at the center, but was sleeping. The young woman died in her sleep a few days later, on Jan. 28, 1996.

After talking with the ex-employee, Lake said, she hired a lawyer and went after Christina's Golden West records, which she received in February 1997. Reading the nurses' and doctors' notes, she said, was a more painful experience than her daughter dying.

"She was dehydrated," Lake said, "holding her stomach, crying out with no one to hear her."

She said she had talked to employees at the center many times before her daughter's death and she knew Christina was a little homesick, a little dehydrated and was having trouble eating and sleeping. Lake said she knew Christina had been taken to the hospital for dehydration, but word from the center was that her daughter's condition was improving.

The medical records, she claimed, revealed her daughter was much sicker than the center had let on.

While employees at the facility were saying Christina was resting comfortably, Lake said, she was actually at the hospital pulling intravenous needles from her arms. She said no one ever told her that Christina was being admitted to the hospital.

Lake said the drugs doctors were giving her daughter were causing adverse reactions and the center had taken away Christina's migraine medicine, which may have aggravated her condition. Bowman said the staff gave Christina the migraine medicine, but she refused to take it.

"She couldn't talk or walk," Lake said. "She was urinating on herself."

She said she was disappointed in the doctors and nurses who allowed Christina to return to the center, although it was apparent she needed serious medical attention. Lake said her daughter was found dead about 8 a.m. Sunday morning, with blood on her pillow and marks on her wrist.

The lawsuit Lake's lawyers filed in January 1998 blamed Golden West, Res-Care, Dr. Sue Jennings, and Tom Hellerud, a registered nurse practitioner, for Christina's death. The suit, which was in litigation for more than three years, asked for compensation for medical bills and Lake's suffering.

In court, Lake's lawyers, Pistotnik and Darin Hayes, Russell, claimed Golden West "chemically lobotomized" Christina, used physical restraints to control her and neglected her for days. They said drug side effects, dehydration and abuse killed the young woman.



One of many pumpkins clients at Golden West Skills Center decorated this month to celebrate Halloween. The center has been accused of neglecting and abusing a client in 1996, but administrators say they treat clients with respect and kindness.

Golden West's lawyers, Frank Eschmann and Timothy Pringle, both of Topeka, said Christina caused her own death by refusing to eat or drink and they had experts provide other medical theories as to why she died.

The jury sided with Lake, requiring Golden West and Res-Care to pay \$2.5 million in punitive damages. Dr. Jennings, a family practitioner, who is no longer medical director at Golden West, was found to be 1 percent responsible for Christina's death, while Hellerud was found to have no fault.

"It gave me some closure," Lake said, her voice cracking. "Christina's voice was finally heard."

The hard part, she said, is that she still doesn't know why her daughter died.

"In reality," she said, "only God and the people there know what killed her." But administrators at Golden West say only God knows.

Bowman said a pathologist in McCook, Neb., could not find a cause of death, and never concluded that Christina was abused or neglected. She said the Goodland Police Department and the Kansas Department of Health and Environment both investigated the death and didn't find the center or its staff at fault.

It's easier to distort the truth in a civil lawsuit, Bowman said, noting that it is the center's policy to never use chemical or physical restraints. She said she wishes she knew what killed Christina.

"Expert witnesses provided theories as to the cause of death," she said, "but they were only theories. The autopsy revealed no cause of death."

Cheryl Cotter, who was program director and supervisor of staff training in 1996, but is now director of quality assurance and case management at the center, said the staff cared about the young woman and gave her extra attention.

"People empathized with her homesickness," she said. "There was a deep care."

Cotter and Bowman said people have died at the center from heart attacks, cancer or other illnesses, but there has never been an unexplained death — before or after Christina. They said no other lawsuit has been filed against the center since they started working there — Bowman in 1989 and Cotter in 1985.

The center opened in 1974, and Res-Care bought the company in May 1995.

So why did the jury blame the center for Christina's death?

Cotter and Bowman said Lake's lawyers presented Res-Care as a large, evil and impersonal corporation, and that's how the jury saw Golden West. Bowman said, however, that the center has a relatively small staff and is run by people who care.

"In court the jury saw us as a corporation," she said, "but we're not a corporation. It's easy to demonize a corporation."

She said the center is not a demon.

Golden West has made many positive changes since 1996, Bowman said, noting that the center used to house 53 people in one facility, but is now community-based. She said 40 clients live in 12 homes around Goodland, spending their days at the center, where they take classes, work on computers and receive therapy. Golden West has about 75 employees, she said.

Bowman and Cotter said they still are not sure what went wrong with Christina.

The woman was a unique case for them, Bowman said, because many of Golden West's clients have lived in institutional settings before and are used to living with strangers. Christina was coming from a home setting which, she said, she thinks was unstable.

"We believed the family was in cri-

sis," Cotter said. "We wanted to help a family in crisis."

She wouldn't elaborate, except to say that the staff talked with Christina's mother at least 15 times in the 13 days she was at the center.

"That is a high proportion of calls," Cotter said.

Lake said she won't deny that the family was having trouble caring for Christina, but added that it was hardly a crisis situation.

"It's not like I called them on Jan. 13 and said, 'I need your help,'" she said. "This was a three- or four-month long process of asking questions and getting answers."

Besides, Lake said, the center's purpose is to help parents with developmentally disabled children.

"If everyone could take care of a developmentally disabled child at home," she said, "there would be no need for these places."

As for the ex-employee who told Lake to investigate Christina's death, Bowman and Cotter didn't have much to say about that.

"It was an ex-employee," Bowman said, "who no longer worked for us."

Both said the center hasn't made any policy changes since Christina's death, and if they had it to do over again, they probably wouldn't turn the young woman away.

"We still serve developmentally disabled adults," Bowman said. "She needed help."

Lake said one theory Golden West's lawyers presented was that Christina had a rare illness that caused her to die prematurely. She said that's unlikely because Christina's identical twin sister, Michelle, is doing fine and recently turned 29.

Michelle is also developmentally disabled, Lake said, and lives in a private home in Denver.

She said Michelle doesn't know what killed her sister.

"I left it that she was sick and died," she said, adding that she may try to explain it some day. She said she still has a hard time believing it herself.

"Irony isn't it?" Lake wrote in a letter. "I sent her to Golden West to improve her quality of life and instead she is buried at Golden Cemetery west of Denver."

## State law to reduce amount of award

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Brad Pistotnik, Lake's lawyer in Wichita, said state law requires judges to make final determinations on punitive damages, which means the jury's award was really only a recommendation. In some federal cases, the federal law tells the court to follow state law because it's often more comprehensive.

He said there was a hearing on Wednesday, Sept. 26, to discuss the amount of the punitive damages, and now both sides are waiting on a ruling from Judge Reid. Pistotnik said he has no idea how much the judge will award.

"It's up to him," he said, noting that he also doesn't know when the judge will make a decision.

"It could be this month, next month," Pistotnik said. "The court doesn't have a specified time."

After the judge does make a decision, he said, Golden West's and Res-Care's lawyers could appeal it, which would drag out the case even longer.

How much longer? Pistotnik said he's not sure about that either.

"I've been working on this case since 1997, if that tells you anything," he said. "I can't predict the future, as much as I'd like to."

But in the end, Lake said, it's not about the money.

"It wasn't about the money," she said. "It was about someone who didn't have to die."

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## Governor accepting explanations for layoffs

TOPEKA (AP) — Gov. Bill Graves is accepting explanations from Sprint Corp. executives about the company's reasons for laying off thousands of workers.

"I know these are decisions Sprint didn't want to make, but they are prudent at this time," Graves said Thursday in a statement issued by his office.

The company plans to eliminate 6,000 jobs and 1,500 contract positions. It also is dropping a costly high-speed Internet access experiment.

Half of the layoffs are expected to come in the Kansas City metropoli-

tan area, with up to 700 at Sprint's new Overland Park campus.

Sprint's announcement Wednesday represented bad news for state officials, who already expected budget problems as the effects of the Sept. 11 terrorist attacks in New York and Washington rippled through the Kansas economy.

Graves didn't mention those budget problems in his statement and said the state stands ready to "help create new job opportunities."

Asked whether the governor planned to propose an economic package, spokesman Don Brown said:

"We'll be evaluating the programs we have currently and assessing the needs for possible expansion."


In an interview, Chief Executive William Esrey said Sprint's actions should strengthen the company in an increasingly tough telecommunications industry.

Graves indicated in his statement that he agreed.

"Current economic conditions require the leadership at Sprint to make some very difficult decisions," he said.

"I am confident that Sprint, along with other U.S. businesses, will work through this challenging time and rebuild their business activity and employment base."

Brown said the governor has not talked with Sprint executives.



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