



# VERDICTSEARCH

## NEW JERSEY

### MORRIS COUNTY

#### NEGLIGENT SUPERVISION

##### Wrongful Death

## Detox patient left clinic in the middle of the night

**VERDICT**      **\$1,507,019**

**CASE**      Teri Nofer, Individually and as Executrix of the Estate of Denis O'Loughlin vs. Carolyn Schmidt, R.N., and Terry Poyer, C.A., No. MRS-L-626-03 Superior Court of Morris County, NJ

**COURT JUDGE**      Hon Deanne Wilson

**DATE**      8/4/2005

**PLAINTIFF ATTORNEY(S)**      Roy Cohen, Porzio, Bromberg & Newman, P.C., Morristown, NJ

**DEFENSE ATTORNEY(S)**      Jacob Papay, Gephardt & Kelfer, Clinton, NJ

**FACTS & ALLEGATIONS** On May 17, 2002, plaintiff Denis O'Loughlin, 42, tax director for AT&T, left the 22-acre Sunrise House detoxification center in Lafayette at midnight, in the midst of his detox therapy. Twenty-seven days later, a state trooper, with the help of a dog, located his decomposed body in a wooded area 300 yards west of the center's main driveway.

O'Loughlin's wife, Teri Nofer, sued nurse Carolyn Schmidt and counselor's aide Terry Poyer for negligent supervision.

Nofer claimed that Schmidt and Poyer failed to enforce the center's procedures for handling patients that wish to leave. Nofer contended that O'Loughlin was unknowingly putting himself at substantial risk of death by leaving and failing to receive medications for withdrawals and blood pressure.

Plaintiff expert's, Harvey Hammer M.D. and Albert Rundio Ph.D., opined that O'Loughlin died after his blood pressure medicine and Ativan dosage was abruptly stopped, and that he would have survived had they kept him in treatment. Nofer's lawyer, Roy Alan Cohen, contended that the defendants should have followed the "Against Medical Advice" protocols, by either assigning him to counseling or having him speak with a physician, which if followed would have assured that he would have stayed.

Sunrise House argued that it was exempt from liability based on the charitable immunity defense.

The employee defendants argued that O'Loughlin voluntarily admitted himself into Sunrise House, and therefore, was allowed to voluntarily leave if he chose to do so. The center does not physically restrain patients and Schmidt contended that O'Loughlin aggressively tried to leave. She claimed that she urged O'Loughlin to return to the

detox unit when he came running down a hallway, upset and sweating. Then, near midnight on May 17, she claimed that she saw O'Loughlin walking out of the center as a nurse urged him to stay.

Poyer argued that she offered to call O'Loughlin's family, but he did not want to talk with them or stay at the facility. She claimed that when he finally left, she and another staff member drove around looking for him and then waited for state police, who showed up three days later.

#### **INJURIES/DAMAGES** *death*

Nofer sought awards for past and future lost wages and pain and suffering endured by O'Loughlin from the time he left the facility to the time of his death, which was about two hours. She also sought awards for her own pain and suffering, as well as guidance and services awards for their two children.

**RESULT** The jury awarded Nofer \$1,507,079. Sunrise House was exempt from liability based on the charitable immunity defense but the employees are subject to liability. Both were covered by Scottsdale Insurance. Of the total, \$1,415,079 was for loss of guidance and services that O'Loughlin would have provided his family. \$20,000 was for the pain and suffering her husband endured from the time he left the facility to the time of his death, and \$72,000 was for lost income arising from her inability to run a web design business that she started with O'Loughlin.

**DEMAND**      \$950,000  
**OFFER**      \$100,000

**INSURER(S)**      Scottsdale Insurance for Carolyn Schmidt  
Scottsdale Insurance for Terry Poyer

**TRIAL DETAILS**      Trial Length: 9 days  
Trial Deliberations: 4 hours  
Jury Composition: 1 male, 7 female

**PLAINTIFF EXPERT(S)**      Frank D. Tinari, Ph.D., economics, South Orange, NJ  
Harvey M. Hammer, psychiatry, Morristown, NJ  
Alberto Rundio, nursing, Egg Harbor Township, NJ

**DEFENSE EXPERT(S)**      Daniel Greenfield, M.D., toxicology, Millburn, NJ  
Wanda Mohr, P.H.D., critical care, Bethlehem, PA

—Gregg Kaysen