

Settlement reached in childcare sex abuse cases — \$14M settlement

By: Virginia Lawyers Weekly December 26, 2022

Type of action: Childcare center sexual assaults by teacher

Injuries alleged: Sexual assault, long-term psychiatric injury

Name of judge or mediator: Judge Thomas Shadrick (Ret.)

Special damages: Future medical and other care costs

Verdict or settlement: Settlement

Amount: \$14,000,000

Attorneys for plaintiff (and city): Peter Grenier, Washington, D.C.; Chuck Zauzig, Woodbridge; Peter Everett, Fairfax; Alex Levay, Leesburg; Steve Frei, Fairfax; Donna Rostant, Fairfax; Kevin Leach, Burke; Michael Kernbach, Manassas

Description of case: Through these consolidated actions, the parents of nine children sexually assaulted by a teacher at a large regional childcare center brought claims against the childcare company. The Prince William Circuit Court consolidated the nine actions for a trial on liability under the Virginia Multiple Claimant Litigation Act, Va. Code §801-267.1 to be followed by a trial on damages for each child for whom the jury returned a verdict on liability. The circuit court appointed Zauzig, Grenier and Everett as members of the steering committee.

The plaintiffs planned to present evidence that one child had told her mother that the perpetrator had assaulted her, but when the mother reported it to the director of the center, the director misled the parent, and convinced her to disbelieve her child. The victim's mom did not want to believe that anyone could have sexually abused her daughter and was not familiar with symptoms associated with childhood sexual abuse, which her daughter had been manifesting. As a result, her child was denied critical psychological help. Further investigation suggested that the childcare center knew of an earlier report by the child that the perpetrator had abused her. The childcare center did not respond or notify anyone.

At least one teacher thought she saw the perpetrator assault several other children, and one child even reported the assault to a subsequent director. The director continued to permit a suspected predator unrestricted access to young girls.

A second teacher saw the perpetrator "tickle" another victim between the legs while she was on the playground slide. She reported her concern about what she saw to the director that same day.

On a third occasion, when the teacher instructed a young girl that pulling her pants and panties down was inappropriate behavior, the child responded that the perpetrator "does it." Again, the teacher reported this disturbing information to the director.

That second director never told any victim's parents of the suspicion and interviewed a 4-year-old victim behind closed doors with no parent present. Indeed, at no time did the director or any teacher disclose the suspected abuse to any parents, and no director or teacher ever reported the suspected abuse as required by Virginia's mandatory reporting requirements until after one parent, alarmed by what her child revealed to her, reported the assault of her child to CPS.

Only then did a police investigation ensue; Prince William County Police arrested the perpetrator, he confessed to sexually abusing multiple children, and was sentenced to an active sentence of 41 years in prison. The perpetrator also abused several very young boys, and his abuse included actions inside the childcare center.

The plaintiffs filed suit, relying upon several legal claims, including duty and negligence created by the special relationship between the children and the childcare center.

The childcare center took a number of other actions the plaintiffs contended constituted negligence. First, the center located the slide in a relatively isolated part of the playground, shielding the exit from most teachers' view. Second, the center stationed the slide's exit in a security camera blind spot, preventing any surveillance. Third, the directors' and teachers' failure to report abuse and suspected abuse constituted common law negligence, based on industry standards.

Since the perpetrator assaulted children while he was otherwise engaged in his responsibilities to care for, protect and entertain them, and assist them on the playground, the plaintiffs included claims based on respondeat superior liability.

Finally, the complaints sought recovery for common law fraud and violations of the Virginia Consumer Protection Act. The plaintiffs premised such claims on a host of statements they characterized as misrepresentations, which they relied upon in enrolling their children and keeping their children enrolled.

The damages in these cases were extraordinary and deeply troubling. In the aftermath of the assaults, especially as they grew older, these children manifested a host of signature symptoms and psychopathology of sexual assault, severe anxiety and post-traumatic stress disorder, including profound sleep dysfunction, psychological distress, terrifying nightmares, interpersonal violence and threats to harm others, impaired attention and academic performance, impulsivity, low frustration tolerance, dysregulated behavior, oppositional defiant behavior, social anxiety, proclivity to experience "meltdowns," vomiting, abdominal pain, diarrhea, UTIs, incontinence, bed wetting, boundary issues with strangers and hypersexualized behavior, at a very young age.

The children are at considerable risk of deteriorating behavior, as the scientific and medical evidence make clear. " Sleeper effects," serious symptoms that may not appear until later in life are a unique characteristic of childhood sexual abuse and pose unique problems at developmental milestones.

Plaintiff's attorney Peter Everett provided case information. [022-T-170]

Tagged with: [SEXUAL ASSAULT](#)

Issue: [DEC. 26 2022](#)

RELATED ARTICLES

Ruling: Dismissal of defamation lawsuit against Fairfax upheld

o June 28, 2021

Teen sexually assaulted at work – \$1 million settlement

o February 24, 2020

Software to allow sex assault victims to track test results

o May 21, 2018