

PROFESSIONAL NEGLIGENCE

Child Care Agency/Worker

Siblings claimed they were abused in foster home**MEDIATED****SETTLEMENT** \$2,750,000

CASE "John Doe" "Jane Doe," & "Judy Doe," Infants Under the Age of Fourteen (14) Years & "James Doe," an Infant Over the Age of Fourteen (14) Years, by "Jane Roe," Their m/n/g & "Jane Roe," *Indiv. v. Little Flower Children's Services of New York*, No. 16360/03

COURT Bronx Supreme**JUDGE** Norma Ruiz**NEUTRAL(S)** Allen Hurkin-Torres**DATE** 3/23/2011**PLAINTIFF****ATTORNEY(S)** Adam M. Orlow, The Orlow Firm, Flushing, NY**DEFENSE****ATTORNEY(S)** John P. Murphy, Murphy & Higgins, L.L.P., New Rochelle, NY

FACTS & ALLEGATIONS On July 1, 1994, the plaintiffs, siblings ages 2, 4, 6 and 7, were assigned to a foster home that was located in Suffolk County. The assignment was made by a nonprofit provider of children's services, Little Flower Children and Family Services of New York, in whose care the siblings had been placed by their mother.

The foster-care assignment continued until Aug. 13, 1996. In 1997, the three oldest siblings claimed that they had been abused during their residency in the home. They also claimed that the foster parents neglected their youngest sibling. The foster parents' adult son, who did not reside in the foster home, was subsequently arrested, and he pleaded guilty to charges of having sexually abused one of the siblings.

The siblings' natural mother, acting individually and as the siblings' parent and natural guardian, sued Little Flower Children and Family Services of New York, which is a subsidiary of the Roman Catholic Diocese of Brooklyn. The elder plaintiff alleged that the Little Flower agency negligently failed to ensure her children's safety.

Plaintiffs' counsel claimed that the Little Flower agency was aware that its caseworkers had expressed concerns regarding the foster home to which the siblings were assigned. He contended that the caseworkers' notes included the siblings' claims that they were being mistreated and reports that the siblings' school attire was dirty and/or inappropriate. He claimed that the caseworkers recommended close evaluation of the home.

During depositions, the siblings acknowledged that they did not report abuse until after they had left the home, despite having been frequently visited by their mother and other relatives during their residency at the home. During a deposition, a therapist who had treated two of the siblings contended that she never suspected abuse. Defense counsel contended that the siblings were not subjected to physical abuse, sexual abuse or any type of abuse, and he also contended that the caseworkers did not note any indications of abuse.

Defense counsel further contended that complaints are commonplace at foster homes, particularly at homes that house multiple children. He claimed that the home had previously housed some 75 other children without any complaints or allegations of abuse. He also claimed that the home had been closely evaluated and that it was recertified during 14 annual evaluations that preceded the siblings' placement in the home.

INJURIES/DAMAGES *anxiety; depression; psychological; sexual assault*

Plaintiffs' counsel claimed that the siblings were subjected to about 24 months of mistreatment. He contended that the oldest three endured physical and sexual abuse, and he claimed that the youngest was often neglected and forced to wear soiled diapers.

Plaintiffs' counsel also claimed that the siblings, now aged 18 to 23, endure residual psychological trauma that includes anxiety, depression and nightmares. The plaintiffs' expert psychologist submitted a report in which she opined that the psychological sequelae are permanent.

The four siblings sought recovery of damages for their past and future emotional suffering. Their mother presented a derivative claim.

The defense's expert psychiatrist submitted a report in which she opined that the siblings' psychological issues predated their assignment to the foster home and could not be attributed to anything that may or may not have happened during their residency in the home.

RESULT The parties negotiated a pretrial settlement, which was established via the guidance of Allen Hurkin-Torres, of the Jams mediation service. One of Little Flower's insurers, National Union Fire Insurance Company of Pittsburgh, PA, agreed to pay \$1,855,298.99; Little Flower's other insurer, Westchester Fire Insurance Co., agreed to pay \$500,000; and the Roman Catholic Diocese of Brooklyn agreed to pay \$394,701. Thus, the settlement totaled \$2,749,999.99. The youngest sibling's share totaled \$90,000; the siblings' mother's share totaled \$10,000; and the remaining three siblings' shares each totaled \$883,333.33.

INSURER(S) National Union Fire Insurance Company of Pittsburgh, PA
Westchester Fire Insurance Co.
Roman Catholic Diocese of Brooklyn

NEW YORK CITY

**PLAINTIFF
EXPERT(S)**

Dawn M. Hughes, Ph.D., forensic
psychiatry, New York, NY (did not testify)

**DEFENSE
EXPERT(S)**

Rodrigo Pizarro, M.D., sexual abuse
(psychiatric), New York, NY (did not testify)
Carolyn I. Rodriguez, M.D., child
psychiatry, New York, NY (treating doctor;
did not testify)

EDITOR'S NOTE This report is based on information that was
provided by plaintiffs' and defense counsel. The case's cap-
tion has been altered to protect the plaintiffs' privacy.

-Max Mitchell