



Vista Jury Awards a Groundbreaking Verdict in Elder Abuse/Neglect Case

A Vista jury unanimously awarded plaintiff Elaine Stinson nearly \$1.34 million for the reckless abuse and neglect she suffered at the hands of her care providers at Leisure Palms, a Fallbrook licensed residential care facility for the elderly. (Case No. 37-2008-00050484-CU-PO-NC, Stinson v. Leisure Palms, et al.)

Vista ([PRWEB](#)) June 29, 2009 -- In a groundbreaking elder abuse/neglect case, a Vista jury unanimously awarded plaintiff Elaine Stinson nearly \$1.34 million for the reckless abuse and neglect she suffered at the hands of her care providers at Leisure Palms, a Fallbrook licensed residential care facility for the elderly. The verdict was decided today, June 15, 2009.

The jury awarded \$88,000 for past medical bills, \$500,000 in general damages, and \$750,000 in punitive damages. In addition, plaintiff's attorneys will file a post-judgment motion for attorneys, expert fees, and costs, likely adding another \$400,000 or more to the judgment.

"This is the first of its kind in a case that gets at reckless neglect in a residential care facility for the elderly," according to Prescott Cole, senior staff attorney of California Advocates for Nursing Home Reform, a statewide nonprofit advocacy organization dedicated to improving the choices, care and quality of life for California's long term care consumers. "This case defined what reckless neglect is and the verdict shines a bright light on it. The 3.8 million seniors in California and 38 million Californians overall are all rich winners today; and we have Mrs. Stinson and her attorneys to thank for being courageous enough to go all the way to clarify the law. They moved the bar way up, made a statement that these kinds of things can go to trial, the jury gets it, understands how bad it is, and the defense can't hide under the assumption that clients can be browbeaten, intimidated by the system, and will give up before achieving justice. As an advocate, this is thrilling."

Appearing before Judge Robert Dahlquist in the Vista Court, San Diego civil attorneys Robert Hamparyan of The Gomez Law Firm and George R. Kindley of the Law Offices of George R. Kindley co-tried the case for Stinson. Leisure Palms was represented by Lawrence Haines from the Haines law firm in Escondido.

A summary of the facts and events occurring in this litigation follows:

Longtime Fallbrook resident Elaine Stinson (then 82 years old) was placed into Leisure Palms on Oct. 13, 2006, by her husband, Alvin Stinson (then 92 years old) because he could no longer provide her with the care she required. Elaine had Alzheimer's disease and was recovering from a recent hip surgery. According to her primary care physician, at the time of her admission Stinson required intense medication management and constant supervision as she was a fall and wander risk. Leisure Palms' owner, Phyllis J. Kittinger, read the doctor's report and told the Stinson's not to worry because she and her staff would take great care of Elaine.

Despite the care facility's promises, Stinson suffered three falls at Leisure Palms between October and



December 2006. As a result of a fall on Dec. 31, Stinson suffered a head contusion, three broken ribs and a punctured lung. Instead of calling Stinson's doctor or family, Kittinger and another Leisure Palms caregiver placed Stinson in her bed and waited until the next day to see if the injuries would blow over. The next morning, Alvin Stinson arrived to find his wife in bed nonresponsive. He immediately called family and 911 for help. His wife was rushed to the hospital where emergency surgery was performed.

Initially, physicians told the Stinson family that Elaine would not make it, but she fully recovered over the next 10 months in a skilled nursing facility. Two weeks after Elaine was discharged back home in October 2007, Alvin Stinson passed away. Two weeks later, the Stinson home burned in the Fallbrook fires.

Alvin Stinson was very upset with how he and his wife were treated. When attorney Kindley met with Alvin back in August of 2007, he was immediately impressed. "He was a loving elderly gentleman whose love for his wife was immediately apparent," said plaintiff's co-counsel Kindley. "Alvin made it very clear that he was not concerned about any potential financial gain. However, he was resolute to take a stand for his wife and for the community. He felt like he and his wife had been taken advantage of; this sickened him. Even at 92 years old, he was ready to fight to make sure what happened to his wife would not be forgotten and that something like this would never happen again."

Prior to his passing, Stinson made a formal complaint with the Department of Social Services regarding the neglectful care his wife received at Leisure Palms. The Department of Social Services investigated the issues and cited Leisure Palms for its unsafe practices. Still, Leisure Palms and its owner would not yield. Defendants claimed they had done nothing wrong. Elaine Stinson filed her lawsuit on Jan. 8, 2008. Throughout the year and a half litigation, defendants adamantly denied any and all responsibility.

At trial, the defense claimed that they believed that Stinson had not sustained any injury due to the Dec. 31, 2006 fall. Rather, they argued that Stinson had somehow been injured by her husband on Jan. 1, 2007. Alvin Stinson passed away prior to trial and his testimony had not been recorded. As such, Elaine Stinson was left to prove her case with circumstantial evidence.

In the balance of law, the defense has been favored primarily because the industry is very effective in limiting the laws for remedies for injured parties. "As far as I know," advocate Cole says, "so few cases go to trial because money plus uncertainty is what keeps people with legitimate claims from going all the way through. The defense is now going to have to re-evaluate their responsibilities. They have greater liabilities for the activities or the failings of their clients. Now plaintiff attorneys will have a new standard by which they can judge the quality and worth of their cases.

"This will make defendants take their responsibilities more seriously," said Cole. "For most facilities it isn't mostly about money, it's only about money. Bad facilities will take notice because these kinds of verdicts will affect their bottom lines. Some facilities are set up for failure. Caregivers who work in these facilities are barely



trained, they're overworked and underpaid. This verdict wasn't just about mistakes, this verdict was about reckless neglect. This verdict shows that reckless neglect costs money. Healthcare providers who cut corners in order to make profits are cheating our seniors. Making money is a good thing, but if you are in healthcare and you are putting profits ahead of patient care, then there are going to be consequences."

"This case will hopefully make facilities like Leisure Palms take notice about the importance of people over profits and the significance of proper staffing when dealing with the elderly, who are at the mercy of the same employees for their daily care," said plaintiff's co-counsel Hamparyan. "The elderly are often the forgotten. But dignity and respect is a right for our seniors, after spending a life time of helping their families and communities. Just because they are placed in a residential care facility or skilled nursing care, we should not accept anything short of a comfortable life."

Now 84 years old and suffering from advanced Alzheimer's, Elaine Stinson lives in a residential care facility for the elderly in Murrieta.

The Gomez Law Firm, based in San Diego, represents exclusively plaintiffs in high value business and injury cases. Hamparyan, who was named the 2008 Trial Lawyer of the Year by the 750-member Consumer Attorneys of San Diego, has successfully tried more than 30 cases to verdict. The firm has recovered more than \$150 million in verdicts and settlements since 2000, including the largest wrongful death verdict in California history. The Gomez Law Firm is located at 625 Broadway, Suite 1200, San Diego. For more information, contact Robert Hamparyan, 619-237-3490 or visit <http://injury.thegomezfirm.com>.

The Law Offices of George R. Kindley, based in San Diego, represents exclusively people and their families in catastrophic personal injury cases. Kindley has been a civil litigator since 2001 and has focused nearly 40 percent of his practice on nursing home neglect and elder abuse cases. Through the years, Kindley has successfully litigated over 35 elder abuse cases. Kindley also works with various nonprofit organizations that eradicate elder abuse and neglect in our communities. The Law Offices of George R. Kindley is located at 8620 Spectrum Center Blvd., Suite 900, San Diego.

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