

Moore**Diabetic patient suffered severe dehydration at facility**

<b>Settlement</b>	\$3,900,000
<b>Case</b>	Ethel Marie Tutt, as the Independent Executrix of the Estate of Payton Moore v. Confidential Defendants, No. 2001-389
<b>Court</b>	Rusk County District court, 4 th, TX
<b>Judge</b>	Clay Gossett
<b>Date</b>	12/8/2003
<b>Plaintiff Attorney(s)</b>	David T. Marks (lead), The Marks Firm, Houston, TX Jacques G. Balette, The Marks Firm, Houston, TX Henry P. Giessel, The Marks Firm, Houston, TX Jason N. Young, The Marks Firm, Houston, TX David Hill, Wellborn, Houston, Adkison, Mann, Sadler & Hill, Henderson, TX
<b>Defense Attorney(s)</b>	Deanna Dean Smith (lead), Ebanks, Smith & Carlson, Houston, TX (settling nursing home) Travis P. Clardy, Law Offices of Travis P. Clardy, Nacogdoches, TX (non-settling nursing home) Josh Davis, Ebanks, Smith & Carlson, Houston, TX (settling nursing home)
<b>FACTS ALLEGATIONS</b>	<p>&amp; Plaintiffs' decedent Payton Moore, 75, resided in a nursing home for approximately one year before transferring to a different one in December 1999. The names of the facilities were not disclosed for this report.</p> <p>While Moore was residing in the first facility, his diagnoses were diabetes mellitus, left endarterectomy, two myocardial infarctions, two strokes, left leg paralysis, uric acid stone, renal insufficiency, multi-infarct dementia, anemia secondary to chronic renal disease, left uretral stint and a PEG tube.</p> <p>He died in August 2000.</p> <p>Alleging that Moore suffered injuries as the result of both facilities' neglect, Moore's estate and adult daughter sued both.</p> <p>The plaintiffs alleged that the defendants failed to follow physician orders; keep the attending physician informed; monitor and assess Moore's hydration, nutrition and output adequately; and staff the facilities appropriately, The first facility also falsified key medical records after his departure.</p> <p>The defense denied the allegations and contended that the facilities' staffing levels were sufficient to meet the minimum needs of their patients.</p>
<b>INJURIES/DAMAGES</b>	<p><i>Dehydration; Hypernatremia</i></p> <p>Moore suffered two episodes of hypernatremic dehydration at the first facility. Although Moore's daughter alleged wrongful death, the core theory of damages in the case was Moore's pain and suffering.</p> <p>The defense contended that Moore's injuries were unavoidable and resulted from the natural progression of his underlying medical conditions. Also, the defense argued that family members visited Moore regularly and therefore would have known if the defendants were neglecting him.</p> <p>The defense also contended that, because of Moore's underlying medical conditions and age, he could not feel pain.</p>
<b>RESULT</b>	The first nursing home settled for \$3.9 million on Dec.8. In February, the plaintiffs dismissed their claims against the second facility, without prejudice.
<b>EXPERT(S)</b>	None reported
<b>DEFENSE EXPERT(S)</b>	Jeffrey A. Stone, D.O., MPH, osteopathy, Dallas, TX C. Lynn Morgan, R.N., nursing, Midland, TX