

Jury sides with teen on her alleged attack

Defendant never faced criminal charges

A St. Charles County Circuit Court jury has awarded \$115,000 to a 17-year-old girl who filed a civil action against her alleged attacker and his parents. The girl, who is being identified by her initials, E.P.J., also won a counterclaim of malicious prosecution.

E.P.J. was a student at a public high school in St. Charles County when the alleged attack occurred, said her attorney Matthew J. Devoti. He said that in December 2005 his client went to the home of a male student, identified as D.V.A., then age 16, to study together for a biology final exam. The two teenagers studied in what Devoti called a "media room" in the basement of D.V.A.'s home.

E.P.J. alleged that while she was in the home her study companion inserted multiple fingers in her vagina against her will. She also said that members of D.V.A.'s family were home at the time.

The alleged assault resulted in a tear in her vagina, multiple vaginal abrasions and emotional damage, Devoti said. Later on, E.P.J. was diagnosed as suffering from post-traumatic stress disorder, he added.

In 2006 the 16-year-old boy was certified to stand trial as an adult. However, the St. Charles County Prosecuting Attorney's Office declined to file criminal

charges against him. E.P.J. filed a civil action in February 2007 against D.V.A. and his parents, R.L.A. and R.C.A., accusing the boy of sexual assault and alleging that his parents were negligent in their supervision of him. In turn, the defendants filed a counterclaim accusing E.P.J. of malicious prosecution.

Devoti said his client offered to settle the case for \$85,000. "I don't know that there was ever a firm offer" from the defendants, he said. He said there was an offer "for us to take a judgment against [D.V.A.] in July, but we had to agree to limit any recovery to the proceeds of the parents' homeowners' policy," and the insurer had denied coverage because it was an intentional act.


The matter went to trial last month. Devoti said the jury heard evidence that D.V.A. had sexually assaulted a different girl in the basement of the family home six months before the alleged assault on his client, and that the older sister of this girl had informed the parents of the attack.

On Oct. 30 the jury returned a verdict of \$110,000 against E.P.J.'s alleged attacker. The jury also found that D.V.A.'s parents had failed to adequately supervise him and entered verdicts against each of them for \$2,500. Devoti said state law says that when a case is brought against a minor and

\$115,000 jury verdict

SEXUAL ASSAULT

- **Court:** St. Charles County Circuit Court
- **Case Number/Date:** 0711-CV00799/Oct. 30, 2009
- **Judge:** Nancy L. Schneider
- **Plaintiff's experts:** Dr. Leonard M. Hoffmann, St. Charles; Judith L. Hustermann, Lake St. Louis (sexual assault nurse examiner); Lesa Bergman, St. Charles (licensed counselor)
- **Defendant's expert:** Dr. Ira J. Friedman, Labadie (pediatrics)
- **Pretrial demand:** \$85,000
- **Caption:** E.P.J. v. D.V.A., R.L.A. and R.C.A.



■ **Plaintiff's Attorneys:** Matthew J. Devoti, Casey & Devoti, St. Louis; Peter B. Hoffman and Kristin M. Pfothauer, Baker, Sterchi, Cowden & Rice, St. Louis

■ **Defendant's Attorneys:** Lawrence J. Fleming, Herzog Crebs, Mary & Justin, St. Louis

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the minor is found to be at fault, the parents may be responsible for up to \$2,000 of the judgment against that minor.

Also, the jury found against the defendants on their malicious prosecution claim, which was related to a police investigation conducted by a municipal police department in St. Charles County. Devoti said his client reported the assault to a nurse at a local hospital, who then reported it to police.

Special damages amount to approximately \$24,000, Devoti said. A total of \$12,169.50 of that amount came from medical expenses

E.P.J. incurred; the remainder relates to tuition expenses she incurred when she transferred to a private high school in the St. Louis metropolitan area.

Devoti said the case presented special challenges because the alleged attacker never was convicted of a crime against his client. "We not only didn't get the conviction, we had to defend the case as well," he said; referring to the malicious prosecution counterclaim.

D.V.A.'s attorney, Lawrence J. Fleming, could not be reached for comment.

— Mike Trask