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## Wrongful Death Lawsuit Against Rockingham County Settled Out Of Court

WENTWORTH — Rockingham County has informally agreed to an out-of-court settlement with a mother who claimed that social workers' negligence caused her son's death more than three years ago, a county attorney said.

Zachary J. Lyons, 4, was killed in October 1996 after nearly a week of abuse at the hands of his caregivers, Nannie Gail Brown and Brown's boyfriend, Brian Cain, a judge ruled. Cain is serving a prison term in the death, and Brown served 18 months in prison before being released in 1998.

Zachary and his three sisters had been placed in the care of Brown and Cain at their Eden home after Brown's sister, Jamie Escobedo, was sentenced to prison on charges of forgery, breaking and entering and violating probation.

Escobedo sued the county in 1998, claiming that social workers were negligent in monitoring Zachary's care, causing his death.

County attorney Eugene Russell said Thursday that a few details must be worked out before the agreement is made formal. He said the settlement is not an admission of the county's negligence.

"Our folks did an excellent job," Russell said. "Everyone was saddened by the child's death. At the same time, it's our position that with the individual case we were involved with, we did an excellent job."

Neither Russell nor John McCabe, Escobedo's attorney, would discuss the terms of the tentative settlement.

"The case has been resolved to all parties' satisfaction," McCabe said. "I'm real pleased with the result. I think some good has come out of a very tragic situation."



By  
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: The 4th Circuit affirms defendant's first-degree murder in the fatal shooting of his ex-girlfriend after a day of fishing and a fish fry on the reservation of the Eastern Band of Cherokee Indians; the trial court properly admitted evidence of defendant's prior violent acts and death threats against the victim, and



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defendant "invited error" by refusing to allow a jury instruction on a lesser-included offense.

**2. Administrative – Black Lung – Evidence – Disability – Rebuttal**

*Mingo Logan Coal Co. v. Owens* An administrative law judge did not improperly limit a coal mining company's ability to rebut a presumption of black lung benefits for a claimant who had spent at least 15 years in an underground mine and had become totally disabled from breathing difficulties, and the 4th Circuit affirms the award of benefits.

**3. Administrative – 'Market Rate' Debate in Black Lung Fee Award**

*Eastern Associated Coal Corp. v. Director, OWCP* In this black lung benefits case, claimant's lawyers had sufficient market-based evidence to support their hourly rates of \$175 to \$300 and their quarter-hour billing did not lead to billing excessive hours, but the 4th Circuit said the record did not support some fees for legal assistants; the court affirms the award of over \$32,000.

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