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County board settles jail injury lawsuit for \$4.75M

Detainee suffered a brain injury falling from an upper bunk

BY PATRICIA MANSON
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The Cook County Board of Commissioners this afternoon agreed to pay \$4.75 million to a man who suffered permanent brain damage when he had a seizure and fell from a jail bunk.

Attorneys for Michael Joseph Borys maintain jailers did not provide Borys with the anti-seizure medication he was prescribed.

Jailers also were not informed until two days later that a physician who screened Borys had directed that he be assigned a lower bunk, the attorneys contend.

The settlement resolves a lawsuit filed against Cook County and other defendants by Borys' father, Michael Jay Borys, on behalf of his son. *Michael Joseph Borys v. Cook County Sheriff Thomas Dart, et al.*, No. 15 C 8972.

An attorney for Borys, Richard J. Dvorak of Dvorak Law Offices LLC in Willowbrook, said the incident was

"entirely avoidable."

"Under the county's former system, these inexcusable communication delays were the norm," Dvorak said in a statement. "They were an inevitable and tragic result of an unnecessarily antiquated and inefficient system."

Another attorney for Borys, Amanda C. Antholt of the non-profit Equip for Equality, said the settlement funds will be placed in a trust for her client.

"In addition to fairly compensating Michael for his injuries, we hope this settlement sends a message that Cook County Jail and other correctional facilities must provide accommodations to ensure that inmates with disabilities remain safe," Antholt said in a statement.

Attorneys for the defendants include Assistant State's Attorneys Michael D. Warner and James J. Chandler.

Sheriff's office spokeswoman Cara LeFevour Smith said, "We felt it was in the best interest of the victim and the county to settle this case quickly and to do everything we could to ensure nothing like this would ever occur again."

In October 2014, Borys was booked into the jail on a misdemeanor charge.

He was referred for a medical assessment because of his seizure disorder and history of



Richard J. Dvorak

brain cancer.

A physician who screened incoming prisoners prescribed an anti-seizure medication and directed Borys be assigned a lower bunk.

However, the suit alleged, the medication was not provided and Borys was assigned to a top bunk in a dormitory-type room housing dozens of detainees.

An officer monitoring the dorm saw Borys repeatedly walk back and forth between his bunk and a water fountain and also observed him sitting up in his bunk in the middle of the night, the suit alleged.

But the officer did not take any action, the suit contended, and Borys had a seizure and fell from the bunk.

Borys was bleeding and un-

responsive when the officer found him on the floor, the suit contended.

The suit said Borys was taken to Mount Sinai Hospital where he was placed in a medically induced coma for about a week. Borys remained in the hospital for several weeks.

Borys has undergone two brain surgeries and a third surgery to address sinus infections stemming from a skull fracture, the suit said.

It alleged Borys lost his vision in one eye and suffers from a loss of cognitive functions as well as anxiety and emotional distress.

Borys is unable to perform such everyday tasks as shopping for groceries and paying his bills as a result of his injuries, the suit alleged.

In addition to Cook County, defendants in the suit were Sheriff Thomas J. Dart, named in his official capacity, and two jailers.

The suit accused all defendants of violating Borys' constitutional right to due process.

It also accused the county and Dart of violating the Rehabilitation Act and the Americans with Disabilities Act. And it accused the county and Dart of negligence and willful and wanton breach of their duty of care under Illinois law.

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