

LAWSUIT

Court issues \$48M judgment against Hotchkiss School

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A federal jury on Wednesday awarded \$41.75 million to a New York City woman who suffered a life-altering disease while on a Hotchkiss School-sponsored trip to China in 2007.

Orson Munn III and Christine Munn brought the suit on behalf of their daughter, Cara, who was 15 at the time she contracted viral encephalitis in China.

The disease resulted in "catastrophic personal injuries" to the girl, according to the complaint, which alleges that the school failed to alert the student or her family that she would be taken to a mosquito- and tick-infested area outside of urban areas. Neither did the school require students to "take proper precautions against potential mosquito or tick bites, including requiring students to wear protective clothing or to utilize protective insect repellent," the suit claimed.

Parents were not advised to seek vaccinations appropriate for the students' ages, it also claimed.

The Hotchkiss School, a prestigious private school in the Lakeville section of Salisbury, issued the following statement: "We care deeply about all our students. We make every effort to protect them, whether they are here or participating in a school-sponsored activity off-campus. We put great care and thought into planning and administering off-campus programs, and we extend the same care to students on these trips as to students on campus.

"Historically, our students have undertaken study, service projects and travel in the

United States and throughout the world and have derived great benefit from these opportunities," the statement continued. "We remain very saddened by this student's illness. We continue to hope for improvements to her health."

But it added, "While we will not comment on specific elements of the case, we plan to appeal this verdict."

"Hotchkiss failed to take basic safety precautions to protect the minor children in its care," said attorney Antonio Ponvert III of Koskoff Koskoff & Bieder in Bridgeport, who is representing the young woman and who tried the case.

He predicted that Hotchkiss would fail in any appeal. "This was a really well-run case," he said. "There are no appealable issues, no errors. If they appeal, Cara will earn a post-verdict 10 percent interest until it is decided. I expect someone will persuade them to come to their senses."

The school should have known that the Mt. Panshan area of China was an insect disease endemic area, Ponvert said. "But it failed to notify the students or their families that they would be going to Mt. Panshan, and it failed to ensure that anyone used repellent."

The case lasted eight days, and the jury of two men and six women deliberated for about eight hours before returning their verdict.

While in China the students were allowed to walk through a densely wooded area called Mt. Panshan, which is known to be an area at risk for tick-borne encephalitis, Lyme disease and several other tick- and insect transmitted illnesses, the lawsuit argued.

As a result, Cara con-

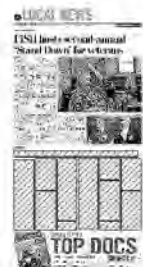
tracted tick-borne encephalitis, suffered brain damage, and is now permanently neurologically impaired.

The lawsuit details the agonizing progression of her condition. While a number of the young hikers suffered insect bites and developed varying degrees of illness, Miss Munn had the most severe reaction. She developed acute symptoms, including total body paralysis, depressed levels of consciousness and seizures.

The suit alleges that the Hotchkiss trip leaders had no medical training and did not appreciate the significance of the initial symptoms, which included fever, mental confusion and diarrhea. According to the lawsuit, they eventually took the girl to a country medical facility in China, which misdiagnosed the symptoms as being cardiac related.

Ultimately, as her condition worsened she was transferred to the Beijing United Medical Center, where she remained for several weeks. Upon return to the U.S., at her parents' expense, she was admitted to pediatric intensive care at Weill Cornell Medical Center for several weeks, followed by rehabilitative therapy at the Rusk Institute.

Upon admission to Weill, although "neurologically alert and attentive, [she was] virtually mute, with the ability to make only a few high-pitched noises," the lawsuit said. "She had very slow and hesitant movements involving the tongue, marked drooling and rigidity of the jaw and cervical muscles. She suffered from extreme microphagia in the right hand and dystonic posturing of the left arm and hand ..."



Now, the suit said, despite intensive treatment, she continues to exhibit severe neurological deficits—problems with sustained attention, slowed mental processing and impaired executive skills, problems with memory and an inability to organize new information in a way that integrates with her existing knowledge, as well as continued neurologic disabilities that will likely continue through the rest of her life. Her speech is confined to a few words and she has difficulty eating, drinking and swallowing. Her coordination has improved somewhat, but her fine motor skills are substantially impaired.

Miss Munn is now a lib-

eral arts student at an undisclosed college with aspirations of becoming a writer. “What she is not able to do is to communicate with people, so she doesn’t have friends,” said Ponvert. “People think she is deaf or mentally disabled. In class, she raises her hand and it takes a minute or more for her to type out an answer that her laptop then reads out for her. The world comes to a screeching halt when she wants to speak, so the world just rushes by. She is in the 96th percentile for verbal comprehension but zero on verbal expression. There is a world going on in her head and no ability to express it.”

In addition to the costs in-

curred in fighting the horrific disease their daughter suffered, the Munns assert that Hotchkiss failed for formulate an adequate plan for notifying parents of any medical emergencies and for the speedy repatriation of ill students.

“I hope that this case will help alert all schools that sponsor overseas trips for minors that they need to check the [Centers for Disease Control] for disease risks in the areas where they will be travelling, and that they must advise children in their care to use repellent and wear proper clothing when necessary,” Ponvert said. “Cara’s injuries were easily preventable.”