

The Birmingham News

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Lawsuit filed in Partlow patient death

By TOM GORDON
News staff writer

A lawsuit seeks unspecified punitive and compensatory damages from the state Department of Mental Health, Mental Health Commissioner John Houston and W.D. Partlow Developmental Center director Vance Liles in the Jan. 2, 2008, death of a Partlow resident.

The suit, filed Tuesday in Tuscaloosa County Circuit Court, charges that Johnnie Mack Whitten, 58, died because Partlow employees failed to give him the care he needed and left him alone and unsupervised.

Efforts to reach John Zelgler, a mental health department spokesman, were unsuccessful.

A Partlow resident for 28 years, Whitten, who suffered from "profound mental retardation" and limited vision, had a care plan requiring "one-on-one observation, according to the complaint filed on behalf of his family. "One-on-one observation requires that a department employee was to have been within arm's length of Mr. Whitten at all times," the complaint states.

The complaint states that Partlow employees, not yet named but who will be added by name to the suit, did not follow the care plan and that Whitten was found lying on the floor on the morning of Jan. 2, 2008. With cuts near his left eye and a large bruise, Whitten died 12 hours later "due to blunt trauma that produced extensive bleeding in, and displacement of, his brain."

"Mr. Whitten's fatal injury was the final event in a systemic pattern of injuries sustained during his twenty-eight year stay at Partlow," the complaint states.

While seeking damages, the suit also asks the court to require the mental health department "and all future commissioners to see that the residents of Partlow are safe, and that employees are properly trained, supervised and required to expressly adhere to the policies and procedures."

Mayor says bar is smear attempt

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"I am only doing what is required of me," Smitherman said. "If this is my duty, I'm going to do it."

Last month Langford's name was placed on the federal Excluded Parties List — a list of people and organizations banned from conducting business with federal agencies — by the Environmental Protection Agency. An EPA lawyer in Atlanta learned of Langford's indictment and forwarded that information to authorities in Washington.

The listing is the result of 101-count federal indictment that names Langford, along with Montgomery investment banker Bill Blount and lobbyist Al LaPierre. All three men deny the accusations of conspiracy and bribery. They are scheduled for trial Aug. 31.

Federal money makes up about 5 percent or \$21 million of the city's total \$428.9 million budget. Without an authorized official to sign off on the contracts, millions of dollars might not be available to the city.

On Tuesday, Pearson argued that under the Mayor/Council Act, Smitherman should take those duties. There is no provision to honor Langford's request, he said, and doing so would violate the federal government's action against the mayor.

"Any department head of the city of Birmingham is under the thumb of the mayor," Pearson said. "For you to join in concert with him, then you are a co-conspirator with him in trying to evade the rules."

Cooper disagreed, citing

the council point whom He also dis notion that t tial vacancy" office that n Smitherman.

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EDUCATION BRIEFS

EVENTS

► Auburn University's Ralph B. Draughon Library will display "Qhacac Nan," an exhibit of 80 photographs showcasing South America's Great Inka Trail, through Tuesday.

► The University of North Alabama Writers Series will welcome award-winning poet, playwright, songwriter and musician Joy Harjo for two free public appearances this month. Harjo will read from her work at 7:30 p.m. on April 16 and 10 a.m. on April 17 in the Performance Center

HONORS

► Beebe Ra crick III, a juni nication studie Montgomery, I elected 2009-11 the Samford U dent Governm tion. Other nev SGA officers ar son of Boonevi president for st Harper of Clint president for et Garmon of Gad president for p and Tessa Pitts