

\$24M won in swimming pool tragedy

Girl, 5 suffered brain damage



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Nobody would want to trade places with Destine Weightman. She can't speak. She can't see. She can't play. Doctors say the only thing she responds to is pain.

So the severely brain-damaged 5-year-old will never get a day of comfort out of the \$24 million she was awarded yesterday in court. But it will pay the bills - something the Weightman family hasn't been able to do since Aug. 29, 1993, when Destine plunged into the deep end of a swimming pool in an Upper Darby apartment complex and sank to the bottom.

One of those bills is back rent over which the heartless apartment complex management tried to evict the family in the agonizing months that followed the accident. It took a Philadelphia Common Pleas jury just six hours to find that the Park Lane East Apartment complex and the company it hired to run its swimming facility, Progressive Pool Management, were responsible for the accident that left Destine in a persistent vegetative state.

"They're very relieved," said Shanin Specter, who represented Destine in the lawsuit filed by her parents four months after the accident. "They've had this crushing burden in terms of providing for their daughter and they're terribly relieved to know there will be adequate funding." Specter said the Weightmans had incurred more than \$500,000 in bills in the 22 months since the accident.

Destine's father has had a chronic migraine condition that prevents him from working. Her mother, a clerk for SEPTA, had taken off three months from work to be with her daughter at the Children's Hospital of Philadelphia. The couple's three other children are between 2 and 9 years old. In a cruel twist to their situation, Specter said Park Lane management had moved to evict the family from its apartment because the Weightmans had been unable to pay \$1,700 in back rent in the months immediately following the mishap.

Yesterday's award, however, will more than cover the rent. The \$24 million is believed to be the largest compensatory claim ever awarded in the state. Specter said the award is intended to cover

past and future medical expenses, as well as lost earnings and pain and suffering. He estimated the cost of a 16-hour nursing supervision to be \$200,000 a year.

The five-woman, five-man jury found that Progressive Pool, of Wilmington, Del., was 75 percent responsible for the accident and Park Lane East was 25 percent responsible. Specter argued in court that the two teen-age lifeguards assigned to the pool that day were literally lying down on the job - one with her eyes closed, the other listening to a Walkman. Progressive Pools denied the accusation, though Specter showed the jury a picture allegedly taken that day by Mary Weightman that appeared to show both lifeguards on their backs.

At the time, it seemed like an innocuous snapshot, like the other photos she took that day of her smiling children, swimming and playing. At about 5:30 p.m. she began to gather the family together for a group shot and lost sight of 3-year-old Destine. "The next thing she knows her child is being pulled from the deep end of the pool," Specter said. It took a fellow pool patron to alert the lifeguards. The older guard dove in and brought her to the surface. Destine had already begun to suffocate in the water and choked on her own vomit, but neither guard was able to successfully administer cardiopulmonary resuscitation or clear her air passage, Specter said. "They were unable to render any assistance," he added. By the time paramedics arrived four minutes later, Destine had not breathed in five to seven minutes, according to court testimony.

In an interview with the Associated Press, Progressive Pool Management's attorney, Edward Tarlov, denied Specter's claim that the guards were ill-prepared. "The only comment we have is that it was a tragic accident," he said. Specter had also asserted that Park Lane East Apartments, which is owned by the Philadelphia-based real estate conglomerate National Realty Co., had a responsibility to provide stands for the lifeguards and a phone within easy reach for an emergency.

The sprawling 350-apartment complex once had those features at the pool but had removed them, Specter said. Attorneys for National Realty could not be reached for comment. The Weightmans, who also were awarded \$250,000 for their pain and suffering, declined to discuss the verdict when reached at the family's home in Roxborough, where Destine lives under the care of nurses, fed through a tube, incapable of any voluntary movement. "They're quiet, private people," Specter said. "I think they want to get away from this."