

\$50 Million for boy who lost foot

SEPTA vows to appeal jury's award



By Chris Brennan
Of the Legal Staff
DECEMBER 15, 1999

Last night, Deneen Hall went home to her North Philadelphia apartment and told her 7-year-old son, Shareif, they won their lawsuits against SEPTA.

A jury awarded Shareif \$50 million yesterday for a sickening 1996 escalator accident that tore off his right foot.



Shareif's mother, who was holding his hand as they rode the escalator up to Broad Street from the Cecil B. Moore subway station on Nov. 27, 1996, was awarded \$1 million, plus \$65 for the cost of the high-top sneakers her son, then 4 years old, wore that day.

"Thank God it's over," the single mother of five said after the verdict for her youngest child. But is it? SEPTA says no.

SEPTA spokesman Richard Maloney said his agency "is anxious to accept it's share of responsibility for this accident" but can't afford a \$51 million verdict.

The agency filed a counter-suit against Deneen Hall in 1997, claiming she was the "sole, direct" cause of the accident.

SEPTA dropped that suit this week and presented no defense.

But Maloney bristled at the words - "evil, callous, reckless, uncaring" - used by the family's attorney, [Thomas Kline](#), to describe SEPTA to the jury.

SEPTA documents, finally released in the last six days, show the agency knew as far back as 1994 that some of its subway escalators were in sorry shape.



One SEPTA report, dated 19 days before the accident, said the Cecil B. Moore Station escalator needed repairs or it "will not be safe to operate."

"To Shareif and his family, SEPTA expresses its profound sorrow," Maloney said. SEPTA offered the family a \$250,000 settlement before the trial started.

"But by methodically seeking an award which would provide more money than any person could reasonably need, and is far beyond SEPTA's financial means, Mr. Kline has forced this case into a lengthy appeal," he said.

Both sides in the lawsuit agreed the Hall family will spend about \$300,000 in medical bills for Shareif, who must wear a prosthesis to replace his foot.

They also agreed the boy will lose an estimated \$700,000 in wages over the course of his life because of the injury.

SEPTA did not present a defense, Maloney said, because "we realized we had not done a thorough job collecting and presenting all the appropriate records."

SEPTA calls that an oversight, but Common Pleas Judge Frederica Massiah-Jackson may hold the agency in contempt of court.

SEPTA was represented in this case by independent attorney Leon Tucker. Asked if SEPTA's actions crippled his case, Tucker said "Yes it did."

SEPTA General Manager Jack Leary yesterday launched an internal investigation into the withheld documents, seeking to determine "how the system broke down," Maloney said. Kline also wants to know why he was denied documents.

"We're not going to let go until we find out why SEPTA behaves the way they do in court proceedings," he said. "Every time we have a witness on the stand, we learn there are more documents."

Massiah-Jackson twice since Thursday has ordered SEPTA employees to walk back to their offices across the street from City Hall and search for documents.

Both times, those employees came back with thick files filled with documents about escalators.

Kline predicts lengthy legal wrangling about the withheld documents, and the size of the jury's verdict.

A state law caps jury awards in lawsuits against government entities like SEPTA at \$250,000.

But Massiah-Jackson on Monday let Kline add a civil rights claim to the lawsuit.

The jury of 10 women and two men, which deliberated yesterday for about five hours, at one point asked for more information about the civil rights claim.

The judge again explained the jury could find SEPTA violated Shareif's civil rights if it acted with "deliberate indifference" about a "state-created danger" that affected the boy's "bodily integrity or freedom from bodily pain or assault."

The civil rights claim lifts the state cap for part of the verdict.

"To claim, in legal terms, that the civil rights of young Shareif were violated by 'deliberate indifference' of SEPTA is beyond reason," Maloney said.

The jury awarded Shareif \$25 million in compensatory damages for pain and suffering and \$25 million in civil rights damages.

If the \$250,000 cap is enforced, the boy would only receive 1 percent of the compensatory award.

His mother would also receive only \$250,000.

If the civil rights award is upheld on appeal, Shareif would receive all of that \$25 million. Any money awarded to the boy would be placed in a trust fund and administered by the court.

Kline says he will use this case to challenge in court the constitutionality of the state cap.

"That would require a change in the law," he said. "That can be done by the courts."

Kline calculated SEPTA also owes Shareif \$4.1 million in "pre-trial interest," under a state law that required SEPTA to settle the claim or start trial within a year of the day the lawsuit was filed.

The family filed their lawsuits in February 1997.

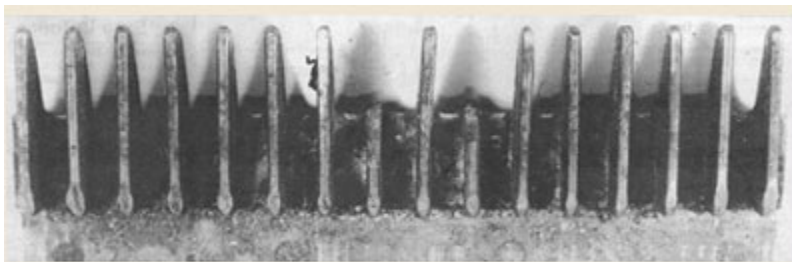
Jury members The jury left City Hall quickly after the verdict, speaking briefly and declining to give their names. One juror said there was "a lot of talking, a lot of debating" about the civil rights claim.

They were not told of the state's \$250,000 cap on verdicts.

Maloney described maintaining SEPTA's subway escalators as an "ongoing challenge" because they were built to last for between 10 and 15 years but have been in service for an average of 23 years.

Kline said SEPTA needed a huge jury verdict to get moving on repairing the escalators.

"The system needs to be fixed," he said. "And SEPTA won't do it unless there is a verdict and a public outcry."



Part of escalator that caught and tore off Shareif Hall's foot