

UNION COUNTY

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Bureau Chief Dan Murphy News (908) 322-1755 Fax (908) 322-2680 E-mail union@starledger.com
Advertising (973) 392-4072 Delivery 1-888-453-3437 Online www.nj.com/starledger

The Star-Ledger

Local News Briefs 29 Calendar of Events 29 Obituaries 32

INSIDE

WRESTLING VICTORIES

Roselle Park and Cranford are triumphant on the mat. Page 50

Suit settled in failure to report sex abuse

Mom of child victim sued brother and sister

BY MARYANN SPOTO
STAR-LEDGER STAFF

A brother and sister who had been molested by their father when they were young grew suspicious years later that he was abusing their 3-year-old niece — but never told their sister, the girl's mother, according to court papers.

Their fears were confirmed about three months later when the girl told her mother that her grandfather was touching her inappropriately. The mother later took the unusual step of suing two of her five siblings, contending that the sexual abuse of her daughter, now 12, would never have happened if they had warned her about their father.

The case split the family for

years, but was resolved yesterday after last-minute negotiations just before it was to go to trial before Superior Court Judge John Pisansky in Elizabeth. The terms of the settlement were not disclosed, and a protective order issued by the court prohibited both sides from publicly discussing details of the case or its outcome.

Court papers did not identify family members by name or hometown.

In court papers filed while the case was pending, the girl's mother, who said she was not molested as a child, said she later learned that her father exposed her daughter to "an improper sexual environment, including pornographic films, causing severe and permanent injuries."

The mother said her brother and sister were at fault for "standing silently by" while their father regularly baby-sat for the child.

According to court papers, the child's aunt and uncle talked about their suspicions and agreed they should tell the mother, but never did.

In their defense, the brother and sister maintained they were unable to tell because they were so traumatized by their own assaults.

It is not uncommon for sexual assault victims to file civil lawsuits against their assailants, but experts said a suit for failure to warn is almost unheard of.

"The idea there can be siblings abused and not necessarily make other siblings aware is not so rare, but reaching the point of there being a suit of this sort, particularly for a third party, is rare," said Fred S. Berlin, founder of the Johns Hopkins Sexual Disorders Clinic in Baltimore.

Sexual assault victims handle their abuse differently. Some are confused and afraid to speak up, while others are very vocal about their experience, he said.

"The defense, in this particular

case, is not an outrageous one," Berlin said. "The notion there's some universal reaction is just not there."

The duty to report child abuse is such an important one that the state Legislature made failure to report such a crime a disorderly persons offense, Livingston attorney Adam Slater, representing the mother, wrote in court papers filed in Union County.

Even if they were not aware of the law, the siblings, through their own experiences with their father, should have felt some responsibility to warn her, the mother alleged in court papers.

After they reached their settlement, the attorneys declined to comment on the case. With still a few more details to be worked out, they are scheduled to return on Jan. 10 for final approval by Pisansky.

The lawsuit initially named their father, who has since died, as a defendant, but the complaint against his estate has been dismissed.