

April 23, 2010

\$18.5 Million in Liability for Scouts in Abuse Case

By William Yardley

PORTLAND, Ore. — The Boy Scouts of America were ordered Friday to pay \$18.5 million in a lawsuit that has focused new attention on the secret files the Scouts keep to document claims of sexual abuse by troop leaders and volunteers.

Known variously as the “perversion files,” the “red flag files” and the “ineligible volunteer files,” the documents have been maintained for more than 70 years at the Scouts’ national office in Texas. Yet even after scores of abuse cases against the Scouts in recent decades, the case here is one of the few times that substantial portions of the files have been made accessible to a jury.

In Multnomah County Circuit Court on Friday, a jury found the Scouts liable for \$18.5 million in punitive damages in a case brought by a man who was sexually abused by an assistant troop leader in the early 1980s, when the man was about 12. The verdict was by far the largest ever against the Scouts in a jury trial. The jury could have ordered the Scouts to pay up to \$25 million. The same jury last week awarded the man, Kerry Lewis, \$1.4 million in compensatory damages.

Most abuse cases involving the Scouts have ended in private settlements, and it is unknown how much the group has paid to victims.

In the Oregon case, about 1,000 files, from the years 1965 to 1984, were included as evidence, though the judge, John A. Wittmayer, allowed only the jury and lawyers involved to view them.

Lawyers for Mr. Lewis, who is now 37, said in court that the files detailed many instances across the country in which troop leaders or volunteers were allowed to continue working with children even after the Scouts had received complaints that they had committed sexual abuse.

“They hid the problem,” Paul Mones, a lawyer for Mr. Lewis, said in closing arguments on Thursday, “and by hiding the problem, more abuse happened.”

In the Oregon case, a former assistant troop leader, Timur Dykes, had admitted to molesting Mr. Lewis. Evidence has shown that Mr. Dykes, who has since been convicted in child-molesting cases, was allowed to interact with scouts even after leaders learned he had abused children.

Mr. Mones said in court that Mr. Lewis might not have been abused had the Scouts reported the information they collected. He said releasing the files would help deter abuse and show that the Scouts are confronting the issue at a national level.

Lawyers for the Scouts have argued that the files should be kept confidential to protect victims and wrongly accused adults. They also dispute the claim that the files have caused harm.

Chuck Smith, a lawyer for the Scouts, told jurors that the files proved that the Scouts were ahead of their time in tracking child sexual abuse, even if the system was “not foolproof.”

“Hopefully, if their name’s in this file and there’s a file on them, they can never be involved in the Boy Scouts again,” Mr. Smith told the jury. “I ask you folks, what is wrong with that? What’s wrong with trying to maintain that kind of control?”

Several news organizations, including The New York Times, have filed a motion to gain access to the files.

The Scouts, based in Irving, Tex., would not discuss the case.

“Access to the file is kept private to protect accusers from retaliation and to protect the privacy of victims,” Deron Smith, a spokesman for the Scouts, wrote in an e-mail message. “And, since B.S.A. acts on suspicion, not proof, to guard against liability to those who may have been accused in error.”

Patrick Boyle, whose 1994 book “Scout’s Honor” drew in part from access he gained to about 2,000 files kept by the Scouts, said releasing the files even in redacted form would benefit the public and the Scouts.

“The astonishing thing about this for the Scouts is how something that was so good turned out so bad for them,” said Mr. Boyle, who is editor of Youth Today, which covers the youth service industry. “This started out as a valuable system for child protection and it’s turned into a major headache, largely because of the way they’ve handled it.”