

Bullied boy brain-damaged after suicide attempt - SCHOOL DISTRICT: Deal is reached with family of gifted Central Middle School student.

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The Anchorage School District has settled out of court with a family that said their 14-year-old son tried to kill himself and was left permanently brain-damaged because of relentless bullying that school staffers knew about but didn't stop.

School District officials and the family's attorney have declined to disclose any details of the settlement, including the amount of money being paid. The lawyer, Dennis Maloney, said the case is so outrageous that he has founded an anti-school-harassment group called Bye Bye Bullies and is helping to sponsor a conference on the subject this summer.

Documents and testimony in the case, in an 8-inch-thick file in the Anchorage state courthouse, describe the boy as testing at highly gifted levels in math and science. In 1997, he enrolled at Central Middle School, a program that specializes in those areas. He was fascinated by rockets and airplanes, mastered rock climbing, and obtained his pilot's license at age 14.

Fifteen months after he enrolled at Central, on a Saturday morning in November 1998, the eighth-grader strung up a rope and hung himself at his parents' home. When paramedics arrived, he had no pulse. After 15 minutes of CPR, they were able to get his heart going. But the boy had already suffered extensive and irreversible brain damage.

Medical records from the emergency room at Providence Alaska Medical Center that day say the boy's mother told doctors that her son "has been under lots of emotional stress at school" and "has no friends and is teased often at school."

The boy's parents, through Maloney, declined to be interviewed for this article. They asked that they not be named and asked that their son be identified only by his first name, Tom.

A recent videotape supplied by Maloney shows Tom, now 19, sprawled on a mat, with a stare that seems glazed over and vacant. His mouth hangs open as he struggles to put plastic toys into a container. His sinewy muscles spasm, and his limbs sometimes flail. Later footage shows his father inserting a feeding tube into his stomach.

His family sued the School District in 2000. Among their claims: School staffers refused to work with the boy's psychologist and destroyed records pertinent to the boy's situation, including documentation showing when and how he was harassed by other students. The suit claimed district employees erred by "punishing Thomas equally or worse than his attackers whenever an assault on Thomas was reported."

The School District's attorneys, asking that the case be dismissed last year, countered that the district couldn't be blamed for the boy's attempted suicide or have been expected to prevent it because no one -- not his parents, not his psychologist, not the school staff -- saw any of the typical warning signs.

Jacque Repp, assistant principal at Central when the boy attended, said in a sworn statement that strict district guidelines prevented her from speaking to Tom's psychologist without written consent from his mother, which she never had.

"She did not tell me in any of the meetings that I needed to sign a release," the mother testified.

Repp also said destroying student disciplinary records at the end of eighth grade is standard district policy, unless they involve criminally related activity such as gangs, drugs, alcohol or weapons.

What about Tom's suspensions or detentions for fights or skirmishes in which he and his mother both said he was the victim and, at most, was simply fighting back? Gail Opalinski, director of middle school education for the district, testified that any student who "participated in an action" is subject to disciplinary measures.

"It has worked in the past," Opalinski testified. "I believe that was an appropriate response."

confidential settlement

Last week, the family's lawyer, Maloney, issued a statement to the local news media saying he was using some of his earnings from the settlement to form Bye-Bye Bullies and sponsor the summer conference.

The Daily News pressed the School District for details of the settlement. The Alaska Supreme Court, in a case involving the Anchorage district in 1989, ruled that Alaska public records law requires public entities to disclose lawsuit settlements even when the parties have agreed to keep the terms secret as a condition of settlement.

School District officials refused to discuss the bullying-suit settlement, and it is not part of the case file that's available to the public. The district, meanwhile, protested to Maloney about his press announcement, saying the settlement amount and its existence were supposed to be secret.

Maloney sent out a new statement Thursday saying he was taking back his original press release to comply with a School District request "to keep any settlement, if any occurred, confidential." He also said the earlier statement that he was using funds from the settlement to help pay for the conference was "inadvertent and incorrect."

District Superintendent Carol Comeau, in an interview, said she takes bullying very seriously but wouldn't talk about the case.

"The court directive was this was a confidential settlement ordered by court, so I'm not at liberty to discuss the case at all," said Comeau, who was assistant superintendent of instruction when the boy was enrolled at Central.

an easy target

As a middle school student, Tom limped slightly -- a product of a mild left-sided weakness he'd had since birth. His mother said in her deposition that Tom was uncoordinated and didn't like crowded places. Other people described the scrawny boy as socially awkward during his time at Central.

"He was kind of like an outcast, I guess," one classmate said in a sworn statement. "It was like nobody really respected him. Just for no reason, you know?"

His mother testified: "My sense was that Thomas had been identified by a group of children as being an easy target. My sense was that wherever he went it was easy to laugh at him or poke fun at him."

Some students shunned Tom in the cafeteria, according to statements from his mother. Kids harassed him in the hallways, pushed him and knocked textbooks out of his hands, she said. His clarinet was thrown into the trash. The boy joined the cross-country running team and during a practice run was left behind.

At least twice, other boys accosted him in the bathroom, according to the suit. During the spring of his seventh-grade year, Tom apparently splashed boys with water and they responded by kicking and hitting him, according to documents in the case. One of those boys, in a statement to administrators, said Tom cowered in the bathroom corner looking scared and terrified while the students assaulted him.

All the boys, including Tom, were suspended, according to testimony from school staffers and Tom's parents. But school records describing that incident and others involving Tom and classmates were destroyed by the school at the end of the 1998-99 school year under the district's policy, according to school officials. That was after the boy's attempted suicide but before the lawsuit was filed.

Another time, Tom's mother was at the school meeting with Repp when her son came into the office, tearful, according to court records. There had been another incident with his classmates in the bathroom. Tom had a mark on his back that, according to a report from school nurse Barb Pennington, "appears to look like the edge of a book or binder."

A school employee took the boy to the cafeteria and made him point out his assailant, court records said. Other students taunted him, Maloney said. Tom was subsequently suspended along with the students who assaulted him.

Repp testified that Tom was punished because, after interviewing all the boys involved, it was impossible to say whether he splashed water and thus instigated the incident, or whether he splashed water at the boys in response to being assaulted.

Tom's parents started taking him to a psychologist, Ken Mueller, in January 1998 because of the issues their son was having at school. His mother encouraged the Central staff to discuss Tom's situation with the psychologist. Repp declined to speak with the psychologist when he called the school, later testifying it would violate policy.

"You know, in 30 years of living in the community and calling different people about different things, I hadn't run into this kind of attitude," Mueller said in his testimony.

At one point, Tom's mother also asked to see all the names and phone numbers of boys bothering her son so she could call police and the boys' parents. Repp, who declined to comment for this article, said that releasing that information would violate district policy. Repp is currently an assistant principal at Gruening Middle School in Eagle River.

'he was there to learn'

Tom found an ally and mentor in his technology teacher, Dean Paulson. Paulson also served as Tom's flight instructor.

When questioned for the lawsuit, Paulson, now a photography teacher at King Career Center, described his student as introspective, highly gifted and motivated.

"He was like teaching an adult," Paulson said in a tape admitted as evidence in Tom's case. "He did not fit into the junior high concept of high energy and foolishness. He was there to learn."

During the second semester of Tom's seventh-grade year, he ate lunch nearly every day in Paulson's classroom, the teacher said in a deposition. Tom never said he was having problems with bullies, but Paulson began to suspect that the boy was there for protection, he said.

Paulson found Repp and staff member Brian Hilmes together in a hallway and told them of his suspicions. He testified that Repp said Tom was "bringing it on himself."

Repp and Hilmes, in their sworn statements, said they didn't remember the conversation or that comment.

"Students get into situations where sometimes they bring a problem on, maybe not understanding that they're doing that," Hilmes testified. "I think there were situations where Thomas might have done things ... that students didn't like."

Laura Jones, an Anchorage psychologist, evaluated Tom at his parents' request in fall 1988, when he was in preschool. She diagnosed him with oppositional defiant disorder. This basically means he wouldn't follow directions and was disruptive, she testified.

Maloney said it's possible that Tom did instigate some of the situations that escalated into teasing from or altercations with classmates. Tom was awkward, Maloney said, and "didn't know how to be one of the boys."

During Paulson's deposition, Maloney asked the teacher if he agreed with Repp's statement that Tom brought trouble on himself.

Paulson paused a long moment before answering.

"I disagreed," he finally said, blinking. "But I didn't say anything."

a defeated look

Tom's breaking point, as Maloney calls it, came on Nov. 6, 1998, when the boy was a couple of months into his eighth-grade year.

That Friday, another student pushed Tom in a hallway as they left the cafeteria, Hilmes testified. That push was apparently prompted by Tom's tripping the student, but no one knows whether he did so on purpose or accidentally. A teacher witnessed the incident, but afterward Central staff members were unable to say which teacher that was. So without records, the details of the incident remain unclear. When Tom's mom picked him up at school, he told her a teacher saw the incident. He was sure the teacher would stick up for him and he wouldn't be suspended, his mom testified.

Later that day, his father got a call that Tom would get an in-school suspension for the incident.

Tom looked defeated and told his mother that he wasn't going to be blamed anymore for things he didn't do, she testified. As Tom talked about school -- about a classmate threatening to destroy a project he was working on, about how he couldn't get a partner for his social studies project -- he alternated between crying and not crying, his mother said.

The conversation lasted until about 1:30 a.m.

The next morning, after speaking with her son, Tom's mother left the house for 20 minutes or so to drop his younger sister off at a sewing class, she testified.

When she returned, she found him hanging from a rope strung from the ceiling.

After more than a month in Providence and a month in rehabilitation in Seattle, Tom returned to Anchorage. His condition hasn't changed in the five years since. He wears diapers. He remembers people, knows a few words and seems to find things humorous now and then.

But no one knows what's really in his head, Maloney said. And no one has asked him whether he remembers November 1998.

His dad, a self-employed civil engineer, takes Tom to the local mall every night and walks him for an hour, Maloney said.

"We took trips together," Tom's father said in court records. "He was curious ... and he was fascinated with going to the top of tall buildings, fascinated by heights. He was amazing with his love of heights on carnival rides, towers -- wanted to go right to the top."

Daily News reporter Katie Pesznecker can be reached at kpesznecker@adn.com.

EXPERTS TALK

AN ANTI-BULLYING CONFERENCE is scheduled for June in Anchorage.

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- **Caption:** Photo 1: Quote marks_020804.jpg Photo 2: DennisMaloney_020804.jpgAnchorage attorney Dennis Maloney has founded an anti-harassment group.

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