



Elderly man sues nursing home in abuse casePosted on April 18

APRIL 18, 2007 12:00 AM • BY THE ASSOCIATED PRESS

BOZEMAN - An 84-year-old man allegedly assaulted at a nursing home last month is suing the facility, claiming it failed to protect him from the employee accused of punching him in his bed.

Earl Gates of Bozeman claims Evergreen Bozeman Health and Rehabilitation Center didn't do a background check on his accused attacker, Joshua Fowler, 23, who has a prior assault conviction.

His attorney, Chris Williams of Bozeman, filed the 24-page lawsuit. It accuses the nursing home of negligence and breach of contract, alleging another employee smelled alcohol on Fowler's breath the night Gates was assaulted and claiming management waited nine hours to take him to the hospital.

Gates also accuses management of participating "in a conspiracy to provide inadequate care in order to maximize profits, corporate wealth and member compensation and perks," the lawsuit stated.

He is seeking punitive and compensatory damages.

An attorney for Evergreen refused to comment on the lawsuit.

Fowler has pleaded not guilty to felony elder abuse in the case. He's accused of hitting Gates in the face and head March 2, leaving the man with two black eyes and multiple cuts and bruises.

Gates' roommate told police he heard "a loud smack that sounded like a fist hitting a face" while Fowler was behind a curtain. Fowler emerged with blood on his hands, according to court documents.

Three empty bottles that had contained alcohol were found in a room at Evergreen, records state.

The 103-bed Evergreen facility provides short- and long-term nursing care and rehabilitation services. It is under the corporate umbrella of EHC Management, based in Vancouver, Wash. According to the EHC Web site, the company has 58 nursing and assisted-living facilities in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah and Washington.