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Eappens are entitled to damages, lawyers say

By Patricia Nealon
GLOBE STAFF

British former au pair Louise Woodward's conviction for involuntary manslaughter in the death of 8-month-old Matthew Eappen automatically entitles the baby's parents to punitive damages from Woodward, the attorneys for the Eappens argued in court papers yesterday.

With a hearing scheduled for tomorrow in federal court, lawyers for the Eappens accuse Woodward of trying to rewrite history by suggesting her criminal conviction is not sufficient grounds for a punitive damage award.

"In what appears to be a campaign of revisionism, (Woodward) bases her argument on the startling suggestion that the criminal trial judge effectively acquitted her of criminal liability for Matthew Eappen's death," the Eappens' lawyers, Fredric L. Ellis, Edward D. Rapacki, Edward A. Broderick, and Edward C. Bassett Jr. wrote in an 11-page reply to papers filed last week by Woodward's lawyers.

"This court ... should reject (Woodward's) attempt to rescript her criminal conviction," the lawyers argued.

Woodward's recently hired Boston lawyers have asked US District Judge William G. Young to consider their claim that Woodward cannot be sued for punitive damages - which would be awarded on top of compensatory damages - because her conviction for involuntary manslaughter did not include a finding that she had engaged in "willful, wanton or reckless conduct."

But lawyers for the Eappens argue that a manslaughter conviction necessarily means that the defendant has been found guilty of such conduct and Woodward's lawyers cannot relitigate that issue.

The Eappens are basing their suit against Woodward on the portion of the state wrongful-death statute that permits punitive damages if a defendant is found to have caused the death of another due to "willful, wanton or reckless conduct."

A Middlesex Superior Court jury originally convicted Woodward of second-degree murder but Judge Hiller Zobel reduced the conviction to involuntary manslaughter last November. He sentenced her to time served in jail.

Zobel's reduced verdict was later upheld by the state Supreme Judicial Court.

Farm's raw milk poses rabies risk for 60

ASSOCIATED PRESS

LUNENBURG - About 60 people who drank raw milk from a dairy farm's rabid cow are at risk of contracting rabies and must be vaccinated, state health officials said yesterday.

It is the second time in six weeks that raw milk has posed a health threat in Massachusetts. At least nine cases of salmonella poisoning turned up among people who drank raw milk in October at a Pittsfield farm, according to health officials.

The rabies worries surfaced at

Cherry Hill Farm, in the central Massachusetts town of Lunenburg, on Oct. 21. Mark Leccese, a spokesman for the state Health Department, said an infected skunk or raccoon apparently bit the cow, which tested positive for rabies Friday. The cow was destroyed.

Leccese said health officials believe they have found nearly all, if not all, of those people who may have drunk milk from the rabid cow. But the department issued a health advisory yesterday to warn anyone else who might be at risk to contact health officials for help.

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