



DEVAL L. PATRICK  
GOVERNOR

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THE COMMONWEALTH OF MASSACHUSETTS  
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June 11, 2008

Christopher M. Perry, Esq.  
Brendan J. Perry & Associates, P.C.  
95 Elm Street  
P.O. Box 6938  
Holliston, MA 01746

Dear Mr. Perry:

I write in response to your request for Governor Patrick's assistance in directing the Commonwealth to pay a punitive damages award that your now-deceased client, Jason Davis, obtained in a civil rights action filed against certain individuals who worked at Westborough State Hospital in 1996.

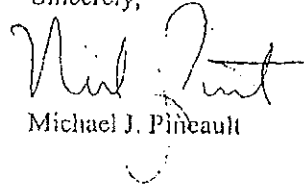
I have reviewed the materials that you provided and researched the applicable law. Section 9 of Chapter 258 of the General Laws governs the Commonwealth's ability to pay judgments arising out of intentional tort or civil rights actions filed against individual state employees. That statute prohibits the Commonwealth from indemnifying an employee for civil rights violations involving grossly negligent, willful or malicious conduct.

As you have explained, the jury in this case was instructed that it could award punitive damages against a defendant only if it found that the defendant had acted "maliciously or wantonly." In light of that instruction, Section 9 bars the Commonwealth from paying the punitive damages portion of the verdict.

You have confirmed that the Commonwealth paid the compensatory damages portion of the verdict in 2002, totaling approximately \$177,760, on behalf of a defendant whom the jury found did not engage in malicious conduct. That payment was

permitted by Section 9. Unfortunately, the additional payment that you now seek is not.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Pineault", with a stylized flourish at the end.

Michael J. Pineault