

Indiana trial of wife vs. husband over sexually transmitted disease to begin

Damages sought in suit that claims he gave her herpes

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A lawsuit to be heard in Clark Superior Court in Indiana next week will pit husband against wife — with the wife alleging that her husband gave her the sexually transmitted disease herpes.

Dianne Van Note of Clark County, Ind., filed suit against her husband, Peter Van Note III of Louisville, in April 2000, a year after the couple separated but agreed to remain married. The trial is scheduled to begin Tuesday.

The suit says that Peter Van Note inflicted injury on his wife when the two began living together in 1989 “by, among other things, having sexual intercourse with Dianne at a time when Peter knew, or should have known, that he had and was a carrier of a loathsome sexually transmitted disease.”

Court documents say that the couple lived together for two years before marrying in 1991. The suit claims Peter Van Note didn't reveal his disease to his wife until she confronted him after having herpes diagnosed in 1998.

Her suit claims that his actions constitute “the intentional infliction of emotional distress” on his wife.

She is demanding unspecified monetary damages to compensate for permanent injuries, humiliation, pain, suffering, impaired earning capacity, emotional distress, “the inability to function as a whole person” and medical expenses.

The suit also asks for punitive damages “in an amount to serve as an example to deter others from like conduct.”

Peter Van Note, reached by telephone yesterday, declined to comment on the case.

In court documents, he acknowledged knowing about his herpes and not telling Dianne about it before having sexual intercourse with her. He denies not telling her about the disease before they got married.

In a response to the suit filed in court, Peter Van Note claims that his wife cannot sue him because she waited too long to do so, making the action unfair to him. He also claims that her injuries “are the result of the acts or omissions of others for whose conduct defendant is not liable.”

Matthew Schad, Dianne Van Note's attorney, said her husband's defense team has pried more deeply into her past relationships and medical history than in any other case he has seen.

“Her boyfriends . . . I think are relevant,” Schad said. “And each and every one of them has testified (in de-

positions), ‘I do not have nor have I ever had herpes.’”

Schad points to Peter Van Note's admission that he had had sex with her without telling her about his condition.

“The issue is whether he gave her herpes — whether he had it, whether he told her about it, and whether or not she suffers from it now and has damages based on that,” he said.

Dianne Van Note filed for divorce from her husband in April 1997 but dropped the suit two months later after the couple reconciled. But in July 1997, one month after the reconciliation, Peter Van Note filed for divorce.

In a February 1999 settlement, the two agreed to stay married. The agreement divided their property and called for Peter Van Note to pay his wife \$2,000 a month, along with other support, as long as they remain married.

Schad was asked why, given the sensitive nature of the case, the Van Notes would push all the way to a trial instead of reaching a private settlement. A court-ordered attempt at mediation failed earlier this month.

“We just haven't received an adequate settlement offer,” he said.

Neither side is looking forward to the trial, he said.

“I know it's going to be tough on my client (and) I would imagine it's going to be tough on their client,” he said.