

Lawyer: Woodward's lack of response to suit proves guilt

By Noelle Dinant

NEWS STAFF WRITER

Former au pair Louise Woodward's failure to respond to a civil lawsuit alleging she is responsible for the death of 8-month-old Matthew Eappen is an admission of guilt, said attorneys for the boy's parents.

"The default acts as an admission of the allegations in the complaint," read a joint statement from Ted Bassett of Southborough and Rick Ellis, co-counsel for the Eappens with the Worcester law firm Mirick O'Connell.

But Woodward's attorney in England said the British au pair is out of money and didn't have enough cash to defend herself.

"Quite simply, she is not in a financial position to defend the action in America," Peter Quinn said. "It's not an admission of guilt. She maintains her innocence."

Woodward had 20 days to respond to the June 16 lawsuit filed by parents Sunil and Deborah Eappen. The lawsuit also tries to bar her from profiting from the sale of her story.

The U.S. District Court in Boston entered a motion for default against Woodward yesterday for failing to respond to the allegation that she is responsible for the infant's death.

"The complaint alleges that Woodward inflicted serious bodily injuries which caused Matthew's conscious pain and suffering, and death, and that her actions were willful, wanton and reckless," read Bassett's and Ellis' joint statement.

By failing to reply to the suit, Woodward waived her right to a trial. Defaults in U.S. courts, especially on the federal level, are rare.

If Woodward does not ask a judge to remove the default order in the wrongful death suit, the Eappens automatically win the case. Then it is up to a judge to decide how much — if anything — Woodward must pay in damages to the Eappens.

The couple requested a hearing with presiding Judge William G. Young on Oct 5 to determine actual and punitive damages.

To win punitive damages, the Eappens must prove that the au pair intended to

kill their son, legal experts said.

The Eappens' Worcester attorneys said they will use Young's final judgment to ensure Woodward does not profit from Matthew Eappen's death.

Woodward returned to England last month after the state's highest court upheld a lower court's manslaughter conviction and sentence of the 279 days she had served since her February 1997 arrest.

It is unclear whether an injunction preventing her from profiting would be applicable in England. Woodward has denied she plans to sell her story about the death of Matthew Eappen.

Fredric Ellis of the Eappens' Boston law firm, said the Eappens hope to collect a seven-figure judgment in compensatory and punitive damages. Legal experts said a damages award should be relatively easy to enforce in England.

"I would suppose it's very likely that the British would enforce the judgment," said Detlev Vagts, a professor of international law at Harvard.

Woodward, however, has insisted she doesn't have any money. Her supporters

have said her legal defense trust fund, which once reached about \$500,000, dwindled to around \$80,000 after paying for her appeal.

Young already recognized the irony of the situation when he issued an injunction last month that prohibited Woodward from profiting from the story until the civil suit is resolved.

Young wrote that the Eappens would probably win their case, but that their only hope of obtaining damages lay in Woodward's ability to sell her story.

"It is the tragic irony of this civil case that, whatever their protestations, these parties need each other in the most practical sense: absent insurance, if (Sunil) Eappen is to have any chance to collect upon his expected judgment, Woodward must amass the necessary funds, and the only potential source appears to be the same media that all parties agree are most morally repugnant," Young wrote.

Woodward has repeatedly denied any plans to sell her story.

(Material from *The Associated Press* was used in this report.)

End may be part of climate change, researchers say

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■ A 70 percent decline in zooplankton, the tiny animals that feed on microscopic plants and that are a major link in the natural food chain.

■ A 90 percent decline in an important sea bird called the sooty shearwater.

■ Warm water fishes and other animals have migrated northward and

are now common in places that they

once shunned.

■ Near-shore species like abalone, sea urchins and kelp plants "have been devastated," said McGowan.

■ A surge of warm weather in the 1980s is linked to the wholesale death

of young among fur seals, sea lions and related animals in Alaska. Those animal populations have yet to recover.

■ Warm surface waters are blocking the upwelling of nutrient-rich cold waters, said McGowan. As a result,

the warmer surface waters lack some of the chemicals that supports plankton, which is at the base of the food chain.

■ Fish populations have declined about five percent per year since 1986.

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