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## 2009 Largest Settlements

January 11, 2010

What follows is a summary of the largest settlement listings which ran in Wisconsin Law Journal's Verdict & Settlement Reporter in 2009.

The largest settlement of the year was reported by attorneys Daniel Rottier and James Fergal, Habush Habush & Rottier. The remainder are reprinted below and edited for space. They are listed in order of the size of the settlement.

### MOTOR VEHICLES

**Semi collision kills two, injures one**

**Court: Dane County**

**Judge: C. William Foust**

### Other Legal News

- Commentary: Cutting deals in smoky courtroom chambers
- LegalTech 2010 offers new legal research, dictation, e-discovery tools
- Third-party business records inadmissible
- MBA 2010 Judges' Night
- Lawmaker exaggerated court records site claim
- DNA testing rules may change
- Bill would put tight limits on payday lenders
- Virtual conferencing draws law-firm interest
- Unemployment puts new spin on cases
- Doyle addresses CCAP legislation

**Verdict or settlement/amount:** Settlement, \$6.9 million

Date of incident: Aug. 17, 2004

Disposition date: **July 23, 2009**

**Plaintiff's attorneys:** David E. Rapoport, Paul D. Richter, Rapoport Law Offices, Chicago; Keith R. Clifford, Terrence M. Polich, Clifford & Raihala SC, Madison; Robert F. Foss, Baum, Hedlund Law Firm, Los Angeles

Defense attorney: Jay R. Starrett, Whyte Hirschboeck Dudek SC, Milwaukee

Plaintiff's experts: Robert Huntington MD; Gerald Lang MD; Frank Ochberg MD

**Plaintiff counsel's fact summary:** A semi-tractor-trailer rear-ended plaintiffs' car while it was stopped in traffic, killing two occupants and seriously injuring a third. Plaintiffs were a couple in their fifties and their four-year-old granddaughter. The grandfather, who survived, suffered a fractured left tibia and fibula repaired with intramedullary nailing and post-traumatic stress disorder. His wife died instantly. Their granddaughter died from traumatic asphyxiation as the car was crushed.

### **Impact with semi sends jeep airborne**

Injuries: Right ankle fracture; herniation of the stomach and colon lodged into the abdomen; bilateral collapsed lungs; brain hemorrhage; cervical spine dislocation with bleeding into the cervical spinal cord; ligament disruption; nerve root injury at cervical and thoracic levels

Case: Miller v. Buchanan and Struck & Irwin Paving

Court: Washington County

Verdict or settlement/amount: Pre-suit settlement, \$6 million

Original amount sought: \$12 million

Special damages: Past medical expenses: \$979,469; past wage loss: \$75,000

Date of incident: May 23, 2007

Plaintiff's attorney: Timothy S. Trecek, Habush Habush & Rottier SC, Milwaukee

Defense attorney: Gerald G. Schmidt, Schmidt, Darling & Erwin, Milwaukee

Insurance carrier: West Bend Mutual Insurance

Plaintiff's experts: Dennis Skogen, reconstruction; Carl Rieken, trucking; Helen Woodard, life care planner; David Stopper, trucking

Plaintiff counsel's fact summary: Plaintiff Miller was driving her Jeep Grand Cherokee eastbound on STH 33 near Addison, Wis. Defendant Buchanan was operating his semi-tractor trailer westbound on STH 33 at the same time. The collision occurred when Buchanan lost control of his truck and crossed the centerline into the path of Miller's Jeep. According to witnesses, the impact of the Jeep striking the truck was so sudden and severe that it caused the rear of the Jeep to become airborne. Plaintiff's theory was negligent management and control.

### **News from the web**

- **Some laud proposal to limit CCAP access**
- **UWM student paper wins public records lawsuit**
- **Primary ballots include some races for mayor, village president**

### **OUR WEEKLY EDITION**



## **PRODUCT LIABILITY**

### **Jet Ski explosion causes severe injuries**

Injuries: Fracture dislocation of spinal cord at T12-L1 and other spinal cord injuries causing paraplegia; other personal injuries

Case: Hart, et al. v. Kawasaki Heavy Industries Ltd., et al.

Court: Racine County, 07CV1548

Judge: Joseph McDevitt, mediator

Verdict or settlement/amount: Settlement, \$5.5 million

Date of incident: July 15, 2005

Disposition date: July 13, 2009

Plaintiff's attorneys: Patrick O. Dunphy, Sarah F. Kaas, Cannon & Dunphy SC, Brookfield; James A. Pitts, Schoone, Leuck, Kelley, Pitts & Knurr SC, Racine

Defense attorneys: For the Kawasaki defendants: Daniel J. LaFave, Christopher Meadows, Quarles & Brady LLP, Milwaukee; for Main, Marine & Ski and Sentry Insurance: Kevin A. Christensen, Leib & Katt SC, Milwaukee; for plaintiff Robert Jacobsen: Thomas M. Devine, Hostak Henzl & Bichler SC, Racine, and Chubb insurance; for Progressive Northern Insurance Co.: Frederick J. Strampe, Borgelt, Powell, Peterson & Frauen, Milwaukee

Plaintiff's experts: Gregory Davis, marine engineer; Greg Binversie, Phillip Dindinger, Michael Burleson, engineering; Anand R. Shah, materials engineer

Defense experts: J. Paul Frantz, Kevin C. Breen, Robert K. Taylor, Donald E. Duvall, engineering

Plaintiff counsel's fact summary: Plaintiff Hart was seated on plaintiff Jacobsen's 1998 Kawasaki Sport Tourer Jet Ski. Jacobsen pressed the start button and it exploded. Hart was propelled into the air and landed on a nearby pier.

Plaintiffs' theory was that an earlier Kawasaki recall and subsequent repair performed on the fuel system of the Jet Ski caused the primary fuel pump diaphragm to contact the aluminum cover plate of the fuel pump, causing a fatigue failure in the diaphragm, and causing gasoline to leak into the hull of the Jet Ski while it sat on a lift for several weeks. As a result of a loose battery cable, when the Jet Ski was started a spark from the battery that was located in the engine compartment ignited accumulated flammable vapors inside the Jet Ski hull.

## **MEDICAL NEGLIGENCE**

### **Caregivers missed obvious signs of stroke**

Injuries: Total, permanent disability

Case: Patton v. Brilla, et al.

Court/case no.: Sheboygan County, 07-CV-376

Judge: James Bolgert; mediator: Charles Stierman

Verdict or settlement/amount: Settlement, \$4.5 million

Date of incident: May 20, 2004

Disposition date: April 23, 2009

Plaintiff's attorney: Lynn R. Laufenberg, Laufenberg Law Group SC, Milwaukee

Defense attorneys: For Dr. Brilla: Mark Larson, Gutglass, Erickson & Bonville SC, Milwaukee; for Dr. Siddique: Michael P. Malone, Hinshaw & Culbertson, Milwaukee; for the Wisconsin Injured Patients and Families Compensation Fund: Jeremy Gill, Nash, Spindler, Grimstad & McCracken LLC, Manitowoc

Plaintiff's experts: Candice Perkins MD, Axel Rosengart MD, stroke neurology; Robert Peyster MD, neuroradiology; Gaston da Costa MD, general neurology; Henry Alba MD, physical medicine and rehabilitation; Rick Ruvin, home modifications; Ross K. Lynch PhD, vocational rehabilitation; David Ward PhD, economist

Defense experts: Daniel Labovitz MD, stroke neurologist; Stephen Futterer MD, Victor Haughton MD, neuroradiology; Leonard Berlin MD, radiology; Lawrence Dineen, life care planning and vocational rehabilitation; Jubin Merati PhD, economist

Plaintiff counsel's fact summary: Patton is totally disabled by the effects of a stroke not timely diagnosed or treated.

Dr. Brilla, a neurologist, was negligent in failing to recognize the symptoms were evidence of brain stem transient ischemic attacks due to posterior circulation insufficiency. Dr. Siddique, a radiologist who read his MRI results, was negligent in failing to confirm that his claimed "stat report" of MRI findings was received and acted upon.

Plaintiffs' experts testified that another MRI or other study of the vessels of the brain should have been done earlier and would've shown significant narrowing of the basilar artery. They believe the brain stem stroke could probably have been prevented with the use of anti-coagulants, close monitoring and, if necessary, stenting of the artery.

Rank	Case/Court	Type	Amount	Attorney(s)
1	Bomkamp v. Go, et al	Medical negligence	\$17.3 million	Daniel A. Rottier, James M. Fergal, Habush Habush & Rottier SC, Madison

2	Confidential	Personal injury	\$6.9 million	David E. Rapoport, Paul D. Richter, Rapoport Law Offices, Chicago; Keith R. Clifford, Terrence M. Polich, Clifford & Raihala SC, Madison; Robert F. Foss, Baum, Hedlund Law Firm, Los Angeles
3	Miller v. Buchanan and Struck & Irwin Paving	Auto accident	\$6 million	Timothy S. Trecek, Habush Habush & Rottier SC, Milwaukee
4	Hart, et al. v. Kawasaki Heavy Industries Ltd., et al.	Personal injury/product liability	\$5.5 million	Patrick O. Dunphy, Sarah F. Kaas, Cannon & Dunphy SC, Brookfield
5	Patton v. Brilla, et al.	Medical negligence	\$4.5 million	Lynn R. Laufenberg, Laufenberg Law Group SC, Milwaukee

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