

News Story

Value of top Mich. verdicts drops 54% in five years

Number of cases is consistent, but only one '08 award breaks past seven figures

2008 Million-dollar Verdicts & Settlements

Last January, *Michigan Lawyers Weekly* reported that from 2004 through 2007, the number of submitted million-dollar verdicts in the state stayed between 12 and 14, yet the sums awarded were continuing to decline.

This year, the newspaper's annual compilation of "Million Dollar Verdicts & Settlements" shows those trends held true in 2008.

In 2007, only one verdict was in the eight-figure range (\$35 million), while the highest verdict reported to *Lawyers Weekly* in 2008, a class-action suit involving sexual abuse at a women's prison, was \$11 million less.

The verdict awards in 2004 totaled \$117 million, compared with 2008's total of \$63 million, a decline of nearly 54 percent.

And compared with the \$1.344 billion total of the 2008 national top 10 verdicts (see "National top 10 surges after years of decline," page B12), Michigan's figure is 4.7 percent.

Lawrence Dubin, legal ethics professor at University of Detroit Mercy School of Law, said the trend reflects a shift in avoiding litigation.

"We're seeing more of the good cases settling than perhaps in the past, when insurance companies and defendants were more willing to roll the dice on the outcome," he said.

There were 18 million-dollar-plus settlements reported to *Lawyers Weekly* in 2008, and only 14 million-dollar verdicts.

Dubin added, "Now there's an incentive for both sides in a good liability or substantial injury matter to want to resolve the case. ... You're seeing plaintiff's lawyers scrutinize their cases more carefully, and defense lawyers wanting to settle the big ones and avoid the potential big jury verdict. Both sides are feeling more pressure."

He also noted that plaintiffs are aware of the risks of getting a large verdict and having it reversed on appeal, prolonging the litigation process.

Despite the drop in 2008 jury award value, the stories behind the year's biggest million-dollar verdicts were far from uninteresting.

The top six verdicts included such oddities as a 20-year-old auto accident and an auto company that couldn't be named in a suit but ended up working behind the scenes of it. And the outcomes also were notable, including a criminal case stemming from a civil one and a dram-shop trial that found a neighborhood tavern almost completely responsible for a man's death.

'Broeren, et al., v. Bates'

At case evaluation and facilitation for a third-party auto negligence claim, Steven M. Gursten was told by a lawyer representing Chrysler LLC that "a 'conservative Macomb County jury' will never award millions of dollars, no matter how serious the injuries, because juries in Macomb do not award those kinds of verdicts."

But one jury did just that, to the tune of \$5.65 million.

Tony Broeren, an electro-mechanical engineer at an auto supplier, suffered head and shoulder injuries, a shattered knee and a broken jaw when Roy Bates II accidentally backed into him in a pickup truck that was a Chrysler test vehicle.

Broeren underwent 11 surgeries, suffered tinnitus, vertigo, side effects from the various pain pills and weight gain, and has difficulty walking. In order to care for him, his wife had to quit her job and suspend her pursuit of a master's degree.

Broeren sued Bates and Chrysler for his injuries, but the automaker was ultimately removed as a defendant.

But a Michigan statute holds the owner of a vehicle liable for any damages caused by its operation. That owner was Chrysler.

So Chrysler hired defense attorneys and made all settlement and trial decisions, even though the jury was not allowed to know the automaker was involved with the case.

The jury's award allotted \$2.75 million for non-economic damages, \$1.88 million for economic damages and \$1.02 million for loss of consortium.

As for the "conservative jury" claim, Gursten told *Lawyers Weekly*, "If you have a good client, someone who is both likable and credible, and who has suffered a serious injury through no fault of his or her own, you are always going to get a substantial jury verdict."

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