

Trecek holds 3 of top 5 reported settlements

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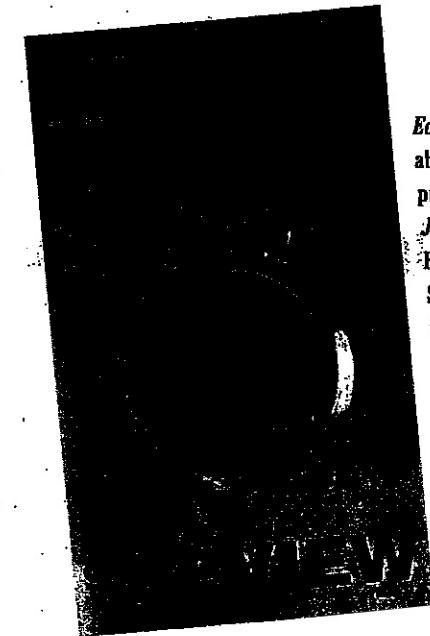
If you've been reading the *Wisconsin Law Journal's* Verdict & Settlement Reporter and keeping score, probably the biggest winner of 2005, in terms of large cases successfully settled, is Timothy S. Trecek.

Trecek represented plaintiffs in three of the top five settlements published in our Verdict & Settlement Reporter last year.

In *Brown v. Gruenberg*, Trecek's top-dollar settlement for 2005, James Brown, an avid cyclist and triathlete, was riding his bicycle heading south on Milwaukee's Lake Drive when the defendant driver, coming from the opposite direction, failed to yield the right of way and began to make a left turn. No contact actually occurred, but the plaintiff swerved to avoid the vehicle and collided into a large stationary object — either a telephone pole or a fire hydrant.

Had the case gone to trial, clearly causation would've been the most hotly disputed issue. The crux of the defense position was that, had Brown kept his eyes shut, he never would've seen the car that almost hit him and would've been just fine, says Trecek.

In addition, damages would likely have been contested. Brown basically destroyed one side of his rib cage as his main injury, in addition to numerous other injuries. However, he was able to return to his job full-time. An interesting part of the claim, notes Trecek, is that from a punctured lung, Brown sustained diminished lung capacity after the accident that will affect his athletic ability for the rest of his life. While the more athletic types on a jury would likely appreciate



that loss, those not inclined to exercise might not.

Trecek hypothesizes that, with the driver facing exposure beyond her policy limits, the case settled for those limits of \$1.25 million.

Trecek's second highest settlement was garnered in two separate causes of action, one relating to injuries to a woman and the fetus she was carrying at the time of the accident.

In *Rucker v. Schmidt*, during Monique Rucker's 32nd week of pregnancy, while waiting for a bus in downtown Milwaukee, the defendant driver went through a red light, collided with a taxi, then hit Rucker. Afterward at the hospital, because the fetus was in dis-

Editor's note: For more information about these cases, and all the cases published last year in *Wisconsin Law Journal's* "Verdict & Settlement Reporter," see the 2005 Year in Review Special Section accompanying this issue.

The section additionally lists significant defense victories for 2005, as well as the largest verdicts we received in 2005.

stress, she underwent an emergency C-section.

Causation would've been challenged, had the case gone to trial, with regard to some of the developmental delays the baby, Khalil, experienced. While he experienced a number of delays, none were excessive and defendants could've challenged their etiology.

Damages also would have been an issue, given the boy's young age and the imprecise nature of predicting the extent of his injuries as he grows and how he develops. He still receives weekly physical therapy, Trecek notes.

At mediation, he settled the mother's claim for \$270,000 and the child's for \$895,000.

Then in *Lamberth v. Wendt*, defendant was drunk and driving his boat too fast for conditions, slamming into the plaintiffs' boat. Plaintiff Wendy Lamberth sustained a low-grade brain injury.

While liability was clear, damages, again, would've been the hurdle at trial, had the case progressed to that point. Lamberth was not working at the time of accident due to a tubal pregnancy several months earlier, and Trecek argued that she would be permanently unable to work, post-accident. Nonetheless he believes that defendant settled for policy limits because, had the case been tried, his conduct could have merited a sizeable punitive damage award. The case settled for \$1.1 million.

Those are Trecek's cases which brought in more than \$1 million during 2005.

He attributes his success last year in part simply to good timing: "These cases all just happened to get done in one year. Some I'd been working on for two years; some for four. It was just a matter of when they went down."

Along those lines, he adds that there are no quick and easy big-money settlements. "There's no magic answer to how to run cases. The common element to any successful case is just a lot of hard work — thoughtfully going over the facts and evidence and deciding where to go with it, and then putting in a lot of time and effort to make it happen," he says.

Trecek began his career after his law school graduation in 1993 as a defense lawyer but soon jumped the fence to represent plaintiffs. He has done so for close to 11 years now at the Milwaukee office of Habush, Habush & Rottier S.C. and is now a partner.