

# 2010 Million-Dollar Verdicts & Settlements

## LARGEST VERDICTS

Improper corporate sale; sexual harassment; head-on snow crash among top verdicts. page B2

## LARGEST SETTLEMENTS

Construction project's non-completion; sales commission disputes on this year's list. page B7

## CLASS ACTIONS

Accounting earnings fraud; noxious odor from sludge in landfill reported. page B19

## NATIONAL VERDICTS

Drug manufacturer slapped with \$500 million in punitive damages. page B20

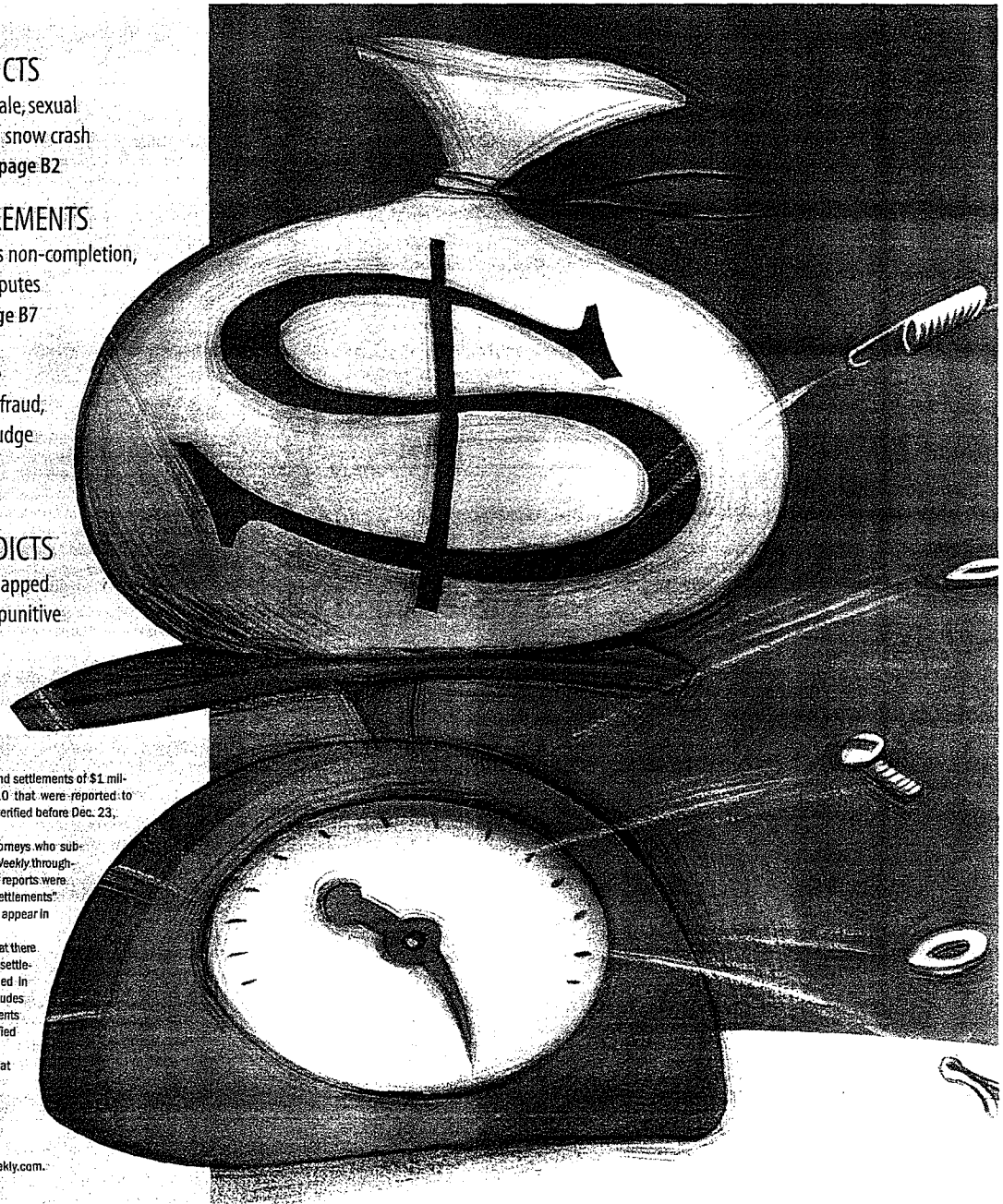
## ABOUT THIS SECTION

This section includes verdicts and settlements of \$1 million or more obtained in 2010 that were reported to Michigan Lawyers Weekly and verified before Dec. 23, 2010.

We would like to thank the attorneys who submitted their reports to Lawyers Weekly throughout 2010. While many of these reports were published in the "Verdicts & Settlements" section of the newspaper, others appear in this section for the first time.

Lawyers Weekly acknowledges that there have been other verdicts and settlements of \$1 million-plus reached in 2010. This section, however, includes only those verdicts and settlements properly reported to us and verified by deadline.

If your verdict or settlement that was properly reported with all required information was mistakenly omitted from this list, please contact Douglas J. Levy at (248) 865-3107 or douglas.levy@mil.lawyersweekly.com.



## Settlements skyrocket past 50%; verdicts drop 87%

By Douglas J. Levy

Compared to 2009's figures, the number and values of submitted verdicts, settlements and class-action lawsuits in the 2010 edition of Michigan Lawyers Weekly's "Million-Dollar Verdicts & Settlements" had notable peaks and valleys.

There were 65 total reports submitted, which reflects a 13 percent increase over the 57 published in 2009.

But, unlike 2009, which had the highest reported verdict at \$300 million, there weren't any eight- and nine-figure verdicts among the 18 submitted for 2010.

Rather, the verdict awards in 2010 totaled nearly \$56 million — an 87 percent drop from the 2009 figure of \$415 million among 20 reports — with the top verdict at \$7.98 million.

It should be noted, however, that 2009's top verdict was \$300 million; had that verdict not been included in the overall verdicts

award totals, the 2009 and 2010 totals would have been nearly similar.

Settlements, however, were a different story. There were 45 total reports for settlements in 2010, reflecting a 33 percent difference to the 30 published in 2009.

And the monetary total topped \$125 million, which was more than double the \$61.2 million figure posted for 2009.

As for class-action suits, there were only two reports for 2010, compared to the seven published in 2009. The \$15.59 million total value was a drop of 90 percent compared to 2009's \$155.4 million, and the top class-action suit of \$12.3 million was the only case among the 65 overall reports that reached eight figures.

The top three jury verdicts all took place in west Michigan — two in Kent County Circuit Court and one in U.S. District Court for the Western District of Michigan.

The No. 1 verdict was *Wart, et al. v. Asanga, et al.*, which involved claims of wrongful and

intentional interference with a company's interest, and aiding and abetting in the improper sale of the interest at a fire-sale price.

In the Kent County trial, shareholders of a reorganized LLC, a broker of repossession services, were sent letters purporting to ask them to consider and vote on a proposed transaction with another company. However, it was contended, the board of directors' and shareholder consents had already been executed, rendering any vote meaningless.

As well, it was asserted, one executive had been threatened by another to push through the offer, claiming that there would be no value out of ownership in the LLC — when the LLC was actually worth more than defendants claimed it was.

It resulted in a \$7.98 million verdict, and an appeal is expected.

The federal jury in the second-highest verdict, *Waldo v. Consumers Energy Co.*, awarded \$7.9 million to a female transmission line

apprentice who said she was sexually harassed and subjected to a hostile work environment over a four-year period.

And in the third-highest verdict, *Dykes v. Singh*, \$6.3 million in present and future economic and non-economic damages was awarded to a driver injured a snowy, head-on auto accident. Injuries weren't contended, but the issue of liability was, and a black-ice theory was provided — but ultimately rejected by a Kent County jury — for the accident's occurrence.

The top three settlements were a dispute over a combined-sewer overflow project (\$9.15 million) and two auto parts sales commission suits (\$8.5 million and \$8.3 million), while a \$12.3 million settlement over lost securities values accounted for 2010's top class-action suit.

If you would like to comment on this story, please contact Douglas J. Levy at (248) 865-3107 or douglas.levy@mil.lawyersweekly.com.

# LARGEST VERDICTS

# 1

## Shareholders claim improper corporate sale at fire-sale price

Side deals, threats to gain control of LLC at improper value asserted

**\$7,978,530**

In a lawsuit filed in Kent County Circuit Court, plaintiffs Michael C. Ward Sr. and Robert Tinucci sought damages from defendants Scott Idsinga, Kevin Flynn, Renovo Services, LLC, and Emerald Ventures, Inc., for claims of wrongful and intentional interference with Renaissance Recovery Solutions, Inc.'s interest, and aiding and abetting in the improper sale of the interest at a fire-sale price.

In 2005, Recovery Solutions, Inc. (RRS), a broker of repossession services, was reorganized as Renaissance Recovery Solutions, LLC, with RRS being the holding company that owned an 83.7 percent interest in the LLC. Ward and co-plaintiff Robert Tinucci were minority shareholders in RRS, owning 26 percent and 3 percent, respectively, of its stock.

Flynn was appointed to lead the LLC through his company, Emerald Ventures (EVI), and through another company, Renovo Services. Flynn owned 16.3 percent of the LLC through EVI and Renovo, then, through side deals and threats with Idsinga, RRS' president, made efforts to purchase RRS' 83.7 percent interest. In 2006, RRS' board of directors wanted the sale, but the deal was ultimately voted down by the shareholders.

In March 2007, Ward attempted to collect the \$530,000 that he loaned Idsinga in June 2006. In his attempts, it was discovered that Flynn had managed to get RRS' board of directors to approve the sale of RRS' interest in the LLC for \$892,000 — which plaintiffs alleged was a means of Flynn getting the LLC rolled into Renovo for future growth in the latter company.

Though a notice to RRS shareholders was sent out March 22, 2007, purporting to ask them to consider and vote on the proposed transaction, the board of directors' and shareholder consents had already been executed.

Plaintiffs asserted that Idsinga had been threatened by Flynn to push through the offer, claiming that RRS would never receive any value out of its ownership in the LLC — when the LLC was actually worth more than defendants claimed it was.

Defendants contended that plaintiffs had made ill-advised investments in RRS, and because of lack of due diligence from the beginning, were not entitled to damages from the LLC's sale.

The court granted partial summary disposition in plaintiffs' favor, finding that the March 2007 transaction was void under RRS' bylaws. Because the transaction was not legally approved, the Court found that the

sale was void *ab initio* as a matter of law, and that Renovo had converted RRS' interest.

The jury found for the plaintiffs, awarding \$7,978,530.

**Type of action:** Commercial litigation, business tort

**Type of injuries:** Sale of corporate interest at fire-sale price

**Name of case:** *Ward, et al. v. Idsinga, et al.*

**Court/Case no./Date:** Kent County Circuit Court; 07-03872-CK; Nov. 18, 2010

**Tried before:** Jury

**Name of judge:** Dennis B. Leiber

**Case evaluation:** \$4.5 million

**Highest offer:** \$2.8 million

**Verdict amount:** \$7,978,530

**Most helpful expert:** Justin Cherfoli, CPA/ABV, Southfield

**Attorneys for plaintiffs:**

Bruce A. Courtade, Paul A. McCarthy, Stephen J. Hulst

**Attorneys for defendants:** Richard A. Kay, Molly E. McManus

**Status:** Post-judgment motions have begun; appeal expected.



COURTADE



MC CARTHY

# 2

## Line worker says she was subjected to vile, abusive environment

Woman asserts company did nothing to end sexual degradation

**\$7.9 million**

In a lawsuit filed in U.S. District Court for the Western District of Michigan, plaintiff Theresa Waldo sought damages from defendant Consumers Energy Co. for claims of sexual harassment, hostile work environment, and violation of Title VII of the Civil Rights Act of 1964.

In 2001, after four years of working in mail services and meter reading for Consumers Energy, Waldo entered a four-year, in-house apprenticeship program in the company's transmission line department. Over the course of the apprenticeship, she cited such abusive incidents as:

- Being told by her immediate supervisor, Jim McDonald, that she and other women were not wanted, welcomed, or accepted in the department, and that it was his intention to wash her out.
- Being subject to routine foul and sexually offensive language in her workplace, including ongoing derogatory references to plaintiff as a female.

- Being intentionally pinned, taped more than 20 minutes in a portab co-workers.

- On a cold, windy December day, transmission towers and tighten l proper training and safety equipr

- Degradation including being tol spit and chew that male crew mer the floor, and being forced to urine working in the field. Her supervis that she needed to do whatever th bers told her, or else she would be

- Being ignored by crew members work, help, or assist her on some c her about safety issues and hazar

Plaintiff asserted that, upon com sors, management, and human res about the egregious conduct, defen garded her complaints. It also was male co-workers were never interv: reprimanded, or otherwise disciplir complaints, and that the company ( action.

Defendant contended that plain lish the elements of her claim, nar subjected to unwelcomed sexual h: the harassment unreasonably inte work performance.

It also was asserted that defend: sonable care to prevent and promp ually harassing behavior, and that ably failed to take advantage of an corrective opportunities provided t to avoid harm otherwise.

The jury found for the plaintiff a \$400,000 in compensatory damage in punitive damages.

**Type of action:** Sexual harassment, environment, Title VII of the Civil Rig

**Type of injuries:** Psychological and e humiliation

**Name of case:** *Waldo v. Consumers E*

**Court/Case no./Date:** U.S. District Court, Western District of Michigan; 1:06-CV-00768; Oct. 4, 2010

**Tried before:** Jury

**Name of judge:** Janet T. Neff

**Verdict amount:** \$7.9 million

**Special damages:** \$400,000 compensatory damages, \$7.5 millior punitive damages

**Most helpful expert:** Dr. Donald Van Ostenberg, psychologist, Grand Rapids

**Attorneys for plaintiff:** Stephen R. Drew, Adam C. Sturdivant

**Attorneys for defendant:** P Leni Staley, Michael T. Edwards

**Status:** On appeal.