

**MOTOR VEHICLE****Bicycle Accident****Motorist hit with \$3.8 M verdict after hitting bicyclist****VERDICT(P)** **\$3,803,094**

CASE Timothy Ottison v. Rebecca Hebert,
No. 60397

COURT Liberty County District Court, 253rd, TX

JUDGE Chap Cain

DATE 03/19/2002

PLAINTIFF

ATTORNEY(S) **Tommy R. Hastings**, Stephens & Stephens,
Houston, TX (Timothy Ottison)
Joe B. Stephens, Stephens & Stephens,
Houston, TX (Timothy Ottison)

DEFENSE

ATTORNEY(S) **Timothy J. Baldwin**, Law Offices of Joseph
Meynier IV, Houston, TX (Rebecca Hebert)

FACTS & ALLEGATIONS On Feb. 28, 2000, plaintiff Tim Ottison was riding his bicycle to work on the paved shoulder of U.S. Hwy. 90 in Liberty. Rebecca Hebert pulled onto the highway in front of an oncoming Ford truck. Ottison's attorney, Tommy Hastings, said Hebert moved onto the shoulder of the road to let the truck pass. Ottison claimed that Hebert drove on the shoulder for 1/8 of a mile, hitting Ottison and barely missed another bicyclist.

Ottison sued Hebert, alleging Ottison was negligent for driving on the shoulder for an extending period, thus causing the collision and Ottison's injuries.

Hebert countered that she was not negligent, and that the incident was simply an unforeseeable accident. In addition, Hebert argued that Ottison was closer to the roadway, and not near the grass line as he testified. Hebert claimed that photos showed the point of impact was on the left side of the front of the car. Hebert argued that, if Hebert had been near the grass line and the point of impact had been on the left front of the car, Hebert would also have hit the other cyclist who was just one bicycle length in front of Ottison.

INJURIES/DAMAGES Ottison's back was broken at T-12; he is a paraplegic. He subsequently developed gangrene in his feet. He claimed \$139,000 in past medical expenses basing his loss of earning capacity claim on a history of \$15,000 in annual income.

VERDICT INFORMATION The jury found for Ottison and awarded him \$3,803,094. Judge Cain did not allow the issue of contributory negligence to be raised. Ottison's counsel expects that the total judgment, with prejudgment interest, will exceed \$4.4 million.

Hebert's insurance carrier tendered its \$25,000 policy limit before the litigation. The offer was refused; there was no Stower's demand. Ottison contends that Hebert is an additional insured under an umbrella policy issued to the car's owner by Universal Underwriters. Ottison's attorney indicated that they would be pursuing a claim against the carrier.

TIMOTHY OTTISON \$138,594 past medical costs
\$1,500,000 future medical costs
\$30,000 past loss wages
\$300,000 future loss of wage earning capacity
\$36,500 past physical pain and suffering
\$575,000 future physical pain and suffering
\$36,500 past disfigurement
\$575,000 future disfigurement
\$36,500 past physical impairment
\$575,000 future physical impairment
\$3,803,094

DEMAND Unspecified
OFFER \$25,000

INSURER **Progressive Insurance Co.**