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Courtside: Lawyers look to economics expert again and again

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If one element unites nearly all litigation — whether it stems from a car crash, a missed diagnosis or a wrongful firing — it's the need to set a dollar value on the plaintiff's alleged losses. And no one has been called upon to crunch those numbers in Missouri more in recent years than economist John Ward, according to an analysis of cases reported by Missouri Lawyers Weekly.

Among cases resolved since early 2006, Ward has been cited 74 times, all but twice offering his expertise for the plaintiff. But Ward says his firm, John Ward Economics, based in Prairie Village, Kan., works for both plaintiff and defense attorneys, and lawyers from both sides seem to respect what he does.

He must do it well. He is the go-to economist for many attorneys who have hired him in the past and been happy with the results. He also has a solid track record: Of the 74 times he appears in Missouri Lawyers Weekly's V&S Search database (http://verdicts.molawyersmedia.com), he has been on the prevailing side in all but 10 cases, both verdicts and settlements, winning more than 86 percent of the time. He established his firm in 1976 and has held various positions, including chairman, in the University of Missouri-Kansas City's Department of Economics.

So does a damages expert make or break a case? Probably not, because if proof of liability is weak, the jury may never get around to pondering the amount of the plaintiff's lost wages. But as attorney Michael Ketchmark explained in terms a baseball-fevered state can relate to, a strong expert "can make the difference between a win and a home run."

"Winning a big jury verdict has to do a lot with the facts of the case, but lawyers every day underestimate the importance of good experts," said Ketchmark, of Davis, Ketchmark, McCreight & Ivers in Kansas City.

He said he routinely hears from jurors after trials that Ward's testimony impressed them. He also said it's common at trial to face a defense firm that has itself hired Ward in previous litigation.

Ward said with each case he aims to produce a report that is fair to all sides and, when hired by the plaintiff, starts out thinking about how the defense will view his findings to be sure they hold up.

"Attorneys accept that concept. They don't want reports that smack of bias in their perspective," he said, adding later: "An expert should never be an advocate."

Springfield defense attorney Scott Bellm said juries don't hold it against Ward that he often works for plaintiffs, because typically they're the ones who need an assessment of damages. Indeed, Ward said about 65 percent of his business is for plaintiffs' cases.

"My view of economists are there's only so much they can do with the numbers," said Bellm, of Turner, Reid, Duncan, Loomer & Patton.

In some cases, he said, it's a defense strategy to simply try to poke holes in the plaintiff expert's analysis rather than bring in their own, because if they cite another economist's lower figures, they almost invite the jury to award a certain level of damages.

He also said Ward's analysis is typically straightforward and doesn't overreach.

"The perception is he's effective, credible, does a good job," he said.

Plaintiff's attorney Ed Hershewe, of Joplin, said Ward is great at explaining economic concepts simply. His presentation skills and professional background make him a strong choice, he said.

"He takes a very complicated subject like economics and talks to folks about it in a very nice, understandable way," he said. "His calculations are going to be the same no matter who he's working for."

Hershewe said that while he probably could find an economist who'd provide higher damages figures for his client, that's risky because if they're unrealistic, that could hurt his chance of winning the case.

And if repeat customers are a sign a business is doing something right, Ward should rest easy.

"Every case I've ever gone to trial in, I've had Dr. Ward testify as an expert on economic issues," Ketchmark said.

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