

REPORTER'S NOTEBOOK



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Chad Halcom

Investor slices settlement pie

One of the largest court judgments of last year was the offspring of another standout court case from a past year — but eight women who were part of a \$100 million settlement in 2009 are now expected to turn over much of their share to an investor.

New York-based **Money for Lawsuits V LP**, a company that invests in lawsuits by buying a stake in plaintiffs' prospective winnings while the litigation is pending, obtained a combined \$4.2 million in judgments by late last year against eight women who prevailed against the **Michigan Department of Corrections** and several administrators over assaults on and mistreatment of women prisoners.

More than 500 women are sharing structured payments totaling \$100 million through October 2014 to settle the class action lawsuit on behalf of women who were victims of sexual assault, harassment or privacy rights violations by prison staff between March 1993 and July 2009. Most were at the shuttered Robert Scott Correctional Facility in Plymouth or at Western Wayne Correctional Facility in Plymouth Township.

Money for Lawsuits, also known as **MFL Casefunding**, made combined payments of about \$865,000 to the women between February and June 2009, before the settlement that July. The company makes contingent purchase agreements with plaintiffs who need money in advance of anticipated winnings.

David Plunkett, attorney for Money for Lawsuits and partner at Birmingham-based **Williams, Williams Rattner & Plunkett PC**, said the investor companies assume risk in making the purchases. If the women did not win or their judgments didn't survive appeal, the investor gets no return. But prevail they did, and the lawsuit alleges all eight failed to inform the investor. Ralph Sirlin, an attorney for the women at Pleasant Ridge-based **Reosti & Sirlin PC**, said the women took payments of around \$50,000 to slightly more than \$100,000 each. But the agreements call for the company to be repaid from winnings when the case is over, with fees and interest of 4.25 percent compounded per month or nearly 90 percent annualized, Sirlin said. Judge Mark Goldsmith of U.S. District Court in Detroit imposed individual judgments ranging from \$284,145 to \$812,572, for a combined \$4.23 million.

"We believe these purchases are usury under Michigan law. But the contracts contain a provision that requires them to be read and interpreted under New York law, which doesn't see them as usurious," he said. "When you get out of prison it isn't like you have a lot, and most of them were taking out living money." Sirlin said the rate of return on MFL's investment essentially consumes the women's share of the settlement. The case is now before the 6th U.S. Circuit Court of Appeals in Cincinnati.

FOCUS

LAW

Big cases of 2012

Top verdicts and settlements, from price fixing to asset disputes

Each year, *Crain's Detroit Business* combs its archives and talks to law firms and other sources to compile a review of some of the biggest cases. The cases range from automotive

supply chain price-fixing (see Page 1) to "cyber squatting" and medical malpractice.

Stories begin on this page and continue through Page 15.

Homeowners insurance

RONALD CARTER, JOSE JIMENEZ ET AL V. ALLSTATE INSURANCE Co., ALLSTATE INDEMNITY Co.

- **Venue:** U.S. District Court, Detroit, Judge Stephen Murphy; Cook County Circuit Court, Chicago, Judge Kathleen Pantle
- **Cases filed:** Sept. 3, 2002, in Chicago; Oct. 22, 2007, in Detroit
- **Settlement:** More than \$25 million (estimated, including attorney fees)
- **Date:** Sept. 13, 2012
- **Plaintiffs:** Ronald Carter and Jose Jimenez, Detroit property owners, for a class of holders of Allstate residential fire or landlord policies, who claimed a loss on homes in any of 38

CASE FILE

Home Depot cards: Dispute over sales taxes. **Page 12**

Kilpatrick contractor: \$4.5 million settles part of water department suit. **Page 12**

Adell trust: \$3.25 million settles pending suits, dissolves trust. **Page 12**

Shareholder dispute: \$13 million settles suit against steel company execs. **Page 13**

Insurance benefits: State Farm sued over payments. **Page 13**

Jailhouse birth: Suit says pregnant inmate ignored. **Page 14**

Car facts: Deal over Dodge deliveries sours. **Page 14**

Right of way: Bus crash brings lawsuit. **Page 14**

Way with words: Assistant attorney general liable for defamation. **Page 15**

Cyber squatting: Bad-faith use of domain name. **Page 15**

Home strife: Mobile home community co-owners battle. **Page 15**

■ **Lead counsel:** Mark Hanover, partner, Sonnenschein Nath & Rosenthal, Chicago

■ **Co-counsel:** Harold Pope III, shareholder, Jaffe, Raitt, Heuer & Weiss PC, Southfield; Anne Mitchell, partner, Rooney Rippie & Ratnaswamy, Chicago

About the case

More than 10,000 insured residential property owners in 38 states could get a combined payout of at least \$22.5 million by late spring after attorneys for **Allstate Insurance Co.** settled with a policyholder class represented by two Detroit landlords.

Ronald Carter of Detroit and Jose Jimenez of Southfield owned homes in Detroit that were destroyed by fire in 2001 and 2006, respectively. Each had insurance that covered a replacement cost for the rental homes minus depreciation, but they allege Allstate offered a payment based on "market value" — or \$35,000 and \$48,000, respectively, where each sought more than \$100,000.

Carter sued in Cook County, Ill., where Allstate is based, and Jimenez at U.S. District Court in Detroit several years later. Both cases were filed as potential class actions, and the company reached an agreement last summer that certified a class and settled both cases at once.

The property owners contended Allstate engaged in a practice for years of substituting "actual cash value" on some policies with market value when paying claims. Allstate, which admits no wrongdoing in the settlement, had cited a "broad evidence rule" in court to contend actual cash value can be calculated on various forms of evidence, including market value.

The settlement calls for policyholders to get new payments, ranging from a 2.5 percent bump in the original claim payment for some, to as much as 20 percent of the differential between that payment and the policy limit (or the home replacement cost less depreciation) for others.

The settlement also calls for a separate payment of \$5.5 million in attorney fees to Jason Thompson, shareholder at Southfield-based **Sommers Schwartz PC**, to distribute among three law firms that represented the plaintiff class.

Sommers Schwartz, in a statement late last year, said the settlement covers more than 13,000 Allstate policyholders who sustained covered losses, and it believes their payout will exceed \$22.5 million.

Lance Young, a partner at Sommers Schwartz, said many of the smaller claims are paid and larger payments could be distributed starting in March.

— Chad Halcom

