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**Nature of Action:** Value of physical injuries where there was significant preexisting chronic pain syndrome from prior accidents

**Injuries:** Auto crash; pelvic injuries, fractures

**County:** Dane County

**Case name:** Michelle Dvorak v. American Family Insurance Company

**Judge:** Marie Stanton (mediator)

**Verdict or settlement:** Settlement

**Original demand:** \$250,000

**Original offer:** \$50,000

**Amount:** \$115,000 settlement with no repayment of med pay subrogation from same defendant

**Plaintiff's attorney:** Jay Urban, Urban Taylor & Stawski Ltd., Milwaukee

**Defendant's attorney:** Scott Pernitz, Winner, Wixson & Pernitz, Madison

**Plaintiff's expert:** Wm. Shannon, M.D. (plaintiffs physiatrist)

**Plaintiff counsel's summary of the facts:** Jan. 25, 2000, Wayne Dvorak drove his wife toward Madison on a shopping trip from their home in Grand Marsh, Wisconsin. At approximately 8:00 a.m., Wayne lost control of his car on a slippery, icy portion of road while approaching a curve. His car slid off the roadway and smashed into a tree. The brunt of the impact was borne by the passenger side where his wife, Michelle, age 32, was seated wearing her safety belt. The entire door and side of the car crushed in upon Michelle's body and pinned her inside the car causing a few comminuted fractures to her pelvic area. From the shattered glass, she had corneal abrasions and facial laceration which healed. Radiology tests revealed "comminuted fracture of the right superior ischiopubic junction with slight displacement of associated nondisplaced fracture of the right inferior ischiopubic junction," and "a minimally displaced fracture with no definite widening of the symphysis pubis" and "minimal widening of the left sacroiliac joint, most likely related to an associated fracture of the left medial iliac crest," the latter conditions may have necessitated future problems although no further surgery was contemplated. Plaintiff's injuries caused her to spend months in a wheelchair then walker then crutches until upon recovery she walked with a slight limp. There was also contention that the fractured state exacerbated her underlying depression from chronic pain. Medical bills were approximately \$21,000 with an indication of future care for monitoring and

medication. Since she was already disabled, there was no claim for lost earnings, but some attempt was made to claim a loss of services as mother, wife and homemaker. However, because the husband caused the accident, no claim was made for loss of consortium.

**Theory:** On liability, failure to maintain and control a car on a slippery highway, too fast for conditions for which husband/driver paid traffic citation. On damages, this was an objective, severe injury with much treatment.

**Defenses:** On liability, this was a wintertime crash with contentions that driver/husband was confronted with a sudden, unexpected emergency which would have obviated negligence.