



WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System

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Contact: Bob Fassbender-608/258-9506

Trial Lawyers Disagree Over Liability Provisions in Budget

Madison- In a statement released by the Wisconsin Association for Justice, trial lawyer Mark Thomsen disagrees with one of his largest members and the 57% of Wisconsin voters who oppose Governor Doyle's changes to Joint and Several Liability laws.

"Mr. Thomsen should have checked with one of the biggest trial lawyer firms in the state before he suggested that the case of people just 1% at fault paying 100% of a damages suit, in his words, 'will not happen'," said Bob Fassbender of the Wisconsin Civil Justice Council.

Before the reforms of 1995, Robert Habush used the 1% issue to drive a settlement in the famed Burlington bus case of 1992. He was even quoted in the *Milwaukee Journal* as crediting the 1% rule for his big win. Habush explained, "I contended that a jury would have found the bus driver at least 1% negligent. And in Wisconsin, regardless of the percentage of negligence, you can collect the whole judgment from whomever in the case has the most assets."¹

"In that case, the provision Mr. Thomsen wants us to believe is insignificant gave Mr. Habush a \$640,000 payday," said Fassbender. "That sounds significant to me."

"The truth is that Mr. Thomsen is playing games with the truth," said Fassbender, explaining that the main impact of the 1% rule is to drive out of court settlements for big money, as Habush did in the Burlington Bus Case and many others. Thomsen only refers to 'jury verdicts' in his statement.

For the truth, check back with the Habush firm's advertising on the issue in the budget. His firm describes the Governor's budget provisions saying, "Instead of proving a majority of fault, victims will only have to prove that the fault is there in order to hold the defendant liable."

Does the firm of Habush, Habush and Rottier agree with Mr. Thomsen that the budget provision allowing a party 1% at fault to pay 100% of the damages is not a significant change? The ad on their website goes on to say, "If this is signed into law, liability cases will change a great deal."²

"We agree with the Habush firm that this proposal buried in the budget is a huge change that will impact every business, farm, homeowner and driver in Wisconsin," said Fassbender. "We agree with Mr. Thomsen that the fairness of Wisconsin courts is a 'hot button issue' with voters."

"An issue as important as the Habush firm says this is and as unpopular as the 57% opposition to 23% support says this issue is should not be buried in the budget," said Fassbender. "This needs to be debated in the light of day."

¹ August 7, 1992 *The Milwaukee Journal*

² <http://www.lakegenepersonalinjurylawyer.com/blog/post/Liability-May-Become-Easier-to-Prove.aspx>