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## Dow settlement offer 'too low'

By Winston W. Wiley  
Telegram & Gazette Staff

The \$3.2 billion that Dow Corning Corp. has agreed to put up to settle claims against the company for ailments associated with its breast implants may be too low, a Worcester lawyer said yesterday.

Still, the tentative plan approved yesterday by a U.S. bankruptcy court judge in Bay City, Mich., was hailed by Edward C. Bassett Jr. as a positive step.

"Clearly it's a major breakthrough after three years of being in bankruptcy,

### \$3.2B in breast implant case

to have some plan put forth," said Bassett, who represents 40 of the 170,000 to 200,000 women affected.

"My initial reaction is that I'm very happy — it looks as if there's finally going to be a plan," he said. "But the amount ... seems quite low, especially for those women who have disabling diseases and those women who have been declared by our government to be totally disabled."

One of those women, a client of Bassett's, called him yesterday to register her disapproval with the proposed settlement, which reportedly would pay an average of \$31,000 to the women as compensation for immune-system diseases and disabilities allegedly caused by silicone. Payments would range from \$12,000 to \$66,000.

Women whose implants have ruptured could collect an additional \$54,000.

In addition, they could receive \$5,000 payments to have the devices surgically removed, a procedure that costs \$5,000 to \$8,000, according to Bassett.

He said the client, who expressed her displeasure with the proposed compensation amount, suffers from fibromyalgia, a disorder characterized by pain and stiffness in the soft tissues, and chronic fatigue syndrome.

"She basically can get out of bed for a few hours a day and function and that's



Edward C. Bassett Jr., with one of the silicone implants that led to a nationwide suit against Dow Corning, represents 40 women affected by the proposed settlement.

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### If you read a child a story ...



## Study faults state surplus

### Group says poor forecasting on taxes damaged economy

By Lindsay Wise  
States News Service

WASHINGTON — Is the Massachusetts budget surplus a good thing? Not necessarily, according to an economic study released by a group of professors from the Heacon Hill Institute at Suffolk University.

The \$600 million 1997 surplus, their report states, may have cost state taxpayers 78,000 potential jobs and more than \$11 billion in capital investments.

The study reported that over the past six years, the Massachusetts state government underestimated how much revenue it would take in

by more than 4 percent annually. The study suggests this damaged the state's economy by discouraging lawmakers from cutting taxes.

"It raises a lot of questions about quality and even honesty in state spending and whether state legislatures and governments are being forthright with voters," said David G. Tuerck, executive director of the institute and one of the study's authors. Tuerck also is the chairman of Suffolk's Economics Department.

State officials declined to comment on the study, because they said

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## Collision injures

... other infant

It comes to our attention and there's credible evidence of sexual penetration of somebody over age with somebody underage, we have an obligation to charge them with a crime," Doug Baker said. And in this case, he said, "There's almost a club atmosphere with these guys in a house. It's not like two people down Lovers' Lane getting caught."

The girls and the defendants all were current or former students at Grosse Pointe North High

exposing himself — a claim disputed by prosecutors.

Whether force was involved isn't an element in the sex charges, just that the girls were under 16.

#### GIRLS TESTIFIED

In the first day of a preliminary hearing last week, the three girls — one crying and all barely audible — told the court that they couldn't

prosecutions of people under 21.

Baker, the prosecutor on the case, said there have been similar cases in Detroit and other areas. But many times, such incidents never get reported to police "because both sides generally keep the whole thing quiet," he said.

Regardless, he said: "We want to send a message that this type of thing should not be tolerated."

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# Local lawyer's clients unimpressed with offer

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about it. She's been declared by Social Security to be totally disabled," Bassett said.

"She was hopeful that this was going to be a resolution that was fair to her. She's already been determined to be totally disabled, and looking at compensation of \$31,000, in her mind, is not fair," said Bassett, a lawyer with the Worcester law firm of Mirick O'Connell.

At least five other clients called Bassett seeking more information, he said. Most of the clients Bassett represents in the case are from Central Massachusetts, but some are from other parts of New England and one lives in Nevada.

Details of the agreement, which

the judge has ordered kept confidential, will be hammered out over the next few months, Bassett said. The plan will then be sent out to the women to vote on. It needs a two-thirds majority vote, and those women opting out of the settlement would maintain their right to pursue individual claims against Dow Corning.

"The last time that a plan came out, it was several hundred pages long," Bassett said, adding that it included information on diseases and conditions for which women were to be compensated.

"I'll carefully review it and talk to them about their individual cases," he said. "They have the final decision whether or not they want to

accept it."

Other parties, such as the corporation's commercial creditors and health insurers, also must sign off on the plan, according to the order signed by Judge Arthur J. Spector of the U.S. Bankruptcy Court for the Eastern District of Michigan. Dow Corning is based in Midland, Mich.

#### 1995 DEAL

The agreement is similar to a November 1995 deal struck by other major breast implant manufacturers, including Bristol-Myers Squibb Co., 3M Corp. and Baxter International Inc., in which women have received an average of \$26,000. Dow Corning had been part of that original \$4.2 billion agreement, but bowed out and, instead, filed for

Chapter 11 protection in U.S. Bankruptcy Court after an unexpectedly high 440,000 women sought payments.

Bassett said 170,000 to 200,000 women who had Dow Corning implants were left ineligible for compensation in the 1995 agreement and were forced to file their claims through the bankruptcy court.

On average, the Dow Corning payments in yesterday's agreement are about 20 percent higher than those paid out to women in the 1995 settlement.

Bassett said if the agreement is accepted by all parties concerned, payments could start going out by the middle of next year.

# Vincequere says he used knife to ward off attackers

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the face with a board. Others who were with Aslanaian followed him into the house, according to Vincequere, who said he was hit in the back with a board as he was running outside.

Once outside, Vincequere said, he encountered two other people who were on their way into the house. He said he was punched by one of the two and he ran into a neighbor's yard with Aslanaian in pursuit.

Vincequere said he slipped on a grassy slope, fell to the ground and assumed a fetal position before Aslanaian and someone else began beating him with their fists and feet.

"As soon as I hit the ground, they were right on top of me," Vincequere told the jury. Vincequere said he explained to his assailants that he had just arrived at the party and questioned why they were beating him. He said his ears were ringing from the blows he was receiving and that he could not make out their responses.

When the beating stopped, Vincequere said, he got up and ran toward the street, where he encountered three other people near the end of Leboeuf's driveway. One of them hit him in the back of the head with a board and another punched him, according to Vincequere, who said he

fell to one knee.

"I started getting kicked and beaten on again," he testified.

#### KNIFE IN STREET

Vincequere said he reached for a knife he saw in the street near the front of Considine's car, grabbed it with his left hand and started getting up. As he did so, he said, he swung the knife back and forth two or three times, pushed someone out of the way with his right hand and ran through the people surrounding him.

Vincequere said he went directly to the home of Thomas Dyer, Leboeuf's neighbor, and asked Dyer's wife, Claudette, to call the police.

When Aloise asked whether he intended to strike Burke with the knife, Vincequere responded, "I didn't intentionally strike anybody. I just wanted to get away from getting hurt."

Vincequere said he had no memory of Sullivan handing him the knife, as Sullivan testified. Sullivan, of 2 Idalla Road, is charged with two counts of being an accessory, before the fact, to assault and battery with a dangerous weapon in the case. He acknowledged that the prosecution had agreed to recommend that he not go to jail in exchange for his testimony at Vincequere's trial.

Aslanaian testified earlier that he

saw Vincequere and Ordway fighting just before it became apparent that Ordway had been stabbed in the neck.

#### CROSS-EXAMINATION

Under cross-examination by Assistant District Attorney Thomas E. Landry, Vincequere denied making punching or stabbing motions with the knife in his hand.


"I wasn't intentionally swinging the knife. I was in a running motion and my arms were swinging," he said.

Vincequere also denied the prosecutor's suggestion that he ran after Aslanaian and the other person who was beating him in Leboeuf's neighbor's yard.

Closing arguments in the case were scheduled this morning.

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WHEN YOU'RE HOT, THE POOL'S NOT