

## Inadmissible

### Verdict a First

A jury in 157th District Judge **Randy Wilson's** court in Houston returned a \$24.7 million verdict on Aug. 11 finding Progressive County Mutual Insurance Co., Enterprise Leasing Co. of Houston and a customer were liable for an automobile accident in November 2000 in Houston that killed a 56-year-old Seabrook woman. Plaintiffs' attorney **Richard Mithoff** of Houston, a partner in **Mithoff & Jacks**, says he knows of no other Texas verdict in which an insurance company, and a rental car company that had a business relationship with it, were found jointly liable for negligence in connection with a car rental. According to the Fifth Amended Petition in *Robert G. Nettles, et al. v. Enterprise Leasing Co. of Houston, et al.*, Helen W. Nettles received fatal injuries when the 1995 Toyota pickup truck she was driving was rear-ended by a rental car driven by defendant Jeffrey Lamont Tate. As alleged in the petition, Tate had been involved in an earlier accident, and he rented the car from Enterprise through an arrangement with his insurance company, Progressive. The suit alleges Enterprise should not have rented the car to Tate because he was an "unlicensed, incompetent and/or reckless driver." The verdict found Progressive, Enterprise and Tate all acted negligently, and places 20 percent of the liability on Progressive, 20 percent on Enterprise and 60 percent on Tate. But the jury also found Progressive's acts did not bring Nettles into contact with an individual who would be likely to commit intentional misconduct, and found Progressive did not engage in an undertaking. Nettles' husband, Robert, filed the suit on behalf of her

estate; the plaintiffs also include Helen Nettles' two children, Steven Nettles and Karen Menard. Mithoff says the plaintiffs settled with Toyota prior to trial, and with Enterprise on the day of trial. Terms of those settlements are confidential, he says. **Kevin Hood**, a partner in Houston's **Fabrega, Hood, Raynes & Fass**, a defense lawyer for Progressive, says he cannot comment on the verdict until Wilson enters a judgment. Hood, who tried the suit with partner **Luis Fabrega**, expects an appeal from one side or another, depending on the judgment. **Reagan Brown**, a partner in **Fulbright & Jaworski** in Houston who represents Enterprise, did not return a phone call seeking comment before presstime on Aug. 19.