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Rebuilding lives

Survivors of last year's I-35W bridge collapse are ready to tell their tales to the panel that will decide how much to compensate them.

By Dan Heilman

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On the evening of Sept. 15, Erica Gwillim and two friends took a short but meaningful walk up and down the length of the new I-35W bridge with representatives of the company that built it.

When Gwillim was last on the site 13 months ago, she and more than 150 others were surrounded by the rubble of the old bridge, which had just collapsed on them. Thirteen people died in the Aug. 1, 2007, tragedy, and numerous others, including Gwillim, suffered injuries as their vehicles dropped along with the collapsing bridge.

"I stood at the spot where I fell, and I prayed with my friends," Gwillim recalled. "It was pretty intense. It wasn't really the same bridge. But when I stood at my portion of the bridge, it made me



Photo: Bill Klotz

Erica Gwillim, pictured here with her attorney, Chris Messerly at the site of the newly constructed I-35W bridge, suffered two herniated discs and damage to the soft tissue of her brain in last year's bridge collapse. She still numbers herself among the lucky ones. "I don't know why God protected me and why other people had to die. I don't understand that at all," she said.

'I would trade places with anybody, regardless of how much I get'

Bridge | From Page 1



Photo: Bill Klotz

The I-35W bridge on Aug. 1, 2007, shortly after the collapse.

remember how real it was.”

Returning to the site brought some closure to the ordeal that Gwillim has endured since that summer evening. Soon another chapter of the story is going to end: Her trip through the legal system set up specifically to compensate victims of the collapse.

A chiropractor and a lawyer

Gwillim was driving south on the bridge when it collapsed, sending cars and debris dozens of feet below into the Mississippi River. Gwillim is the first to admit she was one of the lucky ones: Her injuries included two herniated discs (and related alignment problems) and damage to the soft tissue of her brain.

“I don’t know why God protected me and why other people had to die,” she said. “I don’t understand that at all.”

Once she was home safe, Gwillim’s pastor phoned her and advised her to immediately contact two people: a chiropractor and an attorney. She made the former call, but not the latter.

About a week after the accident, a family friend urged Gwillim to call a lawyer, and gave her the names of some likely prospects. None of them seemed like a good match to represent her, and Gwillim again forgot about pursuing a legal remedy for her injuries.

“I don’t really approve of lawsuits, and

Some bridge claimants proceed with suits against bridge contractors

In addition to seeing a payout from the \$37 million compensation fund set up by the state, some bridge victims are exploring or pursuing litigation against companies that designed, worked on, inspected and maintained the bridge that collapsed. (The compensation fund covers only the state’s liability.)

Last month, Schwebel, Goetz & Sieben filed suits in Hennepin County District Court on behalf of three individuals who were injured and the family of one who was killed in the collapse.

The suits claim negligence, breach of contract and a violation of professional standards by URS Corp., a San Francisco engineering firm, which had contracted with Mn/DOT to perform inspections and expert engineering analysis of the 35W bridge going back to 2004.

The Schwebel firm hopes to show that URS, which was hired by the state to inspect the bridge,

should have been more alarmed about its condition. Among the exhibits to be presented include a hand-written note from a 2005 URS meeting, referring to the possible buckling of the bridge’s gusset plates, and noting, “If this occurs, it is not a catastrophe.”

In addition to URS, PCI Corp. of St. Michael, Minn., was also named as a defendant. The suit claims that PCI’s excessive loading of materials on the bridge, its removal of critical bridge deck elements and its failure to do any engineering analysis, contributed to causing the collapse.

The firm is asking for damages of no less than \$50,000 on behalf of each of its clients: Linda Paul, Wilfrid Wagner and Justin Mishler, all of whom were injured in the collapse; and Robert Eickstadt, whose brother Paul Eickstadt was killed.

—Dan Heilman

I’ve never had use for a lawyer before,” she said. “The people I talked to didn’t seem to really understand what I needed, so I kind of shelved it again.”

It was around that time that a handful of Minneapolis firms made themselves available to represent bridge victims pro bono. An attorney from one of those firms — Diane Simerson, a partner with Robins, Kaplan, Miller & Ciresi — happened to be friends with Gwillim’s aunt, and, a week later, Gwillim sat down with partner Chris Messerly and his staff.

“I felt comfortable with them right away,” she said. “They were complete-

ly down-to-earth and compassionate, and wanted to hear and understand my story.”

Enlisting the experts

The first order of business for the Robins’ attorneys was to have Gwillim, 34, evaluated in an effort to figure out how her injuries would affect her life and livelihood going forward. Gwillim works for a New Brighton-based counseling service.

Doctors performed neuropsychometric testing to assess the extent of the damage to her brain tissue. With those

results in hand, the firm consulted with vocational experts to help put a dollar value on the future loss of her earning capacity. Gwillim's attorneys then hired an economist who helped them convert that value to a current-day dollar amount.

"We look to see if there's any past wage loss, past uncompensated medical expenses or any out-of-pocket expenses not compensated by another source," said Messerly. "With the help of experts, we assess what the future will hold for people like Erica. She's going to have permanent cognitive limitations. That will have a dramatic impact on the rest of her life, because she's a young woman."

The next job for Messerly and his colleagues was to weigh that amount against what they could reasonably expect from the state in the way of compensation.

Last spring, the state established a \$37 million fund to compensate survivors, and established a special master panel to consider claims, make settlement offers and enter settlement agreements. Participation in the fund process is in lieu of any further claims against the state, but does not require claimants to forego any potential claims against third parties. Some of the victims and their families

have filed such suits against companies that performed work on the bridge. (See sidebar.)

Because of the sizeable pool of claimants and limited state funds available, attorneys have to carefully weigh what they ask the three-person panel for during hearings.

Twenty-one firms besides Robins have taken on bridge victims as clients; Robins itself has taken on almost 25 — including some who switched from firms that were going to charge them.

"[Gwillim's] case is a good example of what we've done for these clients," said Messerly. "We've had to hire three or four experts — in some cases 10 or 12 for some of the more severely injured people."

A chance to speak

Messerly said the handful of hearings Robins clients have had before the master panel — which has scheduled four bridge-related hearings every working day through the end of January — have gone well, although it remains to be seen how that will translate into compensation.


"The primary purpose of this is to give the victims a chance to be heard, and to tell their stories," he said. "The special masters have done an outstanding job of

giving them the opportunity to do that."

Gwillim, whose hearing is scheduled for Jan. 15, said having an official venue in which to describe her experience is at least as important as any compensation amount.

"I would trade places with anybody, regardless of how much I get," she said. "If they wanted my back pain, they could have the money. I'm just really excited to be able to talk to one of the panel members. I just want to be able to tell my story and to put a human face on what happened. All along, I've done that whenever I've been able to, just to help people understand how this affected me and other people who were around me that day."

And while she isn't pursuing compensation as a punitive measure, she hopes the testimony given by her and her fellow victims will help the panel, and the state at large, see that the accident could have and should have been prevented.

"Talking to the panel helps me feel like it was important, and it's something that helps people recognize that there was negligence on a number of levels," she said. "A variety of things went wrong. Because the bridge was maintained by the state, I think it needs to acknowledge what happened." 

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