

# TEXAS' BEST LAWYERS®

2009 AUSTIN EDITION

THE DEFINITIVE GUIDE TO  
LEGAL REPRESENTATION IN TEXAS

## WHO ARE THE LAWYERS OF THE YEAR?

### MICHAEL GALLAGHER: SELECTED FOR 25 YEARS



## HOWRYBREEN BACK-TO-BACK COURTROOM CHALLENGES

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## TEXAS' BEST LAWYERS®

COVER SPOTLIGHT

## TWO TALES OF SUCCESS HOWRYBREEN ON FACING TOUGH OPPONENTS BACK-TO-BACK

**W**hether you are a star athlete or an ordinary person—you need a quality trial lawyer in your corner to help you when you tangle with a tough opponent. This is especially true when your opponent throws up multiple defenses or counterclaims, engaging you in lengthy discovery battles and pre-trial motions.

When famous cyclist Lance Armstrong hired a trial team to recover bonus money he felt was owed to him and to defend his reputation after winning a record-setting sixth consecutive Tour de France.

In taking up the cause for Armstrong and his Tailwind Sports team, HowryBreen encountered stiff resistance from a defendant that had insured \$5 million of a \$10 million bonus payout. The defendant, SCA Promotions, took the position that it was not obligated to pay Armstrong unless he cooperated with an independent investigation into published reports that he had used performance-enhancing drugs that were difficult to detect. SCA also counterclaimed that Armstrong should refund performance payouts related to past contests allegedly won with the aid of these drugs. In various published reports, Armstrong denies the use of any performance-enhancing drugs.

After nearly two years of preparation, the matter was heard in 2006 by an arbitration panel in Dallas during a three-week period packed with documentary evidence and live testimony.

"They hadn't proved any kind of doping, and Lance Armstrong was an incredibly compelling, articulate and honest witness," Breen recalls, adding that "he may be the most tested athlete in the world [by international sports authorities]."

Breen adds that his partner, Tim Herman, cross-examined opposing witnesses. Breen remembers, "The insurance representatives admitted they hired investigators to try and dig up any evidence to support the claim that Lance was using

performance-enhancing drugs and one guy [was forced to admit he] even took chewing gum that Lance had thrown away to have it tested."

Armstrong walked away with an award, picking up \$7.5 million to compensate him for actual damages, interest, and fees. "After seeing [them] firsthand, I wouldn't



**"ONE GUY WAS FORCED TO ADMIT HE EVEN TOOK CHEWING GUM THAT LANCE ARMSTRONG HAD THROWN AWAY TO HAVE IT TESTED."**

trust anyone other than Tim Herman, Sean Breen and their trial team with any legal dispute," says Armstrong. Even opposing counsel Jeff Tillotson acknowledges: "Breen and Herman did a great job... I have a lot of respect for them."

When the Armstrong decision became final, Breen was already hard at work for a lesser known but equally compelling client—a young woman fresh out of high school who had lost her mother, all of her fingers on one hand and both of her legs below the knee in a fire resulting from an automotive accident in Broadus, Texas.

Monica Albright, who endured more than 20 surgeries and a number of skin grafts at Louisiana State University's burn center, wanted to fight for compensation just as she fought for her life.

"We were determined to go all the way for her," recalls Sean Breen, who noted that his firm paid more than \$200,000 to 10 experts in order to prepare for trial against General Motors, the maker of the Chevy

S-10 that Albright's mother was driving. Under HowryBreen's supervision, the experts combed through every detail of the case, providing accident reconstruction, analysis of automotive designs, fire investigation, life-time care prognoses and plans, vocational rehabilitation options and biomechanical assistance related to prostheses.

"Among other things, our expert's reports found that the fuel-filler pipe was disconnected from the gas tank in the side impact crash," Breen recalls. Further, the expert's report stated that "There was a one-way valve put on to the fuel-line filler neck for gas pumping but there was not one on the gas tank itself, so there was nothing to stop the gas from escaping once the filler neck was disconnected from the tank," he adds, noting that

Albright and her mother were covered in gas and trapped in their pickup when a passerby risked his life to pull Monica from the burning wreckage.

GM in its defense, asserted

that the damages were caused by a third party's negligence—that of the driver who hit them—and that the vehicle met applicable federal safety standards.

The firm and its experts not only prepared Monica for trial. They facilitated contacts with experts who helped restore her spirit and her functioning independence. "She was an inspiration. She refused to surrender and she refused to complain. She got her black belt in martial arts, and she wore out her prostheses in rehab," says Breen, noting that his client also got married.

Nearly two years after HowryBreen initiated suit, the parties reached a mutually acceptable settlement of undisclosed terms in 2008 after a mediation hearing involving detailed power-point presentations and previews of evidence.

"When life was darkest, I trusted in HowryBreen and they fought and delivered. They were my lawyers, my family and my protectors," says Albright.