



Watchdog Update | Wiped Clean

Wounded officers' lawsuit against Badger Guns settles for \$1 million

By [John Diedrich](#) of the Journal Sentinel
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The [landmark case](#) won by two wounded Milwaukee police officers against Badger Guns has been settled for \$1million.

The settlement was unexpected and eliminates what was expected to be a [yearslong appeal](#).

In a [first-of-its-kind verdict](#) that was noted nationwide, a jury in October found that Badger Guns and its owner broke federal laws and negligently sold the gun used to injure the officers to a straw buyer — someone buying a gun for someone who cannot legally purchase one. At the time, jurors awarded Officer Bryan Norberg and former officer Graham Kunisch nearly \$6 million in health care costs and lost wages, pain and suffering and punitive damages.

Kunisch and Norberg sued Badger Guns, [its predecessor, Badger Outdoors](#), and the owners five years ago.

"This case is over. It's been settled and dismissed," Badger Guns attorney James Vogts said late Friday.

Out of the \$1 million settlement, Kunisch, who has retired from the department on duty disability, will receive \$216,120; Norberg will receive \$74,427. The rest is split up among the city, lawyers' fees and other costs.

A protracted appeal was expected by both sides. Following the jury's verdict, Vogts issued a statement saying, "significant legal issues were decided in the case that impacted the evidence the jury was permitted to consider and the legal standards they were told to apply. We will appeal."

Vogts declined to say why his client decided not to appeal.

"All I can say is there was a decision to compromise and settle the case. That's what happened," he said.

Patrick Dunphy, attorney for Kunisch and Norberg, was not immediately available for comment.

Attorney Raymond Dall'Osto, who was not involved in the case, said jury verdicts typically are not overturned on appeal but that was a possibility given the Wisconsin Supreme Court and the U.S. Supreme Court have majorities that have voted against gun industry regulation.

The damages could also have been reduced on appeal. Dall'Osto said in such cases clients have to decide if they are willing to take what is offered or risk continuing the fight.

"Six million looks good on paper, but what if you have to wait four years to get it and then maybe you don't get it?" he said.

Litigation is not over for the gun dealer. A separate lawsuit, filed by two different Milwaukee officers also wounded with a gun from the shop, remains set for trial in May.

A document filed in Milwaukee County Circuit Court this week detailed the settlement and how the money from West Bend Mutual Insurance Co. will be distributed.

Besides the money going to the officers, the City of Milwaukee, which paid about \$652,000 in workman's comp claims to the officers, will get about \$387,000 in the settlement. The plaintiff's law firm receives about \$193,000. Another \$128,000 goes for other unspecified costs.

The [high-profile case](#) was only the second of its kind nationwide to make it to a jury since Congress passed a law a decade ago [holding gun dealers and manufacturers largely immune](#) from such lawsuits. In the first, a jury found in favor of a [gun store in Alaska](#).

Legal observers said the [Badger Guns](#) verdict will likely lead to more such cases being filed nationwide.

[Norberg](#) and [Kunisch](#) were shot by Julius Burton during a routine stop on Milwaukee's near south side in June 2009. A month earlier, Jacob Collins bought the gun at Badger Guns for Burton, who was too young to buy a handgun from a store. Burton paid Collins \$60 in the deal. Burton is serving 80 years. Collins served two years in federal prison.

Dunphy argued the [West Milwaukee gun dealer](#) and its owner, Adam Allan, "failed miserably" in its responsibility to act as gatekeeper of a potentially deadly product.

Dunphy said the testimony during the two-week trial revealed telltale signs of a straw buy: Burton was in the store and pointed to the gun he wanted; Collins initially marked that he was not the buyer of the gun on the form but was allowed to change that — and also to change his address; Collins and Burton left the store to get more cash to pay for the gun; and Collins didn't present an ID when he picked up the gun.

Vogts countered that the evidence failed to show the clerk who sold the gun or the store owners had reason to believe Collins was buying the gun for someone else. He said the blame falls on Burton.

Norberg and Kunisch were among six police officers wounded with guns sold by Badger Guns and Badger Outdoors. Badger Guns' license was revoked by ATF in 2011.

Badger Guns and Badger Outdoors were top sellers of crime guns recovered in Milwaukee for more than a decade. In 2005, Badger Outdoors was the top seller of crime guns in the nation with 537 such weapons recovered.

Such gun trace data has not been released recently because of a secrecy measure passed by Congress. Several documents, including ATF inspection reports, that were cited in the trial also cannot be released under exceptions made by Congress.

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