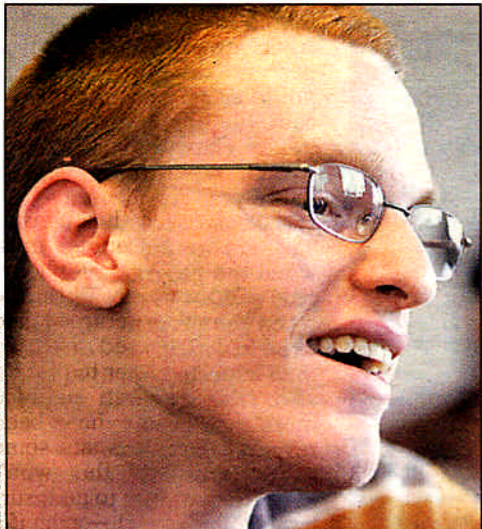


NEWSDAY PHOTO / BRUCE GILBERT



Patrick S. Brady sued Wal-Mart and won a \$7.5 million award under the Americans With Disabilities Act.



**CARRIE MASON-DRAFFEN**  
STAFF WRITER

The case, Patrick S. Brady v. Wal-Mart Stores Inc., seemed like a long shot for the plaintiff.

Brady, after all, was suing the country's largest retailer and biggest private employer. Its fiscal 2005 sales totaled \$285.2 billion, more than the entire gross domestic product of Sweden.

And Wal-Mart is a company known for aggressively fighting litigation. In one lawyer's estimate, the company is sued at least 10 times a day but prevails most of the time.

"They appeal everything," said Lewis Laska, a Nashville, Tenn., personal-injury lawyer who heads the Wal-Mart Litigation Project, which tracks lawsuits against the retailer, based in Bentonville, Ark. "They appeal small cases as well as big ones."

But Brady, of Centereach, was convinced he had been reassigned unfairly by the head of Wal-Mart's pharmacy, and he wanted his day in court. For this improbable battle, he turned to Douglas Wigdor, a 36-year-old partner at Manhattan law firm Thompson, Wigdor & Gilly, which has been in business for just two years.

And despite the odds, Brady and Wigdor came away last month with a \$7.5 million jury award in U.S. District Court in Central Islip. It's one of largest awards won under the federal Americans With Disabilities Act.

Worker and his lawyer beat Wal-Mart and its huge firm

# A winning long shot

## Brady v. Wal-Mart

On paper, Patrick S. Brady's law firm, Thompson Wigdor & Gilly, was no match in size for the law firm representing Wal-Mart, Brown Raysman.

	Wigdor	Brown Raysman
Headquarters	Empire State Building	900 Third Ave.
Cities	1*	5
Lawyers	8	200-plus

\*Additional Long Island location, with no address listed, is "by appointment only."

"I was shocked," said Brady, who suffers from cerebral palsy, limbs and has nervous hand movements.

Wigdor said his familiarity with the federal courthouse from his days as a Suffolk County assistant district attorney and a law clerk helped boost his confidence. "I was not intimidated by either Wal-Mart or their outside counsel," he said.

But he was clearly outgunned. His opponent, employment attorney Joel Fin-

ger, had the resources of a 200-plus member Brown, Raysman, Millstein, Felder & Steiner, a well-established Manhattan law firm. Wigdor's firm, by contrast, has eight attorneys, two of them part-time.

What's more, Finger has won significant victories for the retailer. In 1995, he won a case against New York State that challenged the state's "legal activities" act. The statute says employees can engage in any off-the-job recre-

ational activities as long as they're legal. Wal-Mart had fired two employees because they violated the company's policy that banned dating between a married employee and another worker. The court held that the law didn't protect dating.

Brady, 21, sued Wal-Mart, because after just days on the job in August 2002, he went from working as a pharmacy assistant in the company's Centereach store to collecting carts and garbage in the parking lot, despite two years' experience as a pharmacy assistant. The head pharmacist, a co-defendant, took one look at Brady and told the store manager that the young man wasn't "fit for the job," according to the complaint.

Finger — who declined to be interviewed — tried to get the case dismissed. But in a sign of things to come in the eight-day trial, U.S. Magistrate James Orenstein refused.

Though Wigdor works for smaller firm, it's handled some high-profile cases. A couple of years ago it filed the nationwide lawsuit against Federated Department Stores alleging racial profiling at Macy's. Attorney General Eliot Spitzer recently announced a settlement on behalf of New York minorities.

The retailer and the lawyer weren't the only formidable opponents Wigdor faced. The ADA has produced far more victories for employers. Companies prevailed in 98 percent

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