

“The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood. Who strives valiantly; who errs; who comes short again and again because there is no effort without error and shortcoming. But who does actually strive to do the deeds.... Who at the best knows the triumph of great achievement. And who at the worst, if he fails, at least fails while daring greatly.

So that his place shall never be with those



BY KELLY WILKINS AND TROY DANIEL ROBERTS

# Arizona Civil Verdicts 2014

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**Courage.** Trial lawyers have lots of important traits and skills, and courage is at the top of the list. To be able to speak confidently to the jury who holds your client’s case in its hands, to tell that story in a way that makes sense, to inspire and win the day—courage is what you have to have. When the venue or case is a really tough one, it’s being the one to raise your hand and say, “I’ll try that case.” When I read that quote from Roosevelt, it reminded me of great trial lawyers.

Welcome back to our yearly article, this one about what trial lawyers and their clients achieved in Arizona in 2014. The largest verdict of \$30 million was in a case brought by the family of a college student who was killed during a car crash as police chased a suspect. Also among the highest Arizona verdicts were those involving an ex-husband who hired a hit man (twice) to kill his wife; a dispute between Arizona State University and fraternity-house owners over the value of a key parcel of land; northern Arizona residents who alleged they were denied utility services based on religious discrimination; and two different medical malpractice verdicts regarding leg injuries.

Two of the largest verdicts were on counterclaims (which are listed below with prevailing party/counterclaimant as the first named party).

Arizona juries gave two verdicts higher than \$10 million, and 20 verdicts between \$1 million and \$10 million. All but one of the top 10 verdicts were from Maricopa County. The top 10 were all awards given by juries.

Around the rest of the country, six of the nation’s largest verdicts came from Florida juries to smokers and their families in product liability cases. The largest was for \$23,640,612,741.<sup>1</sup>

Other top recoveries were in intellectual property, breach of contract, and other kinds of product liability cases. Those came out of Texas, California, Delaware, Louisiana, Maryland and Montana.

As ever, this article focuses on verdicts given in civil cases by Arizona

juries and judges. Please see the **endnotes** for any notable post-verdict activity or appeals as of the time this article was posted and printed.<sup>2</sup> The case numbers are listed with the case name, and online dockets are available if you want to look at the post-trial lawyering in more depth or see who the lawyers or judges were.<sup>3</sup> The focus here is on how the Arizona juries decided these cases, and what they awarded.

cold and timid souls who neither  
know victory, nor defeat.”

*Theodore Roosevelt*



# 2014 top ten Largest Arizona Verdicts

## 1 \$30,000,000

**Margaret and Shuja Ahmad v. State of Arizona  
Department of Public Safety,  
Maricopa County Superior Court, CV2008-030707<sup>4</sup>**

Alexander Ahmad, 24, an Arizona State University student, was killed by a fleeing suspect during a police chase. Richard Schwartz was suspected of robbing a Tempe bank, and police pursued him. The police called off the chase when Schwartz began speeding and driving erratically. Arizona Department of Safety and other police agencies resumed pursuing Schwartz on a highway, until he exited in Chandler and crossed the center line at 113 miles per hour head-on into Ahmad's car. Ahmad's parents alleged the second chase should not have been started, and that the chase should have ended when the danger outweighed the need to apprehend Schwartz. The family also alleged the police could have tracked the money with a transmitter embedded in the bags and thus the chase was not necessary. Arizona Department of Safety defended that all police agencies involved in the pursuit acted properly and that Schwartz intentionally struck Ahmad's car, possibly to commit suicide. The jury awarded \$30 million. The jury found Schwartz 80 percent at fault, the City of Chandler 15 percent at fault, and Arizona 5 percent at fault.

## 2 \$14,300,000

**Arizona Board of Regents v. Threshold Project,  
Maricopa County Superior Court,  
CV2011-020796<sup>5</sup>**

The Arizona Board of Regents is the governing board for Arizona State University. This was a condemnation verdict relating to eight lots totaling 5.267 acres on Alpha Drive in Tempe. Threshold Project was an organization of owners of fraternity houses on that street. The land was taken by ASU for future education-related facilities, including a new Greek village, retail, apartments, and a hotel conference center. ASU argued the land was worth \$10 million. The fraternities valued it at \$17 million. The jury awarded \$14.3 million as the fair market value of the property taken.

## 3 \$6,000,000

**Libia Knadler v. Fred Knadler,  
Maricopa County Superior Court,  
CV2012-004613<sup>6</sup>**

Libia Knadler filed for divorce from her husband Fred Knadler. Fred attempted to hire his employee as a hit man to murder Libia. He told the employee to dig a hole in the desert, that he would be given a bundle wrapped in a blanket to dispose of, and that the

employee would be paid \$10,000 a year to keep quiet about it for the rest of her life. The employee reported this to police, who arrested Fred. Police also caught Fred on video in jail offering to pay \$10,000 to an undercover detective posing as a hit man if he would kill both Libia and the first hit man. Libia's suit alleged that she sustained emotional trauma. Fred defended that he was confused when he hired the hit man. The jury awarded \$2 million in compensatory damages plus \$4 million in punitive damages. This was the largest punitive award of the year in Arizona.

## 4 \$5,200,000

**Ronald and Jinjer Cooke et al. v.  
Town of Colorado City et al., United States  
District Court for the District of Arizona,  
CV10-08105<sup>7</sup>**

Ronald and Jinjer Cooke moved to the Colorado City area in 2007 and applied for utility services. It took two years for them to get sewer service from Colorado City and electrical service from a new private power company. They still did not have water service after five years. The Cookes were not members of a particular religious sect, and they alleged Colorado City discriminated against them based on religion. The City of Hildale, Utah, and the cities' utilities were also defendants. The State of Arizona joined as a prosecuting party, and it alleged the city and other defendants engaged in a pattern or practice of discrimination based on religion against other similarly situated residents. The cities and utilities denied they discriminated against the Cookes or against anyone else who lived in those cities. The cities and utilities claimed they had legitimate reasons for their interactions with the Cookes, and that a water shortage was the reason for refusing service. The jury awarded a total of \$5.2 million and found that the cities and utilities engaged in a pattern or practice of discrimination.

## 5 \$5,000,000

**Jerry and Carolyn Fischer v. Mitar Vranic and  
Western Vascular Institute and Vein Center,  
CV2011-012298**

Carolyn Fischer had surgery for a knee replacement. In the days after the surgery, she had difficulty moving her knee and discomfort and numbness to her foot and toes. Fischer also developed edema, discoloration and a compromised blood supply and compartment syndrome in her leg. Vascular surgeon Mitar Vranic treated her. Fischer's leg had to be amputated below the knee. Fischer alleged that Vranic failed to timely diagnose and treat the deterioration in her leg. The jury awarded Fischer \$3.5 million and awarded her husband \$1.5 million. The jury found Vranic two percent at fault and apportioned the remaining fault among four non-parties (surgeon, hospital, internist and nursing facility).

# 6 \$4,250,000

**Brandon Orosco et al. v. Maricopa County Special Healthcare District and District Medical Group, Maricopa County Superior Court, CV2012-004724<sup>8</sup>**

Brandon Orosco was severely burned in a workplace accident and treated at Maricopa Medical Center. He alleged that the medical center failed to remove a two-foot guidewire from an artery in his thigh, until it was later discovered on a CT scan. Orosco alleged that District Medical Group's radiologists failed to report viewing the guidewire on his X-rays and should have discovered it sooner. He claimed loss of the artery and nerve damage that caused weakness, chronic pain and medication. He also alleged depression, post-traumatic stress disorder, and an increased risk of losing his leg to amputation. District Medical Group defended that it was never asked to inspect X-rays for a guidewire, that it would not normally do so unless someone reported a lost guidewire, and that a wire as shown on an X-ray could have been a wire on the outside of his body. Maricopa Medical Center admitted negligence but argued that it did not cause the wire to be embedded in his leg and argued the extent of Orosco's damages. The medical center and radiologists defended that Orosco's leg pain and psychological symptoms were related to his burns, and that he had made a good recovery. The jury awarded Brandon Orosco \$3,675,000, plus \$500,000 to his wife and \$25,000 to each of his three children. The jury found Maricopa County Special Healthcare District 99 percent at fault and District Medical Group 1 percent at fault.

# 7 \$4,106,076.78

**Glen Zelkind et al. v. Del Webb Communities, Inc., Maricopa County Superior Court, CV2008-003089<sup>9</sup>**

A group of 279 homeowners in Sun City Grand, Ariz., claimed that their homes contained construction defects. They alleged the homes did not comply with noise ordinances related to a nearby Air Force base, had failed window seals, had improperly placed Low-E coating on windows, and had improperly constructed parapet walls, foundations and ceilings. They sued their homebuilder Del Webb Communities for property damage, repairs and temporary relocation costs. Del Webb Communities defended that the defects were not as bad as claimed or the cost of repair was less than claimed. It also defended that certain items such as failed window seals that were going to fail had already done so, whereas the homeowners were asking for repair to all intact items as well. The case was tried over five months with more than 200 witnesses. Each of the 279 homeowner families was awarded a specific amount in damages. The jury awards ranged from about \$5,538 to \$29,987, for a total award to all homeowner plaintiffs of \$4,106,076.78.

# 8 \$4,000,000

**Terina Smith et al. v. State of Arizona, Maricopa County Superior Court, CV2011-011186<sup>10</sup>**

Robert Medina was an inmate in the custody of the Arizona Department of Corrections in 2010. He feared that gangs were going to kill him and he was diagnosed as having major depressive disorder and assessed as a high suicide risk. Six days later, his supervision was stepped down and he was placed back in a regular cell. Medina committed suicide 12 days later in his cell. Medina's family alleged that the Department of Corrections failed to conduct security watches, failed to treat his mental illness and failed to document a suicide-risk assessment. The Department of Corrections defended that although its staff did not comply with some policies, Medina was provided adequate mental health care and was solely responsible for his own death. It also argued that Medina was dishonest in his relationships with the children's mothers and with the staff psychiatrist. The jury awarded \$1 million to each of his four minor children. The jury found Medina 95 percent at fault and the Department of Corrections five percent at fault.

# 9 \$3,443,739

**David Ellis et al. v. Charles Rodrick et al., Maricopa County Superior Court, CV2013-003800<sup>11</sup>**

This award was on counterclaims. Charles Rodrick claimed that defamatory statements about him and his girlfriend Traci Heisig were published on offendextortion.com. He sued those that he believed wrote the website statements: David Ellis, Lois Flynn, and Susan Galvez. During the second day of trial, the court dismissed Rodrick and Heisig's claims but the jury continued to hear the counterclaims. The defendants/counterclaimants alleged that Rodrick posted false and defamatory statements about them on sex-offender websites and abused process by filing the main lawsuit. Rodrick denied he owned the websites that the information was posted to, and defended that he was the victim. On the counterclaims, the jury awarded Ellis \$296,939 in compensatory damages and \$1.9 million in punitive damages; Flynn \$130,000 in compensatory damages and \$650,000 in punitive damages; and Galvez \$66,800 in compensatory damages and \$400,000 in punitive damages.

# 10 \$3,443,634

**Tucson Oro Valley Keg LLC et al. v. Keg Restaurants et al., Maricopa County Superior Court, CV2011-004502<sup>12</sup>**

This was a second large win on counterclaims. Keg Restaurants offered William Jones the opportunity to develop and operate one of its franchise steakhouses. Jones represented that he had the financial ability and assets to fund the project. Jones formed Tucson



## Arizona Civil Verdicts 2014

—Verdict #10 continued

Oro Valley Keg to develop the restaurant. They entered into a development agreement and sublease, while Keg Restaurants signed the primary lease for the restaurant space. The deal later fell apart, and Keg Restaurants claimed it was forced to take over the project at its own expense. It alleged breach of multiple contracts and made other commercial claims. Tucson Oro Valley Keg and Jones counterclaimed that Keg Restaurants wrongfully

terminated the agreements, and sought reimbursement of the funds they had invested. On the counterclaims, the jury found for Tucson Oro Valley Keg for breach of agency agreements and the sublease and on breach of the covenant of good faith and fair dealing, awarding a total of \$3,443,634 on the counterclaims. The jury awarded Keg Restaurants \$25,000 for Tucson Oro Valley Keg's anticipatory breach of the development agreement.

### Plaintiffs Won 54 Percent of the Trials

Statewide, plaintiffs prevailed in 54 percent of the trials, and defendants prevailed in 46 percent. This was the lowest percentage chance of a plaintiff prevailing in the last decade. Over the past 10 years, the statistical chance of plaintiffs prevailing in any given case has remained within a narrow range (54 percent–66 percent).

## Venue Comparison

Jury awards consistently vary by county in Arizona. Averages and medians<sup>13</sup> for plaintiffs' verdicts in each venue are to the right, and also on the map below.

The statewide average plaintiff's verdict<sup>14</sup> in 2014 was \$952,013. The statewide median plaintiff's verdict was \$67,426. Sixty-four percent of all the verdicts came from Maricopa County, as is typical. Nine of the top 10 verdicts came from Maricopa County, making its average of \$1,328,317 higher than the statewide. Maricopa County's median was \$92,262.

The average plaintiff's verdict in the United States District Court for the District of Arizona was \$1,022,745. Its median

2014 Arizona Plaintiff's Verdict Averages by Venue

VENUE	Average Plaintiff's Verdict	Median Plaintiff's Verdict	Percentage of Trials Won by Plaintiffs
Statewide	\$952,013	\$67,286	54
Maricopa County	\$1,328,317	\$92,262	51
U.S. District Court for the District of Arizona	\$1,022,745	\$210,257	37
Pima County	\$105,176	\$45,000	36
Yavapai County	\$125,458	\$95,000	100
Pinal County	\$18,375	\$18,238	80

was \$210,257. As is predictable from year to year, defendants had a greater chance of prevailing in federal court on verdicts (63 percent) compared to most other venues.

Two other venues had notable verdicts. Chinle Judicial District Court of the Navajo Nation reported a \$2.3 million verdict in a wrongful-death case. Greenlee County, which has not had a civil verdict report from for the past decade, reported a verdict of \$1,095,116 in a flood-damage case.

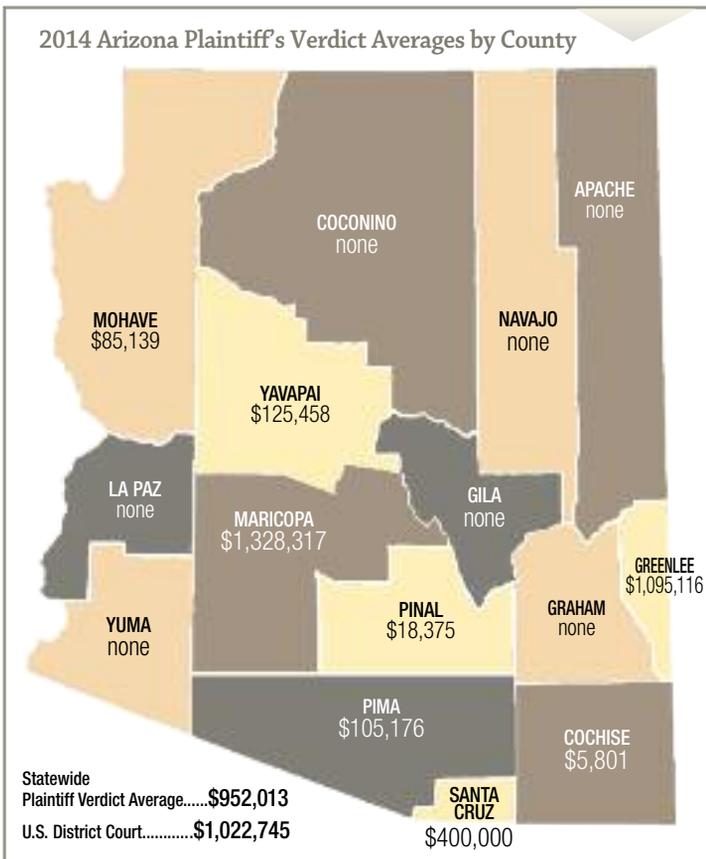
Santa Cruz County reported one plaintiff's verdict of \$400,000. Mohave County had two plaintiffs' verdicts that averaged \$85,139, plus it had one defense verdict. Cochise County had two plaintiffs' verdicts that averaged \$5,801, plus one defense verdict.

Coconino County, Yuma County, Gila County and Navajo County reported one defense verdict each. No verdicts for either side were reported out of Graham, La Paz, or Apache Counties.

## Punitive Awards

Arizona juries gave several large punitive awards in 2014, in a total of 10 cases. The largest was for \$4 million, as noted above in the number-3 *Knadler* case. In a case where family trust assets were diverted and fraudulent transfer was alleged, the jury gave a \$3 million punitive award. In the number-8 case above for Ellis, Flynn and Galvez, the jury awarded punitive damages totaling \$2.55 million. Other 2014 punitive awards included \$1.904 million in an insurance bad-faith case over property damage from a hail storm, and \$1.1 million in a case alleging defamation of a real estate executive. Punitive dam-

2014 Arizona Plaintiff's Verdict Averages by County





ages in the five other cases ranged from \$414,000 to \$2,800.

## Business Verdicts and Personal Injury Verdicts

The average business plaintiff's verdict was \$1,174,055, with a median of \$210,257. Such cases included breach of contract, breach of fiduciary duty, fraud, insurance bad faith, employment, defamation, professional malpractice, condemnation and proper-

ty damage. Of all of the business cases tried in 2014, plaintiffs won 59 percent of them, and defendants won 41 percent.

The average plaintiffs' personal injury verdict was \$820,879. The median was \$41,000. The cases in this category had one or more persons who were physically injured. They included motor vehicle accident injury, product liability, medical malpractice, excessive force and wrongful death cases. These kinds of cases made up about 68 percent of all the cases tried to verdict in 2014. Of all of the personal injury cases tried in 2014, plaintiffs won 52 percent of them, and defendants won 48 percent.

In the interest of equal time and coverage, we highlight some noteworthy defense verdicts below. These are from a variety of different types of cases in which the claimed damages at trial were high. Here are a few of 2014's significant Arizona defense verdicts:

### **A** *Steak Out Restaurant & Saloon LLC et al. v. Old Lobos T&T LLC et al., Pima County Superior Court, C2013-4862*<sup>15</sup>

This trial ended in a defense verdict on the main claims, plus a win for the defense of more than \$2.5 million on their counterclaims. Steak Out Restaurant and its owners the Wystrach family filed suit against Old Lobos T&T and its owners the Ault family, alleging that they breached their lease, made misrepresentations and were guilty of fraud. The Aults and Old Lobos counterclaimed that plaintiffs breached the lease agreement and breached personal guarantees. Steak Out Restaurant asked the jury to award \$2.2 million. Old Lobos sought \$1.56 million on its counterclaim. The jury found in favor of defendants on Steak Out's claims, and on the counterclaims awarded defendants \$1,536,670.06 for Steak Out's breach of the lease and \$1,012,893.05 for the Wystrachs' breach of personal guarantees.

### **B** *Veronica Monge v. Sun Valley Masonry, Inc. and Felipe Duarte, Maricopa County Superior Court, CV2010-081037*<sup>16</sup>

This was a construction site wrongful-death case against a forklift driver, Felipe Duarte, and his employer, Sun Valley Masonry. Samuel Monge, a laborer, was struck by the forklift and died on the site. The Monge family alleged that Duarte failed to stop at the corner, did not sound the horn before turning, had physical impairments, and had driven by Monge several times before at a high speed. They asked the jury to award his spouse and five children a total of more than \$14 million. Sun Masonry and Duarte argued that Monge and his employer caused the accident, and that Monge assumed the risk when he worked unprotected in an intersection instead of waiting for a flagger or barricades to be set by his employer. They also defended that Duarte had been trained and certified as a forklift driver.

## 2014 significant Defense Verdicts

### **C** *Asuquo Akpan and Joyce Akpan v. University Medical Center Corp. et al., Pima County Superior Court, C2012-6656*<sup>17</sup>

This was a medical malpractice wrongful-death case. Andikan

Akpan, a 21-year-old university student, went to University Medical Center's emergency department because of extreme pain due to his sickle-cell disease. University Medical Center and its staff gave him opiates for the pain. His parents alleged Akpan was vulnerable to opiates' side effects and was over-medicated, and that his cardiac arrest and death were due to improper monitoring of his clinical status. The Akpans asked the jury for more than \$13 million. University Medical Center denied that Akpan's clinical progression was consistent with over-medication and defended that his cardiac arrest was brought on by complications due to obstruction of healthy red blood cells in his system.

### **D** *Elena Noguero v. American Family Mutual Ins. Co., Maricopa County Superior Court, CV2011-080366*<sup>18</sup>

This was an insurance bad-faith case. Elena Noguero claimed that her roof was damaged by two storms that caused leaks in the roof of the building that housed her business. She alleged that her insurance carrier, American Family Mutual Insurance Company, failed to pay for repairs to the roof and interior water damage. Noguero asked the jury to award approximately \$1.4 million for property damage, lost business inventory, lost profits and business good will, plus damages for emotional trauma, anxiety and humiliation, in addition to \$6 million in punitive damages. American Family denied that the roof was damaged during the storms or that it was the cause of water intrusion. American Family defended that it paid a reasonable amount to repair other kinds of damage caused by those storms.

### **E** *Mark Franklin v. Jason Clemett et al., Maricopa County Superior Court, CV2010-033437*<sup>19</sup>

Mark Franklin, 35, went to a Phoenix Coyotes hockey game. After an exchange of words with Franklin, a fight broke out and Jason

Clemett and Daniel Blanchard struck him on the head three times before security restrained him. Franklin contended that Clemett and Blanchard acted with reckless indifference to his safety and created an unreasonable risk of harm to him. Franklin alleged he suffered a fractured skull and nasal spine, permanent brain damage, concussion, joint dysfunction, permanent hearing loss, tinnitus, vertigo, deviated septum, chronic sinusitis, and erectile dysfunction. Franklin asked the jury to award \$3.14 million. Clemett and Blanchard defended that Franklin was the aggressor, that Franklin harassed them throughout the game and became increasingly vulgar and obscene, and that they acted in self-defense. They also argued that Franklin was intoxicated, invited them to fight, spit on Clemett's wife, and threatened to kick and kill them. Clemett and Blanchard also claimed that the hockey arena failed to enforce the NHL's fan code and failed to eject Franklin from the game. Clement and Blanchard disputed the extent of Franklin's injuries, denied he had a brain injury, and showed surveillance video to the jury.

### **F** *Crystal Rezzonico v. Indiana Mills & Manufacturing, Inc., Maricopa County Superior Court, CV2010-023451*

In this product liability case, Crystal Rezzonico was a Phoenix fire department captain responding to a fire call when a Chevrolet Monte Carlo collided into the side of her fire truck. The collision caused the fire truck door to open, and she was ejected. Rezzonico sustained a traumatic brain injury with permanent cognitive deficits and a partial seizure disorder. She claimed she was wearing her seatbelt but that the seatbelt's design permitted her seatbelt's button to become contaminated, resulting in a partial or false latching of the buckle. She sought \$2.2 million in medical expenses and future earnings in addition to pain and suffering damages. Seatbelt manufacturer Indiana Mills & Manufacturing denied that Rezzonico was wearing her seatbelt, and demonstrated by a CT scan that no contaminants were visible in the seatbelt buckle. It also argued the buckle was designed so that the button did not touch the metal latchplate that slots into the buckle.

### **G** *Michelle Guarrera v. Bruce Sawyer et al., Maricopa County Superior Court, CV2010-080615<sup>20</sup>*

Michelle Guarrera purchased a home owned by Bruce Sawyer and Jean Berg in January 2009. Before buying it, she noticed a smell in the home, but a Keller Williams real estate agent told her the smell was due to recently completed drywall and tile work. After living in the home for 18 months, the smell never went away and Guarrera moved out of the home. She alleged the smell was due to pet urine and feces from the prior owners' pets. Prior owners Sawyer and Berg had multiple dogs, 40 or more cats, several rabbits, four tortoises, and 20 birds. Guarrera brought claims for non-disclosure, fraudulent misrepresentation, and negligent misrepresentation, and sought \$306,531.62 in compensatory damages and \$612,000 in punitive damages. The prior owners argued that prior to closing the home was cured of defects and that any pet odors would have dissipated. They also claimed that the smell was created by Guarrera's two dogs that she left indoors when she went to work for the day.

## Where Are They Now?

Here are significant appellate opinions from 2014 about past years' notable verdicts:

*Desert Palm Surgical Group, PLC et al. v. Petta*, Arizona Court of Appeals, Division One, CA-CV 13-0376. This was a \$12 million defamation verdict in 2011. In a published opinion, the Court of Appeals vacated the judgment and remanded for a new trial. The Court of Appeals agreed with Petta that on the record presented, the \$11 million in compensatory damages awarded was excessive and unsupported by the evidence. It found that plaintiffs' testimony about special damages was unsupported by documentation, and that the evidence did not support such an excessive award of general damages.

*Diana Glazer et al. v. State of Arizona Department of Transportation*, Arizona Court of Appeals, Division One, CA-CV 12-0572. This was a road design award for \$7.8 million in 2012. In a published opinion, the Court of Appeals affirmed the verdict for plaintiffs. It held that the trial court did not err in denying a motion to exclude testimony from plaintiff's transportation engineer expert, in failing to grant the state immunity as a matter of law, or in failing to grant a new trial when the jury allocated all fault to the state.

*Wes Davis v. BNSF Railway Company*, Arizona Court of Appeals, Division One, CA-CV 13-0083. This was a Fair Labor Standards Act award for \$3 million in 2012, but the jury allocated 95 percent fault to Davis. Davis filed this appeal, arguing that the trial court should not have instructed the jury on comparative fault because there was no supporting evidence, and that the trial court erred in denying Davis' motion to amend the judgment because the evidence did not support that he was 95 percent at fault. The Court of Appeals affirmed the judgment.

Two other defense verdicts from 2012 were affirmed in non-published memorandum opinions.<sup>21</sup> Four of the top 10 2013 verdicts have pending appeals that are in progress. Two of 2013's significant defense verdicts have pending appeals.

## Trends

- The number of verdicts continues to decline. The number of Arizona cases that are tried all the way to verdict has been steadily declining since 2009. Each year since then, the number of trials has dropped. In Arizona, about 25 percent fewer trials go to verdict than did a decade ago.
- Medical malpractice verdicts for plaintiffs have become more common in Arizona. We commented about such a spike two years ago, and the trend continues.
- When we review appeals of the largest verdicts over the past decade, approximately 61 percent of the plaintiffs' verdicts were appealed. On appeals of the significant defense verdicts in the same time, 38 percent were appealed.<sup>22</sup>
- As compared to Maricopa County, counties with fewer residents and on the outer geographical parts of Arizona lean more con-



servatively and tend to return defense verdicts or plaintiff's verdicts that are relatively lower.

- This state's juries generally award punitive damages only when presented with aggravating or extreme facts, and they typically do not give punitive awards in large multipliers.
- Over the past 11 years, the average percentage chance of a plaintiff winning in all types of cases is 57 percent.

## Conclusion

If you enjoy these verdicts articles, please follow Kelly on Twitter @KellyLWilkins, where she regularly reports on verdicts. Please feel free to contact us any time for more details about the verdicts or to report significant ones that happen in the future.

Meanwhile, heed the words of Roosevelt. Have courage. Strive valiantly. Succeed and fail. Get into the arena.<sup>23</sup>

### endnotes

1. NAT'L L. J., *Top 100 Verdicts of 2014*, available at [www.nationallawjournal.com/id=1202721923983](http://www.nationallawjournal.com/id=1202721923983).
2. This article makes no comment on the merits of the claims or defenses in these cases, or the parties or specific lawyers involved. This article does not analyze or include cases that settled before or during trial, mistrials, stipulated judgments, judgments as a matter of law, or criminal cases. The verdicts as summarized do not include costs, fees or reductions that may have been established later. The parties listed are those who were active when the verdict was delivered. Significant post-verdict developments are in these endnotes. Because the focus of this article is on the verdicts, not all of the post-verdict activity is reported here.
3. [pacer.gov](http://pacer.gov) for the federal system; [superiorcourt.maricopa.gov](http://superiorcourt.maricopa.gov) for Maricopa County; [agave.cosc.pima.gov](http://agave.cosc.pima.gov) for Pima County; and [apps.supremecourt.az.gov](http://apps.supremecourt.az.gov) for the other counties.
4. Arizona Department of Public Safety filed a motion for a new trial and/or for remittitur. The court conditionally granted the remittitur to \$10 million, and also gave the Ahmads the option to accept that amount or have a new trial. The Ahmads filed an appeal that is pending.
5. Consolidated with CV2011-021496, CV2011-021543, CV2011-021554, CV2011-021556, CV2011-021701, CV2011-021710 and CV2011-021711.
6. Fred Knadler filed a motion for a new trial on damages and/or for remittitur. The court granted the request unless Libia Knadler consented to the reduction of the punitive damages award from \$4 million to \$2 million. Libia Knadler accepted the remittitur.
7. Other plaintiffs were the State of Arizona and the Civil Rights Division of the Arizona Department of Law. Other defendants were Hildale-Colorado City Utilities, Twin City Water Authority, and Twin City Power. The State of Arizona also obtained a 10-year permanent injunction against the utilities.
8. Other plaintiffs were Jennifer, Kaylen, Marissa and Silas Orosco. Maricopa County Special Healthcare District's "doing business as" name is Maricopa Medical Center. Maricopa County Special Healthcare District filed a motion for a new trial or in the alternative for remittitur, which is pending.
9. Other defendants were Del Webb Home Construction Inc., Del Webb Corporation, Pulte Home Corporation, and Pulte Development Corp. The names of the 279 homeowner families (many of which listed two people) are not listed in this endnote in their entirety, but are available on the court docket. Defendants have filed an appeal that is pending.
10. Other plaintiffs were Destiny Medina, Maia Medina, Isaac Medina, and Saedee Medina.
11. Another plaintiff was Traci Heisig. Other defendants/counterclaimants were Lois Flynn, Susan Galvez, and Adam Galvez. Rodrick and Heisig filed a motion for a new trial and/or remittitur. The court denied the motion for a new trial but granted conditional remittiturs of the punitive awards, which were accepted by Ellis and Galvez. Flynn has filed an appeal that is pending.
12. Other defendants/counterclaimants were William Jones, Fabienne Jones, and OVM Keg Land LLC. Other plaintiffs/counterdefendants were Keg Franchise U.S., Inc., Keg Restaurants U.S., Inc., and Keg Restaurants, Ltd. Keg Restaurants filed a motion for a new trial and for judgment as a matter of law that was denied, and has also filed an appeal that is pending. Tucson Oro Valley Keg has filed a cross-appeal.
13. To calculate an average for a particular county, we add up all the verdict totals where damages were awarded, then divide by how many plaintiffs' verdicts there were in that county. To calculate the median in a venue, we place the plaintiffs' verdicts in value order and find the middle number, where exactly half of those verdicts are higher and half are lower.
14. Average verdicts and median verdicts are computed from all plaintiffs' verdicts in the particular venue. Defense verdicts and reductions for comparative negligence or non-party fault are deliberately not factored into the analyses of averages and medians for the reasons noted above. If we included defense verdicts into that analysis, the average of all civil verdicts statewide in 2014 (plaintiff's and defendant's verdicts) would be \$515,051.
15. Other plaintiffs were Michael C. Wystrach, Grace Wystrach, and Michael G. Wystrach. Other defendants were Ronald Ault and Lynne Ault. Old Lobos and the Aults filed a motion for a new trial on damages for their breach of guaranty counterclaim, which is pending.
16. Monge filed a motion for a new trial that was denied, and has also filed an appeal that is pending.
17. University Medical Center Corporation's "doing business as" name is University Medical Center. Other defendants were Dipak Babu and Sandra Gutierrez.
18. Noguero filed a motion for judgment notwithstanding the verdict, which is pending.
19. Other defendants were Dawn Clemett, Daniel Blanchard, and Darcy Blanchard. Franklin filed an appeal that is pending.
20. Other defendants were Jean Berg, Trisha Bonnell, and Sonoran Living LLC, d/b/a Keller Williams Realty Sonoran Living.
21. *Universal Engraving, Inc. v. Metal Magic, Inc.*, Nos. 12-17351 and 13-15743 (9th Cir. Feb. 11, 2015) (not for publication) (affirming and finding no error in dismissal of other claims and no error in exclusion of expert testimony; remanding for further proceedings on award of attorneys' fees and costs); *Edward Harvey v. County of Navajo*, No. 12-16883 (9th Cir. Dec. 4, 2014) (not for publication) (affirming and finding no abuse of discretion in denial of motion for new trial and motion for judgment as matter of law).
22. Myles Hassett, *Post-Verdict History Data, Getting What You Want From a Jury: Lessons Learned from Top Jury Trial Verdicts*, State Bar of Arizona CLE by the Sea (July 18, 2014).
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