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Colorado Trends in Litigation

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Trends in Litigation

- * Still winning most cases but increase in Pl. Verdicts
- * Increased control by the District Court as to discoverability
- * Plaintiffs' counsel was shifting away from doctor medical malpractice, favoring systemic problems-related claims against health care facilities but, now mixed bag
- * Jury Verdicts unpredictable.





- * ***DCP Midstream, LLP v. Anadarko Petroleum Corp.*, 2013 CO 36 (June 24, 2013), explaining that “C.R.C.P. 26(b) requires trial courts to take an active role managing discovery when a scope objection is raised. When faced with a scope objection, the trial court must determine the appropriate scope of discovery in light of the reasonable needs of the case and tailor discovery to those needs. Because each case is unique and deserves unique treatment, the reasonable needs of the case will necessarily vary, depending on the subject matter and complexity of the case, the nature of the parties’ claims or defenses, and the discovery necessary to resolve the dispute.” ¶ 8**

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More than Just Medical Malpractice

- * CCPA – Broken Promises – 0
- * Fraud – Misleading – 0



- * Negligent Credentialing
- * Negligent hire, train, retention, supervision
- * Conspiracy– 0
- * Exemplary Damages



Noteworthy Jury Verdicts 2016-7



- * 6/17 *Rudnicki v Peter Bianco DO* \$ 4.0 million
- * 5/17 *Seto v Fraterelli MD* \$ 1.04 million
- * 1/17 *Abiakam Turner v Stella Hines MD* \$ 2.10 million
- * 3/17 *Smith v The Surgery Center* \$14.9 million
- * 12/16 *Koziel v J. Sollender MD* \$ 3.87 million
- * **Negl. Cred. Case against HCA settled**
- * 3/16 *Danko v. Conyers* \$ 1.5 million
- * 4/16 *Jones v. Miller MD/Marky MD* \$ 800 K
- * 5/16 *Alcon v Life Care Centers* \$ 5.55 million
- * 8/16 *Ham v Schwartz MD/Jones MD* \$ 490 K

Noteworthy Jury Verdicts 2015

- * 8/15 *Cox PR Kevin Bowman v Union Printers Home*
50K 100K ½ pun. \$8,052 funeral
- * 8/15 *Morris v Davis-Best MD* \$437 K
- * DC Doc non-party 25%
- * 7/15 *Hill v Weinerman MD* \$178 K
- * 3/15 *Pressey v TCH* \$17 million
- * 3/15 *Deplitch v Schmidova MD* \$725 K

Summary: Jury Verdict Reporter

Date	Name	Court	Claim	Facts	Alleged Injuries	Claimed Damages	Demand offer	Verdict
01/08/18	<i>DeBuhr v. Hern, Boulder Abortion Clinic</i>	U.S.Dist.Ct. Judge Brimmer	MM	Fetal bone remnant				Directed in favor of Clinic
11/27/17	<i>Gillespie v. Rajadas MD</i>	Mesa Judge Timbrez	MM	Anterior Access Spine, S.	Iliac vein damage	\$1.5M	\$849K	Defendant
06/05/17	<i>Cross v. CHI dba St. Anthony North</i>	Arapahoe Judge Volz	MM/IC	PICC	L. Medial nerve	\$1.8M		Defendant
12/18/17	<i>Regnier v. Bracht MD</i>	Arapahoe Judge Weishaupl	MM	Spine S.	L. Tear iliac vessels		\$849K	Defendant
12/04/17	<i>Seyler v. Nelson MD</i>	Boulder Judge Butler	MM	41 y.o. hysterectomy	L. Burn ureter		\$750K	Defendant
08/07/17	<i>Wood v. CHI dba Penrose St. Francis</i>	El Paso Judge McHenry	MM	Trach. After Thyroid, S.	Perm. Scarring			Defendant
08/21/17	<i>Deland v. Fox MD</i>	Boulder Judge LaBuda	MM	Parathyroid vs. Thyroid, S.	Hypocalcemia wrong gland removed		\$400K	Defendant
06/12/17	<i>Rudnicki v. Bianco DO</i>	El Paso Judge Gilbert	MM birth injury	Vacuum extraction too long	Brain injury	\$12M	Policy demand	Plaintiff \$4M

Summary: Jury Verdict Reporter cont.

Date	Name	Court	Claim	Facts	Alleged Injuries	Claimed Damages	Demand offer	Verdict
07/03/17	<i>Silvas v. Wade MD and Canfield MD</i>	Denver Judge Elliff	MM	Fungal Meningitis	Brain Injury 52 y.o.	\$1.5M		Defendant
05/22/17	<i>Seto v. Fraterelli MD</i>	Denver Judge Elliff	MM	Lap. Choly.	Cut common bile duct & hepatic artery injury	\$906K		Plaintiff \$1M
05/08/17	<i>Fairchild v. Koldenhoven MD et al.</i>	Boulder Judge Sierra	MM	Cold therapy non-freezing	Wound healing			Defendant
04/10/17	<i>McComsey v. Lalonde, MD</i>	El Paso Judge McHenry	MM f. to Dx.	Lap BSO	Bowel injury		\$675K	Defendant
04/10/17	<i>Mustafa v. Pettet DPM</i>	Arapahoe Judge Wheeler	MM podiatry IC	Akin osteotomies	Foot deformity	\$156K plus \$300K	\$295K	Defendant
04/17/17	<i>Gurule v. CHI dba Mercy Regional/Durango</i>	La Plata Judge Herringer	MM WD	Plaintiff 590 lbs.	ICU SDTI			Defendant
01/30/17	<i>Abiakam/Turner v. Hines MD</i>	Denver Judge Starrs	MM	Endotracheal tube dislodged	Brain injury			Plaintiff 2.1M
03/14/17	<i>Smith v. Surgery Center at Lone Tree LLC</i>	Douglas Judge Stevens	MM neg. per se LOC	Kenalog epidural	Paralysis	\$417M \$1M policy		Plaintiff \$11M \$3.5M
10/28/16	<i>Shouse v. CHI dba Mercy Home Health & Hospice</i>	Archuleta Judge Lyman	MM	High risk pressure ulcers 43 y.o.	Pressure ulcers			Defendant

Summary: Jury Verdict Reporter cont.

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09/20/16	<i>Graf v. Barton Chiropractic et al.</i>	Douglas Judge Whitaker	MM IC	Chiropractor	Vertebral artery dissection			Defendant
07/25/16	<i>Calendine v. Rahill MD</i>	El Paso Judge Bentley	MM	Nickel allergy spine ___	Inflam. of spine	\$1.1M		Defendant
12/05/16	<i>Koziel v. Sollender MD</i>	Denver Judge Jones	MM IC	30 y.o. amp arm	Loss of arm	Policy	Policy limits	Plaintiff \$3.8M
08/01/16	<i>Clements v. Larson MD</i>	Jefferson Judge Bachmeyer	MM WD	71 y.o. carotid artery stent	Stroke and death	\$445K	\$125K	Defendant
12/05/16	<i>Carder v. Schwappach MD</i>	Arapahoe Judge Horton	MM IC	Hip replacement	2-3 cm short leg	\$398 K plus ___	\$750K	Defendant
10/24/16	<i>Harris v. Vijay MD</i>	Denver Judge Brody	MM	32 y.o. 3 heart a.	ICU after heart surgery	Gangrene legs BKA		Defendant
11/07/16	<i>Heyst v. Dorfman MD et al.</i>	Boulder Judge Mulvahill	MM WD	41 y.o. chest pain EKG	Death Dr./PA	\$3.2M		Defendant
08/22/16	<i>Ham v. Schwarz MD and Jones MD</i>	Denver Judge Gilman	MM	Pedicle screw	Pain; more surgery		\$350K	Plaintiff \$462K
04/11/16	<i>Beall v. Solano MD et al.</i>	El Paso Judge Bain	MM	CP arrest after EGD	Severe hypoxic Brain I	\$7 to \$10M	\$3M	Defendant

Summary: Jury Verdict Reporter cont.

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06/13/16	<i>Noyes v. Blatt MD</i>	Denver Judge Gilman	MM	ED central line	Hit or in carotid	Stroke	\$1M	Defendant
04/04/16	<i>Grose v. Chen MD</i>	Larimer Judge French	MM WD	Pain Stim.	Inc. pain caused death			Defendant
05/02/16	<i>Alcon v Life Care Center of Pueblo et al.</i>	Pueblo Judge Karn	MM & Pun.	77 L C Center abuse and neglect	Death		\$1.15M	Plaintiff \$5.5M
02/29/16	<i>Jones v. Miller and Markey MDs</i>	Larimer Judge Howard	MM L of C	Pedicle screw neuromonitor	Neuro deficits		\$2.25M	Plaintiff 60/40 \$761K
03/14/16	<i>Danko v. Conyers MD</i>	Boulder Judge Sierra	MM	R. Carpal tunnel amp. arm	64 y.o. infection, amputation	\$925K	\$1.5M	Plaintiff \$1.5M
02/29/16	<i>Martinez v. CHI Colorado</i>	El Paso Judge Hughes	MM	Fall at hospital rotator	R. Knee repl. 60 y.o.	\$650K	\$75K	Defendant \$8K \$50K \$100K
08/23/15	<i>Cox v. Union Printers Home</i>	El Paso Judge Schwartz	MM WD Pun.	Strangled from t-shirt	On hospice		\$850K	Plaintiff \$158 K
11/03/15	<i>Ayers v. Moore MD</i>	Pitkin Judge Petre	MM WD	Knee Surg DVT	Death			Defendant
11/09/15	<i>Sovde v. Scott DO et al.</i>	Arapahoe Judge Horton	MM minor	HSV in newborn neg. Dx		\$13M	\$1M	Defendant

Summary: Jury Verdict Reporter cont.

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09/28/15	<i>Withers v. Andersen MD</i>	Arapahoe Judge Cross	MM	ED neck back pain INR 16	Epidural hematoma paralysis T.		\$150K	Defendant
10/19/15	<i>Melgosa v. Berryman MD</i>	Pueblo Judge Karn	MM IC	Suburethral sling			\$400K/ \$75K	Defendant
10/12/15	<i>Gore v. Steinbruner MD</i>	El Paso Judge Werner	MM	Bowel obstruction		\$5M	\$1M	Defendant
09/14/15	<i>Carter v. Loucks MD</i>	U.S. Dist. Ct. Judge Daniel	MM IC	24 off-label uni knee R.			\$1M	Defendant
08/17/15	<i>Morris v. Davis-Best MD</i>	El Paso Judge Schutz	MM	Failure to remove ureteral stents	Calcification of stents		\$210K	Plaintiff \$437K
07/27/15	<i>Hill v. Weinerman MD</i>	Arapahoe Judge Cross	MM	Knee R. malplaced	More surgery 50 y.o.		\$350K	Plaintiff \$178K
04/20/15	<i>Scheirman v. Picerno MD and Hepworth MD</i>	Denver Judge Brody	MM	CSF leaks following endoscopic sinus S.			\$3M	Defendant
05/04/15	<i>Harrison v. Vilims MD</i>	Denver Judge Vallejos	MM	Cervical radio frequency surgery	Has pain	\$499K		Defendant
06/05/15	<i>Barrett v. Roe MD</i>	Denver Judge Jones	MM	Ophthalmology cataract	Loss of vision l. eye		\$1M	Defendant

Summary: Jury Verdict Reporter cont.

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06/15/15	<i>Gerwin v. Benner, PA</i>	Boulder Judge Hartman	MM	19 y.o. PA Fx jaw fainting	4 teeth dental implants			Defendant
05/11/15	<i>Monroe v. Anderson MD</i>	Denver Judge Jones	MM	Boundaries generalist v. specialty	PTSD	Borderline personality	\$300K	Defendant
03/23/15	<i>Deplitch v. Schmidova MD</i>	Larimer Judge Brinegar	MM	Negligent hernia surgery	Genital neuralgia male	\$1.6M	\$900K	Plaintiff [appealed] \$750K
06/15/15	<i>Kelleher v. James MD</i>	Pueblo Judge Karn	MM	R. Arm Angio to Tx art. Stenosis	Permanent nerve injury	PSA	\$465K	Defendant
04/20/15	<i>Ingermann v. Jamrich MD and Strausburg MD</i>	Denver Judge Stern	MM IC	Spine surgery neuromonitor issues	Spinal cord paralysis	\$965K to \$1.5M		Defendant
04/20/15	<i>Simonak and Putnam v. Worley MD</i>	Broomfield Judge Crabtree	MM WD	80 y.o.	Pelvic Fx pneumonia Death CD			Defendant
03/30/15	<i>Stannard v. Weary MD</i>	El Paso Judge Werner	MM IC	35 y.o. elective hysterectomy	Depression with total hysterectomy			Defendant
04/13/15	<i>Bandell and Kislowitz v. Pagan MD</i>	Denver Judge McCallin	MM WD	17 y.o.		\$4M	\$300K	Defendant

Summary: Jury Verdict Reporter cont.

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03/16/15	<i>Pressey v. Children's Hospital</i>	Arapahoe Judge Horton	MM minor	Cong. Heart prostaglandin surgery reduced dose	Brain injury hypoxia		\$13.87 M	Plaintiff JNOV \$17.8M
03/02/15	<i>Snyder v. Goehring and NoColoEmergPhys</i>	Weld Judge Taylor	MM IC	60 y.o. stroke brain injury, ED discharge	Brain Injury			Defendant
01/22/15	<i>Preisser v. Cowan DO</i>	El Paso Judge McHenry	MM WD	CP/ED Real necrotizing tracheitis	Death			Defendant
01/05/15	<i>Meyers v. Ross MD Starr MD McKenzie CRNA</i>	Arapahoe Judge Horton	MM Res ipsa	Gyn S. burns	Bump on head, burns allergy		\$1.45M	Defendant
01/05/15	<i>Orr v. Millard MD</i>	Douglas Judge Slade	MM	Spinal anesthesia during plastic S.	<i>Cauda equina</i> 53 y.o.	\$1.25M	\$1M	Defendant

Questions

