

ARIZONA CIVIL V

Arizona's largest verdicts just keep getting larger.

This year saw two colossal verdicts in nine figures. And every one of the top 10 was more than \$5 million.

A group of real estate investors claimed the top verdict of \$360 million.¹ This is believed to be the second-highest Arizona civil verdict ever awarded, according to a survey of reported verdicts.² This verdict was nearly nine times larger than 2006's largest verdict. A second massive award was a patent infringement case regarding a medical device for \$185 million.

In 2007, juries in Arizona turned in 22 verdicts over \$1 million. Also among the highest verdicts were breach of contract actions, malpractice cases, and vehicle accidents involving trucks, pedestrians and motorcycles. Three of these large verdicts went against counties. Remarkably, two of the largest verdicts were actually recoveries on counterclaims—a boomerang effect those plaintiffs certainly never intended.

This year's nationally highest verdict was for \$1.5 billion in a California patent infringement case by Lucent Technologies Inc. against Microsoft Corporation regarding MP3 technology.³ Commercial disputes accounted for about half the dollars of the top 100 highest verdicts nationally. Traditional torts generally recovered less than they did in 2006. The largest award to a plaintiff in a personal injury case was \$109 million by a New York jury in a medical malpractice case.⁴ Large individual recoveries between \$102 million and \$40 million were also handed down in Texas, California, Florida, New Mexico, Alabama and New Jersey.

As it always has, this article focuses on what the Arizona **juries** did. It does not discuss in depth the post-verdict activity or appeals, which occurred in many of the larger cases.⁵ For example, in the instance of the largest verdict, a new trial has been ordered. I've included the case numbers if you want to check out the appellate lawyering.

This article does not analyze or include cases that settled before or during trial, mistrials, stipulated judgments, judgments as a matter of law, criminal cases or cases not yet reported. The verdicts analyzed do not include costs, fees or reductions that may have been established later. This article makes no comment on the merits of the claims or defenses, or the parties or lawyers involved, in these cases. The focus is on how the juries called it, and what they awarded.

Hold on to your hats—
here we go.

VERDICTS



BY KELLY WILKINS MACHENRY

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2007

1. \$360,000,000

10K, L.L.C. et al.⁶ v. W.V.S.V. Holdings, L.L.C. and Conley Wolfswinkel, Maricopa County Superior Court, CV 2003-008362

Plaintiff 10K L.L.C. was a group of investors that owned 10,000 acres of real property in Sun Valley. Its manager was Brent Hickey of Phoenix Holdings II, L.L.C. Robert Burns was alleged to control Phoenix Holdings.

In 2002, Phoenix Holdings agreed to sell the property to a company called W.V.S.V. Holdings, controlled by Conley Wolfswinkel. The property was allegedly sold below market value in return for kickbacks. The 10K investors claimed they were never consulted by Phoenix Holdings about the sale. The court ordered the sale to go through, and the 10K investors claimed they could have sold the property for more money if they had waited.

The 10K investors sued on theories of breach of fiduciary duty, fraud, misrepresentation, conversion, and aiding and abetting the sale. W.V.S.V. and Wolfswinkel argued they did not promise kickbacks, did not aid nor abet the breaches of fiduciary duty, and that the court had ordered the closing.

The jury levied \$210 million in compensatory damages, plus \$150 million in punitive damages. It was the largest overall award by an order of magnitude, plus the largest punitive award of the year in Arizona. The jury found Phoenix Holdings II, L.L.C., Burns and Hickey collectively 80 percent at fault, W.V.S.V. Holdings, L.L.C. and Wolfswinkel jointly 10 percent at fault, non-party Breycliffe, L.L.C.⁷ 5 percent at fault, and plaintiffs 5 percent at fault.

2. \$185,000,000

Bard Peripheral Vascular, Inc. and David Goldfarb v. W.L. Gore & Associates, Inc., United States District Court for the District of Arizona, CV 03-0597

In 1974, Dr. David Goldfarb and others associated with the company that later became known as Bard Peripheral Vascular, Inc., applied for a patent on a prosthetic vascular graft. In 2002, the patent was issued.

Bard Peripheral Vascular and Goldfarb asserted that certain of W.L. Gore & Associates, Inc.'s vascular grafts and stent-grafts infringed the patent. Gore contended that the patent was invalid and was not infringed by its products, and that the patent was unenforceable.

The jury upheld the validity of the patent and found that Gore willfully infringed the patent. The jury awarded \$102,081,578.82 in lost profits and \$83,508,292.20 in royalties.⁸

3. \$31,601,247.47

Jeanne Steven et al.⁹ v. Swift Transportation Co., Inc., Maricopa County Superior Court, CV 2004-013847

On April 4, 2004, Thomas Steven, a 57-year-old owner of a plumbing business, was driving his Chevrolet Suburban near the

intersection of a state road and a U.S. highway in rural Kansas. Kevin Jones was driving an 18-wheel tractor-trailer for Swift Transportation at about 65 mph. Jones passed over three sets of rumble strips, ran a stop sign and crashed into the Suburban. Thomas Steven was killed instantly. His son sustained complex fractures of an arm and both legs, and his nephew sustained a thoracic fracture. Swift's driver was alleged to be fatigued and driving more hours than allowed.

Plaintiffs obtained an adverse inference instruction for spoliation based on Swift's failure to produce most of the driver's logs the company was required to keep under federal regulations. Swift Transportation admitted negligence.

The jury awarded \$23,726,247.47 in compensatory damages, which included \$8 million to each of his children, \$10.031 million to his wife and the remainder to his two passengers for their injuries. The jury also awarded \$13.875 million in punitive damages. The jury found zero comparative negligence.

This was the second year in a row for a "top 10" verdict in which a truck driver was alleged to have been driving longer than allowed and his log books alleged to have been falsified post-accident.

4. \$16,194,178

Property Masters of America, L.L.C., Mark Bosworth and Lisa Bosworth v. TEM Holdings, L.L.C. and Benjamin Magelsen, Maricopa County Superior Court, CV 2004-023197

Remarkably, this was an award on a counterclaim.

Benjamin Magelsen hired Property Masters and Mark Bosworth to help him buy foreclosed residential properties and manage them. Magelsen bought several properties and later conveyed them to his own company, TEM Holdings. Magelsen became dissatisfied with the management of the properties, and they agreed that Bosworth would buy 10 of the properties from TEM Holdings.

Property Masters and Bosworth alleged that TEM Holdings and Magelsen breached the sales agreement in various ways, leading them to sustain damages of \$92,000. TEM Holdings and Magelsen claimed that plaintiffs handwrote "payoff" on certain deeds and pocketed the proceeds, and altered a limited power of attorney that they used to record documents.

The jury found for defendants on the plaintiffs' claims. The jury found for TEM Holdings and Magelsen on their counterclaims for conversion, breach of contract, wrongful recording and breach of sale. The award also included \$12.125 million in punitive damages.¹⁰

5. \$11,190,178

Randy Harper dba Harper Sand & Rock, LLP v. William Lueck, Mary Lueck, Lueck Investment, L.L.C., and El Mirage & Southern L.L.C.,¹¹ Maricopa County Superior Court, CV 2005-012131

Harper Sand & Rock, LLP is a business known as Circle H Sand & Rock, and has been mining and crushing rock materials in Arizona for more than 40 years. They leased property to establish

a sand and gravel pit from Lueck Investment, L.L.C., a company owned by William Lueck. After Circle H and Lueck had a disagreement, Lueck refused to get them a permit and terminated Circle H's lease. Circle H also alleged that Lueck Investment interfered with a primary purchaser of their materials.

Circle H sued for breach of contract and intentional interference with contract. Lueck Investment denied it breached the contract or interfered with Circle H's contract with its customer. The jury awarded \$11,190,000.

6. \$9,200,000

La Paz County v. Yakima Compost Co., Inc., La Paz County, S-1500-CV-20030119

This was yet a second major award on a counterclaim. La Paz County had a 25-year contract with Yakima Compost Company. Yakima Compost used the county landfill to process biosolids from wastewater treatment plants in Arizona and California.

La Paz County alleged that Yakima Compost breached operational parameters and did not meet EPA standards. The county sued for \$1.3 million in remediation costs. Yakima Compost defended that the county had breached the contract when it attempted to terminate it and that the county's actions caused its clients to abandon the company and essentially go out of business.

The jury members found against their own county and awarded Yakima Compost \$9.2 million on its counterclaim.¹²

7. \$9,143,500

Julie Rogers, Frank Rogers and Talin Rogers v. Pima County, Judith Ealey and Donald Leming, Pima County Superior Court, C-2004-6309

Talin Rogers was a 15-year-old student walking in the crosswalk next to Mountain View High School in Tucson on the afternoon of October 1, 2004. He was struck by Judith Ealey as she was driving Donald Leming's car at least 35 mph.

Plaintiffs alleged Ealey failed to keep a proper lookout and failed to control her car. Plaintiffs alleged Pima County negligently maintained a mid-block crosswalk with no signals or lights. Ealey admitted she was partially at fault but argued Rogers could have looked and seen the car coming and gotten out of the way. Rogers sustained a closed-head injury with traumatic brain injury and permanent neurological deficits in gait, speech, memory and executive function.

The jury awarded him \$8,233,500, his mother \$640,000, and his father \$270,000. The jury found Ealey 79 percent at fault, Pima County 20 percent at fault and Talin Rogers 1 percent at fault.

8. \$9,000,000

Leonard Moody and Shirley Moody v. Pima County, Michael Baker and Connie Baker, Pima County Superior Court, C20045446

This was the third "top 10" verdict against a county this year.

Ebonee Moody was a 14-year-old student who was walking through an intersection on the night of August 1, 2004, when she was hit and killed by a drunk driver. Michael Baker was the driver, and his blood alcohol level was 0.18 to 0.24 at the time of the accident. His car also had a broken speedometer and brakes that needed repair.

Baker pleaded guilty to manslaughter and driving while intoxicated. At the time of this trial, he was serving a 10-year prison sentence. He was *pro se* in the civil action and was defaulted. Against Pima County, Moody's parents argued that the intersection was unsafe because of poor visibility due to a hill and a turn in the road, and that the intersection should have had more lighting and signs. Pima County defended that the intersection was safe and no other similar accidents had happened on that stretch of road in recent years. Pima County also argued the accident could have been avoided if either Baker had obeyed the law and/or Moody had been attentive.

The jury awarded Moody's parents each \$2 million against both defendants, plus \$5 million in punitive damages against Baker. Baker was found 74 percent at fault, Moody 13 percent at fault, and Pima County 13 percent at fault.

9. \$7,000,000

Brent Bartell v. Mesa Soccer Club, Aaron Muth, and Rea-Ann Fuzy, Maricopa County Superior Court, CV2004-009728¹³

Brent Bartell was riding his motorcycle south on Seventh Street when a 16-year-old driver who had only been licensed four months suddenly pulled into his lane. Driver Rea-Ann Fuzy was on the team of the Mesa Soccer Club and Aaron Muth was her coach. The team met up in Tempe and Muth asked Fuzy to drive several teammates into Phoenix to a practice session, which she did. When they finished practice, Muth told Fuzy to follow him back to Tempe. Muth turned into a restricted median on Seventh Street, and Fuzy followed him and made an illegal left-hand turn, pulling in front of Bartell's motorcycle. Bartell was unable to avoid crashing into Fuzy's SUV.

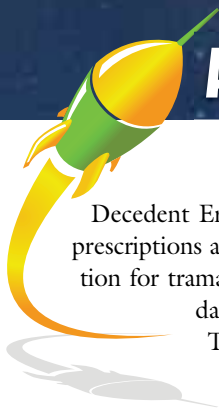
Bartell suffered bilateral diffuse axonal shear traumatic brain injury, spastic hemiplegia, severe cognitive and behavioral problems, a skull fracture, multiple facial and jaw fractures, a cervical fracture and underwent multiple surgeries. He was declared incompetent and placed into a long-term rehabilitation center.

Mesa Soccer Club stipulated to the vicarious liability of coach Muth, and the jury found that driver Fuzy acted as the agent of Mesa Soccer Club. The jury found Fuzy 82 percent at fault, Bartell 16 percent at fault, Muth 1 percent at fault, and Mesa Soccer Club 1 percent at fault for its own negligence.

10. \$6,000,000

Mitzi Warren on behalf of Kaylee and Madison Warren, Gloria Warren and Walter Warren v. Walgreen Co. and Walgreen Arizona Drug Co., Coconino County Superior Court, S-0300-CV2003-0587





ARIZONA CIVIL VERDICTS 2007

Decedent Eric Warren was a 31-year-old man who filled his prescriptions at a Walgreens in Flagstaff. He refilled a prescription for tramadol (an opioid analgesic for pain), and the next day he went back to refill a methadone prescription.

This triggered a computer warning, but the pharmacist filled the prescription and did not counsel Warren about possible drug interactions.

The pharmacist also changed the methadone dosage without authorization from his physician. Warren died from an accidental combined drug toxicity.

Walgreens argued his death was caused by the negligence of the prescribing non-party physician Dr. Ronald Parfitt and that Warren left the store without giving the pharmacist an opportunity to give him instructions.

The jury awarded \$2 million to each of Warren's minor daughters and \$1 million to each of his parents. The jury found Walgreens 97 percent at fault, Parfitt 2 percent at fault and Warren 1 percent at fault.

Averages and Medians By Venue

In several counties, typically a few extra-large verdicts skew the averages higher, so taking a look at the medians can help. To calculate an average, we add up all the verdict totals, then divide by how many verdicts there are. To calculate the median, we place the verdict totals in value order and find the middle number—where exactly half of the verdicts are higher and half are lower. Both the average and the median verdicts are analyzed for each venue, rounded to the nearest dollar (see the chart to right).

The statewide average verdict¹⁴ in 2007 was \$4,012,858, but the statewide median was remarkably lower, at \$47,500. The number-1 verdict had a huge effect on the average. Without that single outlier verdict, the statewide average was \$1,955,129.

Arizona's federal court spiked as the venue with the highest average verdict because it reported few verdicts, which included the number-2 verdict of \$185 million (see *Bard Peripheral Vascular, Inc. and David Goldfarb v. W.L. Gore & Associates, Inc.*, above.) As a result, its average was \$23,348,700. The United States District Court for the District of Arizona reported 22 civil verdicts in 2007, and 14 of those were defense verdicts. Unlike in recent years, however, the *Bard* verdict was the only one in seven figures or even close. The federal court's median, which was more representative of its verdicts this year, was \$297,250.

Similarly, La Paz County's average was unusually elevated this year because of one high verdict. The county reported only two verdicts the entire year, which included the number-5 verdict of \$9.2 million (see *La Paz County v. Yakima Compost Company,*

Inc., above). Its average/median verdict was \$4,606,244.

Maricopa County reported the third-highest average verdict of \$3,988,820. This is where the majority of Arizona verdicts are rendered, and in 2007 Maricopa County had two-thirds of them. Maricopa County produced six of the top 10 verdicts, including the number-1 verdict of \$360 million (see *10K, L.L.C. v. W.V.S.V. Holdings, L.L.C. and Wolfswinkel*, above). The number-1 verdict also immensely affected the county's average. Without that verdict, the average was \$945,989. There were also many smaller verdicts, making Maricopa County's median verdict \$60,000.

Coconino County was next in line, with an average of \$1,637,622 and a median of \$252,503. Its average was driven higher than usual by one \$6 million verdict. Pima County had a downturn last year in its average, but it more than bounced back in 2007. Its average of \$843,850 was enhanced by two in the top

10, but even its median of \$49,084 was nearly double over last year's. Santa Cruz County's average and median were both \$255,700.

Yuma County's average was \$217,579, and its median was \$31,000. Mohave County's average and median was \$145,045. Pinal County followed with an average of \$69,590 and a median of \$48,819. Navajo County had two verdicts whose average and median was \$17,000. Yavapai County also had two verdicts whose average and median was \$16,745.

2007 Reported Arizona Verdict Averages vs. Medians

	AVERAGE	MEDIAN
STATEWIDE	\$4,012,858	\$47,500
U.S. Dist. Ct.	23,348,670	297,250
La Paz	4,606,244	4,606,244
Maricopa	3,988,820	60,000
Coconino	1,637,622	252,503
Pima	843,850	49,084
Santa Cruz	255,700	255,700
Yuma	217,579	31,000
Mohave	145,045	145,045
Pinal	69,590	48,819
Navajo	17,000	17,000
Yavapai	16,745	16,745

Two counties reported only one plaintiff's verdict each, which we may be reluctant to call true averages due to the limited data. Those were Gila County with one verdict of \$19,000, and Graham County with one of \$1,553.

Cochise County had two defense verdicts and no plaintiff's verdicts. Apache County had one defense verdict and no plaintiff's verdicts. No civil verdicts were reported in Greenlee County. The average by venue is highlighted in the chart on page 21.

Federal vs. State Court

Statewide, plaintiffs prevailed in 57 percent of the cases, and defendants prevailed in 43 percent of the cases. In 2007, federal court continued to remain distinctly more statistically favorable to defendants than state court on verdicts. In the United States District Court for the District of Arizona in 2007, civil defendants prevailed in 64 percent of the reported verdicts.

Commercial Verdicts Higher Than Personal Injury

In 2007, Arizona commercial verdicts were again higher than personal injury verdicts in their averages and medians. The average commercial verdict was \$9,058,200, with a median of \$255,694. The average is high in part because they claimed places 1, 2, 4, 5 and 6 in the top 10. Such business or commercial cases included breach of contract, breach of fiduciary duty, insurance bad faith, takings and property damage.

The average personal injury verdict was \$805,075, and its median was \$9,625. These individual injury cases included bodily injury and wrongful death matters.

Punitive Awards

Punitive damages are uncommon, awarded in only 14 cases this year—that's in about eight percent of the cases that plaintiffs won. When juries give them, however, they don't shy away from adding lots of zeroes. The punitive awards ranged from a low of \$8,000 to a breathtaking high of \$150 million. In some instances, the punitive award accounted for most of the verdict. In one case, the punitive element was 75 percent of the total award. Many of the punitive awards were appealed. Punitive awards have remained relatively constant in recent years in terms of how often juries give them.

Trends

Verdicts in Arizona are rising, contravening national trends. We've been doing this article for four years and looked at more than 1,200 verdicts (see chart on page 22). Recognizing the limitations of that data, we can still draw some conclusions about Arizona.

The awards at the very highest end have been going up. The averages in some counties have been going up at a slower rate. It's too early to make conclusions yet from the data in other venues.

However, the statistical chances of prevailing have remained about the same over four years. This percentage has remained within a fairly close range of nine percentage points. Over the past four years, plaintiffs have won an average of 58 percent of the cases, and defendants have won an average of 42 percent. Thus, our juries seem to be maintaining their threshold for finding liability.

Other notable points:

- The number-1 verdict for 2007 was the largest verdict since 1994.
- Four years ago, the largest Arizona verdict was for \$9.389 million. Three years ago, the largest was \$28 million. In

2006, it was \$41.5 million.

- The number-1 verdict in 2004 would have placed number six in this year's top 10.
- The verdicts that were numbered 6 through 10 in 2006 would not have even made the list this year.

Stay tuned.

Significant Defense Verdicts

There were also big wins this year on the defense side. The defense verdicts highlighted below are those in which the claimed damages were high, and this analysis focuses on the case in each category with the largest claimed damages. Here are a few of the year's significant Arizona defense verdicts:

A. *Verdell Gutierrez and Benjamin Gutierrez v. Phelps Dodge Corp. and Phelps Dodge Miami, Inc.*, Maricopa County Superior Court, CV2005-003042

Plaintiffs Verdell Gutierrez and Benjamin Gutierrez were laborers who worked at a mine. They alleged they were exposed to mercury and lead and sustained neurological damage and cognitive changes. They alleged inadequate warnings, equipment and training. They asked the jury for more than \$22 million in compensatory damages, medical expenses and future lost wages. Phelps Dodge responded that there was insufficient contact to receive a harmful dose of toxic material, and that plaintiffs did not require future medical or vocational expenses.

B. *Martha Garcia de Mendoza, Edith Mendoza, Omar Mendoza and Ana Olivia Mendoza v. Ford Motor Co.*, Maricopa County Superior Court, CV2003-022124

In this product liability case, Antelmo Mendoza was driving his 2000 Ford Expedition on a highway in Mexico when he drove off the road and it rolled over at least three times down a hill. He was partially ejected and suffered an instantly fatal head injury. His wife, Martha Mendoza, was ejected and seriously injured. She and their children alleged that the roof was defective because it crushed laterally and allowed Antelmo Mendoza to be partially ejected, and that Martha Mendoza was wearing her seat belt but that it inertially unlatched in the collision. They asked the jury to award unspecified "millions" in compensatory damages and itemized another \$1.7 million in special damages. Ford demonstrated that the roof exceeded all governmental requirements and that Antelmo Mendoza likely was partially ejected before there was significant roof damage. Ford also demonstrated that Martha Mendoza was not wearing her seatbelt.¹⁵

C. *Kymerli Williamson v. Cardiothoracic and Vascular Surgeons, Ltd. and Herman Pang*, Maricopa County Superior Court, CV2002-014646

In this medical malpractice case, plaintiff Kymerli Williamson was a 21-year-old woman who developed an infection in her heart valve. Her cardiothoracic surgeon Dr. Herman Pang recom-

2007 Reported Arizona Verdict Averages By Venue

mended replacing it with a prosthetic aortic valve. She alleged that he inserted a valve that was too large and that blocked her heart arteries. Six days later, Williamson had a heart attack and stroke. She alleged residual brain damage, decreased cognitive function, loss of visual field in both eyes, amputations of the tips of fingers and toes, and that she is now unable to live independently. She asked the jury for \$16.5 million. Defendants argued that the valve was the proper size, and that she suffered a stunned myocardium, which is a recognized complication and risk of the procedure.

D. Terry Wilson and Pearl Wilson v. Maricopa County Sheriff's Department, Joseph Arpaio and Ava Arpaio, United States District Court, CV 04-02873

The Maricopa County Sheriff's Department and Sheriff Joe prevailed in this case and several others this year. Phillip Wilson was brutally beaten by other inmates while serving a three-month sentence at Tent City Jail in July 2003 for a probation violation. Wilson remained in a coma until he died four months later from his injuries. The defense contended that Tent City was safe, and that they had made changes to enhance security and had increased staff and training. None of the identified assailants has ever been charged with Wilson's murder.¹⁶

E. Kristen Johnson et al.¹⁷ v. Marc Zeiber, State of Arizona Department of Transportation, and Hanson Aggregates Arizona, Maricopa County Superior Court, CV2004-017564

Decedent Mark Johnson was a newspaper delivery driver who was returning from his regular route and approached a hill at an intersection on U.S. 60 near Apache Junction. Zeiber was a dump truck driver who had just finished a stop at Hanson Aggregates Arizona. Zeiber was rear-ended by Johnson, who died as a result of the collision. Plaintiffs alleged that there was not adequate sight distance and that the intersection was negligently constructed. He asked the jury to award a fair amount to each of the seven plaintiffs plus up to \$1 million in lost wages. Defendants contended that Zeiber failed to stop at the stop sign before he turned right onto U.S. 60.

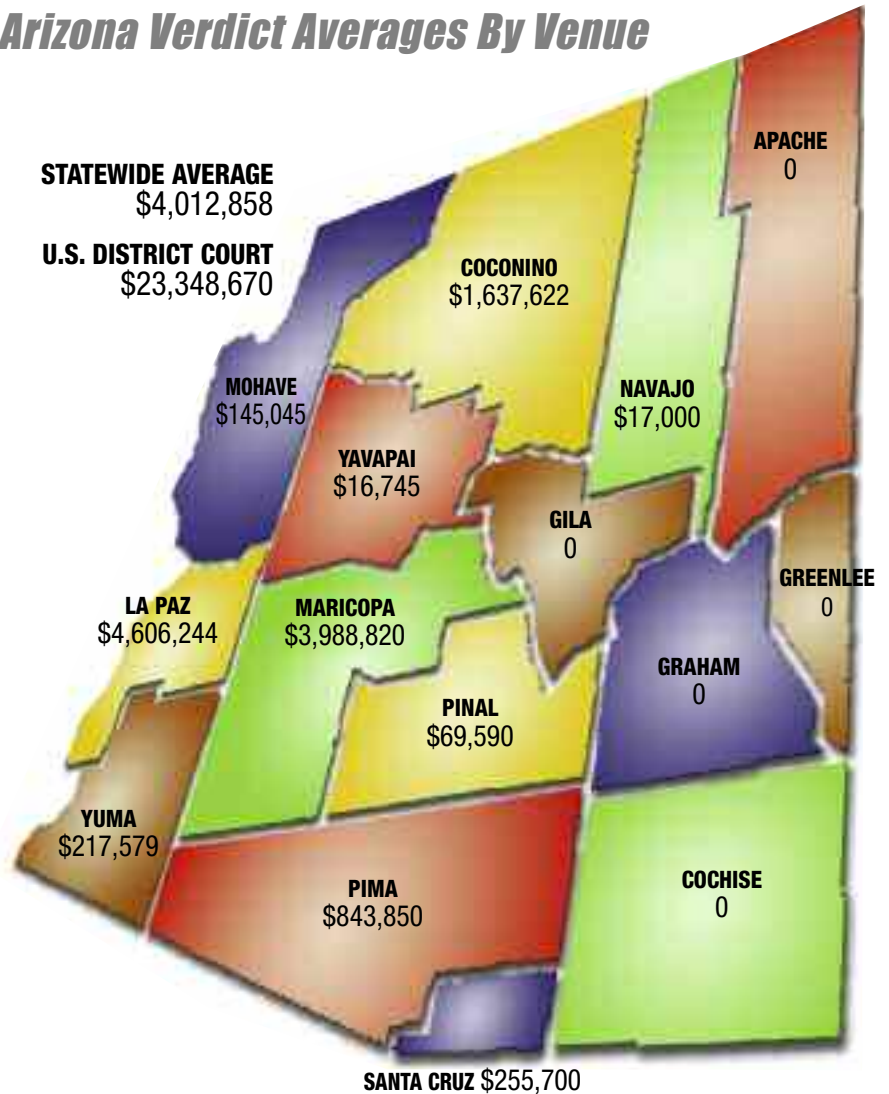
F. Nick Arico, Lillian Arico, Greg McBride and Carol McBride v. Phillip Pfeiff dba Better Built Construction Co. and Jeff Foshee Concrete, Inc., Maricopa Superior Court, CV 2004-004932

Homeowners Arico and McBride brought suit against their builder and concrete subcontractor. They alleged that the concrete foundations were defectively laid, that their homes sustained

structural movement, and that various construction defects violated codes and industry standards. They claimed \$747,462 in repair costs, diminution in value and stigma damages. Defendants responded that the repair plan was unreasonable and there was no diminution or stigma. Defendants prevailed on the plaintiffs' claim and were awarded \$80,258.50 on their counterclaims for unpaid contract proceeds.¹⁸

Finally, not a defense verdict, but a notable celebrity verdict in *Meadowlark Lemon v. Harlem Globetrotters International, Inc. and FUBU Apparel*, United States District Court, CV04-00299

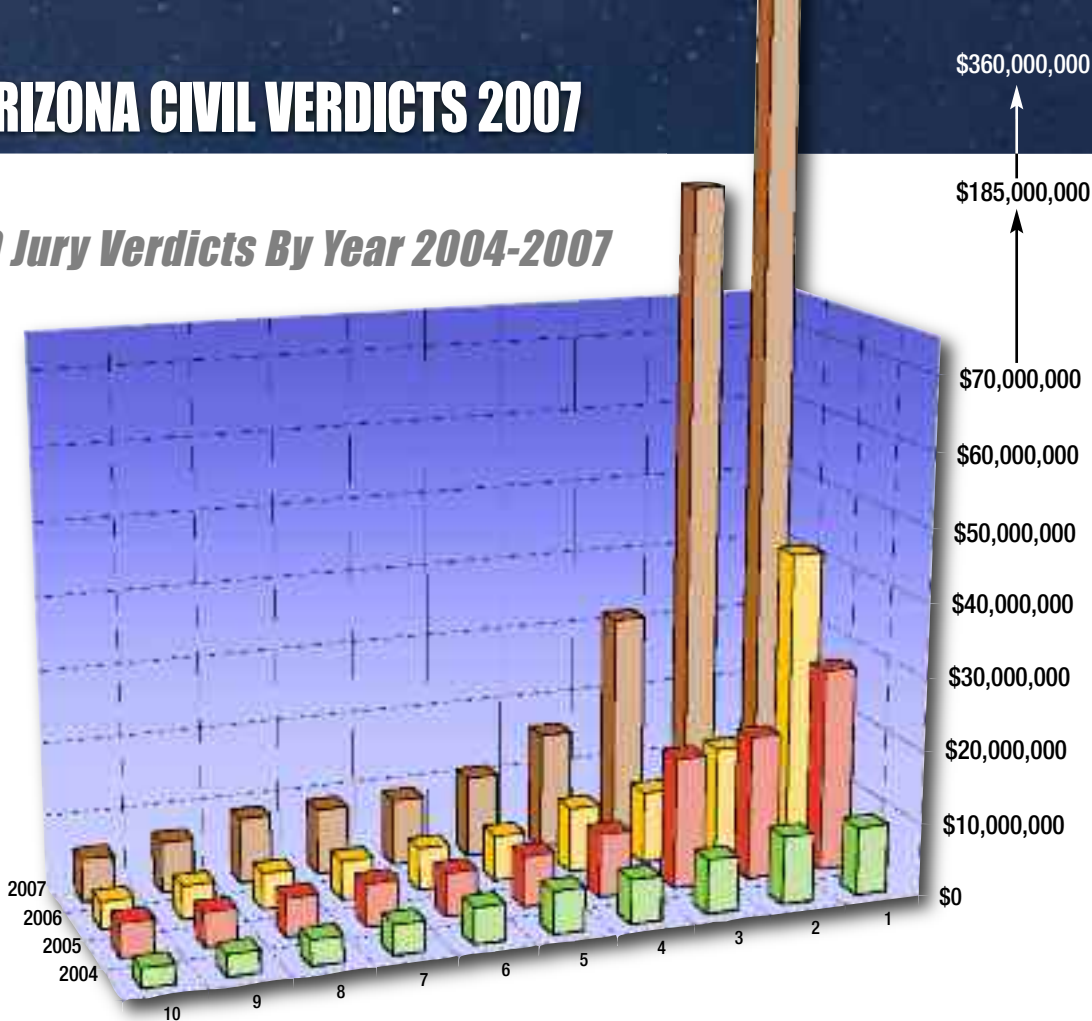
George "Meadowlark" Lemon was one of the most popular and best-known players on the Harlem Globetrotters basketball team for 22 years. His adopted hometown is Scottsdale. In this case, Lemon sued a clothing manufacturer for invasion of publicity rights. He alleged that it had no right to use or license his name and likeness for its clothing line. Lemon won the second-largest Arizona federal court award of the year, \$783,900.






ARIZONA CIVIL VERDICTS 2007

Top 10 Jury Verdicts By Year 2004-2007



Conclusion

When I moved to Arizona four years ago, I went in search of an article that summarized Arizona verdicts over the previous few years. I wondered how Arizona juries viewed different kinds of cases, what the trends were and how verdicts compared to the other states in which I'd practiced. I couldn't find such a thing, and I thought to myself, "Someone really ought to write that." I'm glad that someone has turned out to be me.

I thank you for your positive feedback and the encouragement to keep writing this article every year. I'm also grateful to Snell & Wilmer L.L.P. for its ongoing support and inspiration. Please feel free to contact me any time for more details about the verdicts. See you next year. 

endnotes

1. This article analyzes 305 civil verdicts reported to date from the Superior Courts of Arizona and the United States District Court for the District of Arizona in 2007. Although the great majority were jury verdicts, some were bench trials. The parties named are the ones who were active in the case when it went to verdict.
2. Compendium search, *THE TRIAL REPORTER OF CENTRAL & NORTHERN ARIZONA AND SOUTHERN ARIZONA*, Feb. 19, 2008.
3. Julie Kay, *B2B Takes on a Whole New Meaning*, NAT'L L.J., Feb. 18, 2008. The judge has thrown out the \$1.5 billion verdict, but Lucent is appealing that ruling.
4. Bill Ibelle, *Total Top Ten Verdict Awards for 2007 Is Smallest in 14 Years*, LAWYERS USA, Jan. 14, 2008.
5. If there have been significant post-verdict developments as of the date this article was completed, those are noted. Not all of the post-verdict

- activity is reported here, which would be an article unto itself.
6. Other plaintiffs were Cal X-Tra; Cattletrack 10K, L.L.C.; Leo Beus; Alan Mishkin; TSRT, L.L.C.; TRST II, L.L.C.; and McWin L.L.C. The verdict, including the punitive award, has been set aside and a new trial ordered, and post-verdict motions continue.
7. Breycliffe, L.L.C. was the original buyer, which later agreed to assign its position to W.V.S.V.
8. In a second phase, the court is still considering the equitable defense of inequitable conduct and will assess the enforceability of the patent.
9. Other plaintiffs included the decedent's passenger/son Jake Steven, passenger/nephew Glen Steven, and the decedent's children Tom Steven II, McRae Steven, Zach Steven, Nathan Steven, Anne Steven, Ali Steven and Amy Steven. A motion for a new trial is pending.
10. A motion for a new trial is pending.
11. Lueck transferred ownership of the property to El Mirage & Southern, L.L.C. during the case. A motion for a new trial is pending.
12. A motion for a new trial is pending.
13. Mesa Soccer Club's motion for a new trial and judgment notwithstanding the verdict was denied.
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.
15. Plaintiffs filed a motion for a new trial but later dismissed it and waived appeal in exchange for Ford not seeking to collect costs.
16. A motion for a new trial was denied. Plaintiffs appealed to the Ninth Circuit but later dropped the appeal in exchange for defendants not seeking to collect costs.
17. Other plaintiffs were Johnson's children Garrett, Mason, Kelley and Jenna Johnson and his parents Garry and Jane Johnson. A motion for a new trial was denied and an appeal is pending.
18. Plaintiffs' motion for a new trial was denied.