

# ARIZONA CIVIL

“If your actions inspire others to dream more, learn more, do more, and become more, you are a leader.” —John Quincy Adams

At trial, leadership shows itself in many forms. Judges are the leaders of the courtroom. Trial lawyers lead their teams. Juries try to lead the case to justice. And clients took a firm stand as leaders to try the cases you’re about to read.

Here are 2015’s leading verdicts. The largest Arizona verdict in 2015—of \$288 million—was the retrial in a commercial property dispute, and its original verdict was one of the largest verdicts ever in this state. The highest Arizona verdicts were also about: the lack of a highway median barrier that allowed a head-on crash; an ex-husband who hired a hit man to kill his ex-wife; a company alleging misappropriation of its trade secrets over an aircraft contract; a major tractor-trailer crash; a company claiming that its patents for a circuit-board component were infringed; and three medical malpractice verdicts against a nursing home, a hospital, and a doctor.

Arizona juries gave seven verdicts higher than \$10 million, and 18 verdicts between \$1 million and \$10 million. Two \$5 million awards tied for the number-10 spot. All but two of the top verdicts were from Maricopa County. Eight of the highest awards were awards given by juries; three were bench verdicts from judges, including the very largest verdict.

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 we completed our writing.<sup>1</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>2</sup> The focus here is on how the Arizona juries and judges decided these cases, and what they awarded.



**KELLY WILKINS** writes this feature every year and is an authority on Arizona verdict results and trends. A Partner with Snell & Wilmer LLP, Kelly advises, defends and tries cases for companies that make products. She helps businesses with recalls and regulations. She advises on data privacy and security issues such as data breaches, contracts, data collection and sharing. She leads and writes for the Product Liability Update and Data Privacy and Protection Blog, and on Twitter @KellyLWilkins.

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# VERDICTS 2015

## TOP 10 LARGEST ARIZONA VERDICTS IN 2015

**\$288,000,000**

*10K, LLC v. W.V.S.V. Holdings, LLC and Conley Wolfswinkel,*  
Maricopa County Superior Court, CV2003-008362<sup>3</sup>

This was the retrial of a case that we reported in our 2007 article. Plaintiff 10K LLC is a group of investors that owned 10,000 acres of real property in Sun Valley. 10K’s Manager was Phoenix Holdings II LLC (“Phoenix Holdings”), controlled by Robert Burns and Brent Hickey. Phoenix Holdings was empowered to sell the 10K property, but only with the consent of two-thirds of the 10K members. Phoenix Holdings, on behalf of 10K, agreed to purchase an additional 3,000 acres of property next to the 10K property, and to sell the entire 13,000 acres to Breycliffe LLC (“Breycliffe”). Breycliffe was unable to close the transaction. Without full disclosure to or consent from the 10K members, Phoenix Holdings entered into a new agreement to sell 10K’s property to Breycliffe at below-market price and in exchange for a profit participation to Phoenix Holdings. Over the 10K members’ objections and instructions otherwise, Phoenix Holdings then brokered the sale of Breycliffe’s interest in the new purchase agreement to W.V.S.V. Holdings LLC (“WVSV”), controlled by Conley Wolfswinkel, in exchange for another profit participation. 10K sued Phoenix Holdings, WVSV and Wolfswinkel seeking damages based on Phoenix Holdings’ breaches of its fiduciary duties to 10K, which were aided and abetted by WVSV and Wolfswinkel, and seeking to invalidate the 2002 agreement with Breycliffe so that 10K could regain control over its property. In the 2015 trial, the judge found that WVSV and Wolfswinkel aided and abetted Phoenix Holdings’ breach of its fiduciary duty and found that 10K had sustained \$288 million in compensatory damages. The judge found Phoenix Holdings, Burns and Hickey collectively 70 percent at fault, and WVSV and Wolfswinkel jointly 30 percent at fault. The judge declined to award punitive damages or to invalidate the earlier agreement with Breycliffe.

**2 \$47,010,000**

*James Michael Humphrey et al. v. State of Arizona,* Maricopa County Superior Court, CV2011-0919958<sup>4</sup>

This was a road-design case where the crash occurred at the same highway location on Interstate 10 as a double-fatality only nine months before. Pamela Humphrey, 53, was driving and Ann Quinn, 63, was her passenger.



Humphrey swerved to avoid debris in the road, crossed through the median and into the opposite lane. Their vehicle collided head-on into an oncoming tractor-trailer. The families alleged that the Arizona Department of Transportation failed to place a median barrier at that location. Arizona defended that the median was 81 feet wide, provided drivers an opportunity to safely stop, and complied with national standards. Arizona also argued that installing a median barrier would eliminate the opportunity for a safe stop. The jury awarded Humphrey's husband \$18.33 million and her son \$9.9 million. The jury awarded each of Quinn's three sons \$6.26 million. The jury found Arizona 85 percent at fault and Pamela Humphrey 15 percent at fault.

**5** **\$19,250,000**

*Kathy Bruno and Desiree Sierra et al. v. Landstar Ranger, Inc.*, Maricopa County Superior Court, CV2013-094384<sup>6</sup>

Michael Bruno, 54, died after the right front tire on his truck failed due to a tread separation and he veered right and crashed into the back of a Landstar tractor-trailer. The tractor-trailer had stopped about 13 feet from the edge of U.S. Route 93. Three other passengers in the car suffered severe injuries, including Bruno's wife Kathy and daughter Renee. Plaintiffs claimed that the tractor-trailer driver Willard Gray was negligent in failing to move his vehicle as far from the road as feasibly possible, making the crash unavoidable. Landstar Ranger defended that its driver parked in a safe, legal and prudent location. It also claimed Bruno was distracted at the time of or just before the crash, based on his cellphone records that showed he had received a call and the fact that Bruno was found with a business card between his fingers. Landstar Ranger also alleged that if he had responded to the tread separation with appropriate steering, there was enough time to avoid a collision. Plaintiffs asked the jury for up to \$22 million. The jury awarded a total of \$19.25 million. The breakdown was \$7.5 million to Bruno's wife Kathy, \$5 million to his daughter Renee, \$2 million to his daughter Anne, \$1.25 million to his mother Nina, and \$3.5 million to the other injured passenger Desiree Sierra.

**6** **\$19,210,400**

*Catherine Cote et al. v. Five Star Quality Care, Inc.*, Maricopa County Superior Court, CV2012-094285

Doris Cote was an 86-year-old nursing home resident at Five Star Quality Care's facility known as The Forum at Desert Harbor. She developed a large pressure ulcer at the base of her spine that became infected with MRSA, she became malnourished and dehydrated, and she later died. Her daughter, on behalf of Cote's estate, contended that she had been neglected, abused and over-medicated. They also alleged that Five Star Quality Care failed to provide adequate staff or funding to the facility. Desert Harbor disputed that the pressure ulcer developed at its facility and said that Cote's failing health as a result of her advanced age caused her condition. The jury found for Five Star Quality Care on a wrongful-death claim and found for the Cote family on the medical malpractice and elder abuse claims. The jury awarded \$2,506,000 in compensatory damages and \$16,704,400 in punitive damages. This was one of Arizona's largest medical malpractice verdicts over the past decade.

**3** **\$22,807,000**

*Jana Rozenman v. Dimitri Rozenman*, Maricopa County Superior Court, CV2011-001525<sup>5</sup>

Jana Rozenman filed for divorce from her husband Dimitri Rozenman and obtained a large divorce settlement. Dimitri attempted to hire his employee as a hit man to murder Jana, her sister and her parents. He planned to pay the employee up to \$70,000 for the killings. The Phoenix police Career Criminal Squad caught Dimitri in a sting operation, using an informant to make Dimitri think his ex-wife and her family had been killed. He was sentenced to life in prison. In the civil case, Jana claimed that she developed chronic post-traumatic stress disorder. Dimitri denied that he was part of a conspiracy. The jury awarded \$4,822,000 in compensatory damages plus \$17,985,000 in punitive damages. This was the largest punitive award of the year in Arizona. It was the second large verdict in two years about an ex-husband attempting to hire a hit on his ex-wife.

**4** **\$20,297,782.61**

*TKC Aerospace, Inc. v. Phoenix Heliparts, Inc.*, Maricopa County Superior Court, CV2011-018889

This was a trade-secret misappropriation case. Phoenix Heliparts was alleged to have used trade secrets obtained from TKC Aerospace to win a \$32 million government contract for aircraft. Phoenix Heliparts and a former executive of TKC Aerospace collaborated in the contract proposal and used TKC Aerospace's pricing, labor rates and statements of work from prior proposals. In a bench trial, the judge found willful and malicious appropriation of trade secrets and awarded \$6,765,260.89 in misappropriation damages. The judge also awarded exemplary damages of \$13,530,521.72 based on evidence that Phoenix Heliparts continued to act in a willful and malicious manner and in bad faith even after trial started, including presenting a fabricated document, wiping company servers, and backdating computer files.

7

**\$11,500,000**

*Isola USA Corp. v. Taiwan Union Technology Corp.*, United States District Court for the District of Arizona, CV12-01361<sup>7</sup>

This was a patent infringement case. Both companies make printed circuit boards used in electronic products. Printed circuit boards include a reinforcing fabric that has been impregnated with a resin system, called prepregs. Prepregs can then be molded or bonded without adding more resin. Isola's suit alleged that Taiwan Union infringed two patents on improved resin compositions. Taiwan Union defended that Isola's patents were invalid. The jury awarded \$8.5 million in lost profits and \$3 million in royalties.

8

**\$7,317,450**

*Santosh George Kottayil et al. v. Insys Therapeutics, Inc. et al.*, Maricopa County Superior Court, CV2009-028831<sup>8</sup>

This was a case about the value of shares in a closely held startup pharmaceutical company. John Kapoor provided the funding for a new company called Insys Therapeutics and George Kottayil was responsible for the science and daily operation. Over the next five years, various products failed to win approval or progress on the timelines predicted. Kottayil's role was reduced, and he was terminated in 2008. Kapoor wanted the company to restructure and start with a clean slate, so it undertook a reverse stock split in 2009. That reduced Kottayil and others to only fractional shares and allowed Insys to cash out those shareholders. Kottayil asserted various claims challenging the fairness of the reverse stock split and stock transactions in 2008 that had the effect of diluting the Kottayils' equity interest, and seeking to rescind his assignment of patent rights to the company. In a bench trial, the court found that Kottayil was entitled to the fair value of the shares the company cashed out in connection with the 2009 reverse stock split, which it found to be \$7,317,450. The court found in favor of defendants on all other claims.

9

**\$6,500,000**

*Reyna Van Tassell et al. v. University Medical Center Corporation*, Pima County Superior Court, C2009-09898<sup>9</sup>

This was a second major verdict in 2015 in a case alleging medical malpractice. Byron Van Tassell, 63, was a paraplegic patient at University Medical Center. His family contended that he developed a pressure ulcer on his tailbone and that it was due to substandard nursing and nutrition care provided by the hospital staff. The family also contended that the pressure ulcer caused or contributed to him being hospitalized 32 times

10  
TIE

**\$5,000,000**

*Tara Lehrer and Todd Lehrer v. Arizona Ob-Gyn Affiliates, PC and Robert Newman*, Maricopa County Superior Court, CV2011-020762<sup>10</sup>

In a third large medical malpractice verdict, Tara Lehrer alleged that her gynecologist fell below the standard of care and caused her permanent injury. Lehrer underwent a hysterectomy and alleged that her doctor, Robert Newman, performed an additional surgical procedure called a uterosacral ligament plication without her consent. Lehrer argued that Newman failed to remove the sutures, which caused her a permanent pelvic floor myofascial pain syndrome. Newman and his practice Arizona Ob-Gyn Affiliates defended that he advised Lehrer of the procedure and that it was part of the closing of the hysterectomy. They also contended that the suture could not have caused the injury and that Lehrer had a preexisting pain syndrome. The jury awarded \$5 million.

10  
TIE

**\$5,000,000**

*Patrick Millette and Cindy Millette v. Jeff Balda*, Maricopa County Superior Court, CV2010-054666

This was a dispute between business owners. Patrick Millette and Jeff Balda formed Last Mile Communications, an internet service provider. They each contributed capital, held ownership positions, and had equal shares. They later negotiated a share buy-back plan but were not able to finalize the agreement. In 2010, Millette was terminated, taken off officer and director roles, and locked out of the office by armed guards. Millette claimed breach of contract, breach of fiduciary duty, and conversion. Balda did not appear to defend and did not have an attorney at trial. The jury awarded a total of \$5 million, including \$2,600,000 in punitive damages.

**Plaintiffs Won 58 Percent of the Trials**

Statewide, plaintiffs prevailed in 58 percent of the trials and defendants prevailed in 42 percent. Over the past 10 years, the statistical chance of plaintiffs prevailing in any given case has remained within a narrow range (54 percent to 66 percent).

**Venue Comparison**

Jury awards consistently vary by county in Arizona. Averages and medians<sup>11</sup> for plaintiffs' verdicts in each venue are shown in the table and map below.

**2015 Arizona Plaintiff's Verdict Averages by Venue**

VENUE	Average Plaintiff's Verdict	Median Plaintiff's Verdict	Percentage of Trials Won by Plaintiffs
Statewide	\$4,522,612	\$60,000	58
Maricopa County	\$5,896,577	\$35,000	65
Santa Cruz County	\$3,500,000	\$3,500,000	33
Yuma County	\$1,720,000	\$1,720,000	50
Pima County	\$756,197	\$40,000	56
United States District Court for the District of Arizona	\$711,625	\$306,180	60
Yavapai County	\$220,418	\$18,304	56
Cochise County	\$52,427	\$52,427	66

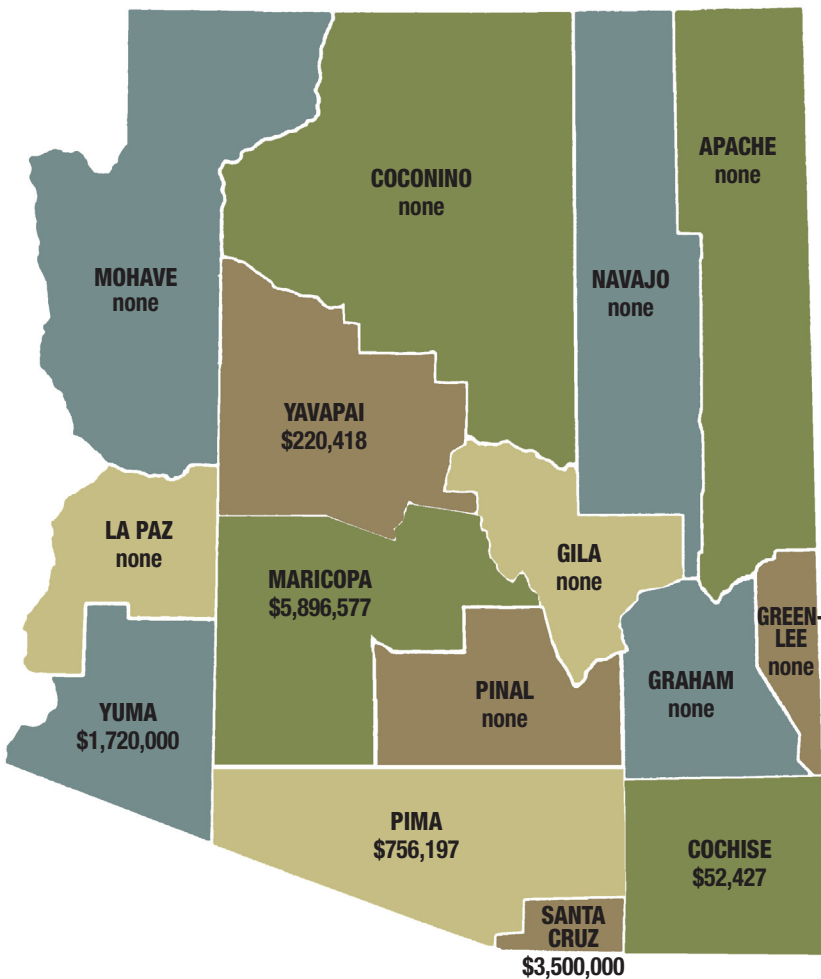
The statewide average plaintiff's verdict<sup>12</sup> in 2015 was \$4,522,612. The statewide median plaintiff's verdict was \$60,000. Sixty-three percent of all the verdicts came from Maricopa County, as is typical. Nine of the top 11 verdicts came from Maricopa County, making its average of \$5,896,577 higher than the statewide. Maricopa County's median was \$35,000.

Santa Cruz County reported one plaintiff's verdict of \$3,500,000 and two defense verdicts. Yuma County had one plaintiff's verdict of \$1,720,000 and one defense verdict. Pima County had a fairly typical plaintiff's verdict average of \$756,197, with a median of \$40,000. It also had 12 defense verdicts.

The average plaintiff's verdict in the United States District Court for the District of Arizona was \$711,625. Its median was \$306,180. Those are not the very lowest averages in the 12 years we've covered this topic, but they are among the lowest for Arizona's federal court. It also had 12 defense verdicts. This year was the first time that federal court was not markedly better for defendants on verdicts.

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

**2015 Arizona Plaintiff's Verdict Averages by County**



Statewide Plaintiff Verdict Average  
**\$4,522,612**

U.S. District Court  
**\$711,625**

**Punitive Awards**

Arizona juries gave several large punitive awards in 2015, in a total of seven cases. The largest was for \$17,985,000, as noted above in the No.-3 *Rozenman* case. In the No.-6 case, *Cote*, the jury awarded \$16,704,000 in punitives. The next in line was for \$2,600,000 in the *Millette* case that is tied at No.-10 above. Rounding out the million-dollar-plus punitive damages award cases was in a breach of contract, breach of fiduciary duty, conversion, securities fraud, misrepresentation and fraud case, *Lynch v. Trauma Flight Inc.*, for \$1,500,000. Other 2015 punitive awards were for \$750,000, \$500,000 and \$100,000. Maricopa County juries gave punitive damages in all but one of these cases, with the remaining award coming from a Pima County jury.

## Business Verdicts and Personal Injury Verdicts

The average business plaintiff's verdict was \$8,493,498, with a median of \$220,670. Such cases included breach of contract, breach of fiduciary duty, fraud, trademark and patent infringement, insurance bad faith, employment, condemnation, and property damage. Of all of the business cases tried in 2015, plaintiffs won 64 percent of them.

The average plaintiffs' personal injury verdict was \$2,163,338. The median was \$42,661. The cases in this category had one or more person who was physically injured. They included motor vehicle accident injury, product liability, medical malpractice, premises liability, elder abuse, and wrongful death cases. These kinds of cases made up 66 percent of all the cases tried to verdict in 2015. Of all of the personal injury cases tried in 2015, plaintiffs won 55 percent of them.

## SIGNIFICANT DEFENSE VERDICTS

We highlight noteworthy defense verdicts in the interest of equal time and coverage. These are from a variety of different types of cases in which the claimed damages at trial were high. Here are a few of 2015's significant Arizona defense verdicts:

**A.** *Veronica Ochoa-Valenzuela v. Ford Motor Company*, United States District Court for the District of Arizona, CV10-00156<sup>13</sup>  
This was an automobile product liability case. Veronica Ochoa-Valenzuela was the right-front passenger of a 2000 Ford Focus when the non-party driver swerved to avoid a deer. The driver lost control of the vehicle and it left the roadway, rolling over multiple times. Ochoa was paralyzed from the neck down. She claimed the Focus's roof was defective and unreasonably dangerous because it was too weak, that Ford had not conducted proper testing, and the welds on the passenger side were faulty. Ochoa asked the jury for \$18 million for past and future medical expenses plus \$34 million for pain and suffering. Ford showed that the Focus' roof was safely designed and manufactured, was stronger than those in most other cars on the market, and exceeded safety requirements. Ford proved that the roof performed safely and as designed under the extreme crash conditions, and that there was no weld defect. Ford also established that Ochoa's spinal fracture was not caused by deformation of the car's roof.

**The number of verdicts continues to decline, and the number tried all the way to verdict has been steadily declining since 2009. Just over the past year, the number of trials dropped 17 percent.**

**B.** *Shannon Foust et al. v. Shawn Wilson et al.*, United States District Court for the District of Arizona, CV12-08115<sup>14</sup>

This was an excessive force by police officer and wrongful death case. Officer Shawn Wilson was dispatched to a business on a domestic violence 911 call. Upon arrival, Officer Wilson interviewed the caller, Toni Foust, who reported that William Foust had been verbally abusive, shoved a table at her, and made threatening comments. Mr. Foust entered the business during the interview and told Officer Wilson to leave. Officer Wilson refused and told Mr. Foust to wait outside. He got into his truck and put it in reverse as if to leave. Officer Wilson ordered

Foust out the truck. Mr. Foust complied, but then got back in the truck. Wilson tried to open the door and a struggle ensued. During the struggle, Wilson discharged his TASER but missed. Wilson subsequently shot Foust with a gun twice, killing him. Foust's daughters alleged Wilson used unlawful deadly force and asked the jury for \$3.9 million. Wilson denied liability, and defended that his actions were justified.

**C.** *Jennifer Quintiliani v. Concentric Healthcare et al.*, Maricopa County Superior Court, CV2010-099297<sup>15</sup>  
Jennifer Quintiliani, a senior staffing coordinator, sued Concentric Healthcare Solutions LLC and her supervisor Andrew Jacobs for wrongful termination and violation of the Family Medical Leave Act. Quintiliani alleged Jacobs interfered with her rights under FMLA when he denied her leave, and that he failed to give her proper notice and wrongfully terminated her employment. Quintiliani sought \$1.3 million in past and future lost wages. Concentric and Jacobs argued Quintiliani was notified of her FMLA rights and that she did not request unpaid leave. Quintiliani was terminated when she failed to appear for work.

**D.** *Antonio Castillo v. Haydon Building Corporation*, Maricopa County Superior Court, CV2012-004002<sup>16</sup>  
Antonio Castillo fell from a 22-foot ladder while working at a construction site. Castillo sustained fractures to the legs, knees, and facial structure, and he injured his shoulder. Castillo alleged Haydon Building Corporation violated OSHA regulations and failed to provide a safe workplace environment because Castillo was unable to safely access the ladder. Castillo asked the jury to award him \$9 million based on lost wages, medical expenses, and a future life care plan. Haydon Building Corporation denied liability because it complied with OSHA regulations and because Castillo did not follow safety rules.

**E** *Holly Regan et al. v. Hanifa Jones*

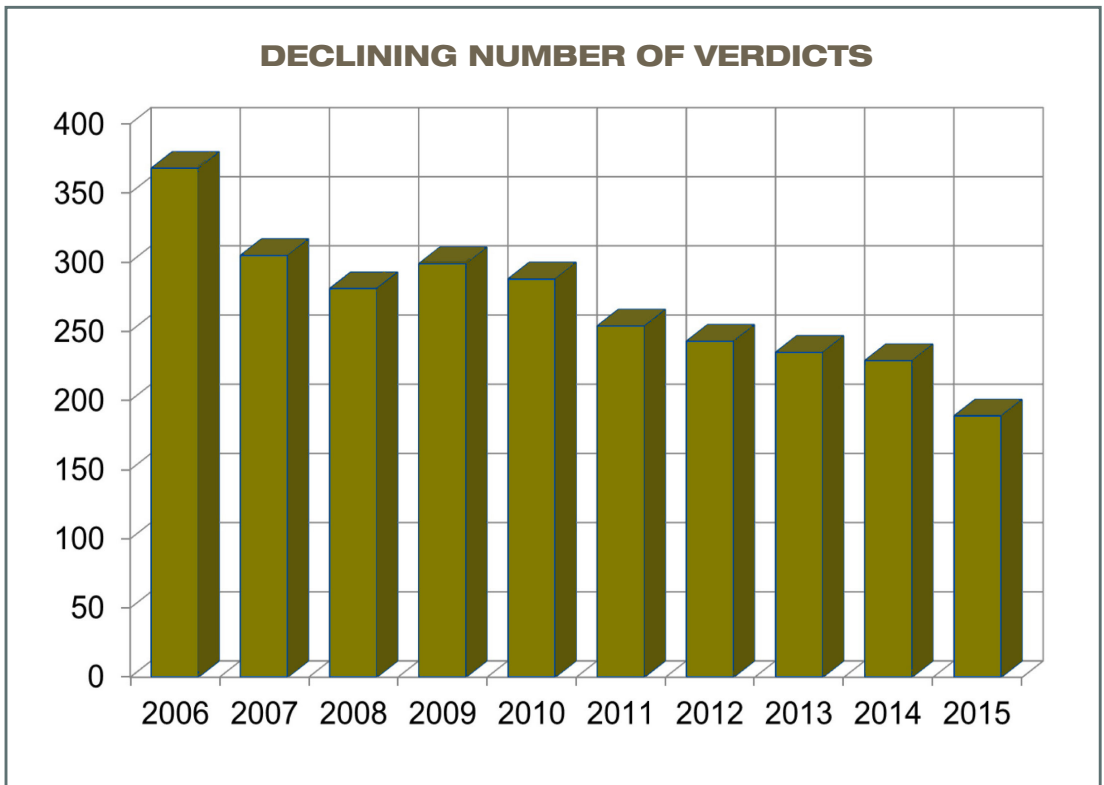
*et al.*, Maricopa County Superior Court, CV2012-001706<sup>17</sup>

This was a medical malpractice case. Lloyd Whorl, 12, became ill and his mother Holly Regan took him to a non-party pediatrician's office, and did so again two days later when he did not improve. That evening, Whorl developed severe left-thigh pain and was taken to non-party Scottsdale Healthcare Thompson Peak the next morning. There he was seen by emergency physician Hanifa Jones. Jones diagnosed mononucleosis and myalgia and Whorl

was discharged. Whorl was seen a few days later at two other hospitals and admitted due to concerns of sepsis. Whorl was diagnosed with necrotizing fasciitis (flesh-eating bacteria) in his left thigh that required more than 20 surgeries. Regan alleged that Jones failed to recognize a potentially serious disease and that he did not admit Whorl for specialized treatment. She asked the jury for \$2 million. Jones denied liability and defended that the outcome would have been the same had he ordered or recommended that Whorl be admitted.

**F** *Vincent Sanchez v. Jesus Verduzco et al.*, Pima County Superior Court, C2013-4225<sup>18</sup>

Vincent Sanchez brought a wrongful death suit after Pima County Deputy Sheriff Jesus Verduzco's vehicle struck and killed Sanchez's 10-year-old son, Xavier Sanchez. Sanchez alleged Verduzco was negligently inattentive and speeding when Xavier entered the roadway and was struck. Sanchez argued Verduzco was 50 percent at fault and that Xavier was 50 percent at fault, and he asked jury to award him \$20,000 per year for 32 years. Verduzco argued that he was not speeding and was attentive, no-



ting children on both sides of the roadway. Verduzco swerved when Xavier darted into traffic but the impact was unavoidable.

**WHERE ARE THEY NOW?**

Here are significant appellate opinions from 2015 about past years' notable verdicts:

*Sara Jaynes et al. v. Elizabeth McConnell et al.*, Arizona Court of Appeals, Division One, CA-CV 13-0651.<sup>19</sup> This was a \$3.7 million medical malpractice verdict in 2012. In a published opinion, the Court of Appeals reversed and remanded for a new trial on both procedural and substantive grounds. After the 2013 trial, McConnell filed a motion for new trial, which the trial court denied as both untimely and on substantive grounds. The Court of Appeals held that the 15-day time limit to file a Rule 59 mo-

**Punitive damages remain rare and are generally given by Arizona juries only when they are presented with aggravating or extreme facts.**

tion for a new trial does not begin to run until the judgment is final and appealable, and is not triggered by when the judgment is merely filed. The Court of Appeals also reversed on the merits, finding the trial court abused its discretion in excluding testimony that would have been offered by McConnell's expert witness about his own personal practice in calling a referring physician. The Arizona Supreme Court denied McConnell's petition for review.

*Diana Glazer et al. v. State of Arizona*, Arizona Supreme Court, CV-14-0123.<sup>20</sup> This was a road design award for \$7.8 million in 2012. In 2014, the Court of Appeals affirmed the verdict for plaintiffs. In a published opinion in 2015, the Arizona Supreme also affirmed and held that no evidence existed to show that the road

**endnotes**

1. 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.
2. [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 <https://apps.supremecourt.az.gov/publicaccess/caselookup.aspx> for the other counties.
3. After the jury's \$360 million verdict in the 2007 trial (including \$150 million in punitive damages) was overturned, the judge ordered a new trial, and the Court of Appeals affirmed. 229 Ariz. 327 (App. 2012). Following the 2015 trial, defendants' motion for new trial, motion for amended findings of fact and conclusions of law, and motion for judgment as a matter of law are pending.
4. Other plaintiffs were Sean Humphrey, Chase Quinn, Brent Quinn and Lynn Quinn II.
5. Dimitri Rozenman's motion for a new trial was denied, and he has filed an appeal.
6. Other plaintiffs were Michael Bruno's adult daughters Renee Bruno and Anne Bruno, and Bruno's mother Nina Bruno. The parties entered into a high/low agreement during trial.
7. Taiwan Union Technology Corporation filed a motion for a new trial and a motion for judgment as a matter of law, which were denied in part and granted in part. TUC has filed an appeal that is pending.
8. Other plaintiffs were Kottayil as trustee and other family members who were shareholders. Other defendants were John Kapoor, the Kapoor Trust, Michael Babich, Steve Meyer, Brian Tambi, and Rao Akella. During the litigation, Insys merged with another company, became the subsidiary entity, and changed its name to Insys Pharma, Inc. The parent company changed its name to Insys Therapeutics, Inc., went public in 2013, and was added as a defendant under a successor liability theory, which the court rejected. Plaintiffs have filed an appeal and defendants have filed a cross-appeal, which are pending.
9. University Medical Center filed a motion for amended or altered judgment and motion for a new trial, which were denied, and has filed a notice of appeal.
10. Newman and Arizona Ob-Gyn Affiliates filed motions for a new trial and for judgment as a matter of law, which were denied.
11. 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.
12. 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 2015 (plaintiff's and defendant's verdicts) would be \$2,618,355.
13. Ochoa-Valenzuela filed a motion for new trial that was denied, and has also filed



design was not an unreasonably dangerous hazard. The court concluded the fact that traffic patterns have changed and speed limits have been increased since the road was built in 1967 does not require the state to upgrade the roads. All Arizona need do, the court concluded, is provide “adequate warning” of the dangers, which the court found that it did not do.


Five of the top-10 2014 verdicts have pending appeals that are in progress. Two of 2014’s significant defense verdicts have pending appeals.

### Trends

- The top verdicts for 2015 were significantly higher than in recent years. The verdicts at the top end were the highest seen in Arizona since about 2008-2009.
- The number of verdicts continues to decline. Based on the number of verdicts reported, the number of Arizona cases that are tried all the way to verdict has been steadily declining since 2009. Just over the past year, the number of trials dropped 17 percent. In 2015, 25 percent fewer trials went to verdict than only five years ago. New civil case filings in Maricopa County are also down by 48 percent over the last five years.<sup>21</sup>

- Medical malpractice verdicts for plaintiffs have become more common in Arizona, and larger in amount. This spike started three years ago, and the trend continues.
- As compared to Maricopa County, counties with fewer residents and on the outer geographical parts of Arizona lean more conservatively and tend to return defense verdicts or plaintiff’s verdicts that are relatively lower.
- Punitive damages remain rare and are generally given by Arizona juries only when they are presented with aggravating or extreme facts.
- Over the past 12 years, the average percentage chance of a plaintiff winning at trial in all types of civil cases is 56 percent.

### Conclusion

We consider this yearly article part of our leadership of and service to the profession, and we are delighted to write it. We hope you continue to find it interesting, useful and informative. If you enjoy these verdicts articles, please follow Kelly on Twitter @KellyLWilkins where she regularly reports on verdicts, and Troy on Twitter @TroyRobertsLaw. Please feel free to contact us any time for more details about the verdicts or to report significant ones that happen in the future.<sup>22</sup> 

notice of appeal that is pending.

14. Another plaintiff was Brynn Foust D’Avello, and another defendant was Jennifer Wilson.
15. Another defendant was Jennifer Jacobs. Quintiliani filed a motion for judgment as a matter of law and new trial that was denied, and has filed a notice of appeal that is pending.
16. Debbie Castillo was also a plaintiff.
17. Lloyd Whorl was also plaintiff, and Cori Jones and Scottsdale Emergency Associates Ltd. were other defendants.
18. Other defendants were the State of Arizona, Pima County Sheriff’s Department, and Christopher Nanos.
19. 358 P.3d 632 (Ariz. Ct. App. 2015). Other plaintiffs were Jaynes’ children Seren Janes and Isaac Ruiz. Another defendant was Elizabeth McConnell, M.D., PLC.
20. 347 P.3d 1141 (Ariz. 2015). Other plaintiffs were Michael and Diana Glazer’s minor children Lindsay and David Glazer.
21. SUPERIOR COURT OF ARIZONA FOR MARICOPA COUNTY, *Fiscal Report ‘15*, at 8-9.
22. Thank you to Editor Tim Eigo for encouraging this project for a dozen years, and to Art Director Karen Holub who always designs the perfect artwork. We thank the readers for your kind comments about this yearly article.