

# Arizona CIVIL

*In 2004, Arizona juries delivered several hefty verdicts, including 19 verdicts over \$1 million. A \$9.389 million verdict against a medical services company over a business dispute was the top recovery in the state in 2004, according to a survey of reported verdicts.*

*Certain areas of the United States are considered to be plaintiff-oriented jurisdictions. In comparison to those areas, how does Arizona stand? And how do Arizona counties compare to each other?*

*No one kind of case dominated the high end of 2004 Arizona verdicts, which were drawn from a variety of case types.<sup>1</sup> They included commercial, insurance bad faith and personal injury cases.*

## Top 10 Largest Arizona Verdicts in 2004

Here's a brief look at the 10 largest recoveries:

### 1. \$9,389,763.39

*Sports Imaging of Arizona, L.L.C. v. OMI-Omni Medical Imaging,*

Maricopa County Superior Court

Plaintiff alleged breach of contract, breach of fiduciary duty and conversion. In collaboration, plaintiff started a medical imaging business that used defendant's infrastructure and provided services for defendant. By written agreement, plaintiff agreed to pay defendant five percent of net collections plus other monthly payments. After services began, defendant denied its obligation to provide billing, collection or administrative services to plaintiff. Defendant was alleged to have converted plaintiff's cash, accounts receivable and equipment. Plaintiff went out of business.

### 2. \$9,388,799.07

*Research Corporation v. Westport Insurance Company,* United States District Court, District of Arizona

Plaintiff alleged breach of contract and first-party insurance bad faith. Plaintiff was sued by another company relating to royalty rights. Plaintiff tendered its defense to its insurer. Defendant insurer initially indicated it would compensate plaintiff's defense costs but failed to do so. Plaintiff had an opportunity to settle the underlying case for \$2 million and demanded defendant do so. Defendant refused and offered nothing in

settlement. Plaintiff's liability was later determined in a declaratory judgment action to be more than \$5 million and its share of defense costs almost \$4 million. Plaintiff was awarded the total of those amounts in damages.

### 3. \$7,500,000

*Sandoval v. State of Arizona*

*Department of Child Protective Services, Wells, and LeVancier,* Maricopa County Superior Court

Plaintiff alleged wrongful death, personal injury, negligence and child abuse against a state agency, its caseworker and a supervisor. The aunt of a 20-month-old baby called a child abuse hotline and reported her concern that the mother's boyfriend was abusing the baby and her 3-year-old sister. The agency employees investigated, determined the charges were unsubstantiated and closed the case. The boyfriend later severely beat the sister, killed the baby and disposed of her body in a canal. Fault was apportioned as follows: 33.4 percent to the agency and its employees, 33.3 percent to the mother, and 33.3 percent to the boyfriend.

### 4. \$6,100,000

*Romero v. Rapid Express, Inc.,* Pinal County Superior Court

Plaintiff alleged personal injury and negligence. Plaintiff was working as a farmworker and operating a tractor in the slow lane on Interstate 8. He was rear-ended by defendant's semi-truck driver, who died at the accident scene. Plaintiff fractured his

thoracic vertebrae and was rendered a paraplegic. Plaintiff was found 13 percent at fault, defendant 35 percent at fault and plaintiff's employer 52 percent at fault.

### 5. \$5,000,000

*Dawson v. Withycombe and Turner,* Maricopa County Superior Court

Defendants were on a company's board of directors. Plaintiff alleged they assisted the chief financial officer in fraudulently soliciting a loan from him, which the company could not repay. The jury found that Withycombe conspired with non-parties in doing so. Withycombe and Turner were each found 35 percent at fault on the claim of aiding and abetting fraudulent misrepresentations, and the non-parties were found 30 percent at fault. Withycombe and Turner were each found 40 percent at fault on the fraud claim, and the non-parties were found 20 percent at fault.

### 6. \$4,144,651.80

*Arizona Laborers Pension Trust Fund, Teamsters Pension Trust Fund and Cement Masons Local 395 Pension Trust Fund v. Wells Fargo Bank,*

Maricopa County Superior Court

An agreement was signed to finance The Mercado project by a group of union pension funds, Fife Symington and a construction lender. Symington guaranteed payment of the loans. A bank had separately loaned to another Symington partnership to construct Alta Mesa Village, which Symington also guaranteed. Plaintiffs alleged that the bank gave extensions and declined to fore-