

STATE OF WISCONSIN
IN THE SUPREME COURT

MATTHEW FERDON, by his Guardian
Ad Litem, VINCENT R. PETRUCELLI,
CYNTHIA FERDON, and DENNIS FERDON,

Plaintiffs-Appellants-Petitioners,

v.

WISCONSIN PATIENTS COMPENSATION
FUND, MEDICAL PROTECTIVE COMPANY,
MICHAEL J. BROCKMAN, M.D., and
AURORA HEALTH CARE, INC., d/b/a BAY
WEST GYNECOLOGY & OBSTETRICS, LTD.,

Case No.: 03-0988

Circuit Court Case
No.: 01-CV-001897

Defendants-Respondents,

and

CONNECTICUT GENERAL LIFE INSURANCE
COMPANY, a/k/a CIGNA INSURANCE,
f/k/a HEALTHSOURCE PROVIDENT ADMINISTRATORS,
INC., a/k/a HEALTHSOURCE PROVIDENT, and
COUNTY OF OCONTO,

Nominal-Defendants.

**AMICUS CURIAE BRIEF AND APPENDIX OF
WISCONSIN ACADEMY OF TRIAL LAWYERS**

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The Wisconsin Academy of Trial Attorneys (“WATL”) submits this *amicus curiae* brief and asks that the court reverse the holding of the court of appeals and remand the case to the trial court to enforce the jury verdict.¹ WATL agrees with the plaintiffs-appellants-petitioners that §§ 655.017, 893.55(4), and 655.015 Wis. Stats., are unconstitutional. The purpose of this brief is to address several issues raised by the parties, but not to repeat previous briefs filed.

I. SECTION 893.55(4) VIOLATES THE RIGHT TO A JURY TRIAL.

Section 893.55(4), Wis. Stats., violates the right to a jury trial. *See* Art. I, §5 of the Wisconsin Constitution. (Because §655.0017, Wis. Stats., relies on §893.55(4) it too must be rendered unconstitutional).

Article I, §5 guarantees that the right to a jury trial shall remain inviolate. “The public policy of the state ... is determined by the constitution so far as jury trials are concerned, and *the legislature is not permitted to circumvent the constitutional provision in order to even secure a better public policy.* That can only be done by constitutional amendment.” *La Bove v. Balthazor*, 180 Wis. 419, 423, 193 N.W. 244 (1923).

When the legislature mandated a cap on noneconomic damages without regard to the facts of the case or the findings of the jury, the legislature infringed

¹WATL is a voluntary bar organization of trial lawyers set up for the purpose of securing and protecting the rights of individuals. It is dedicated to the promotion of the fair, prompt and efficient administration of justice in the State of Wisconsin.

on and impaired the right of trial by jury.² In *State ex. rel. Strykowski v. Wilkie*, 81 Wis. 2d 491, 522-31, 261 N.W.2d 434 (1978), a medical malpractice case, the supreme court made clear that the jury is the ultimate decision maker on the issue of damages. The court held that the mediation panel system did not violate the right to a jury trial because “[t]he medical review panel does not decide the case; the ultimate arbiter of all questions of fact is the jury.” *Id.* at 526. Medical malpractice plaintiffs are entitled to a jury trial on the issue of damages.

A. Article XIV, sec. 13 does not allow the Legislature to Violate the Constitutional Right to a Jury Trial.

Article XIV, §13 of the Wisconsin Constitution does not give the legislature the power to alter the constitutional right to a jury trial, as suggested both by the Fund here and the court of appeals in *Guzman*. See Fund’s brief at 14-15; *Guzman v. St. Francis Hospital Inc.*, 2001 WI App. 21 at ¶8, 240 Wis. 2d 599, 623 N.W.2d 776. . “Although the legislature has authority to alter Wisconsin’s common law, it may not do so contrary to the provisions set forth in the Wisconsin Constitution.” *State v. Hansford*, 219 Wis. 2d 226, 235 n. 10, 580 N.W.2d 171 (1998). “[W]henever ... the operation of the statute must cause a deprivation of a right secured by the Constitution, the courts have no alternative---the statute must yield.” *Id.* (quoting *Norval v. Rice*, 2 Wis. 17, 23 (1853)). If a cause of action exists, and the parties are entitled to a jury trial, the legislature may not violate the

² The threat that striking the cap in medical malpractice cases will somehow affect other caps outside chap. 655 does not make sense. See Amicus brief of Wisconsin Insurance Alliance, et. al. at 13. The caps cited in that brief involve claims against the government, which, unlike medical malpractice, were not available at common law.

constitutional right to a jury trial. The cause of action for medical malpractice remains and so does the right to a trial by jury.

B. The Legislature Cannot Control the Jury's Decision on Damages.

This court has also held that “[t]he parties to an action are entitled to a jury trial, on all issues of fact, including that of damages.” *Jennings v. Safeguard Ins. Co.*, 13 Wis. 2d 427, 431, 109 N.W.2d 90 (1961); *Borowicz v. Hamann*, 193 Wis. 324, 214 N.W. 431 (1927). The *Guzman* court claimed that plaintiffs “retain their ‘right to’ a trial by a jury” since the jury does decide damages, even though the legislature controls the actual damages awarded for non-economic damages. *Guzman*, at ¶9. “Such an argument pays lip service to the form of the jury but robs the institution of its function.” *Sofie v. Fibreboard Corp.*, 771 P. 2d 711, 721 (Wash. 1989). “The constitution deals with substance, not shadows.” *Id.* See also *Lakin v. Senco Products, Inc.*, 987 P.2d 463, 470-473 (Or. 1999).

The assessment of damages was the function of a jury at common law when the constitution was signed.³ If the legislature may simply apply arbitrary

³ Wisconsin had two constitutional conventions. The first in 1846 had an extensive discussion of trial by jury. Initially drafters had language stating, The inhabitants of this state shall be entitled to ... trial by jury. See, *JOURNAL AND DEBATES OF THE CONVENTION OF 1846*, ed. Milo M. Quaife (Madison, 1919), Wisconsin Historical Collections, XXVII (Constitutional Series ii) 301. An effort was made at the convention to impose a restriction on the right to a jury trial by limiting the right to only those cases where the amount in controversy exceeded \$20. *Id.* at 367. The delegates to the convention emphatically rejected this monetary limit.

caps, unrelated to the facts of the case, the right to a jury trial and jury's determination of damages becomes an empty guarantee.⁴

C. The Comparative Negligence Statute is Not an Example.

Reliance on the comparative negligence law to argue that the legislature may change the common law in a way that affects the right to a jury is flawed.⁵ When a case involves comparative negligence, the jury decides the allocation of negligence based upon the facts of the case, and the jury awards damages. The judge then applies the decision of the jury. The cap on noneconomic damages in medical malpractice cases applies without regard to the facts of the case or the decision of the jury.⁶

II. THE CERTAIN REMEDIES CLAUSE IS ALSO VIOLATED ESPECIALLY WHEN LINKED TO THE RIGHT TO THE JURY TRIAL.

In *Maurin v. Hall*, 2004 WI 100, ¶ 197, 274 Wis. 2d 28, 111, 682 N.W.2d 866, 907, Justices Abrahamson and Crooks, in their concurring opinion, noted the link between the certain remedies clause, Article I, §9 of the Wisconsin

⁴ A jury determination of damages is always subject to the court offering remittur or a new trial on damages if the jury awards damages not consistent with the facts. See *Powers v. Allstate Co.*, 10 Wis. 2d 78, 90-91, 102 N.W.2d 393 (1960). The court had such a power at common law, and it is based upon the facts of the case.

⁵ See also *Guzman*, 2001 WI App at ¶54 (Shudson, J., dissenting).

⁶ The *Guzman* court's reference to the statute of repose also is inappropriate. First, the right to a jury trial, as the *Guzman* court points out, was never raised in *Aicher*. See *Guzman*, at ¶ 12. Second, the right to a jury trial applies to claims that exist, and not those that have been barred by a statute of limitations or a statute of repose.

Constitution, and the right to a jury trial.⁷ *See also id.* at ¶¶ 198-209, and n. 100.

Quoting *Smith v. Department of Insurance*, 507 So. 2d 1080, 1083 (Fla. 1987),

which invalidated a cap on non-economic damages, Justices Abrahamson and

Crooks made their point:

The reasoning focuses on the titled ... “Access to Courts,” and overlooks the contents which must be read in conjunction with ... “Trial by jury.” Access to courts is granted for the purpose of redressing injuries. A plaintiff who receives a jury verdict for , e.g., \$1,000,000 has not received a constitutional redress of injuries if the legislature statutorily, and arbitrarily, caps the recovery at \$450,000. Nor, we add, because the jury verdict is being arbitrarily capped, is the plaintiff receiving the constitutional benefit of a jury trial as we have heretofore understood that right. Further, if the legislature may constitutionally cap recovery at \$450,000, there is no discernible reason why it could not cap the recovery at some other figure, perhaps \$50,000, or \$1,000, or even \$1.

See Maurin, 2004 WI at ¶¶ 198-209, and n. 100.

The true effect of the cap is that otherwise meritorious cases cannot be brought, because the costs of bringing the action often outweigh the recovery by the plaintiff. Severely injured plaintiffs who have no economic damages such as wage loss (e.g., a stay at home parent or a retired person), or future care needs, suffer the most.⁸ For example, a stay at home mother who is rendered brain injured because of malpractice must suffer for the rest of her life with that injury, and yet all that she can recover is the cap, which she must share with her family (her spouse and minor children). “It is clear, however, that a tort victim ‘gains’ nothing from the jury’s award for economic loss, since that money replaces that

⁷ *Maurin*, despite the Wisconsin Patients Compensation Fund’s comments to the contrary, is not dispositive here because that case dealt with the constitutionality of the wrongful death cap. A claim for wrongful death, unlike medical malpractice, did not exist at common law.

⁸ Additionally, the tactic taken by the defense in refusing to settle cases increases the costs of these cases. *See* WATL Appendix A at A-4. Some insurance companies even market the promise that they will not settle cases. *Id.* Cases do not settle early on.

which he has actually lost. It is only the award above the out-of-pocket loss that is available to compensate in some way for the pain, suffering, physical impairment or disfigurement that the victim must endure until death.” *Maurin*, at ¶ 211, (Abrahamson, J., and Crooks, J. dissenting)(quoting *Carson v. Maurer*, 120 N.H. 925, 424 A.2d 825, 837 (1980)). *See also* §893.55(7), which allows the admission into evidence of certain previously excluded collateral source evidence. (The constitutionality of that provision is currently on appeal in the Wisconsin Supreme Court in *Lagerstrom v. Myrtle Werth Hosp.-Mayo Health System*, 2004 WI 114, 684 N.W.2d 140.)) Therefore, many plaintiffs with economic losses cannot reach the courthouse steps. *See also Maurin*, 2004 WI at n. 100 (Abrahamson, J., and Crooks, J., dissenting).

III. EQUAL PROTECTION CLAUSE

Section 893.55(4) also violates the equal protection clauses of both the United States and Wisconsin Constitutions because the statute “treats members of a similarly situated class differently.” *Aicher v. Wisconsin Patients Compensation Fund*, 2000 WI 98, ¶ 56, 237 Wis. 2d 99, 128, 613 N.W.2d 849. WATL agrees with the plaintiffs-appellants-petitioner’s argument that a strict scrutiny review should be used. However, §893.55(4) does not even pass constitutional muster using the rational basis test.

A legislative classification satisfies the rational basis test only if it meets five criteria:

- (1) All classification[s] must be based upon substantive distinctions which make one class really different from another.
- (2) The classification adopted must be germane to the purpose of the law
- (3) The classification must not be based upon existing circumstances only. [It must not be so constituted as to preclude addition to the number included within a class].
- (4) To whatever class a law may apply, it must apply equally to each member thereof.
- (5) That the characteristics of each class should be so far different from those of other classes as to reasonably suggest at least the propriety, having regard to public good, of substantially different legislation.

Aicher, 2000 WI at ¶ 58. All five factors cannot be satisfied.⁹

A. The law does not apply equally to the class.

The fourth criterion cannot be satisfied. Section 893.55 does not apply equally to each member of the class it creates. Section 893.55(4) creates a class of medical malpractice victims who suffer non-economic damages greater than the cap. The statute, however, does not apply equally to that class. Members of that class are treated differently depending upon their marital status, whether they are parents or whether they are minors.

A single cap applies to all claims for non-economic damages, regardless of the number of claimants or the number of non-economic damage claims. *See*

⁹ The plaintiffs in *Guzman* did not address the five factors. *See Guzman*, at ¶ 21. “The *Guzman*’s silence on the rational-basis test is a concession that the cap passes that test.”

§893.55(4)(b) (“The total noneconomic damages recoverable for bodily injury or death ... may not exceed the limit under par. (d) for each occurrence ... from all health care providers” (emphasis added)). This is true even though the patient has a claim for pain, suffering and disability, and his or spouse, minor children, or parents all have derivative claims for loss of society and companionship. *See* §§655.007 and 893.55(5).

In the class, a malpractice victim who is single recovers the full amount of the cap. A malpractice victim who is married must share the cap with his or her spouse. A malpractice victim who is single but has children must share the cap with his or her children. A malpractice victim who is married and has children must share the cap with his or her spouse and children. Of course, the more children a plaintiff has, the higher the punitive affect of the cap on that person. A malpractice victim who is a minor child must share the cap with his or her parents. A minor with only one parent suffers less than a minor with two parents.

B. The Classification is Not Germane to the Law.

Preventing the most seriously injured victims of medical malpractice from being made whole is not germane to the law. In the last 10 years, only 8 cases have involved verdicts above the cap. *See* WATL Appendix B. In the vast majority of cases taken to trial (more than 70%), the defense wins on liability. *Id.* That is true today, and it was true when the cap was enacted in 1994. Spending on

health care costs in the United States exceeds \$1 trillion annually.¹⁰ The direct cost of medical malpractice insurance is less than one percent of health care costs in Wisconsin.¹¹ Various studies conducted to analyze health care spending have concluded that if all direct spending on malpractice were eliminated, there would be a minimal impact on total health care spending.¹²

The insurance industry itself has admitted that limitations on non-economic damages are only a small percentage of total losses paid, and according to one insurer only result in a savings of 1%. *See* WATL Appendix D at D-1 & WATL Appendix A at A-2. The cost of liability insurance rises because many factors including medical cost inflation, a decline in investment income, and doctors' aversion to settlement. *See* WATL Appendix E at E-10 and WATL Appendix A at A-4. Even in Wisconsin, where there are caps, malpractice insurers are seeking significant increases in premiums. *See* WATL Appendix F.

Finally, the Fund, which is the defendant-respondent in this case, is now sitting on a surplus of \$24.6 million with assets of over \$741 million. *See* WATL Appendix G. The Fund is responsible for all sums above the health care provider's primary liability insurance policy. *See* §655.27 and 655.23(4). When the Legislature enacted the cap, Rep. Mark Green (4th Assembly District), the

¹⁰ Health care spending in the United States has increased by \$621 billion since 2000 to \$1.9 trillion this year. Alan Sager & Deborah Socolar, "Health Costs Absorb One-Quarter of Economic Growth, 2000 – 2005," Boston University School of Public Health, February 9, 2005.

¹¹ Wisconsin's malpractice costs account for just 40 cents out of each \$100 spent on health care. From the Wisconsin Insurance Report, Office of the Commissioner of Insurance, Years 1987-2002. (WATL Appendix C.)

¹² *Limiting Tort Liability for Medical Malpractice*, U.S. Congressional Budget Office, January 8, 2004.

bill's main author, said that the Fund had a \$67.9 million actuarial deficit.¹³ (WATL Appendix H.) With hindsight, rather than a deficit, actuaries now estimate there was a *\$120.03 million actuarial surplus*. This means that Fund's actuaries were off by \$188.2 million. (WATL Appendix J) In addition, Governor Jim Doyle announced in his most recent budget speech, "*An independent analysis recently showed that the fund has at least \$200 million more than it needs to cover any imaginable claims.*" The Fund has an incredible surplus, and consumers, like Matthew Ferdon, are deprived of a full recovery by a needless cap on noneconomic damages, restrictions on future medical expenses and the requirement of periodic payments.

Additionally, the cap does nothing to affect doctor shortages in rural areas because premiums, and Fund fees, are not different for rural doctors or city doctors. The problems with attracting rural doctors have more to do with whether a doctor wants to live in a rural community along with stagnant growth in the physician work force and an aging population of patients.¹⁴

¹³ This statement contradicts the written testimony provided by Fund administrators at the Office of the Commissioner of Insurance (OCI) in 1994, which provided, "Enactment of a cap to be applied prospectively, as proposed would result in no impact on the PCF's current deficit position." (WATL Appendix I.)


¹⁴ In 2004, the Wisconsin Hospital Association and Wisconsin Medical Society issued a report entitled, "Who Will Care for Our Patients?", which showed a continuing shortage of doctors, especially in impoverished rural and urban areas. Paul Nannis of Aurora Health Care recently commented on the shortage of primary care doctors in Milwaukee, "We have a shortage that's far more acute than 10 years ago." *Milwaukee Journal Sentinel*, Section G, page 1, November 15, 2004. (WATL Appendix K)

CONCLUSION

WATL respectfully requests that the court of appeals' decision be reversed and the case remanded to the trial court to enter judgment based upon the jury verdict.

Respectfully submitted this 14th day of February, 2005.

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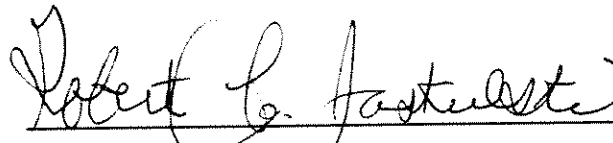
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CERTIFICATION

I hereby certify that this brief conforms to the rules contained in Wis. Stat. § 809.19(8)(b) and (c) for a brief produced with a proportional serif font. The length of this brief is 2,975 words.

Dated this 14th day of February 2005.

A handwritten signature in cursive script, reading "Robert L. Jaskulski", written over a horizontal line.

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WATL APPENDIX

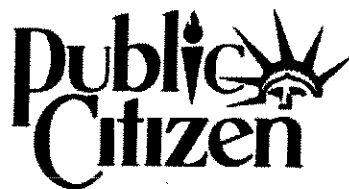
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¹ For a full copy of the report, go to <http://www.citizen.org/documents/FinalBRIEFING%20BOOK--MISDIAGNOSIS.pdf>

**Medical Misdiagnosis:
Challenging the Malpractice Claims
of the Doctors' Lobby**



**Congress Watch
January 2003**

Insurance Companies and Their Lobbyists Admit It: Caps on Damages Won't Lower Insurance Premiums

Caps on damages for pain and suffering will significantly lower awards to catastrophically injured patients. But because those truly severe cases make up a small percentage of medical malpractice claims, and because the portion of the medical liability premium dollar that pays for compensation is dwarfed by the portion that pays for defense lawyer fees, caps do not lead to lower premiums. Insurance companies and their lobbyists understand this—so don't take our word for it, take theirs.

A Premium on the Truth

“Insurers never promised that tort reform would achieve specific savings.” – American Insurance Association¹

“We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates.” – Sherman Joyce, president of the American Tort Reform Association²

“Many tort reform advocates do not contend that restricting litigation will lower insurance rates, and I've never said that in 30 years.” – Victor Schwartz, general counsel to the American Tort Reform Association³

Mississippi

“Regardless of what may result from the ongoing tort reform debate, please remember that such proposed public policy changes are critical for the long-term, but do not provide a magical 'silver-bullet' that will immediately affect medical malpractice insurance rates ... The 2003 rate change [a 45 percent increase] would happen regardless of the special session outcome.” – Medical Assurance Company of Mississippi⁴

Nevada

“The primary insurer for Las Vegas obstetricians, American Physicians Assurance, has no plans to lower premiums for several years, if ever, said broker Dennis Coffin.” – The Las Vegas Review-Journal⁵

“[John Cotton of the Nevada Physicians' Task Force] noted that even if the bill reflected a cap of \$5, there would not be an immediate impact on premiums.” – Minutes of the Nevada Assembly Committee on Medical Malpractice Issues⁶

New Jersey

During a hearing on medical malpractice issues, New Jersey Assemblyman Paul D'Amato asked Patricia Costante, Chairwoman and CEO of MIIX Group of Companies, “[A]re you telling the insured physicians in New Jersey that if this State Legislature passes caps that you'll guarantee that you won't raise your premiums, in fact, you'll reduce them?” Costante replied: “No, I'm not telling you [or them] that.”⁷

¹ "AIA Cites Fatal Flaws In Critic's Report On Tort Reform," American Insurance Association press release, March 13, 2002.

² "Study Finds No Link Between Tort Reforms And Insurance Rates," *Liability Week*, July 19, 1999.

³ Michael Prince. "Tort Reforms Don't Cut Liability Rates, Study Says," *Business Insurance*, July 19, 1999

⁴ Julie Goodman, "Premiums Rise by 45 Percent; Insurance Group's Hike Comes as Doctors Seek Relief," *Clarion-Ledger* (Jackson, Miss.), September 22, 2002.

⁵ Joelle Babula, "Obstetricians Say Problems Remain," *The Las Vegas Review-Journal*, October 1, 2002.

⁶ "Testimony on Assembly Bill 1: To Make Various Changes Related to Medical and Dental Malpractice," Nevada Assembly Committee on Medical Malpractice Issues, July 30, 2002.

⁷ "Testimony Concerning the Affordability of Medical Malpractice Insurance for Physicians Practicing in New Jersey," Public Hearing Before the Assembly Health and Human Services Committee and Banking and Insurance Committee, June 3, 2002.

Doctors' Aversion to Settlements May Increase Malpractice Insurance Costs

- **Medical malpractice insurers market their product based on aggressive defenses, not on low costs.** The Doctors Company, a leading doctor-owned insurer, states on its website: "When litigation is necessary, we dedicate more resources than our competitors to defend your good name. Our claims representatives and defense attorneys combine their knowledge of regional laws and jury experience to develop *aggressive, successful, defense strategies... We will not consent to settle without your written permission.*" (emphasis theirs)¹ In other lines of insurance coverage, claims managers dispassionately evaluate the insured's exposure and make an objective decision as to whether to settle the claim. This rational calculation takes a back seat to pride and other emotional considerations when medical malpractice insurance is involved.
- **The result is that defense attorney fees are higher and verdicts are higher, pushing malpractice premiums higher.** According to A.M. Best figures cited on The Doctors Company website, the average doctor-owned medical malpractice insurer spends 32 percent of premiums on defense costs. The Doctors Company entices customers by boasting that 49 percent of its premiums are spent on defense costs.² A study by the West Virginia Insurance Commissioner found that one company spends 88 cents of each premium dollar on defense lawyers.
- **Malpractice insurance defense costs far exceed defense costs in other lines of insurance.** According to NAIC figures, defense costs incurred as a portion of direct premiums written amount to 4.8 percent for passenger auto liability, 7.1 percent for commercial auto liability, 16.5 for commercial general liability, and 28.9 percent for product liability.³ Malpractice insurers seldom settle a case before the eve of trial, waiting until discovery is complete. They also take three times more cases to trial than other civil defendants. In 2000, the overall percentage of federal civil cases going to trial was 2.2, but 6.8 percent of medical malpractice cases went to trial.⁴
- **In reality, the liability insurance purchased by doctors is not just for risk management; it is also a public relations tool.** The Doctors Company and Medical Assurance both use the motto "Defending your reputation" in marketing themselves.⁵ Kansas Medical Mutual Insurance Company (KaMMCO) cites "the existence of the National Practitioner Data Bank" as a reason that it is "more important than ever for health care professionals... to defend themselves against allegations of wrongdoing."⁶ Doctors' complaints about high premiums must be viewed skeptically when much of the price quoted may pay for services entirely unrelated to managing risks of patient care.⁷
- **Evidence indicates that the negotiation process in medical malpractice cases fails, directly leading to the high verdicts that doctors complain about.** Pursuing a hardball defense strategy guided by emotion rather than reason will also affect the parties' ability to negotiate rational settlements. An Ohio State study compared medical and product liability negotiations. It found that product liability defense attorneys "correctly" predicted

jury outcomes (i.e. rejected plaintiff demands that were higher than the jury's eventual verdict) in 12 of the 14 cases studied. By contrast, defense attorneys made the correct settlement decision in only eight of 17 medical malpractice cases in the study. In one case, the defendant rejected a demand of \$2 million only to be hit with a judgment for more than \$8 million. The authors concluded that, "In malpractice cases, plaintiffs gained more than defendants from rejecting settlement offers and proceeding to trial. In product liability cases, defendants gained more than plaintiffs from eschewing settlement and defending claims in court... It appears that malpractice defendants—rather than plaintiffs—may be somewhat too inclined to resist settlement and push cases to trial."⁸

¹ <http://www.thedoctors.com/resources/I-27/DocBrochure/Protectdoc4-5.html>

² *Id.*

³ National Association of Insurance Commissioners, *Statistical Compilation of Annual Statement Information for Property/Casualty Insurance Companies in 2000* (2001).

⁴ Query to database of Federal District Court Civil Cases, maintained by Professors Theodore Eisenberg and Kevin Clermont of Cornell University. <http://teddy.law.cornell.edu:8090/questata.htm>

⁵ See <http://www.thedoctors.com/resources/I-27/DocBrochure/Protectdoc4-5.html>,

<http://www.medicalassurance.com>

⁶ <http://www.kammco-msc.com>

⁷ Other "extras" that may be included in the price of malpractice insurance include Defendant Reimbursement Coverage, that pays a doctor \$500 per day to attend a trial, offered by ISMIE; and "defense coverage associated with the investigation of Medicare and Medicaid billing errors, regulatory agency actions, and... an initial consultation with an attorney to discuss potential countersuits," offered by KaMMCO.

⁸ Merritt and Barry, "Is the Tort System in Crisis? New Empirical Evidence," 60 Ohio St. L. J. 315 (1999).

Medical Malpractice Verdicts in Wisconsin 1989-2004					
Year	Claims Filed*	Number of Verdicts**	Plaintiff Verdicts	Defense Verdicts	Percentage of Defense Verdicts
1989	339	32	13	19	59%
1990	348	31	9	22	71%
1991	338	28	10	18	64%
1992	313	60	15	45	75%
1993	276	40	7	33	80%
1994	292	37	5	32	86%
1995	324	42	18	24	57%
1996	244	41	11	30	73%
1997	240	34	12	22	65%
1998	305	21	8	13	62%
1999	309	25	11	14	56%
2000	280	23	6	17	74%
2001	249	21	8	13	62%
2002	264	26	7	19	73%
2003	247	15	4	11	73%
2004	240	23	4	19	83%
Total	4,608	499***	148***	351***	70%

*Medical malpractice cases must file a request for mediation with the Medical Mediation Panel System prior to or simultaneously with filing a court action.

**The verdict statistics do not reflect whether the verdict was reduced, vacated, or reversed by an appellate court.

***These are tentative numbers and may not be complete.

Source: Randy Sproule, Administrator, Medical Mediation Panels.

Jury Verdicts Above the Noneconomic Cap

Since the noneconomic damage cap passed in 1995, WATL is aware of eight Wisconsin verdicts that have exceeded the cap.¹

- In May 2004, a Marinette jury found the health care providers negligent for not treating a suspicious infection of 37-year-old Larry Zak, a husband and father. The jury awarded Mr. Zak and his wife \$1 million in noneconomic damages, which was reduced by 57% because of the cap. *Zak v. Zifferblatt, et al.*, Marinette County, 02-CV-0060.
- Helen Bartholomew died five years after suffering a debilitating heart attack. In April 2004, a Kenosha County jury found that the heart attack could have been prevented and doctor negligence contributed to her incapacitation and death. The jury awarded her estate and family \$1.2 million for noneconomic damages, which was reduced by over 70%. *Bartholomew v. Shah, et al.*, Kenosha County, 01-CV-1261.
- An Ozaukee County jury held health care providers negligent for failure to provide timely and proper treatment for hypoglycemia and hypovolemia that developed shortly after the birth of Sean Kaul. As a result of this negligence, Sean is catastrophically brain damaged. In December 2003, the jury awarded \$930,000 in noneconomic damages to Sean and his parents. With the cap, Sean and his family will receive over \$500,000 less in noneconomic damages than a jury said the family deserved — a reduction of 55 percent. *Kaul v. Cedar Mills Medical Group, et al.*, Ozaukee County, 99 CV 0360.
- On December 20, 2002, a Brown County jury found a doctor negligent in the delivery of Matthew Ferdon. Matthew's right arm is deformed and partially paralyzed as a result of the negligence. The jury awarded Matthew \$700,000 for past and future injuries, which was reduced over 40 percent by the cap. *Ferdon v. Wisconsin Patients Compensation Fund*, Brown County, 01 CV 1897.
- A Dane County jury found health care providers were negligent in treating Scott Dickinson, who was rendered a quadriplegic during a psychotic episode. The jury awarded \$6.5 million for past and future pain, suffering, disability and disfigurement. With the cap, Scott received only 6.3% of his noneconomic damages — a reduction of almost 94% of what the jury said he deserved. *Dickinson v. St. Mary's Hospital, et al.*, Dane County 00 CV 1715.
- An Eau Claire County jury unanimously found that health care providers were careless in their 1998 treatment of 16-year-old Kristopher Brown, whose left foot was amputated. The jury said Kristopher should receive \$1.25 million for past and future pain and suffering, and his parents should receive \$100,000 for

¹ Additional cases may impact the Fund, but the cases listed specifically deal with the cap under Wis. Stats. § 893.55(4)(d). Not included are those cases subject to the wrongful death cap or whether first year residents are subject to the cap, *Phelps v. Physicians Ins. Co. of Wisconsin, Inc.*, Appeal No. 03-0580 and *Estate of Sarah Hegarty v. Beauchaine*, Appeal No., 04-3252.

their noneconomic damages. With the cap, Kristopher and his family received less than a third of what the jury said he deserved. *Brown v. Wright, et al.*, Eau Claire County, 00 CV 120.

- Candace Sheppard had surgery to remove a cyst from her vaginal area. It was described to her as a simple and routine gynecological procedure but it had tragic permanent results. She has extreme and permanent pain in her vaginal area. A Portage County jury set her damages for past and future pain and suffering at \$700,000, which was reduced approximately 44% because of the cap. *Sheppard v. Starkey, et al.*, Portage County, 98 CV 0169.
- Bonnie Richards had her common bile clipped during gall bladder surgery. It was not immediately diagnosed and repaired, leading to extensive medical care—over \$160,000—and physical pain and mental suffering. An Eau Claire County jury calculated her damages for past and future pain and suffering at \$660,000. It was reduced because of the cap by approximately 41%. *Richards v. Herzog, et al.*, Eau Claire County, 98 CV 0508.

These eight show a reduction of approximately \$10.1 million from what the juries determined the damages to be after hearing all the evidence compared to the damages available under the cap enacted in 1995.²

² This is less money than the Injured Patients and Families Compensation Fund lost when WorldCom collapsed, which was approximately \$14 million.

2004 Medical Malpractice Jury Trials

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|---|---|
| 1. Hegarty vs Beauchine et al
Milwaukee 98 CV 009906
99 MMP 1003 | Jury found negligence and awarded
\$17,000,000 |
| 2. Estate of Olson vs Harpenau et al
La Crosse 02 CV 0507
02 MMP 1165 | Jury found negligence and awarded
\$2,587,392 |
| 3. Bartholomew vs Shah et al
Kenosha 01 CV 1261
01 MMP 1227 | Jury found negligence and awarded
\$2,500,000 |
| 4. Zak vs Zifferblatt et al
Marinette 02 CV 0060
01 MMP 1210 | Jury found negligence and awarded
\$2,247,639 |
| 5. Oster vs Bowman et al
Rock 01 CV 0988
01 MMP 1149 | Jury found negligence but no causation |
| 6. Linder vs Graboyes
Ozaukee 03 CV 0208
03 MMP 1013 | — Jury found no negligence |
| 7. Brandt vs Reimer et al
Milwaukee 02 CV 006616
02 MMP 1151 | Jury found no negligence |
| 8. Mortensen vs Stitgen
Dane 02 CV 3388
02 MMP 1141 | Jury found no negligence |
| 9. Korth vs Strebel
Winnebago 02 CV 0962
02 MMP 1117 | Jury found no negligence |
| 10. Estate of Rice vs Block et al
Dane 02 CV 1095
02 MMP 1081 | Jury found no negligence |

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|---|--------------------------|
| 11. Rolfe vs Bonebrake et al
Dane 01 CV 0622
00 MMP 1255 | Jury found no negligence |
| 12. McHugh vs Lyon et al
Milwaukee 00 CV 003538
00 MMP 1039 | Jury found no negligence |
| 13. Macnab vs Garde et al
Wood 02 CV 0007
01 MMP 1087 | Jury found no negligence |
| 14. Collen vs McHenry et al
Brown 02 CV 0249
02 MMP 1059 | Jury found no negligence |
| 15. Mahoney vs Culen
Racine 03 CV 1010
03 MMP 1075 | Jury found no negligence |
| 16. Schmidt vs Advanced Healthcare
Milwaukee 03 CV 004308
03 MMP 1003 | Jury found no negligence |
| 17. Estate of Ball vs Sierra et al
Racine 02 CV 1399
02 MMP 1147 | Jury found no negligence |
| 18. Lenss vs Bressler et al
Brown 00 CV 0907
00 MMP 1178 | Jury found no negligence |
| 19. Boyance vs Clouse et al
Wood 02 CV 0244
02 MMP 1140 | Jury found no negligence |
| 20. Hundley/Ross vs Carroll et al
Milwaukee 01 CV 007273
01 MMP 1159 | Jury found no negligence |
| 21. Rimmert vs Sunby et al
La Crosse 01 CV 0142
01 MMP 1054 | Jury found no negligence |

22. Jezwinski vs Rozum
Winnebago 02 CV 0277
02 MMP 1082

Jury found no negligence

23. Gebhard vs Clayton et al
Pierce 03 CV 0057
03 MMP 1080

Jury found no negligence

2003 Medical Malpractice Jury Verdicts

1. Kaul vs Cedar Mills Medical Group
99 MMP 1271
Ozaukee 99 CV 0360
Jury awarded \$7,700,000
Noneconomic: \$930,000
2. Duncan vs Richardson et al.
98 MMP 1184
Richland 00 CV 0071
Jury awarded \$2,432,000
Noneconomic: \$650,000
3. Estate of Feggestad vs Pittenger
00 MMP 1201
Rock 00 CV 0727
Jury awarded \$1,200,000
Noneconomic: \$500,000
4. Estate of Smith vs Manske
02 MMP 1061
Racine 02 CV 0958
Jury awarded \$420,000
Noneconomic: \$210,000
5. Estate of Achterberg vs Frontiera et al
00 MMP 1195
Columbia 01 CV 0009
Jury found no negligence
6. Estate of Massey vs Baig et al
00 MMP 1134
Milwaukee 00 CV 008160
Jury found no negligence
7. Grutza vs Westley et al
00 MMP 1280
Milwaukee 01 CV 004006
Jury found no negligence
8. Scheberle vs Milson
01 MMP 1043
Brown 01 CV 0345
Jury found no negligence
9. Estate of Bryan vs Bjelland
01 MMP 1017
Juneau 01 CV 0131
Jury found no negligence
10. Olson vs Blum
02 MMP 1025
Waupaca 02 CV 0040
Jury found no negligence
11. Otto vs Benham
99 MMP 1154
Manitowoc 01 CV 0066
Jury found no negligence
12. LaCombe vs Karls et al
00 MMP 1279
Racine 00 CV 1631
Jury found negligence but no causation
13. Baumler vs Deckard et al
01 MMP 1012
Milwaukee 01 CV 000079
Jury found no negligence

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|---|--------------------------|
| 14. Parker vs Berres et al
01 MMP 1074
Richland 01 CV 0093 | Jury found no negligence |
| 15. Crews vs Caldwell et al
01 MMP 1019
Milwaukee 01 CV 004475 | Jury found no negligence |
| 16. Estate of Pribnow vs Mielke
02 MMP 1046
Waushara 02 CV 0031 | Jury found no negligence |

2002 Medical Malpractice Jury Verdicts

1. Dickinson vs. St Mary's Hospital
00 MMP 1053
Dane 00 CV 1715
Jury awarded \$12,700,000
(Including \$6,500,000 noneconomic)
2. Estate of Capistrant vs MCOW
00 MMP 1111
Milwaukee 00 CV 003384
Jury awarded \$2,700,000
3. Severson vs. Ragatz
99 MMP 1216
Waukesha 99 CV 1675
Jury awarded \$2,620,000
(Including \$1,770,000 noneconomic)
4. Ferdon vs Brockman
00 MMP 1057
Brown 01 CV 1897
Jury awarded \$1,187,600
(Including \$700,000 noneconomic)
5. Krzykowski vs Christie et al
00 MMP 1261
Wood 00 CV 0412
Jury awarded \$401,000
(Including \$260,000 noneconomic)
6. Estate of Donaldson v Aprahamian
98 MMP 1115
Milwaukee 98 CV 007325
Jury awarded \$200,000
(All noneconomic)
7. Romans vs Community Memorial Hospital
99 MMP 1260
Waukesha 99 CV 2042
Jury awarded \$142,737
(Including \$116,500 noneconomic)
8. Daly vs Bell
98 MMP 1024
Green 98 CV 0017
Jury found no negligence
9. Jeffries vs Gerber
99 MMP 1166
Milwaukee 99 CV 005386
Jury found no negligence
10. Franke vs Lehman
00 MMP 1275
Milwaukee 01 CV 003167
Jury found no negligence
11. Burns vs Shapiro et al
00 MMP 1028
Racine 00 CV 0688
Jury found no negligence
12. Cuchna vs Thompson
00 MMP 1056
Grant 00 CV 0069
Jury found no negligence
13. Anibas vs Edwards et al
00 MMP 1143
Eau Claire 00 CV 0735
Jury found no negligence

14. Estate of Fullen vs Lindgren et al
01 MMP 1058
Price 01 CV 0015
Jury found no negligence
15. Seefeld vs Aurora Medical Group
00 MMP 1222
Fond du Lac 00 CV 0412
Jury found no negligence
16. Cook vs Brockman
99 MMP 1309
Racine 99 CV 1648
Jury found no negligence
17. Lawrence vs Borkovec et al
98 MMP 1012
Milwaukee 99 CV 003818
Jury found no negligence
18. Gibeaut vs Schueller et al
99 MMP 1244
Green 99 CV 0156
Jury found no negligence
19. Boetcher vs St. Mary's Hospital
98 MMP 1295
Dane 99 CV 0914
Jury found no negligence
20. Barber vs Arnesen
98 MMP 1240
Dane 99 CV 0359
Jury found no negligence
21. Puckett vs Holtzman et al
00 MMP 1213
Dane 00 CV 2361
Jury found no negligence
22. Obey vs Gallagher et al
97 MMP 1160
Brown 97 CV 1575
Jury found no negligence
23. Hansen vs Rankin
97 MMP 1220
Eau Claire 98 CV 0109
Jury found no negligence
24. Estate of Prissel vs McEnany
99 MMP 1308
Buffalo 00 CV 0035
Jury found no negligence
25. Estate of Clark vs McEnany
00 MMP 1036
Eau Claire 99 CV 0333
Jury found no negligence
26. Deziel vs Park
00 MMP 1170
Polk 00 CV 0393
Jury found no negligence

2001 Medical Malpractice Jury Verdicts in Wisconsin

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|---|--|-------------|
| 1. Hull v Family Health Plan
93 MMP 4256
Milwaukee 93 CV 008286 | Jury awarded \$4,350,000 | |
| 2. Limberger v Seno
97 MMP 1167
Milwaukee 97 CV 007608 | Jury awarded \$3,200,000 | |
| 3. Brown v Wright
99 MMP 1140
Eau Claire 00 CV 0120 | Jury awarded \$1,920,000 | \$1,350,000 |
| 4. Mason v Prairie du Chien Memorial Hosp
99 MMP 1069
Crawford 99 CV 0026 | Jury awarded \$1,365,000 | |
| 5. Fleischman vs Blando et al
98 MMP 1285
Oconto 99 CV 0141 | Jury awarded \$1,100,000
(Noneconomic: \$300,000) | |
| 6. Estate of Dombeck vs Kubsch
99 MMP 1027
Brown 99 CV 0139 | Jury awarded \$338,500
(Noneconomic: \$150,000) | |
| 7. Gardner v Parish
98 MMP 1130
Milwaukee 98 CV 004670 | Jury awarded \$335,000 | |
| 8. Zummo v Behrens
98 MMP 1143
Rock 99 CV 0259 | Jury awarded \$37,000
(Noneconomic: \$25,000) | |
| 9. Estate of Campbell v Khan
98 MMP 1269
Milwaukee 99 CV 001980 | Jury found no negligence | |
| 10. Estate of Leister v Iorio
99 MMP 1134
Waukesha 99 CV 1095 | Jury found no negligence | |
| 11. Spiering v Barwig
00 MMP 1054
Milwaukee 00 CV 001119 | Jury found no negligence | |
| 12. Portman vs Paidisetty
00 MMP 1196
Racine 00 CV 1405 | Jury found no negligence | |
| 13. White vs Whiffen
99 MMP 1285
Columbia 99 CV 0337 | Jury found no negligence | |

14. Risch vs Milwaukee Medical Clinic
00 MMP 1148
Ozaukee 00 CV 0198
Jury found no negligence
15. Kildow vs Gordon
00 MMP 1064
Rock 00 CV 0043
Jury found no negligence
16. Ackerman vs Green
00 MMP 1066
Sheboygan 00 CV 0105
Jury found no negligence
17. Eichelkraut vs Bernhardt
99 MMP 1250
Dane 99 CV 2457
Jury found no negligence
18. Rogman v Rankin
99 MMP 1222
Eau Claire 99 CV 0707
Jury found no negligence
19. Konop vs Curtis
98 MMP 1208
Portage 99 CV 0128
Jury found no negligence
20. Froemming v Kuplic
00 MMP 1018
Outagamie 00 CV 0027
Jury found no negligence
21. Estate of Anderson v Johnkoski
00 MMP 1035
Dane 00 CV 1178
Jury found no negligence

2000 Medical Malpractice Verdicts

1. Walter vs Bruhn et al.
98 MMP 1093
US District Court
Jury awarded \$2,945,000
2. Conder vs George
95 MMP 1182
Green 95 CV 0095
Jury awarded \$1,500,000
3. Richards vs Herzog
98 MMP 1232
Eau Claire 98 CV 0508
Jury awarded \$880,788
4. Nelson vs Rankin
98 MMP 1227
Eau Claire 99 CV 0047
Jury awarded \$750,618
(Noneconomic: \$235,000)
5. Estate of Berghauer vs Heyl
98 MMP 1044
Outagamie 98 CV 0164
Jury awarded \$546,000
(Noneconomic: \$460,000)
6. Schmidt vs Altman
98 MMP 1059
Milwaukee 98 CV 004940
Jury awarded \$332,000
(Noneconomic: \$224,000)
7. Haun vs Rankin
98 MMP 1145
Eau Claire 98 CV 0655
Jury found negligence
No damages awarded
8. Carini vs Liethen
94 MMP 4673
Washington 95 CV 0111
Jury found no negligence
9. Estate of Kapp vs McManus
97 MMP 1200
Milwaukee 98 CV 003787
Jury found no negligence
10. Carter vs Brennan
95 MMP 1155
Milwaukee 95 CV 004874
Jury found no negligence
11. Wood/Schmidt vs Balcom
97 MMP 1070
Milwaukee 97 CV 003481
Jury found no negligence
11. Ruege vs Dougherty
97 MMP 1132
Waukesha 98 CV 0731
Jury found no negligence
13. Durgin vs Breed
99 MMP 1074
Jefferson 99 CV 0105
Jury found no negligence

14. Estate of Schaub vs Bowe
97 MMP 1139
Clark 98 CV 0131
Jury found no negligence
15. Olson vs Lottmann
96 MMP 1058
Monroe 96 CV 0317
Jury found no negligence
16. Farchmin vs Engle
98 MMP 1029
Waukesha 98 CV 1026
Jury found no negligence
17. Richtsmeier vs Langenkamp
99 MMP 1048
Racine 99 CV 0831
Jury found no negligence
18. Haworth vs Anderson
96 MMP 1151
Milwaukee 96 CV 009410
Jury found no negligence
19. Tucci vs Rubin
98 MMP 1172
Milwaukee 98 CV 007583
Jury found no negligence
20. Gabera vs St Elizabeth Hospital
97 MMP 1225
Outagamie 98 CV 0292
Jury found no negligence
21. Benirschke vs Mancheski
98 MMP 1057
Sheboygan 98 CV 0173
Jury found no negligence
22. Alt vs Cline
92 MMP 4017
Outagamie 92 CV 1084
Jury found no negligence
23. Estate of Rehberg vs Khan
98 MMP 1174
Milwaukee 98 CV 006774
Jury found no negligence

1999 Medical Malpractice Verdicts

1. Estate of Maurin vs. Hall
97 MMP 1089
Washington 98 CV 0229
Jury awarded \$3,050,000
2. Estate of Suokko vs Mendivil
97 MMP 1109
Kenosha 97 CV 0557
Jury awarded \$1,700,000
3. Laseke vs Fejer
96 MMP 1123
US Dist. Ct. 91-C-0024
Jury awarded \$1,430,000
4. Muller vs Azcueta
97 MMP 1060
Milwaukee 97 CV 002466
Jury awarded \$1,400,000
5. Hess vs Fernandez
95 MMP 1071
Marathon 95 CV 0138
Jury awarded \$750,000
6. Sheppard vs Starkey
98 MMP 1141
Portage 98 CV 0169
Jury awarded \$720,000
7. Pierce vs Rankin
97 MMP 1103
Eau Claire 97 CV 0592
Jury awarded \$463,000
8. Wilson vs Boscobel Area Health Care
96 MMP 1200
Grant 97 CV 0196
Jury awarded \$424,000
9. McGoff vs Pilon
97 MMP 1119
Langlade 97 CV 0071
Jury awarded \$314,000
10. Bjorklund vs Pakpreo
97 MMP 1210
Eau Claire 98 CV 0146
Jury awarded \$153,000
11. Horton vs Bodner
96 MMP 1158
Milwaukee 97 CV 003856
Jury awarded \$72,000
12. Henks vs Bartholow
95 MMP 1130
Sauk 95 CV 0155
Jury found no negligence

700,000

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| 13. Ostrum vs Behrens
97 MMP 1032
Walworth 97 CV 0119 | Jury found no negligence |
| 14. May vs Cusick
96 MMP 1177
Milwaukee 96 CV 009879 | Jury found no negligence |
| 15. Scully vs Harris
95 MMP 1272
Milwaukee 96 CV 002673 | Jury found no negligence |
| 16. Zembinski vs Woods
96 MMP 1021
Milwaukee 96 CV 004650 | Jury found no negligence |
| 17. Estate of Walter vs De Trana
97 MMP 1169/98 MMP 1023
Sheboygan 97 CV 0632 | Jury found no negligence |
| 18. Estate of Koch vs Adorn
97 MMP 1011
St. Croix 97 CV 0234 | Jury found no negligence |
| 19. Estate of Sauter vs Monette
97 MMP 1188
Brown 97 CV 1334 | Jury found no negligence |
| 20. Foster vs Burgess
96 MMP 1143
Eau Claire 97 CV 0001 | Jury found no negligence |
| 21. Robenolt vs Griebel
97 MMP 1130
Dodge 97 CV 0526 | Jury found no negligence |
| 22. Abler vs Clements
96 MMP 1116
Fond du Lac 96 CV 0305 | Jury found no negligence |
| 23. Wearing vs Watts et al
95 MMP 1143
Shawano 97 CV 0031 | Jury found no negligence |
| 24. Rehbein vs Sondag
96 MMP 1228
Milwaukee 96 CV 009752 | Jury found no negligence |
| 25. Nommensen vs St Mary's Med Center
98 MMP 1013
Racine 98 CV 0997 | Jury found negligence but no causation |

TENTATIVE LIST

1998 Medical Malpractice Jury Trials

1. Williams vs Orceck
96MMP1152
Dane 96 CV 1888
Jury awarded \$11,500,000
(\$9,250,000 noneconomic)
2. Johnson vs Hinckley
95MMP1022
Brown 95 CV 0267
Jury awarded \$1,881,520
(\$1,750,000 noneconomic)
3. Haen vs Curl
96 MMP 1060
Brown 96 CV 0907
Jury awarded > \$1,000,000
4. Collins vs Physicians Insurance
96 MMP 1035
Dane 96 CV 0320
Jury awarded \$900,000
(All noneconomic)
5. Bush vs Johnson
95 MMP 1278
Wood 96 CV 054
Jury awarded \$641,000
(\$335,000 noneconomic)
6. Breuer vs Fabich
96 MMP 1088
Dodge 96 CV 0031
Jury awarded \$170,000
(All noneconomic)
7. Menge vs Shivaram
M1-4441
Milwaukee 94 CV 007162
Jury awarded \$88,000
8. Jurgenson vs Haig
96MMP1052
Winnebago 96 CV 0186
Jury found no negligence
9. Cross-madsen vs Beresky
95MMP1276
Dane 95 CV 2615
Jury found no negligence
10. Ibarra vs Holtzman
96MMP1191
Dane 96 CV 2311
Jury found no negligence
11. DeClerc vs Bellin Memorial Hospital
97MMP1031
Brown 97 CV 0732
Jury found no negligence
12. Trifilette vs Mariner Medical Clinic
95MMP1238
Douglas 95 CV 0220
Jury found no negligence
13. Yatso vs Auer et al.
96MMP1098
Milwaukee 96 CV 002930
Jury found no negligence

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|---|-----------------------------|
| 14. Wild vs Benson et al
95MMP1310
Milwaukee 95 CV 011363 | Jury found no negligence |
| 15. Kelly vs Dorros et al
95MMP1037
Milwaukee 95 CV 000906 | Jury found no negligence |
| 16. Clifton vs Soriano
95MMP1291
Grant 95 CV 0360 | Jury found no negligence |
| 17. Peterson vs Knuth
96MMP1128
Sheboygan 96 CV 0509 | Jury found no negligence |
| 18. Levsen vs Medical College of Wisconsin
96MMP1133
Milwaukee 96 CV 008825 | Jury found no negligence |
| 19. Steinberg vs Jensen
91MMP1678
Milwaukee 91 CV 000033 | Jury found no negligence |
| 20. Doernbach vs Krawczyk
96MMP1070
Milwaukee 96 CV 002463 | Jury found no negligence |
| 21. <i>Green v. Percy
Marquette Co.</i> | <i>Jury award \$255,000</i> |

1997 Medical Malpractice Verdicts

1. Agacki vs Wausau Hospital Center
95MMP1129
Marathon 95 CV 0190
Jury awarded \$5,900,000
2. Schneider vs Mercy Hospital
96MMP1094
Rock 96 CV 0239
Jury awarded \$2,770,000
3. Fish vs Meier
95MMP1067
Dane 95 CV 0596
Jury awarded \$2,160,000
4. Jones vs Sleight
94MMP4682
Milwaukee 94 CV 013701
Jury awarded \$2,029,632
(\$1,470,000 noneconomic)
5. Ketter vs Kotila et al
94MMP4659
Oneida 95 CV 0082
Jury awarded \$1,533,266
(Nonecon: \$972,482)
6. Hornbeck vs Rudat
94MMP4502
Dane 94 CV 1289
Jury awarded \$794,000
7. Lair vs Freeman et al.
95MMP1277
Douglas 95 CV 0377
Jury awarded \$751,000
(Nonecon: \$286,000)
8. Schemenauer vs Robertson
96MMP1009
Marathon 96 CV 0005
Jury awarded \$201,000
(Nonecon: \$50,000)
9. Manley vs Koontz
94MMP4466
Sauk 94 CV 0142
Jury awarded \$140,000
10. Brown vs Dibbell
95MMP1054
Trempeleau 95 CV 0027
Jury awarded \$115,000
11. Kauffmann vs Thayer et al
95MMP1025
Polk 95 CV 0201
Jury awarded \$110,096
(Nonecon: \$31,554)
12. Miller vs Rieder
95MMP1203
Winnebago 95 CV 0866
Jury found no negligence
13. Wissmiller vs Urlakis
95MMP1204
Milwaukee 95 CV 006108
Jury found no negligence

14. Klarner vs Filmanowicz
94MMP4524
Waukesha 94 CV 2417
Jury found no negligence
15. Verbeski vs Moe
96MMP1037
Chippewa 96 CV 0030
Jury found no negligence
16. Sommers vs Caine
95MMP1023
Waukesha 95 CV 0101
Jury found no negligence
17. Müller vs Larsen
93MMP4251
Waukesha 93 CV 2310
Jury found no negligence
18. Gallagher vs Kinney et al
96MMP1106
Milwaukee 96 CV 003328
Jury found no negligence
19. Harvancik vs Schneider et al.
95MMP1072
Washington 95 CV 0295
Jury found no negligence
20. Thor vs O'Hair
95MMP1248
Outagamie 96 CV 0109
Jury found no negligence
21. Gustavson vs Beatty et al.
92 MMP4018
Milwaukee 92 CV 012825
Jury found no negligence
22. Sullivan vs Seegers et al
94MMP4681
Walworth 94 CV 0639
Jury found no negligence
23. Dull vs Helmen et al
95MMP1162
St. Croix 95 CV 0210
Jury found no negligence
24. Belson vs Dudley
95MMP1318
Waukesha 95 CV 2673
Jury found no negligence
25. Raasch vs Larson et al.
94MMP4577
Milwaukee 94 CV 008455
Jury found no negligence
26. Hachfield vs Jerome et al.
94MMP4687
Winnebago 94 CV 1079
Jury found no negligence

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| 27. Coldagelli vs Stine
96MMP1092
Brown 96 CV 0521 | Jury found no negligence |
| 28. Manley vs St. Elizabeth Hospital et al.
95MMP1099
Outagamie 95 CV 0217 | Jury found no negligence |
| 29. Petzke vs Weber et al.
93MMP4173
Milwaukee 93 CV 011014 | Jury found no negligence |
| 30. Martin vs Diebold et al.
96MMP1026
Eau Claire 96 CV 0242 | Jury found no negligence |
| 31. Sedivy vs Haug
95MMP1247
Oneida 95 CV 0277 | Jury found no negligence |
| 32. Smith vs Flanary
95MMP1118
LaCrosse 95 CV 0207 | Jury found no negligence |
| 33. Seaquist vs Matloob
92MMP4024
Rock 93 CV 0208 | Jury found no negligence |

Bench Trials

- | | |
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| 34 Geib vs Kleinman et al
95MMP1319
Milwaukee 96 CV 009610 | Court awarded \$545,000 |
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1996 Medical Malpractice Verdicts

1. Hensel vs Rich
94MMP4444
Dane 94 CV 0551
Jury awarded \$550,000
2. Bathke vs Roth
94MMP4592
Milwaukee 94 CV 008965
Jury awarded \$471,800
(Nonecon: \$325,000)
3. Warner vs Dussault
93MMP4328
Walworth 93 CV 0617
Jury awarded \$398,000
(Nonecon: \$300,000)
4. Bryan vs Sacred Heart Hospital
95MMP1015
Eau Claire 95 CV 0005
Jury awarded \$230,000
5. Latus vs Benson
M1-4402
Milwaukee 94 CV 000215
Jury awarded \$148,000
6. Stevens vs Bonavia
94MMP4608
Milwaukee 94 CV 010309
Jury awarded \$126,000
7. Simmons vs Northwest General Hospital
95MMP1176
Milwaukee 95 CV 004907
Jury awarded \$110,000
8. Oliff vs Davies
M1-4337
Milwaukee 94 CV 003461
Jury awarded \$80,000
9. Ihde vs Layde
94MMP3610
Eau Claire 95 CV 0030
Jury awarded \$27,000
10. Boguszewski vs Howard Young Med Center
95MMP1261
Vilas 95 CV 0169
Jury awarded \$6,051
11. Solem vs Plautz
94MMP4606
Rock 94 CV 0596
Jury found no negligence
12. Fritz vs Vogt
95MMP1200
Outagamie 95 CV 0492
Jury found no negligence

13. McManus vs Vega
92MMP2008
Dane 92 CV 0013
Jury found no negligence
14. Wilkoski vs Romero
M1-2197
Waukesha 93 CV 1611
Jury found no negligence
15. Balcerzak vs Vincent
94MMP4618
Milwaukee 94 CV 010665
Jury found no negligence
16. Fakler vs Heber
M1-2131
Milwaukee 92 CV 015913
Jury found no negligence
17. Meek vs Chang
M2-1839
Dane 91 CV 2331
Jury found no negligence
18. Navarette vs Kernes
94MMP4582
Waukesha 94 CV 2416
Jury found no negligence
19. Chounard vs Merkow
94MMP4620
Waukesha 95 CV 0046
Jury found no negligence
20. Vandermuss vs O'Reilly
95MMP1032
Brown 95 CV 0302
Jury found no negligence
21. Opall vs Kretz
93MMP4379
Vilas 94 CV 0007
Jury found no negligence
22. Kligenmeyer vs Reedsburg Med Ctr
95MMP1098
Columbia 95 CV 0417
Jury found no negligence
23. Nielsen vs Larson
M1-4338
Milwaukee 93 CV 014128
Jury found no negligence
24. Cartiere vs Alpren
94MMP4584
Milwaukee 94 CV 008784
Jury found no negligence
25. Maki vs Sriram
95MMP1178
Racine 95 CV 1568
Jury found no negligence

26. Lukasis vs McInerney
M1-4465
Waukesha 95 CV 0815
Jury found no negligence
27. Behling vs Fetherston
M1-4097
Milwaukee 93 CV 004745
Jury found no negligence
28. Nielson/Hall vs Miller
M2-2192
Rock 94 CV 2728
Jury found no negligence
29. Gage vs Suliene
95MMP1233
Columbia 95 CV 0230
Jury found no negligence
30. Richardson vs Spooner
94MMP4658
Rock 94 CV 0408
Jury found no negligence
31. Smith vs Zahm
94MMP4526
Ashland 94 CV 0098
Jury found no negligence
32. Pouwels vs Kadile
94MMP4613
Brown 94 CV 1691
Jury found no negligence
33. DeVor vs Dent
M2-4482
Waupaca 94 CV 0230
Jury found no negligence
34. Clark vs Romero
92MMP2197
Waukesha 93 CV 1611
Jury found no negligence
35. Dick vs Subbarao
M1-4356
Milwaukee 94 CV 001541
Jury found no negligence
36. Ziulkowski vs Nierengarten
94MMP4519
Milwaukee 94 CV 008647
Jury found no negligence
37. Krueger vs Palm
95MMP1026
Kenosha 95 CV 0496
Jury found no negligence
38. Williams vs Johnson
95MMP1052
Eau Claire 95 CV 0128
Jury found no negligence

39. Larnerd vs Rucker
95MMP1047
Eau Claire 95 CV 0094

Jury found no negligence

40. Steinhart vs Kleinman
94MMP4598
Milwaukee 94 CV 007865

Jury found no negligence

Other Cases:

41 Hotvedt vs Nassif
M1-4003
Milwaukee 92 CV 017378

Bench Trial
Court awarded \$200,000

1995 Medical Malpractice Verdicts

1. Silva vs Shafi et al.
M1-4480
Milwaukee 93CV008583
Jury awarded \$4,200,000
(Noneconomic: \$1,750,000)
2. Niederkorn vs Anderson et al.
M1-1978
Milwaukee 91CV016445
Jury awarded \$3,950,000
(Noneconomic: \$3,350,000)
3. Meister vs Gerber et al.
M2-4142
Racine 93 CV 1611
Jury awarded \$3,834,000
(Noneconomic: \$2,525,000)
4. Craig vs Steingraeber et al.
M3-1952
LaCrosse 92CV113
Jury awarded \$3,320,000
(Noneconomic: \$660,000)
5. Stiebs vs Rodrigues
M3-4255
Waupaca 93CV0290
Jury awarded \$3,180,000
(Noneconomic: \$670,000)
6. Maxon vs Melby et al.
M3-4450
Polk 94CV0107
Jury awarded \$1,040,000
(All noneconomic)
7. Linn vs Hancock
M4-2107
Sheboygan 92 CV 0814
Jury awarded \$858,000
8. Krueger vs Awen
M4-4304
Brown 93 CV 1201
Jury awarded \$480,000
(Noneconomic: \$450,000)
9. Deback vs White
M1-1520
Waukesha 90 CV 3257
Jury awarded \$440,000
10. Wright vs Mercy Hospital
M2-4397
Rock 93 CV 0896
Jury awarded \$460,000
(Noneconomic: \$35,000)
Reduced by court to \$120,000
11. Loizzo vs Siegert et al.
M1-1824
Racine 93 CV 6940
Jury awarded \$200,000
(All noneconomic)
12. Caviale vs Streicher et al.
M2-2030
Dane 92CV0308
Jury awarded \$176,400

13. Vanden Heuvel vs Olson et al. Jury awarded \$132,600
M4-4135
Outagamie 93CV030
14. Peddie vs Larson et al. Jury awarded \$75,000
M1-4247
Milwaukee 93CV013609
15. Huissen vs Ansari Jury awarded \$65,000
M1-4091
Racine 93CV1399
16. Richards vs Mendivil Jury awarded \$24,000
M1-4050
Kenosha 93 CV 0670
17. Thompson vs Bollinger et al. Jury awarded \$31,500
94MMP4612 (All noneconomic)
Eau Claire 94CV0500
18. Zieman vs Kriss et al. Jury found no negligence
M2-4158
Dane 93CV0458
19. Ignatowski vs Bernhardt Jury found no negligence
M1-4366
Milwaukee 94CV002203
20. Allen vs Parker Jury found no negligence
M1-4449
Walworth 94CV0471
21. Reed vs Beaumont et al. Jury found no negligence
M1-1856
Milwaukee 91CV009266
22. Pluger vs Richards et al. Jury found no negligence
M4-4169
Outagamie 91CV1535
23. Ivanoski vs Wurman et al. Jury found no negligence
M3-4370
Marathon 93CV0608
24. Schmidt vs Hanna Jury found no negligence
M1-4395
Milwaukee 93CV017980
25. Leroy vs Wishau Jury found no negligence
M2-4429
Jefferson 94CV040

26. Eytcheson vs Warren et al. Jury found no negligence
94MMP4546
Sawyer 94CV063
27. Dietrich vs Sanger et al. Jury found no negligence.
M1-147
Milwaukee 719-868
28. Basken vs Bechtel et al. Jury found no negligence.
M4-4291
Brown 93CV1050
29. Nygard vs Zelinski Jury found no negligence.
M3-1663
Vilas 90CV0216
30. Schnoll vs Gimbel Jury found no negligence
M1-4279
Milwaukee 93CV009361
31. Stenson vs Frazin Jury found no negligence
M1-4095
Milwaukee 93CV001665
32. Mikolic vs Galaviz Jury found no negligence
M1-4112
Milwaukee 92CV017047
33. Guza vs Williams et al. Jury found no negligence
M3-4372
Trempeleau 94CV049
34. Stafford vs Johnson et al. Jury found no negligence
M4-4227
U.S.D.C. 93-C-0452
35. Gleason vs Clapper et al. Jury found no negligence
M1-4238
Waukesha 93 CV 1111
36. Gamerdinger vs Mahon Jury found no negligence
M1-4114
Milwaukee 93 CV 007482
37. Rosewitz vs Weber Jury found no negligence
M1-2172
Milwaukee 93 CV 000189
38. Gamalski vs Kim Jury found no negligence
M1-4305
Milwaukee 93 CV 011725

39. Ruiz vs Bhatti
M1-2159
Milwaukee 92 CV 015002
Jury found no negligence

40. Stahnke vs Lontok et al.
M1-1737/1972
Milwaukee 91 CV 005754
Jury found no negligence

41. Leygraaf vs Kloehn
M4-4314
Outagamie 93 CV 1025
Jury found no negligence

Additional Cases:

42. Riley vs Clowry et al.
M1-4294
Washington 93 CV 0489
Liability conceded
Bench trial
Damages awarded: \$122,000

1994 Medical Malpractice Verdicts

1. Goff vs. Seldera
M1-2158
Walworth 92 CV 0435
Jury awarded \$1,017,701
(Nonecon: \$1,012,534)
2. Zobal vs Farne
M2-4295
Juneau 93 CV 0152
Jury awarded \$543,000
(Nonecon: \$526,000)
Reduced to \$265,000
3. Sexton vs Peterson
M1-4167
Kenosha 93 CV 0199
Jury awarded \$235,000
(Nonecon: \$60,000)
4. Huissen vs Ansari
M1-4091
Racine 93 CV 1399
Jury awarded \$65,000
5. Williams vs Baldwin
M3-4103
Clark 92 CV 0188
Jury awarded \$1,000
6. Herron vs Decker
M1-2024
Washington 92 CV 0871
Jury found no negligence
7. Rees vs Kaufman
M2-4111
Dane 92 CV 4907
Jury found no negligence
8. Carrington vs Quenan
M3-4034
Polk 92 CV 0469
Jury found no negligence
9. Derr vs Tyne
M1-2067
Milwaukee 92 CV 004790
Jury found no negligence
10. Aschenbach vs Dvoracek
M1-1959
Milwaukee 91 CV 014942
Jury found no negligence
11. Haise vs Ferstenfeld
M1-2119
Waukesha 92 CV 2111
Jury found no negligence
12. Herron vs Decker
M1-2024
Milwaukee 92 CV 013966
Jury found no negligence
13. Ryan vs Behrens
M2-4041
Rock 92 CV 0426
Jury found no negligence

14. Runjo vs Chrzan
M1-2096
Milwaukee 92 CV 011870
Jury found no negligence
15. Tonkovitz vs St. Francis Hospital
M1-1928
Milwaukee 91 CV 012697
Jury found no negligence
16. Michelson vs St. Michael's Hospital
M1-4182
Milwaukee 93 CV 003536
Jury found no negligence
17. Brandow vs Langlade Memorial Hospital
M4-4200
Langlade 93 CV 0042
Jury found no negligence
18. Alter vs Khoja
M1-4015
Kenosha 92 CV 1183
Jury found no negligence
19. Yule vs Stenzel
M3-2101
Eau Claire 91 CV 0734
Jury found no negligence
20. Singstock vs Hanusa
M4-1816
Oneida 91 CV 0266
Jury found no negligence
21. Frank vs Atassi
M4-1753
Winnebago 92 CV 1274
Jury found no negligence
22. Krueger vs West
M4-4016
Outagamie 92 CV 1335
Jury found no negligence
23. Uygur vs Shapiro
M1-4115
Kenosha 93 CV 0131
Jury found no negligence
24. Wells vs Mt. Sinai
M1-1305
Milwaukee 90 CV 004439
Jury found no negligence
25. Jungwirth vs Ray
M3-1967
Wood 91 CV 1129
Jury found no negligence
26. Maliborski vs Flesch
M1-1977
Milwaukee 91 CV 016259
Jury found no negligence

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| 27. Ortiz vs Ross
M1-2190
Racine 92 CV 2416 | Jury found no negligence |
| 28. Marthaler vs Cochrane
M1-2141
jefferson 92 CV 0441 | Jury found no negligence |
| 29. DeMichei vs Bartl
M1-4221
Waukesha 93 CV 0965 | Jury found no negligence |
| 30. Gralinski vs Gondi
M1-4072
Milwaukee 92 CV 015613 | Jury found no negligence |
| 31. Benentt vs Dean Medical Center
M2-1794
Dane 91 CV 3355 | Jury found no negligence |
| 32. Lacko vs Rietbrock
M1-2006
Waukesha 92 CV 1610 | Jury found no negligence |
| 33. Price vs Bolles
M1-1917
Dane 92 CV 0301 | Jury found no negligence |
| 34. Groom vs Musser
M2-1158
Dane 89 CV 6523 | Jury found no negligence |
| 35. Damron vs Rudat
M2-4132
Dane 93 CV 1995 | Jury found no negligence |
| 36. Klug vs Taylor
M2-2144
Marquette 92 CV 0181 | Jury found no negligence |
| 37. Gainer vs Koewler
M1-1988
Waukesha 92 CV 0887 | Jury found no negligence |

1993 MEDICAL MALPRACTICE VERDICTS

1. Kraft v. Lam et al. Jury awarded \$1,136,000
M1-1752 (\$1,100,000 noneconomic)
Ozaukee 91CV096
2. Talbert v. Bohac et al. Jury awarded \$1,003,000
M3-2057 (\$433,000 noneconomic)
Washburn 92CV16
3. Staples v. Koeller Jury awarded \$150,000
M3-1871
Bayfield 91CV109
4. Derke v. Rudat Jury awarded \$83,000
M2-1735
Dane 91CV0663
5. Marsh v. Willett et al. Jury awarded \$40,000
M4-1736
Green Lake 92CV071
6. Sobkowiak v. Wiersma Jury awarded \$40,000
M3-1898
LaCrosse 92CV452
7. Budnik v. Horwitz Jury awarded \$22,000
M1-1431
Milwaukee 90CV010571
8. Johnson v. Kokemoor et al. Jury found negligence
M3-1903 Damages not yet tried
Chippewa 92CV170 Case is on appeal
9. Goldstein v. Gimbel Jury found no negligence
M1-2081
Milwaukee 92CV004069
10. Heinicke v. Solocheck Jury found no negligence
M1-350
Milwaukee 755-252
11. Geracie v. Brusky Jury found no negligence
M1-1458
Milwaukee 90CV006732
12. Daniel v. Hodulik Jury found no negligence
M2-1247
Dane 90CV0608

13. Mackelfresh v. Odland
M2-1779
Rock 91CV11188
Jury found no negligence
14. Ballmer v. Falk
M2-1556
Rock 91CV0138
Jury found no negligence
15. Smoczynski v. Roth
M1-1739
Dane 91CV2474
Jury found no negligence
16. Filley v. Vastola
M2-1747
Dane 91CV3359
Jury found no negligence
17. Gotautis v. St. Joseph's et al.
M3-1858
Chippewa 91CV259
Jury found no negligence
18. Johnson v. Becker
M1-1724
Milwaukee 91CV007730
Jury found no negligence
19. Boshell v. Fok et al.
M2-2077
Dane 92CV1209
Jury found no negligence
20. Lohr v. Sherkow et al.
M1-2175
Washington 92CV799
Jury found no negligence
21. Katzenberg v. Hearn
M1-1988
Walworth 91CV650
Jury found no negligence
22. Anton v. Stastny
M1-1624
Milwaukee 90CV016102
Jury found no negligence
23. Stanisich v. Harris et al.
M1-1707
Waukesha 90CV3287
Jury found no negligence
24. Simmons v. Akes
M1-1894
Milwaukee 91CV011249
Jury found no negligence
25. Kolodzinski v. Meyer
M1-1475
Milwaukee 90CV008051
Jury found no negligence

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| 26. Olin v. Jacobson
M1-1716
Milwaukee 90CV017004 | Jury found no negligence |
| 27. Jirik v. Thorstenson
M1-1214
Waukesha 89CV2005 | Jury found no negligence |
| 28. Peters v. Tector
M1-2005
Kenosha 92CV271 | Jury found no negligence |
| 29. Torres v. Mendivil
M1-4009
Kenosha 92CV1145 | Jury found no negligence |
| 30. Sheriff v. Arrellano et al.
M4-2036
Fond du Lac 92CV088 | Jury found no negligence |
| 31. Smith v. McBride
M4-1704
Fond du Lac 91CV021 | Jury found no negligence |
| 32. Robbins v. Ash
M1-1121
Milwaukee 89CV006968 | Jury found no negligence |
| 33. Prohaska v. Sargeant
M3-1874
Price 91CV062 | Jury found no negligence |
| 34. Benzschawel v. Casing
M3-1790
Eau Claire 92CV038 | Jury found no negligence |
| 35. Wosick v. Hinck
M3-1728
Polk 91CV262 | Jury found no negligence |
| 36. Rogers v. Koski
M3-1642
Douglas 91CV106 | Jury found no negligence |
| 37. Van Vreede v. Mich
M4-1855
Outagamie 91CV759 | Jury found no negligence |
| 38. Nowatske v. Osterloh
M4-1787
Winnebago 91CV499 | Jury found no negligence |

39. Oestreich v. Sheppard et al. Jury found no negligence
M3-1672
Clark 91CV06
40. Strait v. Rafter et al. Jury found no negligence
M1-1591
Monroe 90CV186
41. Charette v. Turkington et al. Jury found negligence but
M1-1242 no causation
Milwaukee 90CV001653

41 trials to verdict

33 defense verdicts (80%)

8 plaintiff verdicts (20%)

93-4

1992 MEDICAL MALPRACTICE VERDICTS

1. Goss v. Ulrich et al
M3-1412
Chippewa 90CV258
Jury awarded \$2,224,000
(\$1,305,000 noneconomic)
2. Novak/Kartes v. Sharma
M1-1667
Milwaukee 91CV000068
Jury awarded \$1,900,000
(Parties stipulated to
amount of damages)
3. Marshall v. Schmalz et al.
M1-1302
Milwaukee 90CV004729
Jury awarded \$432,000
(\$315,000 noneconomic)
4. Gorke v. Limjoco
M1-1470
Waukesha 90CV01430
Jury awarded \$315,592
(\$250,000 noneconomic)
5. Hennessy v. Heiseer et al.
M3-1598
St. Croix 91CV120
Jury awarded \$312,000
(\$0 noneconomic)
6. Pfister v. Somerville
M4-1306
Brown 90CV0539
Jury awarded \$287,000
7. Jelinek v. Bellin Mem. Hosp.
M4-1676
Brown 91CV009
Jury awarded \$200,000
(All noneconomic)
8. Cabral v. Rotter
M1-1546
Milwaukee 90CV011131
Jury awarded \$172,000
(\$160,000 noneconomic)
9. Janson v. Pinkerton et al.
M4-1721
Marinette 91CV41
Jury awarded \$61,888
(\$0 noneconomic)
10. Kitchen v. Scott
M2-1321
Dane 90CV0061
Jury awarded \$60,000
11. Esser v. Horswill
M2-819
Dane 89CV422
Jury awarded \$55,000
12. DeCristofaro v. Limjoco
M4-1584
Waushara 91CV061
Jury awarded \$36,000

13. Bradley v. Berry
M2-1058
Dodge 89CV0136
Jury awarded \$33,000
14. McGee v. Johnson et al.
M1-1373
Milwaukee 90CV002589
Jury awarded \$26,000
15. Hoover v. Abadeer et al.
M3-1307
Marathon 89CV960
Jury awarded \$23,300
16. Connor v. Associated Physicians
M4-1809
Fond du Lac 91CV568
Jury found negligence but
no causation
17. Miller v. Campbell
M2-1482
Dodge 90CV323
Jury found no negligence
18. Stinson v. Wenger
M2-1513
Dane 90CV4483
Jury found no negligence
19. Gregoriou v. Estrella et al.
M1-1317
Washington 90CV195
Jury found no negligence
20. Christenson v. Gutenberger
M1-1763
Milwaukee 91CV002755
Jury found no negligence
21. Molitor v. Engeler et al.
F2-1888
Dane 85CV5909
Jury found no negligence
22. Miller v. Kim et al.
M2-1581
Iowa 90CV138
Jury found no negligence
23. Ace v. Paster et al
M2-1627
Dane 90CV4823
Jury found no negligence
24. Rose v. Gundersen Clinic et al.
M3-1711
LaCrosse 91CV28
Jury found no negligence
25. Wood v. Martinelli
M1-1190
Waukesha 89CV1126
Jury found no negligence

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| 26. Wall v. Monk et al.
M1-1573
Waukesha 90CV2501 | Jury found no negligence |
| 27. Carstens v. St. Mary's Hospital
M1-1725
Milwaukee 91CV001608 | Jury found no negligence |
| 28. Allen v. St. Luke's Med Center
M1-1857
Milwaukee 91CV007745 | Jury found no negligence |
| 29. Gehrke v. Sinai Samaritan
M1-1425
Milwaukee 90CV004727 | Jury found no negligence |
| 30. Brown v. Bodner et al.
M1-1036
Milwaukee 89CV02236 | Jury found no negligence |
| 31. Deback v. White
M1-1520
Waukesha 90CV3257 | Jury found no negligence |
| 32. Martin v. Daley
M1-525
Milwaukee 005-111 | Jury found no negligence |
| 33. Helmers v. Unger
M1-1218
Waukesha 90CV0173 | Jury found no negligence |
| 34. Trudeau v. Fortier
M1-955
Racine 88CV2634 | Jury found no negligence |
| 35. Johnson v. Agoncillo
M1-1734
Milwaukee 91CV002453 | Jury found no negligence |
| 36. Friedlein v. Kieser
M3-1236
Iowa 90CV0073 | Jury found no negligence |
| 37. Rupert v. Kohn
M1-539
Milwaukee 756-570 | Jury found no negligence |
| 38. Provo v. Landgraf
M1-1499
Milwaukee 90CV009420 | Jury found no negligence |

39. Dahm v. Vondrak M1-1531 Washington 90CV455	Jury found no negligence
40. Kline v. Nishicka M4-1564 Federal Court?	Jury found no negligence
41. Lechner v. Ludwig M1-1637 Milwaukee 90CV016628	Jury found no negligence
42. Ede v. Walcott M1-1422 Milwaukee 90CV010304	Jury found no negligence
43. Kraus v. Langheim M1-1039 Dane 89CV2121 Dane 89CV6771	Jury found no negligence
44. Miner v. Gilman M1-1617 Milwaukee 90CV016146	Jury found no negligence
45. Heitpas v. Mayer M4-1615 Eau Claire 91CV0083	Jury found no negligence
46. O'Brien v. Lulloff M4-1443 Winnebago 90CV926	Jury found no negligence
47. Porter v. Lee et al. M3-1548 Marathon 90CV731	Jury found no negligence
48. Mackey v. Moore M3-1046 Ashland 90CV07	Jury found no negligence
49. Wertelusky v. Fergus et atl. M4-1543 Brown 91CV0421	Jury found no negligence
50. Barry v. Richardson et al. M2-1315 Richland 90CV108	Jury found no negligence
51. Borgen v. Al-Khatib M3-1497 Eau Claire 91CV214	Jury found no negligence

52. Miller v. Meves et al. M4-1590 Brown 90CV1413	Jury found no negligence
53. Jirikowic v. Egan et al. M4-1481 Waupaca 90CV182	Jury found no negligence
54. Clevers v. Mockert M1-1669 Sheboygan 90CV1150	Jury found no negligence
55. Torcaso v. St. Catherine's M1-1506 Kenosha 90CV0967	Jury found no negligence
56. Burgmeier v. Armstrong et al. M2-1697 Dane 91CV0092	Jury found no negligence
57. Bohn v. Campbell M2-1178 Columbia 89CV701	Jury found no negligence
58. Powers v. Guthrie M2-1508 Dane 90CV4678	Jury found no negligence
59. Kiedrowski v. Solfelt M3-1339 Trempealeau 90CV004	Jury found no negligence
60. Steinberg v. Jensen M1-1678 Milwaukee 91CV000033	Jury found negligence but No Causation

60 Verdicts

15 Plaintiff Verdicts---25%

45 Defense Verdicts-----75%

1991 MEDICAL MALPRACTICE TRIALS

1. Bonk v. Albrecht et al.
M1-1143/M1-1395
Milwaukee 89CV000140
Jury awarded \$2,400,000
(\$700,000 noneconomic)
2. Castaneda v. Pederson et al.
M1-1229
Milwaukee 89CV004063
*Jury awarded \$2,000,000
(\$900,000 noneconomic)
R & R by WSC for new trial
on issue of damages
Jury awarded \$1,835,000
(\$430,000 noneconomic)
3. Mercer v. Quandt
F2-2928
Jefferson 86CV449
Jury awarded \$750,000
(\$325,000 noneconomic)
4. Wade v. Glazier
M4-1105
Waushara 89CV162
Jury awarded \$589,000
(\$425,000 noneconomic)
5. Martin v. Caskey
M4-1578
Waupaca 90CV317
Jury awarded \$539,000
(\$447,000 noneconomic)
6. Thormodsgard v. Lorenz et al.
M3-1198
Eau Claire 89CV453
Jury awarded \$504,000
(\$268,000 noneconomic)
7. Miller v. Farah et al
M3-911
St. Croix 88CV407
Jury awarded \$35,000
(\$30,000 noneconomic)
8. Wisotzke v. Simon et al.
M1-888
Milwaukee 88CV019395
Jury found no negligence
9. Poffenberger v. Kosseff et al.
M2-1062
Dane 89CV3902
Jury found no negligence
10. Lawless v. Koslov et al.
M2-1086
Dane 89CV2376
Jury found no negligence
11. Socha v. Plooser et al.
M2-1094
Adams 89CV41
Jury found no negligence
12. Cieslak v. Ihle et al.
M3-915
Eau Claire 89CV281
Jury found no negligence

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| 13. Sommers v. Friedman
M2-1461
Dane 90CV2191 | Jury found no negligence |
| 14. Labiszak v. Hammer et al.
F1-1167
Milwaukee 669-758 | Jury found no negligence |
| 15. Artino v. Schmidt et al.
M1-1114
Milwaukee 89CV6787 | Jury found no negligence |
| 16. Kaczorek v. Owsiak et al.
M1-740
Milwaukee 88CV016491 | Jury found no negligence |
| 17. Batura v. Novacek et al.
M1-644
Waukesha 89CV1419 | Jury found no negligence |
| 18. Siegel v. Bauer et al.
M1-583
Milwaukee 003-938 | Jury found no negligence |
| 19. Bell v. Zupnik et al.
M1-385
Milwaukee 753-891 | Jury found no negligence |
| 20. Robinson v. West
M1-891
Outagamie 88CV01631 | Jury found no negligence |
| 21. Cymys v. Carlson et al.
M3-1085
Washburn 89CV54 | Jury found no negligence |
| 22. Roesler v. Miner et al.
M3-1444
LaCrosse 90CV687 | Jury found no negligence |
| 23. Schoneman v. Schoonhoven et al.
M4-1392
Outagamie 90CV946 | Jury found no negligence |
| 24. Kufahl v. Tanner
M3-748
Marathon 88CV302 | Jury found no negligence |
| 25. Ruby v. Rechseiner et al.
M3-1195
Washburn 89CV136 | Jury found no negligence |

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| 26. Suring v. Siefert
M4-1136
E.D. Federal Court | Jury found no negligence |
| 27. Kuhnle v. Mercy Hospital et al.
M2-394
Dane 87CV5808 | Settled on 1st day of
trial for \$1,500,000 |
| 28. Joshi v. Hubert
M4-1012
Winnebago 89CV591 | Settled during trial |
| 29. DeSanctis v. Wilhelm et al.
M3-1201
St. Croix 89CV401 | Settled during trial |
| 30. Steele v. Spooner et al.
M2-1087
Rock 89CV203 | Settled during trial |
| 31. Meister v. St. Luke's Hospital
M1-1177
Milwaukee 89CV009728 | BENCH TRIAL
Court awarded \$18,000 |
| 32. Knutson v. Edstrom
M3-954
Eau Claire 90CV20 | Jury awarded \$42,500
Court set aside verdict
and ordered new trial |

26 cases tried to verdict

8 juries found negligence	(31%)
18 juries found no negligence	(69%)

1990 Jury Trials

1. Ready v. Yapp
M1-344
Milwaukee 744-155
Jury awarded \$24,700,000
(Noneconomic: \$9,000,000)
2. Marcus v. St. Mary's Hospital
M1-463
Milwaukee 758-162
Jury awarded \$3,600,000
(Noneconomic: \$2,375,000)
3. Geier v. Torhorst et al.
M2-766
Dane 88CV2584
Jury awarded \$2,985,000
(Noneconomic: \$930,000)
4. Hoekman v. Moritz et al.
M2-929
Rock 88CV803
Jury awarded \$1,760,000
(Noneconomic: \$1,130,000)
5. Whitcomb v. Connolly et al.
M3-402
Polk 88CV396
Jury awarded \$44,500
6. Johnson v. Quenan
M3-1115
Sawyer 89CV173
Jury awarded \$18,000
7. Wiesner v. Bauer et al.
M1-628
Washington 88CV277
Jury awarded \$14,600
8. Fischer v. Ganju
F4-2992
Sheboygan 86CV550
Jury found no negligence
9. Cole v. Pellet
M2-747
Dane 88CV2094
Jury found no negligence
10. Ringelstetter v. Baker et al.
M2-1028
Sauk 89CV56
Jury found no negligence
11. Prochazka v. Frazer
M2-877
Rock 88CV707
Jury found no negligence
12. Butler v. Dahl
M3-966
Eau Claire 89CV199
Jury found no negligence
13. Allram v. Indianhead Medical Group
M3-457
Jury found no negligence

Barron 87CV412

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| 14. Westcott v. Mikkelson
M3-149 | Jury found no negligence |
| Marathon 86CV1004 | |
| 15. Burger v. St. Joseph's Hospital
M3-442
Marathon 87CV599 | Jury found no negligence |
| 16. Puchter v. Wadhwani
M1-423
Racine 87CV1501 | Jury found no negligence |
| 17. Dubinski v. Semler
M1-962
Milwaukee 88CV018904 | Jury found no negligence |
| 18. Setum v. Sondag
M1-1194
Milwaukee 89CV010805 | Jury found no negligence |
| 19. Schuster v. Altenberg
F1-2881
Racine 86CV1327 | Jury found no negligence |
| 20. Schierow v. Bruno
M1-785
Milwaukee 88CV009698 | Jury found no negligence |
| 21. Finkler v. Janowak
F1-1548
Milwaukee 755-729 | Jury found no negligence |
| 22. Schanen v. Nord
M1-374
Milwaukee 745-846 | Jury found no negligence |
| 23. Vaughan v. St. Luke's Hospital
M1-1107
Milwaukee 89CV006232 | Jury found no negligence |
| 24. Oswald v. Delahunt
M1-823
Waukesha 88CV2123 | Jury found no negligence |
| 25. Iorio v. Friedman
F1-2653
Waukesha 86CV2025 | Jury found no negligence |
| 26. Peterson v. Carlson et al.
M3-406
Douglas 87CV274 | Jury found no negligence |

27. Thies v. Sullivan M3-999 Vernon 89CV11	Jury found no negligence
28. DeRoo v. Quinn et al. F4-2373 Sheboygan 86CV579	Jury found no negligence
29. Krouth v. Manabat M4-858 Brown 89CV356	Jury found negligence but no causation

29 Jury Verdicts

7 Plaintiffs' Verdicts (24%)

22 Defense Verdicts (76%)

Additional Cases:

Martin v. Hansen M2-734 Jefferson 88CV465	Jury awarded \$4,985,000 Verdict set aside by judge
Penrod v. St. Catherine's Hosp. M1-640 Kenosha 89CV53	Bench trial Court awarded \$26,000
Mallow v. Angove et al. F1-2187 Waukesha 86CV2039	Jury found no negligence R & R for new trial Settled before 2nd trial

1989 Jury Trials

1. M.L. v. Strelnick
M2-470
Dane 87CV3730
Jury awarded \$1,135,000
Reduced by Court of Appeals
to \$750,000
2. Wiegman v. Bechtel
F4-1930
Brown 86CV1935
Jury awarded \$485,000
3. Leuzinger v. Berk
F1-2471
Milwaukee 680-162
Jury awarded \$1,425,000
4. Lippert v. Mayersak et al.
F3-2429
Waushara 86CV125
Jury awarded \$288,000
5. Nettesheim v. Falecki
M1-158
Waukesha 86CV2971
Jury awarded \$1,680,000
6. Bohl v. Evangelista
M4-555
Outagamie 87CV1321
Jury awarded \$11,622
7. Davis v. Sirin
M1-479
Milwaukee 752-075
Jury awarded \$27,000
8. Islami v. Children's Hospital
M1-548
Milwaukee 757-068
Jury awarded \$7,500
9. Anderson v. Garber
F3-3015
Trempeleau 86CV208
Jury awarded \$90,000
10. Wojciechowski v. Margolis et al.
M1-172
Milwaukee 741-167
Jury awarded \$450,000
11. Steinke v. Reid et al.
M3-716
Eau Claire 88CV450
Jury awarded \$162,000
12. Parisi v. Anderson
F2-2352
Dane 86CV4007
Jury found no negligence
13. Aller v. Carlisle

LaCrosse 86CV626
Jury found no negligence

14. Waller v. Hartlaub et al. Jury found no negligence
M2-878
Rock 88CV176
15. Pophal v. Siverhus et al. Jury found no negligence
F2-2529
Rock 86CV529
16. Rotta v. Mateo et al. Jury found no negligence
M1-449
Milwaukee 760-889
17. Mallon v. Hansell et al. Jury found no negligence
M2-439
Columbia 88CV55
18. Riemer v. Zelinski Jury found no negligence
M4-727
Vilas 88CV46
19. Long v. Cushman Jury found no negligence
F1-2203
Milwaukee
20. Lakomski v. McNamara et al. Jury found no negligence
M1-495
Milwaukee 752-642
21. Gunderson v. Narotzky Jury found no negligence
M3-926
Eau Claire 88CV647
22. Czarniak v. Klehm Jury found no negligence
F1-2676
Milwaukee 711-762
23. Wiley v. Thomas et al. Jury found no negligence
M1-286
Milwaukee 740-439
24. Brown v. Blatnik Jury verdict for defense
M1-358
Milwaukee 745-052
25. Giacoletto v. LaBissoniere et al. Jury found no negligence
M1-576
Milwaukee 009-311
26. Lundy v. Urlakis et al. Jury found no negligence
M1-691
Milwaukee 003-578

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| 27. R.R. v. Chintamaneni
M1-382
Milwaukee 755-042 | Jury found no negligence |
| 28. Magill v. Harstad
M1-614
Waukesha 87CV3780 | Jury found no negligence |
| 29. Westphal v. Comm. Mem. Hospital
M4-574
Oconto 87CV288 | Jury found no negligence |
| 30. Rupp v. Kantammeni
M2-568
Grant 87CV594 | Jury found no negligence |
| 31. Meyer v. Sieverhus et al.
M2-218
Dane 87CV2118 | Jury found no negligence |
| 32. Robinson v. Abadeer et al.
M4-455
Langlade 87CV171 | Jury found no negligence |

Total Jury Verdicts:	32	
Plaintiffs':	11	(33%)
Defense:	21	(67%)

Additional Cases:

Elam v. Gecht M1-1102 Milwaukee 89CV5362	Directed verdict for defense
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