Wheeler Trigg O'Donnell

Won a precedent-setting victory in an appeal of a medical malpractice case involving the Colorado Health Care Availability Act's collateral source provision and $1 million damages cap.

2022

In briefs and oral arguments, WTO lawyers persuaded the Colorado Court of Appeals that a trial court abused its discretion in finding good cause to exceed the $1 million cap imposed by Colorado's Health Care Availability Act (HCAA) and award all of a nearly $10 million jury verdict against the medical providers. In finding that the trial court abused its discretion in this medical malpractice case, the appellate court addressed the HCAA's collateral source provision for the first time.

The jury verdict included $6 million for past medical damages billed. Although the Colorado Supreme Court has interpreted the collateral source rule's contract exception to allow a plaintiff to recover the amounts billed, WTO maintained that the HCAA's collateral source provision, C.R.S. § 13-64-402, governed and required the trial court to consider the amounts owed to the insurers before entering judgment. WTO's team further contended that as the insurers failed to file a notice of subrogated interest, they therefore waived their rights to subrogation and nothing is owed for past medical damages. The appeals court agreed that the trial

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court abused its discretion and remanded the case to the trial court to conduct a proper good-cause analysis with these understandings.

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