

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
SENIOR JUDGE WILEY Y. DANIEL**

Courtroom Deputy: Deborah Hansen
E.C.R./Reporter: Mary George

Date: August 8, 2013

Civil Action No: **08-cv-00091-WYD-CBS**

Counsel:

**WAYNE WATSON and
MARY WATSON,**

Kenneth B. McClain
Steven E. Crick
Andrew K. Smith

Plaintiffs,

v.

DILLON COMPANIES, INC., et al.,

Brett M. Godfrey
Paul J. Rupprecht
Corey L. Gordon

Defendants.

COURTROOM MINUTES

EVIDENTIARY MOTIONS HEARING

10:04 a.m. Court in Session

APPEARANCES OF COUNSEL.

Cory Gordon, Esq. enters his appearance.

The Court tells Mr. Gordon that he must enter his written appearance as soon as possible.

Court's comments

The Court takes up the Defendants Dillon Companies' Motion to Alter or Amend Final Judgment Pursuant to Fed.R.Civ.P. 59 And 60 (ECF No. 815) and the Plaintiffs' Motion to Alter or Amend the Court's September 26, 2012 Judgment for Purposes of Increasing the Punitive

Damages Ratio Under CRS § 13-12-102 Or, In The Alternative, Trebling Damages Under CRS § 6-1-113 (ECF No. 817)

10:38 Argument by Plaintiffs (Mr. McClain)
11:00 Argument by Defendants (Mr. Godfrey)
11:08 Court's comments
11:11 Argument by Plaintiffs (Mr. McClain)
Court's comments
11:25 Argument by Defendants (Mr. Godfrey)
11:34 Argument by Plaintiffs (Mr. McClain)
Court's comments
11:49 Argument by Defendants (Mr. Godfrey)

ORDERED: The parties shall meet and confer over the lunch hour regarding the amount of the request for fees; and accommodating Mr. O'Donnell.

11:59 Court in Recess
01:38 Court in Session

Court's comments

ORDERED: The Defendants Dillon Companies' Motion to Alter or Amend Final Judgment Pursuant to Fed.R.Civ.P. 59 And 60 (ECF No. 815) is GRANTED as follows:

The non-economic award for Plaintiffs against Defendant Gilster-Mary Lee is reduced from 800,000 to 366,250.

The amounts that will be awarded in favor of Plaintiffs against Defendant Gilster-Mary Lee are: total economic damages, 534,368.80; non-economic damages, 366,250; physical impairment, 360,000; for a total of 1,260,618.80.

Punitive damages are reduced, in favor of the Plaintiffs against Defendant Gilster-Mary Lee in the amount of 1,260,618.80.

The Court will enter a written order setting forth its findings.

ORDERED: Plaintiffs' Motion for Trebling Damages Under C.R.S. § 6-1-113 (ECF No. 817) is DENIED.

The Court will enter a written order setting forth its findings.

Court' comments

Mr. McClain's comments concerning whether or not they are going to reduce their request for attorneys' fees

The Court takes up the Plaintiffs' Motion for Attorney Fees and Costs Pursuant to C.R.S. § 6-1-113 [ECF No. 826]

DEFENDANTS' WITNESS MICHAEL O'DONNELL

01:52 Direct (by Mr. Godfrey)

02:04 Court

02:05 Direct

02:09 Court

02:10 Direct

02:24 Court

02:24 Direct

02:30 Court's colloquy with Mr. McClain

02:32 Direct continued

02:37 Court

02:40 Cross (by Mr. McClain)

PLAINTIFFS' WITNESS STUART OLLANIK

03:00 Direct (by Mr. McClain)

03:08 Court

03:18 Direct

03:24 Court in Recess
03:41 Court in Session

PLAINTIFFS' WITNESS STUART OLLANIK

03:43 Direct continued (by Mr. McClain)

03:45 Court

03:51 Direct

03:57 Court

03:58 Direct

04:07 Cross (by Mr. Godfrey)

04:26 Evidence closed.

04:27 Argument (by Mr. Crick)

04:35 Argument (by Mr. McClain)

04:40 Argument (by Mr. Godfrey)

Court's comments

04:44 Argument continued (by Mr. Godfrey)

ORDERED: The portion of Plaintiffs' Motion for Attorney Fees and Costs Pursuant to CRS § 6-1-113 [ECF No. 826] that requests costs IS DENIED WITHOUT PREJUDICE. The Clerk's Office has come up with a cost award of \$38,439.78 [ECF No. 865]. If Plaintiffs wish the Court to consider a higher cost awarded, they will have to file a supplemental document and then the defendants will be allowed to respond.

ORDERED: The Motions are taken under advisement.

04:55 p.m. Court in Recess
Time: four hours and 55 minutes
Hearing concluded