

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

DEBBIE ULIBARRI, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 07-CV-1814-ODS
)	
CITY & COUNTY OF DENVER, et al.,)	
)	
Defendants.)	

ORDER DENYING MOTION IN LIMINE

Defendants' Motion in Limine (Doc. # 443), which seeks to exclude evidence of Shawn Vigil's non-economic damages, is denied. The motion essentially contends Vigil's claim did not survive because the only damages he seeks are not recoverable under Colorado's survival statute, and is thus really a motion to dismiss. Defendant's arguments could have been filed long ago, and such a motion filed within a week of trial is not well-taken. Defendants were aware of the damages sought at least when Plaintiffs were ordered to file their calculation of damages – and arguably before that date, as the Court finds it difficult to believe Defendants had no inkling as to the damages sought from them during the pendency of this suit.

The Court is not going to divert its time, attention, and resources away from trial preparation to deal with this issue. The Court is not going to ask Plaintiffs to divert their time, attention and resources. Vigil's claim will go forward, and if necessary the issue can be fully explored post-trial.

IT IS SO ORDERED.

DATE: August 28, 2012

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT