

ARIZONA SUPREME COURT CLARIFIES STANDARDS FOR REMITTITUR IN SOTO V. SACCO

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The Arizona Supreme Court has clarified the standard for remittitur (and additur) under Ariz.R.Civ.P. 59(i) (now Rule 59(f)), as well as the degree of specificity required in a trial court's order when granting a request for remittitur and conditional motion for new trial. The Court determined that Rule 59(m) (now Rule 59(i)), which requires the trial court to specifically state the grounds when granting a new trial, applies equally to an order granting a remittitur (or additur). The Court also clarified the degree of deference that a reviewing court should accord to the trial court's remittitur/additur order, as well as the burdens on the parties on appeal, depending on whether the specificity requirement has been met. The Court also acknowledged that similar jury verdicts may be considered in determining whether a jury verdict is excessive, so long as they are not treated as determinative. Finally, the Court affirmed the constitutionality of remittitur in the context of the right to a jury trial.

Soto v. Sacco involved a motor vehicle accident in which the Sotos were passengers in a taxi cab when it collided with another vehicle. As a result of the accident, Michael Soto sustained multiple fractures of his dominant arm, which required surgery to permanently implant screws and stabilize the arm. The Sotos sued the cab driver and cab company (Defendants), who admitted to liability and submitted the issue of damages to a jury. At the damages trial, evidence established that Michael's treating physician had placed no limitations on his activities and told him to use his arm normally, using pain as a guide when engaging in physical activity. Michael's medical bills totaled \$40,538.40 but he made no claim for future medical expenses or lost wages.

The jury awarded \$700,000 to Michael, and \$40,000 to his wife. Defendants moved, among other things, for remittitur of the jury verdict under Arizona Rule of Civil Procedure 59(i), requesting the trial court to reduce Michael's award to not more than \$350,000. Agreeing that the jury verdict in favor of Michael was "excessive and not supported by the evidence," the trial court granted a conditional new trial and remittitur under Rule 59(i), reducing the award to \$250,000. The Sotos rejected the remittitur and appealed from the new trial order that became effective after they declined the remittitur.

The Court of Appeals affirmed in a written opinion, rejecting the Soto's argument that conditional grants of new trial/remittitur orders pursuant to Rule 59(i) are subject to Rule 59(m), which requires the trial court to specify with particularity the grounds on which the new trial is granted. The Supreme Court granted review to clarify the standards for ordering remittitur or additur with a conditional grant of a new trial.

The Supreme Court's Opinion began by affirming the longstanding jurisprudence that a remittitur is proper when a jury verdict is "neither the result of passion or prejudice nor shockingly outrageous, but instead reflects an exaggerated measurement of damages." The Court then held that Rule 59(m)'s specificity requirement for an order granting a new trial applies equally to an order granting a remittitur (or additur) with a conditional new trial under Rule 59(i). The Court also clarified both the degree of deference required on review and the applicable burdens of the parties on appeal, depending on whether the trial court's order granting a remittitur or additur and conditional new trial comports with the specificity requirements of Rule 59(m). Where the trial court's order does not provide detailed reasons to support its ruling, "the appellee must establish that the trial court's order was supported by substantial evidence and did not constitute an abuse of discretion." Where the order does comport with Rule 59(m), a greater degree of deference is required on review, and "the appellant would bear the burden of establishing that the trial court abused its discretion." In such cases, it is not enough for the appellant to show that "reasonable evidence supported the jury's verdict."

On this record, the Supreme Court held that although the trial court's order granting remittitur did not comport with the specificity requirement of Rule 59(m), Defendants (appellees) met their burden of establishing that the remittitur and conditional new trial order was supported by substantial evidence, and that the trial court did not abuse its discretion in remitting the jury verdict. In upholding the remittitur/conditional new trial order, the Supreme Court observed that comparable jury verdicts (such as those Defendants had presented) can be "marginally relevant" to support a trial court's remittitur determination. Finally, the Court affirmed the constitutionality of a trial court's discretionary authority to order additur, remittitur, or a new trial.