

News **Medical Malpractice**

LASIK Malpractice Plaintiff Convinced a Jury to Award Seven Times a Damages Cap—and Got to Keep It

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Credit: Vladimir Voronin/Adobe Stock

Colorado has a \$1 million economic damages cap, but on Thursday, a judge in the Denver suburbs ruled that the harm in one medical-malpractice case was so severe that she would make an exception for a pilot awarded \$7.2 million economic damages for future lost wages.

Nicholas Lara, a 24-year-old commercial pilot, underwent voluntary LASIK eye surgery to improve his vision in 2023. Unbeknownst to Lara, he had a medical condition that prevented him from being a candidate for LASIK. However, the LASIKPlus clinic he went to didn't catch the error until

after the procedure was complete. As a result, Lara developed progressive and incurable vision loss that jeopardized his career as a pilot, so he sued.

Ultimately, a Jefferson County jury agreed with him, rendering a verdict just over \$8 million, most of which was upheld when Judge Chantel Contiguglia entered a final judgment on Thursday. After seven days of trial, the jury rendered an \$8.03 million verdict, the bulk of which was for economic damages. While the jury attributed 25% of the fault to a doctor Lara had settled with before trial, once the court accounted for pre-judgment interest, Contiguglia entered a \$7.3 million judgment against LASIKPlus, plus post-judgment interest and attorney fees.

"While the lost future earnings awarded to [the] plaintiff are perhaps uniquely high, [the] plaintiff's projected future earnings and earnings capacity are uniquely high," [Contiguglia reasoned](#). "Expert testimony provided that, to a reasonable degree of medical certainty, [the] plaintiff will lose his lucrative career as a pilot."

Lara's lead trial counsel, New York-based lawyer Todd Krouner, who specializes in LASIK malpractice cases, said he met Lara the way the same way he meets most of his clients: through the internet.

"Rarely am I the plaintiff's first call," Krouner said. "People who are victims of LASIK malpractice struggle to find plaintiff attorneys who are familiar and proficient with these kinds of claims, and the patients tend to readily recognize that."

Krouner said he builds cases by describing how both loss of vision and vision quality affect all aspects of his clients' daily lives, including their ability to work. Lara argued that while LASIKPlus told him he was a good candidate for the procedure, and the practice was booking too many patients for their doctors to have time to review their charts.

The defense denied the plaintiff's allegations.

"To the extent plaintiff has experienced vision issues following LASIK, [the] defendants maintain that these problems stem from pre-existing or naturally occurring conditions outside [the] defendants' control, and not from any negligence by [the LASIKPlus defendants]," the defense's [pre-trial order](#) said.

When the case made it to trial, Krouner said two moments in particular were crucial to swaying the jury.

The first came when Krouner cross-examined the defense's ophthalmology expert. According to Krouner, the expert had never testified before and had made a crucial mistake that Krouner latched on to when it was his turn to cross-examine the witness. He drew the jury's attention to ChatGPT

watermarks in the expert's presentation. While the expert said he didn't use artificial intelligence to generate the report itself, when Krouner pressed him, he admitted that AI informed his analysis and that doing so was "not a good look," according to a [transcript](#) of the proceeding.

"That wasn't lost on the jury," Krouner said, noting that he continued to hammer on that point through closing arguments.

The second moment came after defense counsel Gregory Tiemeier, of Teimeier & Stitch, finished his redirect of Robert Dinga, the LASIKPlus parent company's vice president of clinical operations.

In addition to arguing that Lara's injury resulted from a business model that focused on patient volume, Lara's team contended that LASIK screening equipment is supposed to have warning lights that flash if a patient isn't a good candidate for the procedure. However, the lights had been turned off, and Krouner's team couldn't figure out why. It turns out the jury also wanted to know, because when the judge asked if they had any questions for Dinga, someone asked: "Who turned off the warning lights?"

Contiguglia asked both Krouner and Teimeier if they had any objections.

"I held my breath," Krouner said. "The rest, as they say, is history."

When Dinga answered, he told the jury, "I don't know. We only learned about that last week," according to Krouner.

Teimeier has since retired, according to a phone call with his firm. He could not be reached for comment.

LASIKPlus, is now represented by Troy Rackham of Spencer Fane, who did not respond to a request for comment. So far, no appeals have been filed in the case, according to an email from the Jefferson County Combined Court Records department.

This article has been updated to more accurately reflect the defense's arguments at trial.

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