



Colorado Damage Caps Increase and Revisiting Policy Coverages

By Devon D.A. Bell

On June 3, 2024, Colorado Governor Jared Polis approved House Bill 24-1472 (the “Bill”), which increases the damage caps for tort and wrongful death actions beginning January 1, 2025. The Bill will increase the cap for non-economic losses or injuries¹ from \$250,000 to \$1.5 million, as well as increase the wrongful death cap to \$2.125 million. The Bill will adjust the caps every two years to account for inflation.

The Bill will also incrementally increase the medical malpractice wrongful death damages limitation to \$1.575 million and the non-economic damages limitation for medical malpractice actions from \$300,000 to \$875,000 incrementally over the next five years. The caps will then be adjusted biennially to account for inflation.

For the last several years, Colorado has seen an increase in insurance claims and litigation, particularly within the personal injury and insurance bad faith realms. The Bill will further increase these rising litigation trends, as plaintiff attorneys will be incentivized to file more lawsuits to recover larger settlement and judgment costs. Likewise, defense attorneys will need to approach damages with these increases in mind so they can adequately advise their clients of risks and exposure, particularly during settlement and pre-trial discussions.

Effectively, businesses and insurance carriers will need to adjust their liability exposure and coverage assessments to account for the increased damage caps. This is particularly prevalent in the oil and gas industry, as operators and companies will need to account for the increased damage caps for onsite injuries, deaths, and subsequent non-economic damages claims. As a result, many insurance policies and coverage will need to be adjusted. For example, most commercial general liability policies carry policy limits of \$1,000,000, which could be inadequate to account for the cap increases. Companies are therefore encouraged to speak with their insurance carriers to confirm the adequacy of their policy coverages, as well as address potential increases in premium costs and adjustments in insurance claims handling.

Beatty & Wozniak’s attorneys will continue to follow the Bill and its effects throughout 2025. Please contact Devon D.A. Bell at dbell@bwenergylaw.com for more information.

¹ “Non-economic damages” are damages related to pain and suffering, emotional distress, loss of enjoyment of life, disfigurement, and loss of consortium.