

# Interview: Jim Chalot

## A conversation with Denver trial attorney Jim Chalot By The Denver Post

Q: You recently won a \$10 million verdict for a client in a medical malpractice case. Tell me about that case.

A: We represented a child who had visited a pediatrician on a number of occasions and who should have been referred for an MRI of the head to rule out an abnormality in his brain, based upon the symptoms he had. We alleged it was malpractice to fail to do that. The jury agreed. As a result of a late diagnosis of this very treatable brain tumor, he sustained profound damage, and every bit of the \$10 million will be spent taking care of him over his life expectancy.

Q: Was that your biggest win?

A: That was my biggest verdict. Getting an eight-figure verdict doesn't happen very often, but there were eight figures of damages in this case.

Q: What was the biggest challenge of the case?

A: Juries come into medical malpractice cases with a very strong bias in favor of the doctor, and that is because of a variety of reasons: their own personal preconceived notions that the patient physician relationship is very strong and that the physician is going to be right. That's reinforced by evidentiary rules and laws that give the physician significant advantages in the courtroom. The physician also has a very strong economic advantage in the courtroom. They get very strong support from insurance companies. We have to punch way over our weight.

Q: You're known for ski-related litigation. How did you get involved in that?

A: I was a skier myself. The Colorado Lawyer, which is the monthly publication of the Colorado Bar Association, asked me to write a law review article in 1979 about the then-new Colorado Ski Safety Act. I wrote the article, and Walter Gerash called me and said 'I've got a ski case.' How could you say no to Walter Gerash as a young lawyer? It was a marvelous experience, except we lost. I was determined not to let that happen again.

Q: What have you learned about trying ski-injury cases?

A: You have to learn how to talk with the jury about their notions of assumption of risk, and that if you go skiing and get hurt it's too bad. We had to educate the jury that skiing in Colorado in the late 20th and early 21st century is much different than the bucolic Mom and Pop, one-lift hill. It's not the actual operating model for the modern American ski resort.



Jim Chalot, a Colorado lawyer since 1977, is known for ski-related litigation. He's a senior attorney at Chalot Hatten Law Offices. (Post / Karl Gehring)

Q: Are we safer or less safe on the slopes today than 10 or 15 years ago?

A: It's a mix. Statistically, we have not seen a substantial decrease in the number of injuries since the advent of the modern alpine release binding. That's troubling.

The percentage of collision cases is increasing because the skier density is increasing. You've got high-speed lifts pouring skiers on trails that were cut, managed and permitted by the Forest Service for a different era.

Also, it used to be that most people who went skiing would learn with professional ski instructors. That's not really the case anymore. That leads to a whole different skill level. Statistically, we see a higher incidence of more serious injuries, particularly with children, and largely as a result of collisions.

Q: Are those collisions more often with skiers or snowboarders?

A: Snowboarders and skiers, same exact statistics. One isn't any more safe than the other. As my grandpa used to say, it all depends on the nut behind the wheel.

Q: What more should ski areas do, given these changes?

A: Thought should be given to the density of skiers on slopes and whether they're compatible, the slope versus the lift. One thing that would have a profound effect in improving safety for the general public would be if the ski-area operators encouraged helmet use by the professionals they employ. There's no question that helmets are a safety improvement for skiers and snowboarders.

Q: How many days of skiing do you usually get in a season?

A: A great season for me would be 20 days of recreational skiing with the family. We ski a lot at Winter Park, which is only 40 miles from our house in Evergreen. Sometimes, though, it's 20 days on skis, of which 10 days is looking at accident sites. That can be pretty boring.

*Edited for space and clarity from an interview by staff writer Greg Griffin.*