



Alerts

Missouri Supreme Court Strikes Down Non-Economic Caps in Medical Negligence Cases

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Medical Litigation Alert

The Missouri Supreme Court ruled on July 31, 2012, that Mo. Rev. Stat. § 538.210, which provided for a cap of \$350,000 for non-economic damages in medical negligence cases, is unconstitutional as it violates the right to a jury trial. *Watts v. Lester E. Cox Medical Centers, et al.*, No. SC. 91867. The Court also held that a trial judge has authority under Mo. Rev. Stat. § 538.220 to determine the manner in which future damages which are awarded shall be paid, including what portion should be paid in future installments both as to medical and other future damages.

Plaintiff in *Watts* filed a medical negligence case against defendants, a medical center and its associated physicians. She alleged that defendants had provided negligent health services to her son, who was born with disabling brain injuries. The jury returned a verdict for plaintiff and awarded \$1.45 million in non-economic damages and approximately \$3.37 million in future medical damages. The non-economic damages were reduced by the court pursuant to Mo. Rev. Stat. § 538.210 to \$350,000 (collective for all defendants). The court further ordered, pursuant to Mo. Rev. Stat. § 538.220, that the future damages would be paid 50 percent immediately and the remaining sum in equal annual installments over the next 50 years with an interest rate of .26 percent. The Missouri Supreme Court held that the cap on non-economic damages was unconstitutional as it violated the right to a jury trial. The Court found that the personal injury action for medical negligence was based in common law. In so ruling, the Court overruled *Adams* by and through *Adams v. Children's Mercy Hosp.*, 832 S.W.2d 898, 907 (Mo. banc 1992). The Court's ruling is consistent with *Sanders v. Ahmed*, 364 S.W.3d 195,204 (Mo. banc 2012), wherein the Court upheld the caps under Mo. Rev. Stat. § 538.210 with regard to statutorily created causes of action, specifically wrongful death. In that opinion, the Court specifically noted that the wrongful death cause of action was not a common law action.

As for Mo. Rev. Stat. § 538.220, if a party (normally the defendant) requests a periodic payment schedule for the future damages, then the court has the authority to determine what part of the future medical damages shall be subject to the payment schedule. The Supreme Court opined that a court in creating a payment schedule must be mindful that the plaintiff receive the benefit of the jury's award and also of the goal of reducing medical malpractice costs. As such, the Court remanded that issue to allow for a new payment schedule to consider those principles.

[*Watts v. Lester E. Cox Medical Centers, et al.*, No. SC. 91867](#)