



# Condon v. St. Alexius Medical Center (N.D. S.Ct.)

Topics Covered: Professional Liability, Tort Reform

## Issue

The issue in this case is whether the North Dakota statutory cap on noneconomic damages, N.D.C.C. § 32-42-02, is constitutional.

## AMA Interest

Medical liability reform is one of the AMA's highest legislative priorities. Further, the AMA supports state medical associations' efforts to curtail lawsuit abuse.

## Case Summary

A North Dakota jury rendered a verdict, based on medical malpractice, in favor of Chenille Condon and against Saint Alexius Medical Center and Allen Michael Booth, MD, for \$3,634,081.48. Following the verdict, the defendants moved for reduction of damages, based on § 32-42-02. Section 32-42-02 provides that the total amount of compensation awardable in a health care malpractice claim for noneconomic damages may not exceed \$500,000. Condon opposed the motion, asserting that § 32-42-02 was unconstitutional. She claimed that the statute violated, *inter alia*, the equal protection guarantee.

The trial judge found that the \$500,000 cap was an arbitrary reduction of compensation without regard to the underlying injury and served no rational purpose. Therefore, the statute failed the rational basis test for equal protection and was unconstitutional. The court entered judgment against the defendants on the full verdict of \$3,634,081.48. The defendants have appealed to the North Dakota Supreme Court.

## Litigation Center Involvement

The Litigation Center, along with the North Dakota Medical Association, the American Hospital Association, and the North Dakota Hospital Association filed an *amicus* brief in the North Dakota Supreme Court to support the defendants and the cap on noneconomic damages.

Supreme Court of North Dakota brief