



Ferdon v. Wisconsin Patients Compensation Fund, 701 N.W.2d 440 (Wis. 2005)

Topics Covered: Professional Liability, Tort Reform

Outcome: Very Unfavorable

Issue

The issue in this case was whether Wisconsin's statutory limit on non-economic damages in medical malpractice cases was constitutional.

AMA Interest

The AMA supports the limitation of non-economic damages in medical malpractice cases.

Case Summary

This case challenged the Wisconsin statutes limiting medical malpractice non-economic damage awards. The plaintiffs asserted, under a broad range of legal theories, that the statutory cap on non-economic damages was unconstitutional.

The Wisconsin Supreme Court, reversing the decisions of the lower courts and overturning established precedents, found that the Wisconsin cap on non-economic damages violated the Equal Protection Clause of the Wisconsin Constitution. The Supreme Court declined to follow its ruling in *Maurin v. Hall*, 682 N.W.2d 866 (2004), which had rejected an equal protection challenge to a limit on non-economic damages in a wrongful death case.

Litigation Center Involvement

The Litigation Center and the Wisconsin Medical Society filed a brief as amicus curiae, emphasizing the benefits that the caps on non-economic damages had provided to the State of Wisconsin.

Wisconsin Supreme Court brief