



Freed v. D.R.D. Pool Service, 416 Md. 46 (Md. 2010)

Topics Covered: Tort Reform

Issue

The principal issue in this case was whether the Maryland statutory cap on non-economic damages provided equal protection of the laws under the federal and state constitutions.

AMA Interest

The AMA supports reformation of the tort liability system in order to control escalating costs of medical liability.

Case Summary

Connor Freed, a five year old boy, died in a country club swimming pool maintained by D.R.D. Pool Service. Freed, through his parents as representatives of his estate, sued D.R.D. Pool Service for his wrongful death.

Following a trial, the jury returned a verdict for Freed of \$4,006,442. Maryland law limited the non-economic damages that may be awarded in a tort action (not just tort actions involving medical liability). Based on the damage cap, the trial court reduced the jury verdict and entered a \$1,002,500 judgment for Freed. In a post-trial motion, Freed asserted that the damage cap violated the Equal Protection Clauses of the United States Constitution and the Maryland Declaration of Rights. The trial court rejected that argument, and Freed appealed to the Maryland Court of Special Appeals (the intermediate level appellate court in Maryland), which affirmed. Freed then appealed to the Maryland Court of Appeals, the highest court in Maryland.

The Maryland Court of Appeals affirmed that part of the trial court decision that had upheld the cap. The court observed that it had previously found such caps to be valid, and there was no reason to reexamine its earlier decision.

Litigation Center Involvement

The Litigation Center and MedChi, the Maryland State Medical Society joined in an *amicus* brief to the Maryland Court of Appeals to support the statutory cap on damages.

Maryland Court of Appeals brief