



MacDonald v. City Hospital, 715 S.E.2d 405 (W. Va. 2011)

Topics Covered: Professional Liability, Tort Reform

Outcome: Very Favorable

Issue

The issue in this case was whether the West Virginia statutory limitation on noneconomic damages was constitutional.

AMA Interest

Medical liability reform is the AMA's highest legislative priority.

Case Summary

James MacDonald, the recipient of a kidney transplant, incurred pneumonia. He was admitted to City Hospital under the care of Sayeed Ahmed, M.D., an internist. Mr. MacDonald advised Dr. Ahmed and City Hospital that he was taking various medications on account of the transplant. Without ordering blood tests, Dr. Ahmed prescribed the drug Diflucan to Mr. MacDonald. Had Dr. Ahmed ordered blood tests, he would have learned that, in view of the medications Mr. MacDonald was taking, Diflucan was contraindicated. As a result of the Diflucan, Mr. MacDonald's kidney function worsened, and he suffered muscle damage.

Mr. MacDonald was later transferred to another hospital and another physician. He was then given the necessary blood tests, and his medication was changed. Some of Mr. MacDonald's functionality was restored, but nevertheless he suffered permanent injuries on account of the negligence of Dr. Ahmed and City Hospital. As a result of Mr. MacDonald's injuries, his wife suffered her own psychological trauma.

The MacDonalds sued City Hospital and Dr. Ahmed for medical malpractice, and the jury found both the defendants liable. The verdict for Mr. MacDonald was \$125,000 for past medical expenses and lost wages, \$250,000 for past pain and suffering, and \$750,000 for future pain and suffering. The jury awarded Mrs. MacDonald \$500,000 for her emotional distress.

City Hospital and Dr. Ahmed moved to reduce the verdict based on a West Virginia statute that limits noneconomic damages to \$500,000 in medical malpractice suits, "regardless of the number of plaintiffs or the number of defendants," but with an adjustment for inflation. The MacDonalds opposed this motion, arguing that the damage cap was unconstitutional.

The trial judge found the statute to be constitutional. The court entered judgment for Mr. MacDonald for his full economic damages, but the noneconomic damages were reduced to

\$500,000, adjusted for inflation. The judge also reduced Mrs. MacDonald's damages to zero because Mr. MacDonald's noneconomic damages had fully exhausted the cap and his claim took precedence over hers. In addition, he awarded the MacDonalds their costs.

The MacDonalds appealed to the West Virginia Supreme Court of Appeals, the highest court in the state. On June 22, 2011, the Supreme Court of Appeals found the damage cap constitutional and affirmed.

Litigation Center Involvement

The Litigation Center and the West Virginia State Medical Association filed an *amicus* brief in the West Virginia Supreme Court of Appeals, supporting the constitutionality of the cap on noneconomic damages.

Supreme Court of Appeals of West Virginia brief