



Maurin v. Hall, 682 N.W.2d 866 (Wis. S. Ct. 2004)

Topics Covered: Professional Liability, Tort Reform

Outcome: Favorable

Issue

The issue in this case was the constitutionality of a Wisconsin statute that limited the non-economic damages recoverable by a plaintiff in a wrongful death lawsuit.

AMA Interest

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

Case Summary

The trial court held that the limit on non-economic damages in the Wisconsin Wrongful Death Act violated the Wisconsin Constitution. The court reasoned that the statute deprived litigants of the right to a trial by jury, and it violated due process, equal protection, and the separation of powers doctrine. Following certification by the Wisconsin Court of Appeals, the case was appealed directly to the Wisconsin Supreme Court.

The Supreme Court, by a split decision, reversed the trial court and upheld the constitutionality of the limit on non-economic damages. The plaintiff moved for reconsideration, but the court, by a four to two vote, denied that motion.

This holding may have been overruled in *Bartholomew v. Wisconsin Patients Compensation Fund*, 717 N.W.2d 216 (Wis. S. Ct. 2006) and/or *Ferdon v. Wisconsin Patients Compensation Fund*, 701 N.W.2d 440 (Wis. S. Ct. 2005).

Litigation Center Involvement

The Litigation Center joined the Wisconsin Medical Society and the Wisconsin Hospital Association in an amicus curiae brief seeking reversal of the trial court decision.

Wisconsin Supreme Court brief