



Ray v. Kapiolani Medical Specialists, 259 P.3d 569 (Haw. 2011)

Topics Covered: Professional Liability, Tort Reform

Outcome: Neutral

Issue

The issue in this case was whether the Hawaii cap on damages for pain and suffering was constitutional.

AMA Interest

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

Case Summary

Alyssa Ray, a fourteen year old girl, suffered from an autoimmune disease. She sought treatment from Kapiolani Medical Specialists (KMS), which prescribed steroids. Unfortunately, Alyssa incurred an extreme case of myopathy and suffered substantial injuries including pain and suffering.

Alyssa and her parents sued KMS for medical malpractice. The Rays alleged that the prescribed treatment regimen was not generally accepted in the medical community. Further, they asserted, other treatments, which were accepted and available, would have involved lower doses of steroids and would have posed a smaller risk. It was the failure to recommend one of these alternatives that allegedly caused the myopathy. After a trial, a jury awarded Alyssa \$5.550 million in damages, of which \$2 million was categorized as "pain and suffering." The jury also awarded her parents, collectively, \$600,000.

A Hawaii statute provides that, with certain exceptions, "damages recoverable for pain and suffering ... shall be limited to a maximum award of \$375,000." Based on this limitation, the court reduced the pain and suffering award to \$375,000 and entered a judgment for Alyssa of \$3,925,000. The court also entered judgments for her parents that totaled \$600,000.

Alyssa moved to amend her judgment, so it would reflect the full amount of the jury verdict. She claimed the cap on damages was unconstitutional, as it violated the right to trial by jury, the doctrine of separation of powers, the guarantee of equal protection, and the right to due process. The trial court rejected these arguments and denied the motion to amend the judgment. The case was then appealed to the Hawaii Intermediate Court of Appeals, which transferred the case directly to the Hawaii Supreme Court.

The Hawaii Supreme Court found that certain of the jury's findings within the special verdict were internally inconsistent. The court vacated the trial court judgment and remanded the case for a new trial. The court did not reach the question of the constitutionality of the damage cap.

Litigation Center Involvement

The Litigation Center and the Hawaii Medical Association filed an *amicus* brief with the Hawaii Intermediate Court of Appeals. When the case was transferred to the Hawaii Supreme Court, this brief stood as the Supreme Court *amicus* brief.

Hawaii Intermediate Court of Appeals brief