



Stinnett v. Tam (Cal. S.Ct.)

198 Cal. App. 4th 1412 (Cal. App. 2011)

Topics Covered: Professional Liability, Tort Reform

Outcome: Very Favorable

Issue

The issue in this case was whether MICRA's (Medical Injury Compensation Reform Act) cap on non-economic damages, Cal. Civ. Code § 3333.2, violated the California constitutional guarantees of equal protection of the laws and trial by jury.

AMA Interest

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

Case Summary

Stanley Stinnett was hospitalized after a motorcycle accident, fracturing his ribs. While hospitalized, he developed a disruption of his gastrointestinal digestive action. As a result, his stomach became severely swollen, exerting pressure on his diaphragm due to the air and fluid he accumulated in his stomach.

He complained to the hospital staff and his physician, Tony Tam, M.D., about the swelling. Mr. Stinnett had an x-ray taken, but no action was taken to reduce the abdominal swelling. Mr. Stinnett vomited and inhaled some of the vomit into his lungs, and he ultimately died from the resulting asphyxiation.

Holly Stinnett, Mr. Stinnett's widow, sued for wrongful death, claiming negligent medical treatment. She asserted that, under the accepted standard of care, Dr. Tam should have read the x-ray promptly and a nasogastric tube should have been inserted into Mr. Stinnett's stomach to drain the accumulated fluid. This would have relieved the pressure on his diaphragm and avoided the risk of vomiting and the aspiration of the vomit.

A jury found Dr. Tam liable and awarded Mrs. Stinnett \$148,302 for past economic loss, \$1,242,093 for future economic loss, and \$6,000,000 in non-economic damages. Dr. Tam moved to reduce the award in accordance with the \$250,000 MICRA cap. Over Mrs. Stinnett's objection, judgment was entered in the reduced amount.

Mrs. Stinnett appealed to the California Court of Appeal. She contended that MICRA violated her constitutional rights of equal protection and trial by jury. On September 1, 2011, by a split decision, the court affirmed, thus upholding the constitutionality of the cap.

Mrs. Stinnett then asked the California Supreme Court to hear the case, but on November 30, 2011, the Supreme Court, in a split decision, declined to grant further review.

Litigation Center Involvement

The Litigation Center, along with the California Medical Association, filed an *amicus curiae* brief in support of MICRA. The Litigation Center and California Medical Association also filed a letter brief with the California Supreme Court to oppose a hearing in that court.

California Court of Appeal brief

California Supreme Court letter brief