



Watts v. Lester E. Cox Medical Centers, 376 S.W.3d 633 (Mo. 2012)

Topics Covered: Professional Liability, Tort Reform

Outcome: Very Unfavorable

Issue

The issue in this case was whether the Missouri statutory cap on non-economic damages in a medical liability suit was constitutional.

AMA Interest

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

Case Summary

Deborah Watts was approximately 39 weeks pregnant when she was examined at the Lester E. Cox Medical Center for a prenatal examination. One of the resident physicians noted decreased fetal movement, but she did not order further tests and did not warn that such decreased movement might be a symptom of a serious medical condition, requiring immediate attention. Mrs. Watts was admitted to the Cox Medical Center, and an electronic fetal monitor again showed that her baby was in distress. The baby was delivered via c-section, but the baby was born with permanent brain injuries.

Mrs. Watts, her husband, and her newborn baby sued the Cox Medical Center and various of its physicians for medical negligence. After the trial, the jury found economic damages of \$3,371,000 and non-economic damages of \$1,450,000. The plaintiffs sought judgment for the total damages, but the defendants asked that the non-economic damages be reduced to \$350,000, pursuant to Mo. Rev. Stat. § 538.210, which imposes that sum as a cap on non-economic damages. The defendants also asked that the damages be paid on a periodic basis, pursuant to Mo. Rev. Stat. § 538.220.

The plaintiffs opposed the request, arguing that the statutes were unconstitutional. They asserted that the statutes violated the Missouri constitutional right of trial by jury, guarantee of separation of powers, right of equal protection of the laws, prohibition against special legislation, and right to due process. The trial judge overruled the plaintiffs' objections and found the statutes constitutional. He then reduced the non-economic damages to \$350,000, and entered judgment for \$3,721,000, plus costs.

The plaintiffs appealed directly to the Missouri Supreme Court. On July 31, 2012, overturning its own precedent and by a split decision, the Supreme Court reversed. It held that the cap on

damages violated the constitutional right of trial by jury and was therefore invalid. It did not reach the other constitutional issues.

Litigation Center Involvement

The Litigation Center, along with the Missouri State Medical Association filed an *amicus* brief to support the constitutionality of the statute.

Missouri Supreme Court brief