



# Woessner v. Toledo Hospital (OH Ct. App. 6th Cir.)

Topics Covered: Professional Liability, Tort Reform

## Issue

The issue in this case is whether the Ohio cap on noneconomic damages in medical malpractice suits violates the constitutional right to due process of law.

## AMA Interest

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

## Case Summary

Brady Woessner was admitted to Toledo Hospital on account of stomach pain. The examining physician, Patrick White, MD, diagnosed a small bowel obstruction. After six days, Woessner's small bowel became gangrenous. Three feet of the small bowel were surgically removed, but he suffered from sepsis and multisystem organ failure. As a result, he died.

Woessner's estate sued the hospital, Dr. White, Dr. Timothy Quinn, and Dr. Quinn's practice corporation, Toledo Radiological Associates, for wrongful death arising from medical malpractice. The estate contended that, if the condition had been properly diagnosed, it would have been treatable and the small bowel could have been saved without the ensuing complications. The defendants asserted that their care met applicable standards and, in any event, Woessner, having been born with a congenital liver disease, had a greatly reduced life expectancy.

After a nine day trial, the jury awarded \$4 million in damages against Dr. White and Toledo Hospital. This sum included \$1.5 million in non-economic damages. The jury returned a defense verdict for Dr. Quinn and Toledo Radiological Associates. After the jury rendered its verdict, Mr. Woessner's estate moved for entry of judgment for \$4 million.

The defendants objected, based on Ohio Revised Code § 2323.43, which limited non-economic damages in claims based on medical liability to \$500 thousand per plaintiff. In response, the estate asserted that the statutory cap was constitutionally invalid, based on the rights to due process, equal protection, trial by jury, and open courts. The court then found that, although the statute was valid under the requirements of equal protection, trial by jury, and open courts, it was arbitrary or irrational and therefore violated due process, as applied to the specific facts before it. The defect in the statute arose from its requirement that noneconomic damages were to be capped even for plaintiffs (such as Mr. Woessner) who suffered extreme, catastrophic injuries. The court ordered judgment for the \$4 million.

Both sides have appealed to the Sixth District Court of Appeals.

### **Litigation Center Involvement**

The Ohio State Medical Association filed an amicus brief in support of the Ohio cap on non-economic damages. OSMA is considering whether it would be feasible to ask the court to allow the Litigation Center to join in the brief.