

Missouri Supreme Court Upholds Non-Economic Damages Cap

On July 22, 2021, the Missouri Supreme Court issued its opinion in the matter of *Ordinalo Velazquez v. University Physician Associates, et al.* In a victory for health care providers, the Missouri Supreme Court rejected a constitutional challenge to non-economic damages caps in actions based on the provision of medical services.

The plaintiff had filed a lawsuit on a theory of medical negligence and argued that the damages caps violated article I, § 22(a) of the Missouri Constitution, which protects the right to a jury trial on claims that existed at common law when the current state constitution was ratified. In the past, plaintiffs' attorneys successfully invoked this provision to strike down damages caps in cases where the claim existed at common law. However, the General Assembly adopted legislation in 2015 that abolished the common law cause of action for medical negligence, replacing it with a statutory claim. Because the cause of action now exists purely as a creature of statute, the Court held that the statutory cap on non-economic damages is constitutional.

In addition, the Court clarified that the applicable non-economic damages cap must be calculated *at the time of trial*, and not at the time of the injury. Because the caps increase every year, this means the cap will be higher by trial; however, it will prevent plaintiffs from arguing the caps should not apply where the injury occurred before the caps came into effect.

The caps on non-economic damages are established by statute as follows:

Year	Non-Catastrophic Injury	Catastrophic Injury

2021	\$442,574	\$774,504
2022	\$450,098	\$787,671
2023	\$457,749	\$801,061
2024	\$465,531	\$814,679
2025	\$473,445	\$828,529
2026	\$481,494	\$842,614
2027	\$489,679	\$856,938
2028	\$498,003	\$871,506
2029	\$506,470	\$886,322
2030	\$515,080	\$901,389
2031	\$523,836	\$916,713
2032	\$532,741	\$932,297
2033	\$541,798	\$948,146
2034	\$551,008	\$964,264
2035	\$560,375	\$980,657
2036	\$569,902	\$997,328
2037	\$579,590	\$1,014,283
2038	\$589,443	\$1,031,525
2039	\$599,464	\$1,049,061
2040	\$609,655	\$1,066,895
2041	\$620,019	\$1,085,033
2042	\$630,559	\$1,103,478
2043	\$641,278	\$1,122,237
2044	\$652,180	\$1,141,315
2045	\$663,267	\$1,160,718
2046	\$674,543	\$1,180,450
2047	\$686,010	\$1,200,926
2048	\$697,672	\$1,220,926
2049	\$709,533	\$1,241,682
2050	\$721,595	\$1,262,791

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