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NewsFlash

Illinois Supreme Court Holds that “Caps” on Malpractice Damages are Unconstitutional

In a long-awaited decision, in *Lebron v. Gottlieb Memorial Hospital* the Illinois Supreme Court held today that the statutory “caps” on non-economic damages in medical practice actions are unconstitutional.

The “caps” were part of an Act, often referred to as the “tort reform” legislation, which was enacted in 2005. While it contained a number of provisions, the “caps” on non-economic damages in malpractice cases were the most noteworthy feature of the legislation. The statute imposed limits of \$1,000,000 in cases against hospitals and \$500,000 in actions against doctors and other individuals. “Non-economic damages” include damages for pain and suffering, disability and disfigurement and loss of normal life.

In its decision today, the Illinois Supreme Court held that the “caps” violate the separation of powers clause of the Illinois Constitution, reasoning that it is a judicial function, rather than a legislative function, to determine whether damages in any particular case are unreasonable.

Because the Act specifically provided that its provisions were not severable, the entire legislation was invalidated as a result of the unconstitutionality of the caps on damages.

The Court’s decision today follows the Court’s ruling in the *Best* decision in 1997, when the Supreme Court concluded that a prior attempt to limit non-economic damages was unconstitutional.

The attorneys at Bryce Downey & Lenkov constantly strive to keep you updated regarding the latest developments in tort and malpractice law in Illinois and Indiana. If you would like more information on any of the topics discussed above, or have any questions regarding these issues or any aspect of Illinois and Indiana tort or malpractice law, please contact Storrs W. Downey or Terrence J. Madden. © Copyright 2010 by Bryce Downey & Lenkov LLC, all rights reserved. Reproduction in any other publication or quotation is forbidden without express written permission of copyright owner.