

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, TAMPA DIVISION

M.D. v. United States

745 F. Supp. 2d 1274 (M.D. Fla. 2010) · No. 8:09-cv-438-EAK-MAP · Decided September 30, 2010

SUMMARY

The court denied plaintiffs' motion to strike the United States' affirmative defense asserting Florida's medical malpractice damages caps under Fla. Stat. § 766.118. The court rejected constitutional challenges based on access to courts, trial by jury, equal protection, separation of powers, due process, fair compensation, and takings principles. The court relied substantially on Estate of McCall v. United States and held that the caps were rationally related to legitimate objectives concerning medical malpractice insurance and healthcare availability.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Tampa Division
WRITING FOR THE COURT	Elizabeth A. Kovachevich
JURISDICTION	USA
DECIDED	September 30, 2010
DOCKET	8:09-cv-438-EAK-MAP
DISPOSITION	denied
PROCEDURAL POSTURE	Plaintiffs moved under Federal Rule of Civil Procedure 12(f) to strike the defendant's fifteenth affirmative defense, which asserted that Florida Statute § 766.118 capped non-economic medical-malpractice damages. The court denied the motion.
STANDARD OF REVIEW	Under Rule 12(f), matter may be stricken from a pleading if it is redundant, immaterial, impertinent, or scandalous. A motion to strike is ordinarily denied unless the challenged allegations have no possible relation to the controversy and may prejudice a party.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority within the Middle District of Florida and elsewhere, but not binding appellate precedent.
PARTIES	M.D., a Minor, et al. v. United States of America

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Florida Statute § 766.118 was sufficiently related to the controversy to preclude striking the defendant's affirmative defense under Federal Rule of Civil Procedure 12(f).
2. Whether Florida's statutory caps on non-economic medical-malpractice damages violate Florida's constitutional right of access to the courts.
3. Whether the caps violate the right to trial by jury.
4. Whether the caps violate federal or state equal-protection guarantees.
5. Whether the caps constitute an impermissible legislative remittitur or violate separation of powers.
6. Whether the caps violate substantive or procedural due process.
7. Whether the caps violate Article I, Section 26(a) of the Florida Constitution concerning a medical-liability claimant's right to fair compensation.
8. Whether the caps constitute a taking of property without just compensation.

HOLDINGS

1. The affirmative defense invoking Florida's medical-malpractice damages caps was not redundant, immaterial, impertinent, or scandalous and therefore should not be stricken.
2. Florida's statutory limits on non-economic medical-malpractice damages are constitutionally permissible under Article I, Section 21 of the Florida Constitution because the Legislature identified an overpowering public necessity and determined that no reasonable alternative would adequately address the medical-malpractice insurance crisis.
3. The medical-malpractice damages caps do not violate federal or Florida equal-protection guarantees because the statute does not involve a suspect classification or fundamental right and is rationally related to legitimate governmental objectives.
4. Florida Statute § 766.118 is not an impermissible legislative remittitur and does not invade the judiciary's authority because it establishes generally applicable substantive and remedial limits rather than making case-specific factual determinations about damage awards.
5. Florida Statute § 766.118 does not violate substantive or procedural due process because its limitation on non-economic damages bears a reasonable relationship to the legitimate legislative objective of controlling malpractice-insurance costs and enhancing healthcare availability.
6. Article I, Section 26(a) does not invalidate Florida's statutory limits on recoverable non-economic damages; it limits contingent-fee amounts rather than defining the total damages legally recoverable.

7. Applying Florida Statute § 766.118 to the plaintiffs' claims does not constitute a taking without compensation because the plaintiffs had no vested right in an unrestricted damages regime before their cause of action accrued.

KEY QUOTATIONS

“The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.” (1277)

“the Legislature has shown that an ‘overpowering public necessity’ exists.” (1277-1278)

“The aggregate limit on non-economic damages applying to each incident regardless of the number of claimants serves precisely the same legitimate interest served by individual caps” (1280)

“the judiciary does not ‘sit as a superlegislature to judge the wisdom or desirability of legislative policy determinations made in areas that neither affect fundamental rights nor proceed along suspect lines.’” (1281)

“the provision acts as a restriction on the amount of attorney's fees that may be collected in a medical malpractice case, not as a definition of what amount of damages are in fact recoverable.” (1283)

FACTUAL BACKGROUND

Arlene Delgado died on August 4, 2007, shortly after giving birth while receiving care from Central Florida Health Care, Inc., an agency of the United States. The beneficiaries of her estate sought economic and non-economic damages from the United States for medical malpractice. The United States asserted Florida Statute § 766.118 as an affirmative defense, potentially limiting non-economic damages to \$1.5 million.

PROCEDURAL HISTORY

The plaintiffs brought a Federal Tort Claims Act medical-malpractice action arising from the death of Arlene Delgado after childbirth while under the care of Central Florida Health Care, Inc. The United States asserted Florida's medical-malpractice damages cap as an affirmative defense. Plaintiffs moved to strike the defense on access-to-courts, jury-trial, equal-protection, separation-of-powers, due-process, fair-compensation, and takings grounds; the district court rejected those arguments and denied the motion.

DISPOSITION

denied

CASES CITED

- Pashoian v. GTE Directories n/k/a Verizon Directories, 208 F. Supp. 2d 1293, 1297 (M.D. Fla. 2002)
- Story v. Sunshine Foliage World Inc., 120 F. Supp. 2d 1027, 1030 (M.D. Fla. 2000)
- Estate of McCall v. United States, 663 F. Supp. 2d 1276 (N.D. Fla. 2009)
- Kluger v. White, 281 So. 2d 1, 4 (Fla. 1973)
- Smith v. Department of Insurance, 507 So. 2d 1080 (Fla. 1987)

- University of Miami v. Echarte, 618 So. 2d 189 (Fla. 1993)
- Duke Power Co. v. Carolina Env't'l Study Grp., Inc., 438 U.S. 59, 88-89 n. 32 (1978)
- F.C.C. v. Beach Communications, Inc., 508 U.S. 307, 313-314 (1993)
- Smith v. Botsford General Hospital, 419 F.3d 513, 520 (6th Cir. 2005)
- Hoffman v. United States, 767 F.2d 1431, 1437 (9th Cir. 1985)
- Boyd v. Bulala, 877 F.2d 1191, 1196-1197 (4th Cir. 1989)
- Lucas v. United States, 807 F.2d 414, 419, 422 (5th Cir. 1986)
- Davis v. Omitowaju, 883 F.2d 1155, 1158-1159 (3d Cir. 1989)
- Adams v. Wright, 403 So. 2d 391 (Fla. 1981)
- Ilkanic v. City of Fort Lauderdale, 705 So. 2d 1371, 1372 (Fla. 1998)
- Clausell v. Hobart Corp., 515 So. 2d 1275, 1276 (Fla. 1987)
- New York Cent. R.R. v. White, 243 U.S. 188, 198 (1917)
- Raphael v. Shecter, 18 So. 3d 1152, 1157 (Fla. 4th DCA 2009)