



Oklahoma Supreme Court Invalidates State's Noneconomic Damages Cap

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The Oklahoma Supreme Court [recently invalidated](#) the state's statutory noneconomic damages caps for claimed bodily injuries in *Beason v. I.E. Miller Servs.*, 2019 OK 28, --- P.3d ---. Oklahoma now has no cap or limit on these damages, which compensate plaintiffs for harms such as mental distress and pain and suffering.

First effective in 2009 and amended in 2011, the statute at issue limited noneconomic damages recovery by gradations. 23 O.S. § 61.2. As a general rule, plaintiffs were limited to \$350,000 in these damages. If, however, the judge and jury found severe wrongdoing by clear and convincing evidence, such as that defendant(s) acted in reckless disregard for the rights of others, grossly negligently, fraudulently, intentionally, or with malice, no cap applied.

The *Beason* decision rested on two elements of the Oklahoma Constitution:

1. Under the state Constitution, the Oklahoma Legislature cannot enact laws that unreasonably require different treatment for part of a class of similar people. Okla. Const. Art. 5, § 46.
2. The Oklahoma Constitution also requires recovery for injuries resulting in death shall not be subject to any statutory limitation. Okla. Const. Art. 23, § 7. In accord with this, and by statute, the personal representative of a person who died due to an injury-causing event may recover uncapped damages for the "mental pain and anguish" the person suffered before his or her death. 12 O.S. § 1053.

These two constitutional provisions are key to the *Beason* decision, as constitutional provisions control over legislatively-enacted statutes or judge-made common law. Since the Constitution prohibits special laws that unreasonably require different treatment for similar people, and since the Constitution also explicitly rejects limitations on damages for injuries causing death, the Court reasoned, "[i]f a decedent can recover without limitation for pain and suffering during the time between the harm-causing event and his or her death, no good reason exists to treat a person who survives the harm-causing event different with respect to recovery for the very same

detriment.” 2019 OK 28 at ¶8. The court then concluded the legislative cap as enacted was a special law and consequently held that it violated the Oklahoma Constitution.

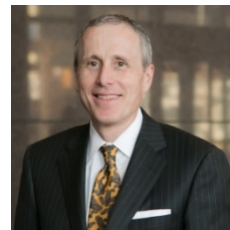
The *Beason* decision immediately affects Oklahoma litigation, including negotiations, settlements, jury verdicts, and ultimate liability. Both state and federal cases are implicated, as where litigation takes place in federal court because parties are citizens of different states, jury awards must follow state rules on damages. *Gasperini v. Ctr. for Humanities, Inc.*, 518 U.S. 415, 428 (1996); *Racher v. Westlake Nursing Home Ltd. P’ship*, 871 F.3d 1152, 1162 (10th Cir. 2017). And the effects will ripple wherever Oklahoma law is applied because of choice-of-law selection clauses in contracts or other mechanisms.

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