



[Illinois Law Limiting Damages for Pain and Suffering In Doctor Negligence Cases Ruled Unconstitutional](#)

www.kenallenlaw.com

The [Illinois Supreme Court recently issued its decision](#) that the medical malpractice law* passed by the Illinois Legislature trying to limit the amount of money awarded for pain, suffering, and other non-economic injuries, was *unconstitutional*.

Illinois Juries Hands No Longer Tied in Doctor Error Cases

On the books for 5 years, the Illinois medical malpractice cap had told juries that the most an injury victim could be provided in the jury's award was \$500,000.00 against doctors and \$1,000,000 against hospitals for non-economic damages. For what? Things like pain, suffering, stuff that results from a doctor's error but doesn't carry with it a documented receipt (like renting a hospital bed for home use).

The jury was free to award less, but the jury was not free to award more, no matter how much the jury felt a higher amount was justified and the right thing to do when a doctor's error had grievously harmed someone. If the jury tried to ignore these numbers, then the judge would be forced to limit their decision to the law's arbitrary amounts anyway — regardless of what the jury had found.

Many state legislatures have been passing laws like this — laws that help doctors by blocking their monetary exposure when they are responsible for medical negligence. According to [a recent New York Times tally](#), 30 states have passed these kinds of laws, and 11 high courts have voided them as being unconstitutional while another 16 have been found constitutionally valid.

Juries Should Be Respected – The Illinois Supreme Court Result is Just

There's [lots of hoopla on how health care costs have skyrocketed because of big, bad medical malpractice verdicts](#) – that's been one of the key arguments to legislatures as those seeking med mal caps lobbied for passage of these laws. However, [as the Chicago Tribune reports, the Congressional Budget Office reported just last fall](#) that a set of

reforms which included capping non-economic damages in medical malpractice law suits, would lower the nation's health care bill by only 0.5 percent.

0.5%? That's awfully close to zip.

Meanwhile, juries sit in courtrooms across this country and see the horrors that can result when doctors make mistakes. And, doctors are only human – and humans aren't perfect, they occasionally DO make mistakes.

When juries are asked to decide what is justice for someone like the plaintiff in the case that the Illinois Supreme Court reviewed in its decision last week, these men and women know better than anyone else what is the right thing to do.

Jury's Justice in Frances Lebron's Medical Malpractice Case

An Illinois jury will hear Frances Lebron fight for justice for herself and her infant daughter, after errors during the baby's delivery resulted in cerebral palsy and other conditions. Mrs. Lebron's daughter will live the entirety of her life in a wheelchair because of the errors made during her delivery at Gottlieb Memorial Hospital in 2005. Now, that Illinois jury can decide the just amount of money to be paid for pain, suffering, and other non-economic damages without their hands being tied.

How can this not be justice for that baby girl?

*Section 2-1706.5 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1706.5 (West 2008)), adopted as part of Public Act 94-677 (Act) (see Pub. Act 94-677, §330, effective August 25, 2005)