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## Maryland's Highest Court Upholds Cap on Non-Economic Damages

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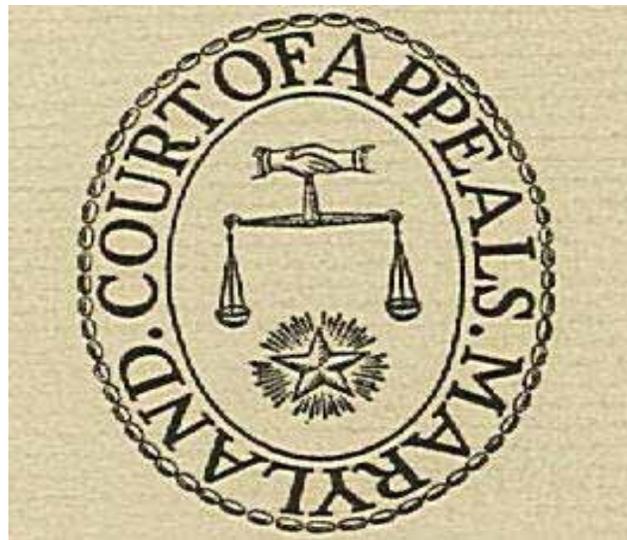
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In April, we [reported](#) that the Court of Appeals of Maryland heard oral arguments in a case regarding personal injury damage caps. In the case being appealed, the parents of a young child who had drowned received a jury award of \$4 million for their pain and suffering, but the damages were reduced to \$1 million by operation of the damage cap laws. The specific issue considered by the court was whether jury awards for pain and suffering damage caps were constitutional.

In late September, the Court finally issued its decision in [DRD Pool Service, Inc. v. Freed](#). As explained in this [post](#) at the Maryland Malpractice Lawyer blog, the Court upheld the state's cap on non-economic damages.

The Court noted that its decision was grounded in stare decisis, thus refusing to diverge from prior holdings on this issue:

The present case does not satisfy the tests for rejecting stare decisis or the Murphy and Oaks precedents which upheld the constitutionality of the Cap. Merely arguing that the majority was wrong in Murphy is not sufficient grounds to abrogate the principles of stare decisis. ... (The plaintiffs) have



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offered no evidence of a clear error, or a change in law or circumstances that would justify disregarding stare decisis and rendering the Cap unconstitutional. In our view, the Cap continues to serve a legitimate government purpose.

Thus, lawsuits in Maryland continue to be subject to the cap for damages related to pain and suffering.

Fortunately, as we've [discussed](#) in the past, certain types of cases, such as [Illinois medical malpractice lawsuits](#), are not subject to damage caps. This allows juries to assess each case on their merits and award damages based on the specific facts of the case.

Where damage caps are applicable, in states such as Maryland, the jurors' hands are tied, even in the most egregious of cases. The end result is that the most severely injured people in those states are least likely to recover damages for the full extent of their injuries—a sad state of affairs, indeed.

Howard Ankin of Ankin Law Office LLC ([www.ankinlaw.com](http://www.ankinlaw.com)) handles [workers' compensation](#) and [personal injury cases](#). Mr. Ankin can be reached at (312) 346-8780 and [howard@ankinlaw.com](mailto:howard@ankinlaw.com).