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## PRACTICE AREAS

Workers Compensation

Personal Injury

Motor Vehicle Accidents

Wrongful Death

# Damages for Loss of Consortium Claim Held Not Excessive

4/27/2010

Earlier this month, in *Fox v. Hayes*, No. 08-3736, the United States Court of Appeals for the Seventh Circuit issued a decision of interest to Illinois personal injury attorneys. Although the complaint focused on claims of false arrest arising from the arrest of a father in relation to his 3 year old child's death, the court also considered the issue of whether the jury verdict which awarded \$2.7 million for the wife's **loss of consortium** was excessive.

A loss of consortium claims is a legal claim made by the non-injured spouse for damages resulting from the injured spouse being unable to provide the benefits of a family relationship, such as intimacy, affection, company, and sexual relations. In this case, the accused husband was arrested and incarcerated for 8 months while charges were pending. The charges against him were ultimately dismissed.

The Seventh Circuit concluded that the damages awarded for loss of consortium in this case were not excessive:

During Kevin's incarceration Melissa was separated from her main source of emotional support at a time when she was coping with extraordinary grief. She was left alone to help Tyler deal with his own grief and fear and was thrust into the position of being a single parent to him at a time when Tyler most needed the support of both parents. She was forced to endure Riley's birthday and the first anniversary of her death without Kevin, whom she testified was the only person who could understand those experiences. In short, the eight months of Kevin's incarceration came at a crucial moment in their marriage, and accordingly there is a rational connection between the evidence and the substantial award. See *Naeem*, 444 F.3d at 611. And although the



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award undeniably is high, it is not out of line with other loss of consortium verdicts upheld by Illinois courts. See, e.g., *Velarde v. Ill. Central R.R. Co.*, 354 Ill.App.3d 523, 543, 289 Ill.Dec. 529, 820 N.E.2d 37 (Ill.App.Ct.2004) (upholding \$3.5 million loss of consortium claim); *DeYoung v. Alpha Constr. Co.*, 186 Ill.App.3d 758, 765-67, 134 Ill.Dec. 513, 542 N.E.2d 859 (Ill. App.Ct.1989) (upholding \$3.6 million loss of society award for death of 75-year-old). Given the circumstances, we do not think the district court abused its discretion in concluding that the \$2.7 million award is not “monstrously excessive.”

This is a decision that **Illinois personal injury attorneys** should take note of—and one that represents a victory for the spouses of those who are injured,—people who, in many cases, experience extreme amounts of stress and anxiety as a result of their loved one’s injuries.

Howard Ankin of Ankin Law Office LLC ([www.ankinlaw.com](http://www.ankinlaw.com)) specializes in **workers’ compensation** and **personal injury law**. Mr. Ankin can be reached at (312) 346-8780 and [howard@ankinlaw.com](mailto:howard@ankinlaw.com).