

Cap on Punitive Damages is Constitutional, Georgia Supreme Court Holds

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A \$250,000 cap in punitive damages is constitutional, the Georgia Supreme Court has confirmed, upholding the trial court's decision to substantially reduce a \$50 million verdict to \$250,000. *Taylor v. Devereux Found., Inc.*, Nos. S22A1060, S22X1061, 2023 Ga. LEXIS 63 (Mar. 15, 2023).

Additionally, the Court ruled that the cap imposed by the law did not infringe on the right to a fair trial by jury, separation of powers, or the guarantee of equal protection.

Georgia Statute

Like many states, Georgia imposes a statutory cap on punitive damages. The cap limits punitive damages to a specific dollar amount of \$250,000. There are some limited exceptions to this cap, however. For example, in cases of product liability, when the defendant acted with the specific intent to harm, or when the defendant was under the influence of alcohol or drugs, the \$250,000 cap does not apply.

Background

The case involved a patient at the Devereux Foundation facility. Devereux Foundation is a provider of behavioral health services and programs for individuals with disabilities. It employs professionals to support these programs, including the children's residential treatment program. In April 2021, the plaintiff was admitted to the Devereux facility in Georgia to receive mental health treatment and was housed in a cottage under the supervision of direct-care professionals. During the plaintiff's stay, a Devereux direct-care professional sexually assaulted her. The plaintiff then filed a negligence lawsuit against Devereux and sought punitive damages.

During the trial, the plaintiff claimed that Devereux's conduct showed an "entire want of care and indifference to the consequences of such conduct." Devereux admitted negligence, and the jury returned a verdict of \$50 million in punitive damages. The trial court, however, reduced the award to \$250,000. The plaintiff appealed and raised three arguments, all of which challenged the constitutionality of the Georgia statutory cap on punitive damages.

Supreme Court: Statutory Cap is Constitutional

The Georgia Supreme was unconvinced by any of the plaintiff's arguments.

The plaintiff first argued that the statutory cap violated her right to a jury trial. The Supreme Court evaluated whether the plaintiff's liability claim against Devereux existed during the Georgia Constitution of 1798 and whether it was within the scope of what could be decided by a Georgia jury at that time. Although the plaintiff showed that her liability claim existed in 1798, she did not show punitive damages was within the scope. Georgia juries in 1798 or English juries before 1776 were authorized to award punitive damages only when the defendant acted with an "entire want of care," rather than engaging in intentional misconduct. Thus, this argument failed.

The plaintiff next argued that the Georgia statute violated the guarantee of separation of powers. According to the plaintiff, the General Assembly could not define the limits of punitive damages as it has in the statute and doing so constituted a judicial remittitur. The Court, however, reasoned that this argument was previously addressed in *Atlanta Oculoplastic Surgery, P.C. v. Nestlehutt*, 286 Ga. 731, 691 S.E.2d 218 (2010), where the Court held “the Legislature generally has authority to define, limit, and modify legal remedies.” Therefore, it is within legislative power to define the parameters of available remedies. The Court’s analysis also disagreed that it was a judicial remittitur, reasoning the cap applied to all damage awards that exceeded the threshold amount with no assessment of specific case facts.

The plaintiff’s final assertion was that the cap infringed on her right to equal protection as it treats plaintiffs in similar situations differently depending on the amount of punitive damages awarded. For example, the plaintiff argued that a plaintiff who receives a jury award of \$100,000 can retrieve the entire amount, whereas a plaintiff who is granted a \$50 million award is subject to a limit. Applying the heavy burden under the rational basis test, the Court remained unconvinced. It concluded the plaintiff had not met the required burden of proof that the cap violated the Georgia constitution.

If you have any questions about this decision, please contact a Jackson Lewis attorney.

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