



# Baker v. Hedstrom (New Mex. Ct. App.)

Topics Covered: Professional Liability, Tort Reform

## Outcome: Neutral

### Issue

The issues in this case were whether the New Mexico cap on damages awarded in a medical liability claim was constitutional and whether the word “occurrence” in the New Mexico Medical Malpractice Act referred to the injury suffered by the patient plaintiff or to each act of medical negligence that contributed to that injury.

### AMA Interest

Medical liability reform is the AMA’s top legislative priority.

### Case Summary

Bryanna Baker filed suit, alleging medical malpractice related to her pregnancies, heart attack, and resulting permanent heart damage. The defendants included the three physicians who treated her, Drs. Stephanie Hedstrom, Lee Caruana, and Misbah Zmily. The jury found all three of them liable, and it apportioned Ms. Baker’s damages as follows:

Dr. Hedstrom	\$3,150,000
Dr. Caruana	\$900,000
Dr. Zmily	\$4,275,000

The physicians moved to have the jury verdict reduced pursuant to the New Mexico Medical Malpractice Act, NMSA 1978, § 41-5-6(a), which sets a cap on damages in medical liability suits of \$600,000 “per occurrence,” plus “the value of accrued medical care and related benefits.” Ms. Baker opposed the motion on two grounds. First, she asserted that the cap was unconstitutional, because, according to her, it violated the separation of powers doctrine and the rights to trial by jury, equal protection, and due process. Second, she asserted that, if the cap were deemed constitutional, it had been wrongly applied in this case. She argued that each act of medical negligence was a separate “occurrence,” even if those acts contributed to but a single injury.

The trial judge rejected her unconstitutionality claims, but it agreed with her argument that an “occurrence” under the statute could be defined by each negligent act or omission, rather than by the aggregate injury. It entered judgment against each physician in the amount of \$600,000, plus a prorated (according to relative fault) share of the past medical bills and costs.

Both sides have appealed to the New Mexico Court of Appeals, but the case was settled before the Court of Appeals ruled.

### **Litigation Center Involvement**

The Litigation Center, along with the New Mexico Medical Society, filed two *amicus* briefs in the Court of Appeals. The first brief argued that the word “occurrence” in the New Mexico Medical Malpractice Act refers to a single injury, rather than to the various acts of medical negligence that may have contributed to that injury. The second *amicus* brief supported the constitutionality of the damages cap.

New Mexico Court of Appeals brief (occurrence issue)

New Mexico Court of Appeals brief (constitutionality issue)