



Gavello v. Millman, 2013 Cal. App. Unpub. LEXIS 4826 (Cal. Ct.App. 2013)

Topics Covered: Professional Liability, Tort Reform

Outcome: Very Favorable

Issue

The issue in this case was whether MICRA's (Medical Injury Compensation Reform Act) cap on noneconomic damages, Cal. Civ. Code § 3333.2, violated the California constitutional guarantees of trial by jury, separation of powers, and equal protection of the laws.

AMA Interest

Medical liability reform is the AMA's highest legislative priority.

Case Summary

The defendant physician, an anesthesiologist, allegedly administered anesthesia negligently during a surgical procedure. The defendant physician also allegedly prematurely left during the acute recovery period without providing post-operative orders. As a result, the patient went into respiratory arrest and died.

Following a trial, the jury found that the plaintiff has suffered \$1 million in noneconomic damages. On motion of the defendant, this award was reduced to \$250,000 to conform to the MICRA damages cap, notwithstanding the plaintiff's contention that the cap is unconstitutional.

The plaintiff appealed the constitutionality issue. The California Court of Appeal affirmed, finding that the California Supreme Court had previously rejected the challenges raised against MICRA's constitutionality.

Litigation Center Involvement

The Litigation Center, along with the California Medical Association, filed an *amicus* brief supporting the MICRA cap on noneconomic damages.

California Court of Appeal brief