



# Hughes v. Pham, 2014 Cal. App. Unpub. LEXIS 5969 (Cal. Ct.App. 2014)

Topics Covered: Professional Liability, Tort Reform

## **Outcome: Very Favorable**

### **Issue**

The issue in this case is whether MICRA's (Medical Injury Compensation Reform Act) cap on noneconomic damages, Cal. Civ. Code § 3333.2, violates 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**

Trent Hughes suffered a spinal cord injury as a result of a motor vehicle accident. He was transferred to a "level one trauma facility." The neurosurgeon on call, Christopher Pham, DO, was summoned to the emergency department. Allegedly, when Hughes reached the hospital his spinal cord was only partially severed, and thus he still had sensation and movement in his body below the injury. Furthermore, his medical condition was stable, and so he could have undergone surgery. However, his condition was sufficiently dire as to require that the surgery be initiated immediately.

According to Hughes, Dr. Pham did not immediately report to the emergency department, he did not perform a comprehensive neurological evaluation, and he waited two days before actually performing the surgery. As a result, the incomplete spinal cord injury progressed to a complete severing and Hughes lost all sensation and motor function in his body below the injury. Hughes sued Dr. Pham for medical negligence. Hughes' wife also sued, for loss of consortium.

A jury found Dr. Pham liable and awarded Hughes economic losses of \$17.225 million and noneconomic losses of \$2.75 million. It also awarded Mrs. Hughes \$1 million for loss of consortium. Dr. Pham moved to reduce the award of noneconomic damages and the award for loss of consortium to \$250,000 based on the MICRA cap. Over the Hughes's opposition, the trial court reduced the noneconomic damages and the loss of consortium damages.

The Hughes's appealed to the California Court of Appeal. They contended that the cap violated their constitutional right to trial by jury, equal protection, and guarantee of separation of powers. On August 22, 2014, the Court of Appeal, in an unpublished decision, upheld the constitutionality of MICRA.

### **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