



Nestlehutt v. Atlanta Oculoplastic Surgery, 691 S.E.2d 218 (Ga. 2010)

Topics Covered: Professional Liability, Tort Reform

Outcome: Very Unfavorable

Issue

The issue in this case was whether the Georgia statutory cap on non-economic damages in a medical malpractice case was constitutional.

AMA Interest

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

Case Summary

Betty Nestlehutt was allegedly injured as a result of negligently performed cosmetic plastic surgery. She sued Atlanta Oculoplastic Surgery, the medical group that had performed the surgery, and the case was tried to a jury. The jury verdict included an award of \$900,000 in non-economic damages. This exceeded the statutory cap.

Mrs. Nestlehutt moved for judgment based on the jury verdict and for a declaratory judgment that the non-economic damage cap was unconstitutional. The trial court found the cap to be an unconstitutional violation of (1) the right of trial by jury, (2) the separation of powers doctrine, and (3) the right of equal protection of the laws. It entered judgment on the jury verdict, and the plastic surgeons appealed directly to the Georgia Supreme Court.

The Georgia Supreme Court affirmed, finding that the cap violated the right of trial by jury.

Litigation Center Involvement

The Litigation Center, along with the Medical Association of Georgia filed an *amicus curiae* brief to support the constitutionality of the Georgia tort reform statute.

Georgia Supreme Court brief