



Villegas v. Eighth Judicial District Court, 639 F.3d 806 (8th Cir. 2011)

Topics Covered: Professional Liability, Tort Reform

Outcome: Neutral

Issue

The issue in this case was whether the Nevada cap on noneconomic damages applied on a per-person, per-claim basis (as the plaintiffs argue) or whether it applied on a per-incident or per-occurrence basis (as the defendants argued and as the district court found).

AMA Interest

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

Case Summary

According to her complaint, Adeline Villegas was suffering from abdominal pain. Her physician, Mahmud Sheikh, M.D., diagnosed her with pancreatitis, and as a consequence she was left untreated. In actuality, she suffered from a ruptured ulcer and peritonitis, from which she died. Her estate and heirs sued Dr. Sheikh and the hospital in which she had been a patient.

The defendants' answers invoked a Nevada statute, which provides "In action for injury or death against a provider of health care based upon professional negligence, the injured plaintiff may recover noneconomic damages, but the amount of noneconomic damages awarded in such an action must not exceed \$350,000." The plaintiffs then moved for an order to confirm they should each be entitled to recover up to \$350,000 from each defendant. The trial court however, ruled that the maximum award of noneconomic damages in the case would be \$350,000 in the aggregate.

The plaintiffs then petitioned the Nevada Supreme Court on an interlocutory basis for a writ of mandamus and prohibition, which would require the district court to modify its order. Before the Supreme Court could decide the case, however, it was settled and dismissed.

Litigation Center Involvement

The Litigation Center, along with the Nevada State Medical Association, filed an *amicus curiae* brief arguing for a narrow interpretation of the damages cap and an affirmance of the lower court ruling.

Nevada Supreme Court brief