

MULTI-MILLION DOLLAR SUIT? The Headline Doesn't Always Tell the Story

By: Douglas J. Furlong

We regularly read about “multi-million dollar lawsuits” being filed after an accident causes a serious injury or death. While anyone can file a lawsuit and ask for any amount, and a jury may award astronomical sums in its verdict at the end of a trial (another big headline!), the amount actually recovered by the plaintiff can be significantly less than reported. How does this happen?

In Maryland, the law differentiates between “economic damages” and “non-economic damages.” A person who has been injured due to the fault of another, such as in an auto accident, can recover “economic damages” representing all out-of-pocket costs resulting from the injury. These economic losses include past and future costs of medical care and rehabilitation, past and future lost wages, and any other out-of-pocket costs. In a serious personal injury case, it is often the medical bills that are the largest out-of-pocket item of damages. However, since most medical bills will be paid either by a private insurer, or by a governmental insurance program (*e.g.*, Medicare), the medical bills may be recovered as part of a verdict, but then the insurer (*e.g.*, Blue Cross/Blue Shield) or the governmental agency payor, (*e.g.*, Medicare) will have a right to be reimbursed the amounts it paid for the injured person’s medical care, less attorney’s fees paid by the plaintiff. So although a verdict may reflect a large amount for medical bills incurred, it is the medical insurer, and not the plaintiff, that may ultimately keep most of that portion of the recovery.

Also, in a very serious personal injury case, it is often the “non-economic” damages that constitute a larger portion of the verdict. Non-economic damages are compensation for the plaintiff’s past and future pain, suffering and mental anguish as a result of his or her injuries. Unfortunately for plaintiffs, and fortunately for defendants and their liability insurers, Maryland has instituted statutory “caps” on non-economic damages in personal injury cases. Thus, in a very serious case (*e.g.*, a child suffering permanent, disfiguring injuries), a jury may award several million dollars in non-economic damages in an effort to compensate the child for a lifetime of pain, suffering, embarrassment and mental anguish. However, unbeknownst to the jury, after the jury goes home the court must reduce the non-economic damages’ portion of the verdict to the statutory “cap” level in effect at that time. In Maryland, the current cap amount is \$800,000, regardless of the severity of the plaintiff’s injuries. The statutory cap amount increases \$15,000 per year. Medical malpractice cases have a separate non-economic damages cap. It is currently \$740,000, and also increases \$15,000 per year.¹ The constitutionality of the cap has been challenged several times since it was initially enacted in 1986, and the courts have consistently ruled the cap to be constitutional.

So, the next time you read a headline announcing a multi-million dollar lawsuit or a multi-million dollar verdict in a personal injury case, know that the headline doesn’t always tell the story.

For any of your other litigation needs, please contact an attorney in our litigation group:

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¹ Different caps apply in wrongful death cases, depending on the number of family members who are claimants.

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