

Constitutional Challenges to State Caps on Non-economic Damages

STATE	CAPS	CASE LAW	RATIONALE
Alabama	Struck down (Upheld caps only in wrongful death actions).	<i>Moore v. Mobile Infirmary Association</i> , 592 So.2d 156 (1991).	Cap represents impermissible burden on the right to trial.
Alaska	Upheld	<i>Evans v. State</i> , 56 P.3d 1046 (Alas. 2002).	Upheld cap as constitutional. Court held the cap does not infringe on the right to a trial by jury or access to courts and does not deny substantive due process. The cap does not violate the equal protection clause, separation of powers, or the prohibition against "special legislation."
California	Upheld	<i>Hoffman v. United</i> , 767 F.2d 1431 (1985).	Upheld on constitutional grounds - statute does not involve a suspect classification or fundamental right and legislature had a legitimate purpose (reducing insurance premiums.)
	Upheld	<i>Fein v. Permanente Medical Group</i> , 38 Cal 3d 137, 695 P.2d 665 (1985).	Upheld on constitutional grounds – cap does not violate due process or equal protection clause because it is rationally related to a legitimate state interest.
	Upheld	<i>Stinnett v. Tam</i> , 198 Cal. App. 4th 1412 (Cal. App. 2011)	Upheld cap as constitutional – cap does not violate equal protection or right to a jury trial.
Colorado	Upheld	<i>Scholz v. Metropolitan Pathologists P.C.</i> , 851 P.2d 901 (1993).	State statute does not infringe on a fundamental right, nor create a classification based on race, religion, national origin or gender. It also bears a reasonable relationship to a legitimate state objective.
Florida	Struck down	<i>North Broward Hosp. Dist. v. Kalitan</i> , 219 So.3d 49 (Fl. 2017).	Cap on non-economic damages in personal injury cases violates the Equal Protection Clause of the Florida Constitution.
	Struck down	<i>Estate of McCall v. United States</i> , 134 So.3d 894 (Fl. 2014).	Cap on non-economic damages in wrongful death cases involving multiple claimants violates the Equal Protection

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	Upheld but subject to rules on voluntary arbitration. (Punitive damages in excess of 3 times economic damages or \$500,000 are presumed excessive). Note: New law enacted in 2003	<i>University of Miami v. Echarte</i> , 618 So.2d 189 (1993).	Clause of the Florida Constitution. Upheld on constitutional grounds – statute does not violate the right of access to courts because the cap is only used within the arbitration process which provides claimants with a commensurate benefit in exchange for the loss of full non-economic damages. Without discussion the court also held the cap does not violate the right to a trial by jury, equal protection clause, substantive due process clause, single subject rule, takings clause, or the non-delegation doctrine.
Georgia	Struck down \$350,000 stacked cap on non-economic damages	<i>Atlanta Oculoplastic Surgery v. Nestlehutt et al.</i> (S09A1432)(2010)	Struck down cap because it violated a plaintiff’s right to trial by jury.
Idaho	Upheld	<i>Kirkland v. Blaine County Medical Center</i> , 134 Idaho 464, 4 P.3d 115 (Idaho, 2000).	Cap does not violate state constitution prohibition against special legislation because it was not an arbitrary, capricious, or unreasonable method for addressing the state’s legitimate interest in protecting availability of liability insurance.
Illinois	Struck down Struck Down \$500,000 non-economic damages cap	<i>Best v. Taylor Machine Works</i> 179 Ill.2d 367, 689 N.E. 2d.1057 (1997). <i>LeBron v. Gottlieb Memorial Hospital, et. al.</i> 2010 Ill. LEXIS 26	Cap on non-economic damages struck down as unconstitutional. Court held that the cap violated the prohibition against special legislation and separation of powers clause. Cap on non-economic damages struck down as unconstitutional. Court held that cap was an unconstitutional legislative remittitur.
Indiana	Upheld	<i>Johnson v. St. Vincent Hospital</i> , 404 N.E.2d 585 (1980).	Upheld the Indiana Medical Malpractice Act as constitutional. In particular, found that the cap on total damages does not violate the state or federal due process clauses, equal protection clause, or right to a jury trial.
Kansas	Upheld Upheld	<i>Samsel v. Wheeler Transport Services, Inc.</i> , 246 Kan. 336 (1990). <i>Miller v. Johnson</i> , No. No. 99,818 (Kan. 2012).	Cap on non-economic damages provided in the 1988 law does not violate due process or right to trial. Disapproved on other grounds. Differentiated <i>Kansas Malpractice Victims</i> which overturned 1987 law capping non-economic damages. Cap on non-economic damages does not violate plaintiff’s right to a jury trial; does not violate plaintiff’s right to

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			remedy; does not violate the equal protection clause; and does not violate the doctrine of separation of powers.
Louisiana	Upheld	<i>Oliver v. Magnolia Clinic</i> , 2012 La. LEXIS 506 (La. Mar. 13, 2012).	Ruled that the cap is constitutional and that it applies to all qualified health care providers.
	Upheld caps on total damages, but future medical expenses are excluded from cap	<i>Butler v. Flint Goodrich Hospital of Dillard University</i> , 607 So. 2d 517(1992).	Cap on damages does not violate due process or equal protection clauses because it is not arbitrary, capricious, or unreasonable.
Maryland	Upheld	<i>Murphy v. Edmunds</i> , 325 MD 342, 601 A.2d 102 (1992).	Cap is constitutional because it is rationally related to a legitimate governmental interest and does not restrict access to the courts.
	Modified	<i>Semsker v. Lockshin</i> (Montgomery County Civil No. 283674)	Ruled that cap does not apply to cases that do not utilize pre-trial arbitration process.
	Upheld	<i>DRD Pool Serv. v. Freed</i> , 2010 Md. LEXIS 530 (2010)	Cap on non-economic damages in general tort claims upheld as constitutional based on <i>stare decisis</i> .
Michigan	Upheld	<i>Zdrojewski v. Murphy</i> , 202 Mich. App. Lexis 1566 (2002).	Cap is constitutional because the legislature has the right to modify common law and statutory rights and remedies. Also, the jury still determines the facts and amount of damages so the right to trial by jury is not violated.
	Upheld	<i>Smith v. Botsford General Hospital</i> (6 th Cir. 2005)	Upheld cap as constitutional. Court held the cap does not violate the Seventh Amendment or Equal Protection Clause of the U.S. Constitution.
Minnesota	Upheld	<i>Schweich, et. al. v. Ziegler</i> , 463 N.W.2d 722 (Minn. 1990).	Cap does not violate state constitution because it achieves a legitimate legislative purpose of lowering insurance rates and providing predictable damage awards.
	Note: Statute repealed.		

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Missouri	Upheld	<i>Adams v. Children's Mercy Hospital</i> , 848 S.W. 2d 535 (1993).	Statute does not violate equal protection, open courts doctrine, or right to jury trial. Statute is related to a legitimate state interest - medical malpractice insurance crisis.
	Note: New law enacted in 2005		
	Upheld	<i>James Klotz et al. v. St. Anthony's Medical Center</i> (SC90063)	Cap is not a violation of Missouri Constitution
	Struck down \$350,000 cap	<i>Watts v. Lester E. Cox Med. Centers</i> , No. SC91867 (2012)	Cap violates right to trial by jury.
Nebraska	Upheld	<i>Prendergast v. Nelson</i> , 256 N.W.2d 657 (1977).	Upheld the constitutionality of a state medical liability statute, holding that defendant failed to rebut the presumption of the statute's constitutionality.
	Upheld	<i>Gourley ex. rel. Gourley v. Nebraska Methodist Health System Inc.</i> , 265 Neb. 918, 633 N.W.2d 43 (Neb. 2003).	Cap on total damages does not violate the state constitution's equal protection clause, right to jury trial, open courts doctrine, separation of powers, or principles prohibiting special legislation.
Nevada	Upheld	<i>Tam v. Eighth Judicial District Court of the State of Nevada, et al.</i> , P.2d (Nev. 2015).	Cap on damages does not violate the right to trial by jury.
New Hampshire	Struck down \$875,000 cap	<i>Brannigan v. Usitalo</i> , 587 A.2d 1232 (N.H. 1991).	Cap violated equal protection. The purpose of the legislation did not outweigh the rights of individuals.
	Struck down \$250,000 cap	<i>Carson v. Maurer</i> , 425 A.2d 825 (NH 1980).	Cap violated state equal protection clause.
New Mexico	Upheld	<i>Fed. Express Corp. v. United States</i> , 228 F. Supp. 2d 1267 (NM 2002).	Cap is not arbitrary and capricious and does not violate equal protection clause in state constitution because it is rationally related to a legitimate legislative goal of ensuring a source of recovery for victims of medical malpractice and curbing runaway costs of healthcare.
North Dakota	Struck down Note: N.D. Cent. Code §32.42-02 enacted in 1995 established \$500,000 cap on total non- economic damages	<i>Arneson v. Olson</i> , 270 N.W. 2d (N.D. 1978).	The cap constituted an unconstitutional deprivation of the right to a jury trial under N.D. Const. § 7. Found entire statute unconstitutional.
Ohio	Struck down (see below)	<i>State v. Ohio Academy of Trial</i>	Court overturned caps as a violation of the due process

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	Note: New law enacted in 2002 General tort cap upheld in 2007	<i>Lawyers v. Sheward</i> , 86 Ohio 3d 451, 715 N.E. 2d (1999). <i>Arbino v. Johnson & Johnson</i> , 116 Ohio St. 3d 468	clause. Court also found the entire bill unconstitutional as a violation of the one subject rule and separation of powers clause. Court rejected arguments related to right to trial by jury; right to a remedy; right to an open court; right to due process of law; right to equal protection; separation of powers; and the single-subject rule.
Oklahoma	Struck down medical liability provisions including cap New law enacted in 2009	<i>Woods v. Unity Health Center, Inc</i> 2008 OK 97	Court overturned cap as a special law.
Oregon	Struck down cap for personal injury cases Upheld cap for wrongful death cases Upheld cap for wrongful death cases, expanded to include all cases.	<i>Lakin v. Senco Products, Inc.</i> 329 OR 62, 987 P.2d 463, (1999). <i>Hughes v. PeaceHealth</i> , 2008 Ore. LEXIS 60 (Ore. S.Ct. 2008) <i>Horton v. OHSU, et al.</i> , 359 Or. 160 (Or. 2016).	Court overturned cap as a violation of the right to a jury trial which is customary under common law. Court ruled that cap on non-economic damages in wrongful death cases is not a violation of Oregon constitution.
South Dakota	Struck down cap on total damages, revived cap on non-economic damages	<i>Knowles ex. rel. Knowles v. United States</i> , 544 N.W. 2d 183 (SD 1996).	Cap on total damages held unconstitutional as a violation of the right to a trial by jury because the amount of damages is a factual issue to be decided by a jury. The cap also violated the open courts doctrine by limiting a provider's liability and the due process clause because it created an arbitrary classification of claimants in a malpractice action.
Texas	Struck down Upheld cap in wrongful death	<i>Lucas v. United States</i> , 757 S.W. 2d 687 (1988). <i>Rose V. Doctors Hospital</i> , 801 S.W. 2d 841 (1990). (Wrongful death case)	Court found cap unconstitutional as applied to common law medical malpractice cases. The court held the cap violated the open courts doctrine because such limits are an unreasonable and arbitrary way to assure a rational relationship between actual damages and amounts awarded. Upheld cap as applied to wrongful death cases. Court held cap does not violate open courts doctrine or state or federal equal protection clauses.

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	New law enacted in 2003 – upheld	<i>Watson v. Hortman</i> , 2012 U.S. Dist. LEXIS 41679	Rejected plaintiff claim that cap violated U.S. Constitution.
Utah	Upheld	<i>Judd v. Drezga</i> , 2004 UT 91; 103 P.3d 135; 512 Utah Adv. Rep. 23 (UT 2004)	Upheld cap on non-economic damages as constitutional. Court held the cap does not violate the open courts, uniform operation of laws, or due process provisions of the Utah Constitution. The court also held the cap does not violate the separation of powers or right to a jury trial as protected by the Utah Constitution.
Virginia	Upheld	<i>Etheridge, et. al. v. Medical Center Hospitals</i> , 237 Va. 87, 376 S.E. 2d 525 (Va. 1989).	The cap is constitutional. It does not infringe on a right to a trial by jury because once the jury determines the facts, the court merely applies the law to the facts. Cap also does not violate the procedural due process, substantive due process clauses, separation of powers clause, or the prohibition against special legislation. The court also held the statute does not violate the equal protection clause of the U.S. constitution.
Washington	Struck down	<i>Sofie v. Fibreboard Corp.</i> 112 N.W. 2d 636,771 P.2d. 711 (1989).	Court held that cap is an unconstitutional infringement of the right to trial by jury.
West Virginia	Upheld previous cap on non-economic damages Upheld previous cap on non-economic damages Note: new law enacted in 2003 Upheld cap on non-economic damages	<i>Robinson v. Charleston Area Med. Center</i> , 186 W.Va. 720 (1991). <i>Verba v. Ghaphery</i> 552 S.E. 2d 406 (W.Va. 2001). <i>MacDonald v. City Hospital</i> , 2011 W. Va. LEXIS 57 (W. Va. 2011)	Upheld constitutionality of cap against challenge of equal protection, special legislation, due process and right to a jury trial. The legislation provides an alternative legal remedy. The purpose of the law is to curtail/eliminate a social/economic problem – exorbitant medical malpractice insurance premiums. The cap on non-economic damages applies to the aggregate claims of all plaintiffs. Affirmed <i>Robinson</i> and rejected appellant’s claim that cap is invalid because of inflationary erosion and that attorney fees and costs should be awarded in cases where non-economic damages exceed the statutory cap. Court rejected right to a jury, separation of power, equal protection, special legislation, and certain remedy arguments that questioned the constitutional validity of cap.
Wisconsin	Struck down	<i>Ferdon v. Wisconsin Patient</i>	Court held that cap on non-economic damages violates

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	<p>Note: New law enacted in 2006</p> <p>Upheld</p>	<p><i>Comp Fund</i>, 2003AP988 (2005)</p> <p><i>Guzman v. St. Francis Hospital</i>, 240 Wis. 2d 559, 623 N.W. 2d 776 (2000).</p>	<p>the equal protection clause.</p> <p>The cap does not infringe on the right to a jury trial because the right to trial is not affected and the legislature can set amount of recovery. Cap also does not violate the access to courts doctrine or the separation of powers, equal protection, or substantive due process clauses.</p>

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