

Supreme Court of Ohio Rules Statutory Caps on Non-Economic Damages Apply to Defamation Claims

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On December 7, 2018, the Supreme Court of Ohio decided that the statutory caps on non-economic compensatory damages set forth in Ohio Revised Code § 2315.18 apply to defamation claims. *See Wayt v. DHSC, LLC*, Slip Opinion No. 2018-Ohio-4822.

In *Wayt*, a nurse sued the hospital for which she worked, alleging that the hospital and its employees had defamed her. The hospital had previously terminated the nurse, but the nurse was reinstated after the National Labor Relations Board determined that the hospital terminated the nurse because of her involvement in union activities. After the nurse was reinstated, a hospital employee stated, in front of several other nurses, that the court order reinstating the nurse did not mean that she deserved to regain her position or that she was a good nurse.

The nurse sued the hospital for defamation, and her claim proceeded to trial. At trial, a jury awarded the nurse \$800,000 in compensatory damages and \$750,000 in punitive damages. The jury's entire compensatory damages award represented noneconomic loss. The hospital sought to have the trial court reduce the compensatory damages based on the statutory caps for noneconomic damages. Under Ohio law, "in a tort action to recover for injury or loss to person or property," noneconomic damages are limited to the greater of three times the amount of economic loss, or \$250,000 per plaintiff, up to an individual maximum of \$350,000 per plaintiff and an aggregate maximum of \$500,000 per occurrence. *See Ohio Rev. Code § 2315.18(B)(2)*.

The trial court denied the motion, and the hospital's initial appeal was unsuccessful. The Supreme Court of Ohio accepted the appeal to determine whether a defamation action is "a tort action to recover for injury or loss to person or property" such that the statutory caps on compensatory damages would apply.

The Court determined that the statutory caps do apply because defamation, which is an injury to reputation, falls within the category of "injury or loss to person" as defined by the statute. The Court found that the statute was plain and unambiguous, and found further that applying the statutory caps to defamation claims was consistent with the intent of the legislature in enacting limitations on damages in tort actions. The Court rejected arguments that the Ohio Constitution, which classifies injuries to person separately from injuries to reputation, makes the statutory caps unconstitutional as applied to defamation claims, or that the legislature intended a different result in enacting the statute. The Court reversed the lower courts and remanded the case for further proceedings.

The net result of the *Wayt* decision will be more certainty and limitation on compensatory and punitive damages awards in defamation actions. Compensatory damages for economic loss will continue to have no limitation, but compensatory damages for noneconomic loss will now be limited as described above. In turn, punitive damages, which are generally limited to twice the amount of compensatory damages, will be similarly limited.

Justice Fischer authored the opinion, in which Justices Kennedy, French, and DeWine joined. Justice DeGenaro joined in the judgment only. Chief Justice O'Connor and Justice O'Donnell dissented. Justices DeGenaro and O'Donnell will soon be leaving the Court, and their replacements would likely have dissented along with the Chief Justice. Even with a changing makeup of the Court, however, it is unlikely that the Court revisits the question in the foreseeable future with four other justices in agreement on the issue.

The full opinion can be found at:

<https://supremecourt.ohio.gov/rod/docs/pdf/0/2018/2018-ohio-4822.pdf>

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