

GEORGIA TRIAL LAWYERS ASSOCIATION

Protecting the Constitutional Promise of Justice for All by
Guaranteeing the Right to Trial by Jury,
Preserving an Independent Judiciary,
And Providing Access to the Courts for All Georgians

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For More Information Please Call:
Rebecca Bukant (404) 376-3495

Decision Rules Caps on Damages Unconstitutional

Atlanta, Georgia—The Superior Court of Fulton County, Georgia today declared unconstitutional Georgia's medical malpractice cap on non-economic damages. The decision by Judge Marvin Arrington resulted from a case filed by Plaintiff Cheon Park.

Park, 59, fell from a ladder at his home in late 2006. He was taken to WellStar Douglas Hospital by ambulance with complaints of pain in his neck, shoulder, arm and pelvis. The ambulance attendants secured Parks to a backboard and immobilized his back and neck.

Once at the hospital, doctors treated Park for a dislocated shoulder and other injuries and then released him that same evening. Upon his discharge, Park could not stand on his own and had to be lifted by hospital staffers and his loved ones into his car. Just a few days later Park, still in pain, was taken to Grady Hospital where X-Rays revealed he had a severely damaged spine. Park is a now a C4 quadriplegic.

Faced with medical bills, costs pertaining to disability, economic damages, and quality of life damages arising from medical malpractice, Park—who will remain in a wheelchair for the rest of his life-- and his family pursued justice in our Courts. Upon filing his case, Park learned that Georgia's law had recently changed regarding the definition of negligence in medical care with the Legislature's passage of SB 3 in 2005. He learned that because he received treatment in the Emergency Room, his doctors were allowed to provide a much lower standard of care than doctors practicing in other locations. Parks then learned that his right to a jury trial was predetermined by a cap on the damages that a jury could award.

"Mr. Park is now a C4 quadriplegic and will be in a wheelchair forever. He and Mrs. Park are trying to piece their lives back together," said Rob Roll, an attorney for Park. **"Before 2005, Mr. Park would not have had to fight for his Constitutional Right to a trial by jury. I'm pleased to say that Judge Arrington penned a decision that upholds our Constitution and The Bill of Rights. The Parks are pleased with the decision today."**

Today's decision ruled exclusively on the Constitutionality of caps on damages. The decision will likely be challenged and will move to a higher court.

Fred Orr, President of the Georgia Trial Lawyers Association said of the decision, **"It always breaks my heart when I hear of families like the Parks who are the victims of someone else's negligent conduct and they are unable to seek justice because our law prohibits them from doing so. Today's decision shines a light on the challenges that real people in this state face when they are harmed by acts of negligence. To eradicate a certain class of people's rights is not only immoral, it's unjust, and Judge Arrington recognized this.**

"I expect this decision to be appealed and that the discussion surrounding this important issue will continue," stated Orr. **"Judge Arrington obviously put a tremendous amount of scholarship and research into his decision. And I hope the coming discussions and debates surrounding this case will continue with the same levels of respect for our Constitution and for the families who live with the consequences of negligent acts by others."**

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