

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2430

By: Roan

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5  
6 AS INTRODUCED

7 An Act relating to damages; amending 23 O.S 2011,  
8 Section 61.2, which relates to limitations on  
9 damages; exempting certain civil actions; limiting  
amount for certain noneconomic damages; and providing  
an effective date.

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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 23 O.S. 2011, Section 61.2, is  
14 amended to read as follows:

15 Section 61.2 A. In any civil action arising from a claimed  
16 bodily injury, the amount of compensation which the trier of fact  
17 may award a plaintiff for economic loss shall not be subject to any  
18 limitation.

19 B. Except as provided in ~~subsection~~ subsections C and J of this  
20 section, in any civil action arising from a claimed bodily injury,  
21 the amount of compensation which a trier of fact may award a  
22 plaintiff for noneconomic loss shall not exceed Three Hundred Fifty  
23 Thousand Dollars (\$350,000.00), regardless of the number of parties  
24 against whom the action is brought or the number of actions brought.

1 C. Notwithstanding subsection B of this section, there shall be  
2 no limit on the amount of noneconomic damages which the trier of  
3 fact may award the plaintiff in a civil action arising from a  
4 claimed bodily injury resulting from negligence if the judge and  
5 jury finds, by clear and convincing evidence, that the defendant's  
6 acts or failures to act were:

- 7 1. In reckless disregard for the rights of others;
- 8 2. Grossly negligent;
- 9 3. Fraudulent; or
- 10 4. Intentional or with malice.

11 D. In the trial of a civil action arising from claimed bodily  
12 injury, if the verdict is for the plaintiff, the court, in a nonjury  
13 trial, shall make findings of fact, and the jury, in a trial by  
14 jury, shall return a general verdict accompanied by answers to  
15 interrogatories, which shall specify all of the following:

- 16 1. The total compensatory damages recoverable by the plaintiff;
- 17 2. That portion of the total compensatory damages representing  
18 the plaintiff's economic loss;
- 19 3. That portion of the total compensatory damages representing  
20 the plaintiff's noneconomic loss; and
- 21 4. If alleged, whether the conduct of the defendant was or  
22 amounted to:
  - 23 a. reckless disregard for the rights of others,
  - 24 b. gross negligence,

1 c. fraud, or

2 d. intentional or malicious conduct.

3 E. In any civil action to recover damages arising from claimed  
4 bodily injury, after the trier of fact makes the findings required  
5 by subsection D of this section, the court shall enter judgment in  
6 favor of the plaintiff for economic damages in the amount determined  
7 pursuant to paragraph 2 of subsection D of this section, and subject  
8 to paragraph 4 of subsection D of this section, the court shall  
9 enter a judgment in favor of the plaintiff for noneconomic damages.  
10 Except as provided in subsection C of this section, in no event  
11 shall a judgment for noneconomic damages exceed the maximum  
12 recoverable amounts set forth in subsection B of this section.  
13 Subsection B of this section shall be applied in a jury trial only  
14 after the trier of fact has made its factual findings and  
15 determinations as to the amount of the plaintiff's damages.

16 F. In any civil action arising from claimed bodily injury which  
17 is tried to a jury, the jury shall not be instructed with respect to  
18 the limit on noneconomic damages set forth in subsection B of this  
19 section, nor shall counsel for any party nor any witness inform the  
20 jury or potential jurors of such limitations.

21 G. This section shall not apply to actions brought under The  
22 Governmental Tort Claims Act or actions for wrongful death.

23 H. As used in this section:  
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1 1. "Bodily injury" means actual physical injury to the body of  
2 a person and sickness or disease resulting therefrom;

3 2. "Economic damages" means any type of pecuniary harm  
4 including, but not limited to:

5 a. all wages, salaries or other compensation lost as a  
6 result of a bodily injury that is the subject of a  
7 civil action,

8 b. all costs incurred for medical care or treatment,  
9 rehabilitation services, or other care, treatment,  
10 services, products or accommodations as a result of a  
11 bodily injury that is the subject of a civil action,  
12 or

13 c. any other costs incurred as a result of a bodily  
14 injury that is the subject of a civil action;

15 3. "Fraudulent" or "fraud" means "actual fraud" as defined  
16 pursuant to Section 58 of Title 15 of the Oklahoma Statutes;

17 4. "Gross negligence" means the want of slight care and  
18 diligence;

19 5. "Malice" involves hatred, spite or ill will, or the doing of  
20 a wrongful act intentionally without just cause or excuse;

21 6. "Noneconomic damages" means nonpecuniary harm that arises  
22 from a bodily injury that is the subject of a civil action,  
23 including damages for pain and suffering, loss of society,  
24 consortium, companionship, care, assistance, attention, protection,

1 advice, guidance, counsel, instruction, training, education,  
2 disfigurement, mental anguish and any other intangible loss; and

3 7. "Reckless disregard of another's rights" shall have the same  
4 meaning as willful and wanton conduct and shall mean that the  
5 defendant was either aware, or did not care, that there was a  
6 substantial and unnecessary risk that his, her or its conduct would  
7 cause serious injury to others. In order for the conduct to be in  
8 reckless disregard of another's rights, it must have been  
9 unreasonable under the circumstances and there must have been a high  
10 probability that the conduct would cause serious harm to another  
11 person.

12 I. This section shall apply to civil actions filed on or after  
13 November 1, 2011.

14 J. Subsection B of this section shall not apply to civil  
15 actions arising from the Oklahoma Limitation of Liability for  
16 Farming and Ranching Land Act in Title 2 of the Oklahoma Statutes.  
17 In civil actions arising from that act, the amount of compensation  
18 which a trier of fact may award a plaintiff for noneconomic loss  
19 shall not exceed One Hundred Thousand Dollars (\$100,000.00),  
20 regardless of the number of parties against whom the action is  
21 brought or the number of actions brought.

22 SECTION 2. This act shall become effective November 1, 2012.

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24 53-2-8027 EK 01/04/12