

1 STATE OF OKLAHOMA

2 1st Extraordinary Session of the 54th Legislature (2013)

3 SENATE BILL 9x

By: Bingman and Sykes of the  
Senate

4 and

5 Shannon of the House  
6

7  
8 AS INTRODUCED

9 An Act relating to damages; repealing 23 O.S. 2011,  
10 Section 61.2, which relates to compensation for  
11 economic and noneconomic loss; prohibiting limitation  
12 for economic damages in certain actions; establishing  
13 limitation on certain noneconomic damages;  
14 establishing exceptions for certain damage  
15 limitations; specifying procedures for court or jury  
16 upon verdict for plaintiff; directing entry of  
17 certain judgments; prohibiting certain instructions  
18 to jury; stating applicability of act and providing  
19 exceptions; defining terms; providing for  
20 codification; and declaring an emergency.

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

22 SECTION 1. REPEALER 23 O.S. 2011, Section 61.2, is  
23 hereby repealed.

24 SECTION 2. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 61.3 of Title 23, unless there  
is created a duplication in numbering, reads as follows:

1       A. In any civil action arising from a claimed bodily injury,  
2 the amount of compensation which the trier of fact may award a  
3 plaintiff for economic loss shall not be subject to any limitation.

4       B. Except as provided in subsection C of this section, in any  
5 civil action arising from a claimed bodily injury, the amount of  
6 compensation which a trier of fact may award a plaintiff for  
7 noneconomic loss shall not exceed Three Hundred Fifty Thousand  
8 Dollars (\$350,000.00), regardless of the number of parties against  
9 whom the action is brought or the number of actions brought.

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

- 16       1. In reckless disregard for the rights of others;
- 17       2. Grossly negligent;
- 18       3. Fraudulent; or
- 19       4. Intentional or with malice.

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

1 1. The total compensatory damages recoverable by the plaintiff;

2 2. That portion of the total compensatory damages representing  
3 the plaintiff's economic loss;

4 3. That portion of the total compensatory damages representing  
5 the plaintiff's noneconomic loss; and

6 4. If alleged, whether the conduct of the defendant was or  
7 amounted to:

8 a. reckless disregard for the rights of others,

9 b. gross negligence,

10 c. fraud, or

11 d. intentional or malicious conduct.

12 E. In any civil action to recover damages arising from claimed  
13 bodily injury, after the trier of fact makes the findings required  
14 by subsection D of this section, the court shall enter judgment in  
15 favor of the plaintiff for economic damages in the amount determined  
16 pursuant to paragraph 2 of subsection D of this section, and subject  
17 to paragraph 4 of subsection D of this section, the court shall  
18 enter a judgment in favor of the plaintiff for noneconomic damages.  
19 Except as provided in subsection C of this section, in no event  
20 shall a judgment for noneconomic damages exceed the maximum  
21 recoverable amounts set forth in subsection B of this section.

22 Subsection B of this section shall be applied in a jury trial only  
23 after the trier of fact has made its factual findings and  
24 determinations as to the amount of the plaintiff's damages.

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

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

8 H. As used in this section:

9 1. "Bodily injury" means actual physical injury to the body of  
10 a person and sickness or disease resulting therefrom;

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

13 a. all wages, salaries or other compensation lost as a  
14 result of a bodily injury that is the subject of a  
15 civil action,

16 b. all costs incurred for medical care or treatment,  
17 rehabilitation services, or other care, treatment,  
18 services, products or accommodations as a result of a  
19 bodily injury that is the subject of a civil action,  
20 or

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

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

1 4. "Gross negligence" means the want of slight care and  
2 diligence;

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

5 6. "Noneconomic damages" means nonpecuniary harm that arises  
6 from a bodily injury that is the subject of a civil action,  
7 including damages for pain and suffering, loss of society,  
8 consortium, companionship, care, assistance, attention, protection,  
9 advice, guidance, counsel, instruction, training, education,  
10 disfigurement, mental anguish and any other intangible loss; and

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

20 I. This section shall apply to civil actions filed on or after  
21 the effective date of this act.

22 SECTION 3. It being immediately necessary for the preservation  
23 of the public peace, health and safety, an emergency is hereby  
24

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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