

PUBLICATION

Tennessee Supreme Court Vacates Trial Court Ruling Holding Tennessee's Statutory Damages Caps Unconstitutional

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In a previous "[Litigation Alert for Businesses with Tennessee Operations](#)," we reported that Judge Neil Thomas, Circuit Judge in Chattanooga, Tennessee, held that Tennessee's statutory cap on non-economic damages was unconstitutional.

The procedural context of Judge Thomas' ruling in *Cain v. Clark, et.al.*, was that one of the defendants, AT&T, moved for partial summary judgment as to any damages awarded against it which exceeded the cap. In the trial court, the Tennessee Attorney General, who was named as a party because the constitutionality of a statute was at issue, argued that the issue was not yet ripe for decision because the plaintiff had not yet been awarded and might never be awarded a judgment in excess of the cap.

On October 16, 2015, the Tennessee Supreme Court agreed. *Clark v. Cain*, No. E2015-00949-SC-R11-CV. The Supreme Court pointed out in a per curiam order that under the statute, the cap is not disclosed to the jury. The cap is applied by the trial judge after the jury verdict if and when the jury awards the plaintiff damages in excess of the cap. Tenn. Code Ann. 29-39-102(g).

The Supreme Court vacated the prior ruling of the trial court and remanded the case for further proceedings. Baker Donelson will continue to monitor this issue. In the interim, please contact Baker Donelson Appellate Practice Group Chair Buck Lewis with questions or comments.