

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 636 (Senator Green)
Judicial Proceedings

Jury Verdict - Damages - Revisory Power of Court

This bill authorizes a court to order a new trial on the issue of monetary damages, or on the issues of damages and liability, if the court determines that a jury verdict in favor of a plaintiff is excessive or inadequate, and the parties do not agree to a decrease or increase in the amount of damages awarded by the jury to a reasonable amount determined by the court. The bill does not limit the court's power or authority to grant a new trial on liability, damages, or both on any other grounds.

The bill applies prospectively only and may not be applied to verdicts occurring before the bill's October 1, 2004 effective date.

Fiscal Summary

State Effect: The bill is not expected to have a significant impact on government finances or operations.

Local Effect: Minimal – see above.

Small Business Effect: Potential minimal.

Analysis

Current Law: A party may file a motion for new trial within 10 days after entry of judgment. The granting or denial of a motion for new trial is within the sound discretion of the trial court.

The court may revise a judgment for 30 days after it has been entered, or pursuant to a motion filed within that period. After that time, the court may revise a judgment only in case of fraud, mistake, irregularity, or failure of a court employee to perform a required duty.

If the trial court finds that the amount of a jury's damage award is excessive, it may order a new trial unless the plaintiff agrees to remit or waive the excessive portion of the verdict. If a remitter is filed, judgment is entered on the verdict as modified. If the defendant appeals, a plaintiff who has accepted a remitter may cross appeal from the final judgment. See *Darcar Motors v. Borzym*, 150 Md.App. 19 (2003).

In case of an inadequate jury verdict, the trial court may only order a new trial. See *Kirkpatrick v. Zimmerman*, 257 Md. 215, 218 (1970); *Buck v. Cam's Broadloom Rugs*, 328 Md. 51 (1992); *Brooks v. Bienkowski*, 150 Md. App. 87 (2003). However, a court is not authorized to order a new trial based on a failure of a defendant to agree to pay additional damages, as specified by the court, to the plaintiff. Also, if the amount of the jury verdict is inadequate, a court is not authorized to order a new trial on the issue of damages only.

Juries may award economic damages, and noneconomic damages in personal injury and wrongful death lawsuits. Punitive damages are authorized under certain circumstances.

Economic damages include loss of earnings and medical expenses. They do not include punitive damages.

In an action for personal injury, noneconomic damages include pain, suffering, inconvenience, physical impairment, disfigurement, and loss of consortium. In an action for wrongful death, noneconomic damages include mental anguish; emotional pain and suffering; loss of companionship; and marital, parental, and filial care.

Noneconomic damages for personal injury and wrongful death lawsuits are capped at \$500,000, for actions arising on or after October 1, 1994. The cap increases by \$15,000 on October 1 each year. The cap for October 1, 2003 through September 30, 2004 is \$635,000. The limit applies to each direct victim of tortious conduct, and all persons who claim injury by or through that victim. If there are two or more claimants as beneficiaries in a wrongful death action, the award may not exceed 150% of the statutory cap. The cap does not apply to intentional torts.

The jury is not advised of this limitation. If the jury awards an amount of noneconomic damages that exceeds the limit, the court reduces the amount to conform to the limit.

Mississippi has a statute comparable to this bill; Arizona by statute authorizes its supreme court to order a new trial on the issue of inadequate damages. Some other states address this in their court rules or have case law that reaches this result.

Additional Information

Prior Introductions: SB 615 of 2003 received a hearing before the Senate Judicial Proceedings Committee, but no further action was taken. HB 703 of 2003 received a hearing before the House Judiciary Committee, but no further action was taken.

Cross File: HB 948 (Delegate Vallario, *et al.*) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2004
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