LIMITATION ON NONECONOMIC DAMAGES and PRODUCT LIABILITY DETERMINATION ON ECONOMIC DAMAGES

Subsection 1 of Section 1483 of Act No. 236 of the Public Acts of 1961 (M.C.L. Section 600.1483), as amended by Act No. 78 of 1993, states the following:

(1) In a claim for damages alleging medical malpractice by or against a person or party, the total amount of damages for noneconomic loss recoverable by all plaintiffs, resulting from the negligence of all defendants, shall not exceed $280,000.00 unless, as the result of the negligence of 1 or more of the defendants, 1 or more of the following exceptions apply as determined by the court pursuant to section 6304, in which case damages for noneconomic loss shall not exceed $500,000.00:

(a) The plaintiff is hemiplegic, paraplegic, or quadriplegic resulting in a total permanent functional loss of 1 or more limbs caused by 1 or more of the following:
   (i) Injury to the brain.
   (ii) Injury to the spinal cord.

(b) The plaintiff has permanently impaired cognitive capacity rendering him or her incapable of making independent, responsible life decisions and permanently incapable of independently performing the activities of normal, daily living.

(c) There has been permanent loss of or damage to a reproductive organ resulting in the inability to procreate.

Subsection 4 of Section 1483 of Act No. 236 of the Public Acts of 1961, as amended (M.C.L. Section 600.1483), states the following:

Sec. 1483. (4) The state treasurer shall adjust the limitation on damages for noneconomic loss set forth in subsection (1) by an amount determined by the state treasurer at the end of each calendar year to reflect the cumulative annual percentage change in the consumer price index. As used in this subsection, "consumer price index" means the most comprehensive index of consumer prices available for this state from the bureau of labor statistics of the United States department of labor.
Enacting Section 4 of Act No. 78 of 1993 provides, in part:

Section 4. (1) Section(s) 1483 . . . of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, do(es) not apply to causes of action arising before October 1, 1993.

Subsection 1 of Section 2946a of Act No. 236 of the Public Acts of 1961 (M.C.L. Section 600.2946a), as amended by Act No. 249 of 1995 states the following:

Sec. 2946a. (1) In an action for product liability, the total amount of damages for noneconomic loss shall not exceed $280,000.00, unless the defect in the product caused either the person's death or permanent loss of a vital bodily function, in which case the total amount of damages for noneconomic loss shall not exceed $500,000.00. On the effective date of the amendatory act that added this section, the state treasurer shall adjust the limitations set forth in this subsection so that the limitations are equal to the limitations provided in section 1483. After that date, the state treasurer shall adjust the limitations set forth in this subsection at the end of each calendar year so that they continue to be equal to the limitations provided in section 1483.

Subsection 4 of Section 2946a of Act No. 236 of the Public Acts of 1961 (M.C.L. Section 600.2946a), as amended by Act No. 249 of 1995 states the following:

Sec. 2946a. (4) If damages for economic loss cannot readily be ascertained by the trier of fact, then the trier of fact shall calculate damages for economic loss based on an amount that is equal to the state average median family income as reported in the immediately preceding federal decennial census and adjusted by the state treasurer in the same manner as provided in subsection (1).

Pursuant to the above requirements, I, Nick A. Khouri, State Treasurer of the State of Michigan, hereby certify that the annual percentage change in the Detroit consumer price index for the 2015 calendar year was -1.4% (minus 1.4 percent). For causes of action arising after September 30, 1993, this results in a cumulative 56.7% increase in the standard limitation on noneconomic damages for a 2016 limitation of $438,800 and a cumulative 56.7% increase in the limitation on noneconomic damages for certain permanent disabilities for a 2016 limitation of $783,500. For causes of action alleging medical malpractice arising before October 1, 1993, the 1.4% decrease in the Detroit consumer price index results in a cumulative 104.8% increase in the previous $225,000 limitation of noneconomic damages for a 2016 limitation of $460,800.

And further, in an action for product liability for damages for economic loss not readily ascertained by the trier of fact, the estimated state average median family income for 2014, reported in the 2014 American Community Survey, is $62,143. Effective January 1, 2016, the 1.0% increase in the calendar year 2014 Detroit consumer price index results in a 2015 median family income of $62,764. The cumulative 0.4% net decrease in the Detroit consumer price index between calendar year 2013 and 2015 results in a 2016 median family income of $61,894. (The 2010 Census Bureau decennial census did not collect income data.)

Nick A. Khouri
State Treasurer

January 25, 2016
Limitation on Noneconomic Damages and Product Liability Determination on Economic Damages

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(1) List median family income for years 2006-2014 is the American Community Survey (ACS) Michigan median family income for each given year. The listed 2015 and 2016 median family incomes represent the 2014 ACS Michigan median family income grown by inflation. The Census Bureau conducts the ACS annually. The most recently published ACS data are for 2014. The Census Bureau did not collect income data in its 2010 decennial census.

Prepared by Office of Revenue and Tax Analysis, Michigan Department of Treasury
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