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Rental Car Cap Held Constitutional By Supreme Court

By Mark F. Masters

In *Phillips v. Mirac, Inc.*, ___ Mich ___ (2004), the Michigan Supreme Court held that the \$20,000/\$40,000 caps on damages in cases against rental car companies was constitutional.

Plaintiff's decedent, Regeana Hervey, died in an automobile accident while a passenger in a vehicle being driven by Da-Fel Reed. Reed had leased the vehicle from Mirac, doing business as Enterprise Rent-A-Car. Plaintiff filed suit on the basis of MCL 257.401(3). Generally, MCL 257.401 (3) establishes vicarious liability for automobile lessors when permissive users, such as Reed, are negligent and cause automobile accidents injuring others. The act also caps the damage for such lessors at \$20,000 for each injured person to a maximum of \$40,000 for each accident.

While reserving the constitutional challenges, the parties agreed to a high-low agreement of \$150,000 and \$250,000 before trial. The jury returned a verdict of \$900,000 against Mirac. This would have been reduced to \$250,000 pursuant to the high-low agreement, unless the statutory damage caps were constitutional, in which case the damages would be reduced to \$20,000.

The trial court concluded that the damage caps were unconstitutional based on (1) a violation of Plaintiff's right to have a jury decide the damages

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This case, in all likelihood, will set the pattern for future decisions of the Michigan Supreme Court on the issue of the constitutionality of various aspects of Michigan's 1996 Tort Reform Act. The constitutional arguments raised by the parties and decided by the Court in this case are the same as those raised in the lower courts in other cases by Plaintiff's contesting various aspects of the 1996 Tort Reform Act.

Based on the reasoning of this decision, it is likely that the Michigan Supreme Court will uphold other aspects of the 1996 Tort Reform Act as constitutional. Moreover, this case is instructive to lower courts on how to decide these issues.

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issue rather than the Legislature, (2) that the caps violated equal protection since they treated similarly situated litigants differently, and (3) that they violated Plaintiff's rights to due process. The Court of Appeals reversed the trial court's decision, and the case went on to the Supreme Court.

After a lengthy constitutional analysis, the Michigan Supreme Court upheld the Court of Appeals in a 4-1-2 decision. Therefore, the caps were held constitutional, and Plaintiff's jury award was reduced to \$20,000.

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