

# SUPREME COURT DECISION HOLDS DAMAGE CAP PROVISION CONSTITUTIONAL

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On July 6, 2004, the Michigan Supreme Court issued its decision in *Phillips v MIRAC, Inc.*, \_\_\_ Mich \_\_\_ (Docket No. 121831). The court held that the damages cap provision set forth in MCLA 257.401(3) – which limits the statutory vicarious liability of persons engaged in the business of leasing motor vehicles who are lessors under a lease with a term of 30 days or less to \$20,000.00/\$40,000.00 – is constitutional.

The Supreme Court held that the statute did not violate the right to trial by jury for two reasons. First, the court addressed the scope or parameters of the right to a trial by jury. The court concluded that the right to a trial by jury includes only the right to the factual determination of the amount of damages and does not extend to the right to dictate the legal consequences of such a factual determination. In short, the jury determines facts and the legislature has the constitutional power to set forth the legal consequences thereof.

Second, the court accepted the logical argument that since the legislature could abolish a cause of action, either common law based or statutory, it can constitutionally limit the damages recoverable under a cause of action. Simply put, the greater power necessarily includes the lesser power.

The last two issues in the case, equal protection and due process, were resolved after the trial by jury ruling. The court held that the “strict scrutiny” test was not applicable because a fundamental right, the right to trial by jury, was not adversely affected by MCLA 257.401(3). Presenting a constitutional right and issue in a case does not mandate application of the strict scrutiny test.

It was concluded that the “rational basis” test applied and it was satisfied, because even if the existence of the facts prompting the legislature to enact the statute is debatable, the court must defer to the legislature.

In its decision, the court stated that the legitimate interest is the continued operation of the automobile rental business in Michigan and that protecting such business from large damage awards is rationally related to that end. The court also acknowledged that it does not sit as a super legislature to judge the wisdom or desirability of policy determinations made by the legislature.

This decision brings Michigan in line with the majority of other jurisdictions. It is a direct major victory for rental car companies and an indirect victory for medical malpractice and product

liability defendants.