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## Michigan's Medical Damages Cap Reduces Federal Jury's Verdict

*Estate of Kelly Snider Smith vs. Botsford General Hospital*

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In this failure-to-stabilize EMTALA action, the U.S. Court of Appeals for the Sixth Circuit holds as a matter of first impression that Michigan's medical malpractice damages cap applies to reduce a federal jury's verdict. The Smith court reasoned that the U.S. Congress expressly incorporated state law, which includes state law damages caps, as the vehicle to measure and award damages based on a violation of the Emergency Medical Treatment and Active Labor Act (EMTALA).

Michigan's medical damages cap applies because a failure-to-stabilize claim would constitute a medical malpractice claim under Michigan law. Compliance with EMTALA's stabilization requirements entails the exercise of medical judgment, which is understood only through expert testimony, thus triggering Michigan's medical malpractice damages cap.

The jury's award of \$5 million in non-economic damages is reduced to \$359,000.

Plunkett & Cooney's Appellate attorney, Robert G. Kamenec, briefed and successfully argued the case on behalf of the defense.

*A more detailed review of this case, including background facts and procedure, will be provided in our quarterly newsletter.*

For a complete copy of the U.S. Court of Appeals for the Sixth Circuit decision on *Estate of Kelly Snider Smith vs. Botsford General Hospital*, [click here](#).

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