

Amendment ~~#~~ 4

TO: CS 472(JUD)

sponsored by Rep.

Page 2, line 19, after the words..."may not exceed"

Delete \$250,000

Insert \$400,000

Page 2, line 25, after the words..."excess of"

Delete \$250,000

Insert \$400,000

SEATON  
Walt  
Stepovich

Kalisch and Williams, Courtroom Medicine: The Neck and Its Related Structures (Matthew Bender).

Chapman and Evans, Courtroom Medicine: Head and Brain (Matthew Bender).

Kalisch and Williams, Courtroom Medicine: Chest, Heart, and Lungs (Matthew Bender).

Gelfand, Magana, and Merliss, Courtroom Medicine: The Low Back (Matthew Bender).

Houts and Haut, Courtroom Medicine: Death (Matthew Bender).

Kalisch and Williams, Courtroom Medicine: Abdominal Injuries (Matthew Bender).

Kalisch and Williams, Courtroom Medicine: Hip and Thigh (Matthew Bender).

Loring F. Chapman, Courtroom Medicine: Pain and Suffering (Matthew Bender).

Lewis and Sadoff, Courtroom Medicine: Psychic Injuries (Matthew Bender).

Arthur Frank, Courtroom Medicine: Cancer (Matthew Bender).

Chapman and Dunlap, Courtroom Medicine: The Eye (Matthew Bender).

**Sec. 09.17.010. Noneconomic damages.** (a) In an action to recover damages for personal injury or wrongful death, all damage claims for noneconomic losses shall be limited to compensation for pain, suffering, inconvenience, physical impairment, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary damage.

(b) Except as provided under (c) of this section, the damages awarded by a court or a jury under (a) of this section for all claims, including a loss of consortium claim, arising out of a single injury or death may not exceed \$400,000 or the injured person's life expectancy in years multiplied by \$8,000, whichever is greater.

(c) In an action for personal injury, the damages awarded by a court or jury that are described under (b) of this section may not exceed \$1,000,000 or the person's life expectancy in years multiplied by \$25,000, whichever is greater, when the damages are awarded for severe permanent physical impairment or severe disfigurement.

(d) Multiple injuries sustained by one person as a result of a single incident shall be treated as a single injury for purposes of this section. (§ 1 ch 139 SLA 1986; am § 9 ch 26 SLA 1997)

**Cross references.** — For a statement of legislative intent relating to the provisions of ch. 26, SLA 1997, see § 1, ch. 26, SLA 1997 in the 1997 Temporary and Special Acts. For severability of the provisions of ch. 26, SLA 1997, see § 56, ch. 26, SLA 1997 in the 1997 Temporary and Special Acts.

**Effect of amendments.** — The 1997 amendment, effective August 7, 1997, rewrote this section.

**Editor's notes.** — Section 55, ch. 26, SLA 1997 provides that the provisions of ch. 26, SLA 1997 apply "to all causes of action accruing on or after August 7, 1997."

#### NOTES TO DECISIONS

**Non-economic cap did not apply.** — Because permanently losing the normal use of a body system necessary for day-to-day life constitutes severe physical impairment, and the former section imposed a \$500,000 cap on non-economic damages unless the

victim has suffered "severe physical impairment," the superior court properly removed this issue from the jury's consideration. *State v. Johnson*, 2 P.3d 56 (Alaska 2000).

**Sec. 09.17.020. Punitive damages.** (a) In an action in which a claim of punitive damages is presented to the fact finder, the fact finder shall determine, concurrently with all other issues presented, whether punitive damages shall be allowed by using the standards set out in (b) of this section. If punitive damages are allowed, a separate proceeding under (c) of this section shall be conducted before the same fact finder to determine the amount of punitive damages to be awarded.

(b) The fact finder may make an award of punitive damages only if the plaintiff proves by clear and convincing evidence that the defendant's conduct