

The Hidden Victims of Tort Reform: Women, Children, and the Elderly

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Table 1

Female Plaintiffs in California “Gender-Neutral” Malpractice Cases (67)

Category	Amount	Percent of Total Damages
Average Total Compensatory Award	\$1, 227,411	100%
Average Economic Damages	\$268,754	22%
Average Non-Economic Damages	\$ 958,657	78%
Average Post-MICRA Cap Award	\$633,850	51.6%

---- Cap reduced women’s average tort recoveries by 48.4%

Table 3

Male Gender-Neutral Malpractice Cases in California (64)

Category	Amount	Percent of Total Damages
Average Compensatory Award	\$2,341,996	100%
Average Economic Damages	\$1,216,112	52%
Average Non-Economic Damages	\$1,125,883	48%
Post-MICRA Average	\$1,396,112	60%

----- Cap reduced men's average tort recoveries by 40%

Table 2

Women's Median Tort Awards – Gender Neutral Malpractice Cases (67)

Median Total Jury Verdict	\$879,892
Median Economic Damages	\$112,150
Median Non-Economic Damages	\$536,500
Median Post-MICRA Cap Award	\$377,700

---- MICRA Cap produced a 57% reduction in the median damages

Table 4

Median Men's Gender-Neutral Malpractice Awards

Median Total Jury Award	\$937,250
Median Non-Economic Damages	\$600,000
Median Economic Damages	\$388,737
Median Post-MICRA Cap	\$643,894

---- Cap produced a 31% reduction in median awards

---- California's MICRA Cap increased the gender disparities in average and median awards:

Average:

Pre-Cap: Women's Average Jury Awards 52% of Men's Average Awards

Post-Cap: Women Average is 45% of Men's Average Award

Median:

Pre-Cap: Women's Median Award 94% of Men's Median

Post-Cap: Women's Median Award 58.6% of Men's Median

Elderly Plaintiffs (Male and Female) in California
(18cases)

Category	Amount	Percent Total Damages
Average Total Compensatory Award	\$803,267	100%
Average Economic Damages	\$275,267	34%
Average Non-Economic Damages	\$528,000	66%
Average Post-MICRA Recovery	\$525,267	65.4%

Elderly Male Plaintiffs in California (7 Cases)

<i>Category</i>	<i>Amount</i>	<i>Percent of Total Damages</i>
Average Total Compensatory Award	\$559,478	100%
Average Economic Damages	\$71,907	13%
Average Non-Economic Damages	\$487,571	87%
Average Post-MICRA Recovery	\$321,907	57.5%

Cap Produced average 42.5% reduction in damages

Median:

Pre-Cap: \$380,831

Post-Cap: \$277,200 72.8% or pre-cap median

Elderly Female Plaintiffs in California (11 Cases)

<i>Category</i>	<i>Amount</i>	<i>Percent of Total Damages</i>
Average Total Compensatory Award	\$958,405	100%
Average Economic Damages	\$553,727	42%
Average Non-Economic Damages	\$404,678	58%
Average Post-MICRA Recovery	\$654,678	68.3%

Cap produced average 31.7% reduction in damages.

Median:

Pre-Cap: \$970,000

Post-Cap: \$521,320
median

53.7% of pre-cap

Adult Deaths (Both Sexes) in California (25 Cases)

<i>Category</i>	<i>Amount</i>	<i>Percent of Total Damages</i>
Average Total Compensatory Award	\$1,234,179	100%
Average Economic Damages	\$481,901	39%
Average Non-Economic Damages	\$752,278	61%
Average Post-MICRA Recovery	\$733,947	59.5%

Cap produced 40.5% reduction in damages

Adult male Deaths in California (11 Cases)

<i>Category</i>	<i>Amount</i>	<i>Percent of Total Damages</i>
Average Total Compensatory Award	\$1,628,097	100%
Average Economic Damages	\$778,734	47.8%
Average Non-Economic Damages	\$849,363	52.2%
Average Post-MICRA Recovery	\$1,006,006	61.7%

Adult Female Deaths in California (14 Cases)

<i>Category</i>	<i>Amount</i>	<i>Percent of Total Damages</i>
Average Total Compensatory Award	\$1,007,611	100%
Average Economic Damages	\$270,183	27%
Average Non-Economic Damages	\$737,425	73%
Average Post-MICRA Recovery	\$520,186	51.6%

Women lost 48% of verdict; Men lost 34%

Gynecological Malpractice in California (28 Cases)

<i>Category</i>	<i>Amount</i>	<i>Percent of Total Damages</i>
Average Total Compensatory Award	\$1,399,085	100%
Average Economic Damages	\$342,714	24.5%
Average Non-Economic Damages	\$1,056,321	75.5%
Average Post-MICRA Damages	\$503,171	36%

Cap produced 64% reduction in women's average recoveries

Infant and Child Deaths in California (8 Cases)

<i>Category</i>	<i>Amount</i>	<i>Percent of Total Damages</i>
Average Total Compensatory Award	\$1,393,508	100%
Average Economic Damages	\$31,633	2.3%
Average Non-Economic Damages	\$1,361,875	97.7%
Average Post-MICRA Damages	\$281,633	20%

Cap produced 80% reduction in recoveries

Infant and Child Survivors in California (21 Cases)

<i>Category</i>	<i>Amount</i>	<i>Percent of Total Damages</i>
Average Total Compensatory Award	\$8,640,339	100%
Average Economic Damages	\$7,426,006	86%
Average Non-Economic Damages	\$1,214,333	14%
Average Post-MICRA Damages	\$7,669,339	88.7%

Cap produced 11.3% reduction in recoveries