



December 14, 2021

Dr. Mark Alson
231 W. Fir Avenue #0220
Clovis, CA. 93611

Dear Dr. Alson,

As parents of injured patients, we are deeply offended by your comment that compensation for death or lifelong harm is capped under California's nearly 50 year old law because such losses are "very nebulous."

Your statement in the Fresno Business Journal misstates the law and is disrespectful of families across the state and the hardships they face because of the cap. We ask that you review the videos and stories at www.FairnessforPatients.org so that you are truthful with the public next time you speak to this issue.

You stated: "MICRA does not place a cap on malpractice awards per se. It places a cap on a very specific part of malpractice awards — just the pain and suffering part. So what that means is that an injured patient is still able to get 100%, without a cap, of any economic damages and any medical compensation for anything needed in the future. All that stuff is not capped. What is capped is pain and suffering, and the reason that's capped is because that's very nebulous."

Alex Smick died at age 20 from overdose given in a hospital. His life was worth no more under the law than the \$250,000 compensation cap set in 1975 and never adjusted, or \$50,000 today.

There is nothing nebulous about a life lost at 20 due to gross medical negligence.

Since Alex was starting his adult life and had no dependents, under the law our family could not recover so-called "economic damages" for his life of lost wages. \$250,000, minus attorneys fees and expert witness costs, is the maximum our family could receive in survivor damages.

In most such cases, patients are denied lawyers because the economics don't add up and justice is never served.

All lives are precious. Putting such a low price on Alex's life after his needless death undermines accountability and demeans our loss.

Steven Olsen was 2 when he was injured by gross medical negligence. He was denied an \$800 CAT scan that could have saved him from a life of blindness and brain damage. The jury's \$7 million verdict for his lifetime of lost sight, brain function, and disability was reduced to \$250,000 by the judge when the jury left the room. Steven's medical negligence led to life long harm which includes severe brain damage, cerebral palsy, seizures and permanent blindness. The value of his suffering is hardly nebulous. Steven is now 32 years old and requires 24/7 care for the rest of his life.

When you claim patients like Steven can get 100% of any economic damage that is also lie.

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As you may know, unlike in other tort cases, the 1975 law allows deduction in medical negligence cases for other purported sources of income to offset what wrongdoers pay (a collateral source offset). In Steven's case, the defense argued taxpayer programs like Medicare and Social Security Disability would be there for him, and that my private health insurance would cover him. He was too young, as well, to put a price tag on his lost wages. My wife had to quit her job to take care of Steven, until her death a few years ago. Then I had to quit my job to take care of Steven.

Legal fees and expensive expert witness testimony are not added on to the "economic" damage award, so they must be subtracted from the capped "non-economic" damages portion. This makes expensive cases without significant economic damage components not viable cases.

This is the reason we have placed the Fairness For Injured Patients Act on the November ballot. The medical insurance complex has never recognized or acknowledged the fact that a cap set nearly 50 years ago needs to change.

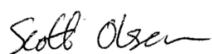
FIPA makes common sense changes to the law:

- Adjusts for inflation the \$250,000 cap set in 1975, bringing it up to \$1.2 million.
- Indexes for inflation the attorney contingency fee limits set in 1987.
- Gives the power back to judges and jurors who will be able to decide if compensation above the cap is fair in cases of catastrophic injury or death.
- Informs juries about the existence of the cap.
- Requires attorneys who file medical negligence lawsuits to file a certificate of merit, and make attorneys who file meritless lawsuits pay the doctors' attorney's fees.
- Ends mandatory periodic payments
- Restores collateral source rule in medical negligence cases so wrongdoers, not taxpayers, pay the cost of their injuries.

33 other states have no cap of one like that proposed by the Fairness for Injured Patients Act.

We ask that in opposing FIPA you stick to the facts and do not turn to lies about what the current law does.

Sincerely,



Scott Olsen



Tammy Smick