

THIS IS A PORTION OF AN INTERVIEW FOR "LEGAL TALK," A SHOW HOSTED BY ATTORNEY STEVE KARP ON STATION WCOJ, 1420 AM, IN CHESTER COUNTY. THE SHOW TOOK PLACE WITHIN TWO TO THREE WEEKS OF THE NOVEMBER ELECTIONS IN 2000. SENATOR SANTORUM DID THE INTERVIEW BY PHONE.

Steve Karp:

...pain and suffering awards, I think one was \$250,000 and the second may have been \$500,000, do I have that correct?

Senator Santorum:

Ah, you, you got me on that. I may have sponsored something early, ah, maybe early in my career. I haven't done anything recently that I'm aware of but, ah, that's that's possible. I may have sponsored something like that. A more comprehensive package.

Steve Karp:

OK, well in particular and recently, a member of your family, your wife, did have a medical malpractice case where she was given an award and my question to you is - when this is something that happens and you see it up close, do you moderate your stance on this, do you change it or do you still feel the same way about tort reform and particularly limiting medical malpractice awards.

Senator Santorum:

Yeah. My, my principal concern has been with all not just malpractice but all torts is the issue of punitive damages and that's always been an area that I have problems with the civil law because I really have just a philosophical concern that the civil law system is not meant to punish, it's meant to compensate and punitive damages are not a compensatory kind of award. They're in fact to punish someone for bad behavior and my sense on that is that punitive damages, you know, are better left if you will to the criminal side where people, if they've done something that should be punished, then they should be punished. Ah, on the issue of pain and suffering, I, I think you're right. I may have sponsored something that did put caps on pain and suffering and other non-economic damages. Ah, and the answer is yeah, I think it does probably make you re-think whether those caps are number one, appropriate or that the level

at least is appropriate and I guess I would, you know, having experienced that now first hand and obviously over the course of time being able to talk to the people I have, I'd probably would not support at least that limit of \$250,000. I think that's probably low, maybe even \$500,000 is low given, you know, some injuries that are rather profound and could have dramatic consequences of people and their quality of life, ah but I frankly have not changed my position on punitives, I just don't believe that's the proper way to go on a civil law suit.

Steve Karp:

Senator, just so you don't feel bad and I think in Pennsylvania, and I had on the head of the medical society, I think in the last twenty, twenty-five years, there has only been three or four punitive damage award in the area of malpractice, so at least for Pennsylvania citizens, that shouldn't be a concern.

Senator Santorum:

Right, I don't think it is a concern by and large for most and I think where you get into the punitive damages is generally not in the medical malpractice area. You get into it in the area of, you know, of commercial litigation with respect to things like the Pinto case and stuff like that but to me, you know, and we've even looked at it in the Federal level, is to look at imposing criminal sanctions on people who knowingly hurt people through their own deliberate actions as either a corporation or an individual.

Steve Karp:

Let me ask you another question that I've been interested in and that is, in the area of tort reform when we talk about whether it be a national no fault or punitive damages, the Republican party usually their stance has been to allow a lot of these issues to be decided by the states. Why on an issue like this would you want it to be a federal matter and why not leave it up to the states 'cause Pennsylvania has a pretty good rule now with it and the courts have changed it and the legislature has changed it over years.

Senator Santorum:

Yeah, the area, you know, I, as you know, I've been a general supporter of malpractice reform, but I would argue and I think you made the argument more personally than I have is I think the

area where the federal government does have a role to play is in the area of tort reform when it comes to products liability because you really are talking in a case of products liability, you know, things that are sold in interstate commerce, you know, I think you have a little higher bar to say that medical malpractice is interstate commerce and therefore, the federal government should regulate so I've always been concerned about whether this is taken a little too far to go with federal malpractice laws, I frankly don't have that concern with respect to products liability. I don't think there is any question that in respect to products, having fifty state laws to deal with respect to products liability is not going to be the best route to state commerce and is not necessarily the best thing for consumers.