

PRESS RELEASE

California Attorney on Medical Malpractice: California's MICRA Limitation of Damage causes Damage

Since its enactment almost 40 years ago, California's Medical Injury Compensation Reform Act (MICRA) has fallen under increasing criticism because of significant and sustained uneven compensation between death and injury cases. Sven Buncher of the Buncher Law Corporation today released a blog that explains the underlying workarounds that some attorneys have had to use to ensure a successful outcome in cases of egregious malpractice.

IRVINE, CA, August, 2012 The Buncher Law Corporation (<http://www.buncherfamilylaw.com>) today announced [a blog post](#) that opens up the painful statistics from nearly 40 years of California's Medical Injury Compensation Reform Act (MICRA).

"Attorneys that still see malpractice cases in California agree that it is time for the statute to undergo major revision," says [Sven Buncher](#), Senior Partner at Buncher Law Corporation. He points out a [study conducted](#) by the Rand Corporation that shows uneven compensation between malpractice cases that resulted in death and those cases that resulted in injury.

Among the findings of the study, cases involving death are capped 58% and injury cases are capped 41%. Death cases also had a 49% median loss in award reductions compared to injury cases, which have 28%. Plaintiffs with the severe non-fatal injuries like brain damage and paralysis saw their non-economic damage awards capped far more often than other non-severe injuries.

"I was surprised by how little this study received coverage when it came out in 2004," says Buncher. "These results show that plaintiffs with the most severe malpractice cases are being unfairly treated by this law. We have cases where they are losing two-thirds or more from the jury's original decision."

The study reports that the law appears to have had the intended *initial* result of limiting defendants' expenditures. However, whether such savings have translated into reduced premiums, greater availability of coverage, and a more stable health care delivery system (the California Legislature's *ultimate* goals for MICRA), is unclear.

Buncher points out that the MICRA has also made insurance companies that cover malpractice policies more aggressive in seeking court decisions. "MICRA removes the incentive for them to settle. The Rand Study shows that they'll wind up paying less if they go to court."

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In particularly egregious cases of malpractice, Buncher comments that he and a few remaining attorneys are looking for other ways to pursue these cases. "In some cases, where the evidence of malpractice is very clear, there could be an argument for fraud and battery," he explains. "In such cases, if the patient has enough corroborative information, a good attorney can prove that the doctor misled the patient into believing that he had everything under control." In these situations, a patient who keeps good records is often all the difference a good attorney needs.

Buncher claims that laws like MICRA provide inadequate compensation for the most severely injured. "This study reveals that jury awards for certain kinds of plaintiffs are treated differently than in other cases," he says. "The severest cases are affected to a greater degree by the cap on non-economic damages than awards for other kinds of plaintiffs and that's simply not fair. Policymakers need to be educated about this great disparity. If limits are necessary, then we need to consider exemptions for exceptional or tragic cases."

About Buncher Law

[Buncher Law Corporation](#) is a professional, preeminent boutique law firm based in Orange County, California serving the cities of Irvine, Newport Beach, Santa Ana, Laguna Niguel, Mission Viejo, Rancho Santa Margarita, Anaheim and other communities in the area. Lead by Sven Buncher, the firm is a practical, rational and respected partner for legal matters that involve Family Law, Personal Injury and Business Litigation.

"In my core philosophy lays a simple equation," says Buncher. "Either you can live by emotions or live well. From the perspective of litigation, one can litigate every issue available, or litigate what is in your best interest. I am your counselor, representative and advisor. My task is to present the economics of justice so that you can make value-based choices and receive the satisfaction you seek. My job is to bring the factual story to the court, to prepare you so that you can achieve your goals. Armed with truth, we will succeed."

Sven Buncher has been practicing law since 1996. He is the founding attorney of the firm. His unique insight and handling of cases is in large part due to his extensive experience in practicing in a variety of areas from family law, to business litigation and personal injury.

Prior to founding *Buncher Law Corporation*, Buncher gained experience as a partner and associate at both large and small law firms. He has taken the best aspects of large and small firms, to form 'The Buncher Law Corporation'. Here, clients are provided very individual attention with quick and easy access to their attorneys, along with the resources of a larger firm.

Buncher drives the importance of providing each client, no matter how large or small, the highest degree of personalized services. He approaches each case with fresh eyes as if it presents novel factual and legal issues of first impression, rather than simply treating it the same as similar cases that have come along before. He emphasizes careful case management, which is vital to minimizing costs and maximizing results. The Buncher Law philosophy is to focus on customized and personalized service, but to tailor services to maximize results, save time and money.

Continued
"Owens" Page 3

The firm offers a highly personalized service. In the area of [family law](#), the firm specializes in divorce, legal separations, child custody and visitation, child and spousal support, cohabitation/Marvin Actions, prenuptial agreements and other complex family law matters.

In the area of [business litigation](#), the firm specializes in litigation for breach of contract, business buy/sell agreements, non-disclosure agreements (NDA), fraud and contract disputes and other business-related matters.

In the area of [personal injury](#), the Buncher Law Corporation is successful in informed consent, product defect, head injuries, Legionnaire's Disease, medical malpractice and other matters where there is serious injury or death caused by the negligence of another person.

For more information, please contact Buncher Law Corp by calling 949-398-8720 or emailing info (at) buncherlawcorp.com.

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