

***Williams v. The Pep Boys Manny Moe & Jack of California* (2018) 27 Cal. App. 5th 225**
A trial court erred in failing to award damages for the costs of providing home health services to decedent where he was cared for at home.

FACTS/PROCEDURE

In 2010, J.D. Williams (Decedent), died of mesothelioma allegedly caused by exposure to asbestos in brakes he purchased from Defendant, The Pep Boys. In 2011, his seven adult children (Plaintiffs), brought suit against Pep Boys asserting wrongful death, strict liability, and negligence. Included was a claim for economic damages for their gratuitous medical services provided. Pep Boys' filed a motion for judgment under Code of Civil Procedure section 631.8 on Plaintiff's wrongful death claim claiming they were barred by the statute of limitations. The trial court granted Pep Boys' motion for judgment on the wrongful death claim.

After a bench trial on the remaining claims, the trial court awarded Plaintiff's \$213,052 in economic damages. The trial court also failed to award damages for the costs of providing home health services to their father and his wife, Betty Williams. Plaintiff appealed arguing that the trial court abused its discretion for failing to award damages on the costs of providing home health services.

DISCUSSION

The Court of Appeal for the First District Reversed in part the trial court's decision not to award damages for the costs of providing home health services. The court reasoned "in tort actions, medical expenses fall generally into the category of economic damages, representing actual pecuniary loss caused by the defendant's wrong." Thus, any reasonable charges for treatment the injured person has paid, incurred, or owes the medical provider are recoverable as economic damages.

The court went on to address the law in California where medical services are gratuitously provided by family members. Stating that "the reasonable value of nursing services required by the defendant's tortious conduct may be recovered from the defendant even though the services rendered by members of the injured person's family and without an agreement or expectation of payment." Just because there is a legal right to nursing services, as in the case of a spouse, does not prevent recovery for their value.