

BILL'S STORY

A real case demonstrating
the unfairness of damage caps.

Bill's Story

This is the story of Bill, a 59-year-old man from central Pennsylvania. Bill was dedicated to his family and still very much in love with his wife, Mary, who was 49 years old. Bill and Mary acted like newlyweds, even though they had been married for over a decade. The couple was close on every level and practically inseparable. Bill had found the happiness that he had always sought.

It was recommended to Bill, like it is to thousands of men every year in the United States, that he should undergo a prostate biopsy. Bill was nervous about the prospect of a biopsy, but felt that it was important TO have the procedure done so that any potential disease could be quickly detected and treated. Bill, with Mary at his side, entered a local hospital to have the procedure performed.

The doctor performing the biopsy had scheduled three of his patients for prostate biopsies on the same morning. Bill was the last of the three patients, who were scheduled right after one another. Each procedure took only 15 minutes, with the tissue sample taken during the biopsy placed in a small jar labeled with the patient's name.

Shortly after Bill's biopsy, while he was still in the operating room under sedation, a nurse notified his doctor that there was a problem with his biopsy. Apparently, there had been some confusion in the labeling of the jars that held the biopsy samples, and the nurse could not tell which biopsy sample was Bill's and which belonged to the other two patients. The nurse suggested to the doctor that he should re-biopsy Bill, who was still in the operating room under sedation, so that everyone could be sure about the test results. The doctor refused. Instead, he decided to "eyeball" the specimen jars and, based on the look of the biopsy tissue alone, tell the nurse which specimen was Bill's.

A few weeks after the procedure, Bill's doctor informed him that the biopsy had revealed prostate cancer. The doctor told Bill that he needed to have a radical prostatectomy, which is the surgical removal of the entire prostate gland. Bill and Mary could not believe that Bill had cancer, but the doctor was certain. Even though he was very hesitant about having the surgery performed, Bill agreed to undergo the procedure that had been recommended by his doctor. He wanted to rid his body of the cancer so that he and Mary could have many more happy years together.

After the surgery, Bill discovered that he had suffered one of the devastating complications of a radical prostatectomy – complete and permanent impotence. He and Mary were crushed by this development. They could only accept it, with tremendous difficulty, knowing that Bill had been freed from the cancer by the surgery that had caused the impotence.

One month after the radical prostatectomy, Bill received a call from the hospital. He assumed that it was a routine follow-up call. What Bill was told was anything but routine. Bill was informed that there had been a mistake at the time of the biopsy, that his sample had been mixed up with the sample from another patient, and that HE DID NOT HAVE CANCER!

What normally would have been news to celebrate devastated Bill and Mary. Bill had undergone a totally needless, unnecessary surgical procedure. To make matters worse, that surgery wrecked his life. To Bill, that needless surgery robbed him of his manhood. It took from him a vital part of his relationship with his wife. The unnecessary surgery has robbed Bill and Mary of much of the intimacy of their marriage. It has changed their relationship, caused them to drift apart. Bill's life expectancy is almost another 21 years. His impotency will last the rest of his marriage to Mary and the remainder of his lifetime. Is a \$250,000 cap on non-economic damages fair to Bill and Mary?

