

KEITH'S STORY

A real case demonstrating
the unfairness of damage caps.

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Keith's life was ruined forever when he went in for a routine surgery. Keith was once completely independent and active. Now his wife is afraid to leave him home alone due to a brain injury caused by the negligence of the hospital staff caring for him.

Keith was an outgoing, social man. He enjoyed being the life of the party, and he was never at a loss for words. A family or neighborhood gathering was never complete unless Keith was there. Keith brought this same energy to his job as a school custodian/security employee in Bucks County, his home and auto repairs and his marriage. June, his wife of 30 years, was always amazed at his non-stop, can-do attitude. Their marriage was filled with love, laughter and energy – all of which were inherited by their children.

In December, Keith entered the hospital for a routine surgery – an elective hernia repair. The surgery was a success, and Keith was transferred to the recovery room in good condition. At the time that he entered the recovery room, Keith was still intubated, breathing through a tube inserted down his throat. His surgeon and the anesthesiologist told the nurses in the recovery room to monitor him on a one-to-one basis. The physicians had been unable to extubate Keith earlier because of the size of his neck and a sleep apnea condition, and they wanted to give him more time before they attempted to extubate him again.

Keith did not get the one-on-one care ordered by his doctors. While he was not being monitored, his endotracheal tube became dislodged. Keith was deprived of oxygen to his brain for at least six minutes. As a result, he suffered a permanent and irreversible brain injury.

Keith is no longer the man that he once was. He is no longer the husband that June knew and loved. The lack of oxygen to Keith's brain caused him to suffer cognitive problems. Keith cannot remember how to get home from a trip to the neighbor's house or the local grocery store. He gets lost every time that he leaves his house. He does not remember people whom he has known for years. He cannot remember at all a brother with whom he used to fish almost every weekend. June has had to prepare a list for him of his own children's names, the names of their spouses, and the names of his grandchildren. Keith, who used to be so outgoing, social and fun, is now a recluse who is afraid to leave his home. He is afraid that he will become lost and not be able to find his way back home. He is afraid that he will see someone from his family or an old friend and not be able to recognize or remember who that person is. When he does not recognize a family member or an old friend, he is mortified and ashamed.

June is afraid to leave Keith at home by himself while she works. She is afraid that he will forget to turn the water off after he has taken a shower or that he will leave a burner on the stove turned on. She is afraid that he will wander off while trying to take a walk or that he will forget that the house where he is sitting is their home and try to leave. She is very afraid that he will not remember her someday when she gets home. June spends most of her time worrying about Keith, trying to protect him, trying to help him get through simple activities of daily living.

Keith cannot enjoy simple pleasures. He cannot enjoy watching a television sitcom or a movie. By the end of the show, Keith has forgotten what happened at the beginning. He cannot read anymore. His brain simply does not process written information well now. He tries to read so that he can have something to occupy his day, but, between his memory problems and his inability to process written information, the attempt at reading becomes a frustrating chore that brings him more pain than pleasure. He cannot go out to dinner or the

mall or an amusement park. The crowds disorient and confuse him. He spends his days sitting in a chair, listening to the radio and staring out the window.

Keith lives every day of his life with constant fear, embarrassment, and shame. Every day is the same as the one before. Keith does not make new memories of birthday parties, holiday celebrations, family get-togethers, or neighborhood picnics. He can't even hold onto the old memories of past events. He is now deprived of the pleasure of remembering back to his wedding day, when he held his first child in his arms, the last fishing trip with his brother, the big surprise party that his family had for him. Without the ability to recall old memories or make new ones, what does Keith have that makes life worth living?

The frustration, anger, humiliation and fear that Keith lives with is not capped, nor is the pain and anguish that his family and friends feel because of what has happened to him. Why should his damages be capped, especially when capping non-economic damages will not bring down the liability premiums of physicians?



Keith cannot remember family and friends. He cannot remember special events. He can't think back to his wedding day or the moment he held his first child. Keith's memories were taken away by a negligent hospital staff who starved his brain of oxygen for almost six whole minutes.