

1. 23 Cardozo L. Rev. 1865 Cardozo Law Review May, 2002 Article THE CONCEPT OF EBUALITY IN CIVIL PROCEDURE William B. Rubenstein [FN1]
...N.W.2d 434 (Wis. 1978) (same). For a general overview of the many cases in this category, see David Randolph Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 Okla. L. Rev. 195 (1985). [FN181]. See, e.g., *Laudenberger v. Port Auth.*...
2. 58 Wash. & Lee L. Rev. 315 Washington and Lee Law Review Winter, 2001 Note WHO'S THE BOSS?: STATUTORY DAMAGE CAPS, COURTS, AND STATE CONSTITUTIONAL LAW Matthew W. Light [FN1]
...constitutional right to full recovery in tort and have therefore applied a higher level of scrutiny. See David Randolph Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195, 205-06 (1985) (finding that Arizona and Montana treat full...
3. 53 Me. L. Rev. 589 Maine Law Review 2001 Comment LATENT MEDICAL ERRORS AND MAINE'S STATUTE OF LIMITATIONS FOR MEDICAL MALPRACTICE: A DISCUSSION OF THE ISSUES Kathy Kendall
...the number of claims filed, their outcome, and the price of insurance." Id. at 6. [FN65]. See David Randolph Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195, 196- 97 & n.4 (1985). ...
4. 103 Dick. L. Rev. 455 Dickinson Law Review Spring 1999 Articles FROM A WHIMPER TO A BANG: THE TREND TOWARD FINDING OCCURRENCE BASED STATUTES OF LIMITATIONS GOVERNING NEGLIGENT MISDIAGNOSIS OF DISEASES WITH LONG LATENCY PERIODS UNCONSTITUTIONAL Peter Zablotzky [FN1]
...malpractice problem, and 22 states had revised civil practice laws or rules to remedy the malpractice problem."); David R. Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 Okla. L. Rev. 195, 200-01 (1985) (discussing states attempts to mitigate the crisis...
5. 47 DePaul L. Rev. 819 DePaul Law Review Summer 1998 Article AVERTING MALPRACTICE BY INFORMATION: INFORMED CONSENT IN THE PEDIATRIC TREATMENT ENVIRONMENT Andrew Popper [FN1]
...Library, Bhlth File; Martin J. Hatlie, *Professional Liability: The Case for Federal Reform*, 263 JAMA 584 (1990); David Randolph Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 Okla. L. Rev 195 (1985); Christopher S. Kozak, Note, *A Review of Federal...*
6. 50 Ark. L. Rev. 691 Arkansas Law Review 1998 Comment PROGNOISIS BUESTIONABLE: AN EXAMINATION OF THE CONSTITUTIONAL HEALTH OF THE ARKANSAS MEDICAL MALPRACTICE STATUTE OF REPOSE [FN1] Robert W. George
...suit; (6) permitting voluntary arbitration agreements; and (7) placing limits upon the amount of attorney fees recoverable. David R. Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 Okla. L. Rev. 195, 200-01 (1985). [FN34]. 1979 Ark. Acts 709. ...
7. 3 Tex. Wesleyan L. Rev. 123 Texas Wesleyan Law Review Fall, 1996 Note & Comment THE MLIIA: BAD MEDICINE AND BAD LAW IS A COSTLY COMBINATION FOR TEXAS MINORS WITH MEDICAL DEATH CLAIMS Melissa Lyn Mcleod Hamrick
...and unavailability of medical malpractice insurance, passed tort reform laws in every state except West Virginia. See David Randolph Smith, **Battling A Receding Tort Frontier: Constitutional Attacks On Medical Malpractice Laws**, 38 OKLA. L. REV. 195, 200-01 (1985). [FN58]. See *Power & Wyler*, supra note...
8. 1996 Utah L. Rev. 987 Utah Law Review 1996 Comment AN EXPERIMENT IN PATIENT INJURY COMPENSATION: IS UTAH THE PLACE? Barbara A. Brill
... [FN297]. Id. at 201-02. [FN298]. WEILER, supra note 36, at 39. [FN299]. Id. [FN300]. David R. Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA.L.REV. 195, 208-09 (1985) (noting most courts have used rational relation test in...
9. 28 Ind. L. Rev. 413 Indiana Law Review 1995 Centennial Symposium Issue MEDICAL MALPRACTICE

- ACTS' STATUTES OF LIMITATION AS THEY APPLY TO MINORS: ARE THEY PROPER? Scott A. DeVries [FNa]
 ...to detect some defects at an early age. Id. at 939 nn.46-47. [FN53]. Id. at 943. [FN54]. David R. Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195, 204 & n.43 (1985). See, e.g., *Kadmas v. Dickinson*...
10. 63 Miss. L.J. 797 Mississippi Law Journal Spring, 1994 Comment TORT REFORM AND THE MISSISSIPPI CONSTITUTION OF 1890 R. Brittain Virden
 ...on Prof. Liab. & Ins., Prof. Liab. in the '80s, Report 2, at 18-19 (Nov. 1984). [FN25]. David R. Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA L. REV. 195, 199 (1985). The American Bar Association filed a report...
11. 79 Va. L. Rev. 2155 Virginia Law Review November, 1993 Book Review MEDICAL MALPRACTICE: RESEARCH AND REFORM "A Measure of Malpractice: Medical Injury, Malpractice Litigation, and Patient Compensation. By Paul C. Weiler, Howard H. Hiatt, Joseph P. Newhouse, William G. Johnson, Troyen A. Brennan & Lucian L. Leape. Harvard University Press, 1993. Pp. xiv, 178. \$29.95. Randall R. Bovbjerg [FNa1]
 ...broader, prospective reform. See id. at 132-58. For overviews of the constitutional arguments surrounding malpractice reforms, see David R. Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 Okla. L. Rev. 195 (1985); Martin H. Redish, Legislative Response to the Medical...
12. 38 S.D. L. Rev. 672 South Dakota Law Review 1992/1993 Note MILLER v. GILMORE: THE CONSTITUTIONALITY OF SOUTH DAKOTA'S MEDICAL MALPRACTICE STATUTE OF LIMITATIONS Gail Eiesland
 ...of arbitration; and (8) place limits on the amount of attorneys' fees recoverable in medical malpractice lawsuits. David R. Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195, 200-01 (1985). [FN64]. See infra notes 69-114 and accompanying...
13. 65 Temp. L. Rev. 1197 Temple Law Review Winter, 1992 Emerging Issues In State Constitutional Law THE RIGHT TO A REMEDY David Schuman [FNa1]
 ...Provide More Than "Lip Service" to Rendering Justice, 16 TOLEDO L.REV. 585 (1985); Schuman, supra note 11; David R. Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA.L.REV. 195 (1985); Charles K. Wiggins et al., Washington's 1986 Tort Legislation and...
14. 65 Temp. L. Rev. 459 Temple Law Review Summer, 1992 THE MEDICAL MALPRACTICE "CRISIS": A CRITICAL EXAMINATION OF A PUBLIC DEBATE W. John Thomas [FNa]
 ...Legislative Response to the Medical Malpractice Insurance Crisis: Constitutional Implications, 55 TEX. L. REV. 759, 759-65 (1977); David Randolph Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195, 208 (1985); Mixed Record On Tort Caps, NAT'L. L....
15. 66 Tul. L. Rev. 2076 Tulane Law Review June, 1992 Recent Development OWEN v. UNITED STATES: LOUISIANA'S MEDICAL MALPRACTICE CAP--THE FIFTH CIRCUIT'S "OPINION" K.C. Simoneaux
 ..."right to sue for personal injuries" is not fundamental. See Arancibia, supra note 7, at 147 (citing David R. Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195, 210-11 (1985)). [FN20]. In *Kansas Malpractice Victims Coalition v....*
16. 140 U. Pa. L. Rev. 1755 University of Pennsylvania Law Review May, 1992 Symposium: The Law and Policy of Health Care Rationing: Models and Accountability PROSPECTIVE SELF-DENIAL: CAN CONSUMERS CONTRACT TODAY TO ACCEPT HEALTH CARE RATIONING TOMORROW? Clark C. Havighurst [FNd]
 ...concern that they were enacted only to serve provider interests. See HAVIGHURST, supra note 45, at 704-47; David R. Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA L. REV. 195 (1985). [FN93] For academic objections to private reform of...
17. 26 Suffolk U. L. Rev. 147 Suffolk University Law Review Spring, 1992 Note "THIS MAY STING A LITTLE"--A SOLUTION TO THE MEDICAL MALPRACTICE CRISIS REQUIRES INSURERS, DOCTORS, PATIENTS, AND LAWYERS TO TAKE THEIR MEDICINE Thomas P. Hagen
 ...6, at 521 & n. 96 (noting range of 1970s state health care reforms). [FN56]. See generally David Randolph

Smith, **Battling a Receding Tort Frontier**: Constitutional Attacks on Medical Malpractice Laws, 38 Okla.L.Rev. 195 passim (1985) (discussing constitutional attacks on malpractice reforms). Plaintiffs challenged award...

18. 14 Hous. J. Int'l L. 425 Houston Journal of International Law Winter, 1992 Comment A DETERIORATION OF HEALTH: A CRITICAL ANALYSIS OF HEALTH CARE SYSTEMS, MEDICAL MALPRACTICE, AND NO - FAULT INSURANCE IN CANADA, GREAT BRITAIN, AND THE UNITED STATES Jennifer R. Weinman ...cases violated equal protection guarantee). For a discussion of the constitutional attacks on state reform measures, see David Randolph Smith, **Battling A Receding Tort Frontier**: Constitutional Attacks on Medical Malpractice Suits, 38 Okla.L.Rev. 195 (1985). [FN169]. Etheridge v. Medical Center Hosp., 376 S.E.2d 525, 533...
19. 1992 Utah L. Rev. 929 Utah Law Review 1992 Comment UTAH'S STATUTE OF LIMITATION BARRING MINORS FROM BRINGING MEDICAL MALPRACTICE ACTIONS: RIDING ROUGHSHOD OVER THE RIGHTS OF MINORS? Rob M. Alston
...infra note 188 and accompanying text (surveying states shortening malpractice statute of limitation for minors). [FN55]. See David R. Smith, **Battling a Receding Tort Frontier**: Constitutional Attacks on Medical Malpractice Laws, 38 OKLA. L. REV. 195, 200, 222 (1985). [FN56]. See Andrews, supra note 23,...
20. 94 W. Va. L. Rev. 11 West Virginia Law Review Fall, 1991 A FREE MARKET ANALYSIS OF THE EFFECTS OF MEDICAL MALPRACTICE DAMAGE CAP STATUTES: CAN WE AFFORD TO LIVE WITH INEFFICIENT DOCTORS? Franklin D. Cleckley [FNa1] Govind Hariharan [FNaa1]
...ST. MED.J. 641 (1986); Allen Redlich, Ending the Never-Ending Medical Malpractice Crisis, 38 MAINE L.REV. 283 (1986); David R. Smith, **Battling a Receding Tort Frontier**: Constitutional Attacks on Medical Malpractice Laws, 38 OKLA.L.REV. 195 (1985); William A. Erickson, Note, Judicial Review of Medical Malpractice Legislation,...
21. 28 Hous. L. Rev. 209 Houston Law Review January, 1991 Health Law Issue MENTAL HEALTH MALPRACTICE IN THE 1990S Steven R. Smith [FNa]
...557 S.W.2d 401, 414 (Ky. 1977); Carson v. Maurer, 120 N.H. 925, 424 A.2d 825, 833-39 (1980); see also Smith, **Battling a Receding Tort Frontier**: Constitutional Attacks on Medical Malpractice Laws, 38 OKLA. L. REV. 195, 208 (1985) (noting that state constitutional challenges to medical...
22. 83 Nw. U. L. Rev. 908 Northwestern University Law Review Summer, 1989 Public Policy VALUING LIFE AND LIMB IN TORT: SCHEDULING "PAIN AND SUFFERING" Randall R. Bovbjerg [FNa] Frank A. Sloan [FNaa] James F. Blumstein [FNaaa]
...in individual cases and in the aggregate. [FN243] It has been argued that federal action is necessary. Cf. Smith, **Battling a Receding Tort Frontier**: Constitutional Attacks on Medical Malpractice Laws, 38 OKLA. L. REV. 195, 229 (1985) ("vulnerability" of state tort reforms to state...
23. 23 Ga. L. Rev. 295 Georgia Law Review Winter, 1989 THE PHYSICIANS' POINT OF VIEW CONCERNING MEDICAL MALPRACTICE: A SOCIOLOGICAL PERSPECTIVE ON THE SYMBOLIC IMPORTANCE OF 'TORT REFORM' F. Patrick Hubbard [FNa]
...medical malpractice actions alone, but noting that several states do impose limitation on noneconomic damages in medical malpractice actions); Smith, **Battling a Receding Tort Frontier**: Constitutional Attacks on Medical Malpractice Laws, 38 OKLA. L. REV. 195, 216 nn.136-37 (1985) (listing states imposing limitations on damages...
24. 49 La. L. Rev. 763 Louisiana Law Review January, 1989 STATUTORY DAMAGE CAPS ARE AN INCOMPLETE REFORM: A PROPOSAL FOR ATTORNEY FEE SHIFTING IN TORT ACTIONS Gregory A. Hicks [FNa]
...new reform legislation in 1986 and early 1987 were directed at control of damages in medical malpractice litigation. See, Smith, **Battling a Receding Tort Frontier**: Constitutional Attacks on Medical Malpractice Laws, 38 Okla. L. Rev. 195, 200-01 (1985). The statutes of general application reflect the...
25. 3 J.L. & Health 47 Journal of Law and Health 1988/1989 PERIODIC PAYMENT AWARDS: THE

PRESCRIPTION FOR THE MEDICAL MALPRACTICE CRISIS IN OHIO Laurie G. Steiner [FNa]
 ...1983, there were sixteen malpractice suits for every one hundred doctors, which is a twenty percent increase since 1982. Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA.L.REV. 195, 196 n. 2 (1985)(citing A.M.A., Special Task Force On Prof. Liab...

26. 63 Wash. L. Rev. 653 Washington Law Review July, 1988 Comment CONSTITUTIONAL CHALLENGES TO WASHINGTON'S LIMIT ON NONECONOMIC DAMAGES IN CASES OF PERSONAL INJURY AND DEATH Marco de Sae Silva
 ...ANN. § 16-9.5-2-2 (Burns 1983); NEB. REV. STAT. § 44-2825 (Supp. 1986). [FN25]. Bell, supra note 17, at 939; Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195, 195 n.1 (1985), reprinted in 35 DEF. L.J. 359...
27. 13 Okla. City U. L. Rev. 135 Oklahoma City University Law Review Spring, 1988 Note STATUTORY CAPS ON DAMAGE AWARDS IN MEDICAL MALPRACTICE CASES Jane C. Arancibia
 ...332 U.S. 633, 644-46 (1948). [FN78]. Rodriguez, 411 U.S. at 33-34. [FN79]. Bual, supra note 6, at 444. [FN80]. Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195, 204 (1985) (examines the federal and state constitutional theories...
28. 5 Cooley L. Rev. 667 Cooley Law Review Michaelmas Term, 1988 PUNITIVE DAMAGES AND THE EIGHTH AMENDMENT: APPLICATION OF THE EXCESSIVE FINES CLAUSE Gerald W. Boston [FNa]
 ...or the amount of damages for pain and suffering. See, e.g., VA. CODE ANN. §§ 8.01-581.15 (1984). See also, Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195 (1985) (discussing some of these statutes). ...
29. 32 Vill. L. Rev. 1299 Villanova Law Review November, 1987 Twenty-First Annual Symposium CONSTITUTIONAL LIMITATIONS ON TORT REFORM: HAVE THE STATE COURTS PLACED INSURMOUNTABLE OBSTACLES IN THE PATH OF LEGISLATIVE RESPONSES TO THE PERCEIVED LIABILITY INSURANCE CRISIS? Richard C. Turkington [FNa]
 ...A.2d 457 (1983) (expanding concept of search); see generally Symposium, supra note 55; Developments, supra note 55. [FN111]. See Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195, 229 (1987). [FN112]. See *Griswold v. Connecticut*, 381 U.S....
30. 16 U. Balt. L. Rev. 571 University of Baltimore Law Review Spring, 1987 Casenote STATUTE OF LIMITATIONS--MEDICAL MALPRACTICE--CONSTITUTIONAL LAW--FIVE YEAR STATUTE OF RESPONSE ON MEDICAL MALPRACTICE CLAIMS THAT COMMENCES WHEN AN INJURY OCCURS IS CONSTITUTIONAL. HILL v. FITZGERALD, 304 MD. 689, 501 A.2d 27 (1985). Nancy E. Leibowitz
 ...30, at 760-61. [FN37]. See Legislative Responses, supra note 18, at 1429; Compensation Schemes, supra note 33, at 143; Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195, 200 n.16 (1985); Hirsh, *Malpractice Crisis of the '80s*,...
31. 62 Wash. L. Rev. 233 Washington Law Review April, 1987 WASHINGTON'S PARTIAL REJECTION AND MODIFICATION OF THE COMMON LAW RULE OF JOINT AND SEVERAL LIABILITY Cornelius J. Peck [FNa]
 ...of Sens. Talmadge and Thompson). [FN80]. WASHINGTON STATE HOUSE OF REPRESENTATIVES, HOUSE JOURNAL (March 6, 1986) 1056-58. [FN81]. See Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195, 202-10 (1985), reprinted in 35 DEF. L.J. 359, 367-77...
32. 71 Minn. L. Rev. 269 Minnesota Law Review December, 1986 OF EVIDENCE AND EBUAL PROTECTION: THE UNCONSTITUTIONALITY OF EXCLUDING GOVERNMENT AGENTS' STATEMENTS OFFERED AS VICARIOUS ADMISSIONS AGAINST THE PROSECUTION Edward J. Imwinkelried [FNa]
 ...N.H. 925, 939-40, 424 A.2d 825, 835- 36 (1980); Arneson v. Olson, 270 N.W.2d 125, 135-36 (N.D. 1978); Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 35 DEF. L.J. 359, 373-75 (1986). But see *Baker v. Vanderbilt Univ.*, 616 F....
33. 14 Hofstra L. Rev. 433 Hofstra Law Review Spring, 1986 **FRIVOLOUS LITIGATION ON FRIVOLOUS**

LITIGATION: A STUDY OF TORT LIABILITY AND PROCEDURAL SANCTIONS John W. Wade
[FNa]

...e.g., Hays, Delaware Cracking Down on "Fivolous Suits," Nat'l L.J., Oct. 21, 1985, at 11, col. 1. [FN10]. See Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA. L. REV. 195 (1985). [FN11]. "Fivolous litigation" applies primarily to the bringing...

34. 38 Vand. L. Rev. 627 Vanderbilt Law Review April, 1985 Note **THE CONSTITUTIONALITY OF STATUTES OF REPOSE: FEDERALISM REIGNS** Josephine Herring Hicks
...discussion of some of the measures not addressed in this Note, particularly in the area of medical malpractice, see Smith, **Battling a Receding Tort Frontier: Constitutional Attacks on Medical Malpractice Laws**, 38 OKLA.L.REV. --- (1985); Abraham, **Medical Malpractice Reform: A Preliminary Analysis**, 36 MD.L.REV. 489...