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Court rules that former Portland TV personality should get \$1.4 million from doctor, OHSU

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The Oregon Court of Appeals ruled today that a former Portland television personality is entitled to more than \$1.4 million in damages in a case against **OHSU** (<http://www.ohsu.edu/xd/>) and one of its physicians.

The court said that Dr. Alex West, a neurosurgeon, was not protected by a state law that limited his legal liability to \$200,000. That law has since been amended to allow for higher liability caps.

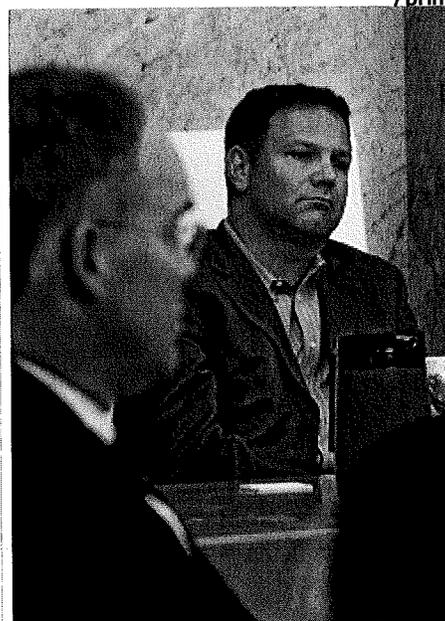
Thus, West is liable for more than \$1 million in a negligence suit that was decided by a jury in 2006. The OHSU Medical Group, which employed West, and Oregon Health & Science University are liable for \$200,000 each.

The ruling is another milestone in the long legal battle involving West, OHSU and Ken Ackerman, the former host of **KATU** (<http://www.katu.com/>)'s "A.M. Northwest."

"We think it's the just thing to do under the circumstances because everybody is entitled to be compensated for whatever a jury awards," said attorney Patrick Block, who represents Ackerman.

OHSU said Wednesday that it will appeal the decision.

"OHSU respects the work of the **Oregon Court of Appeals**



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Michael Rubenstein/The Oregonian/2006

Ken Ackerman (right) watches defense attorney Mark Wagner give opening statements during his malpractice case against OHSU and Dr. Alex West (left). A

(<http://courts.oregon.gov/COA/index.page>)," the hospital said in a statement, "but disagrees with its ruling in the Ackerman case and will appeal this decision to the Oregon Supreme Court."

court rule this week that Ackerman is entitled to \$1.4 million.

Wednesday's decision could open the door to additional appeals on cases that were opened while the old tort cap statute was on the books.

West left OHSU in September 2006, shortly after a Circuit Court decision against him, according to an OHSU spokesman. He could not be reached for comment on Wednesday.

Ackerman left KATU in late 2005 after his contract expired and is now a real estate agent.

In December 2003, Ackerman underwent a 45-minute surgery at OHSU to repair a bulging disk. West had recommended a procedure that called for inserting a stiff, pointed wire into the neck to relieve the nerve pain.

Ackerman testified that West said he had performed 20 such operations and assured Ackerman that it was safe. But in the operating room, West inserted the wire too deeply, and the pointed tip punctured Ackerman's spinal cord.

Ackerman said later that the botched procedure left him in "constant pain" with no fine motor skills in his right hand. His left side, he said, was almost totally insensitive to hot and cold.

After a two-week trial in 2006, a jury found that West was negligent. The 10 women and two men on the jury awarded Ackerman \$412,000 for his economic losses and \$1 million in non-economic damages.

The jury also found that Dr. Jonathan Carlson, an OHSU resident physician assisting West in surgery, was not negligent.

At the time, Ackerman's suit challenged the Oregon Tort Claims Act, a law that limits damages against any public employee performing official duties to \$200,000, or to a total of \$500,000 when multiple parties are damaged in a single case. Initially, Ackerman had sought \$5 million in damages.

But in late 2007, the Oregon Supreme Court essentially dismissed the cap when it gave permission to the family of a brain-damaged boy permission to pursue a \$17 million suit against OHSU, which was later settled for \$9.3 million.

That law has since been amended to allow for higher liability caps.

-- **Stephen Beaven** (<mailto:stevebeaven@news.oregonian.com>)

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