



# Lake Cumberland Regional Hospital v. Adams, 2017 KY LEXIS 444 (KY 2017)

Topics Covered: Economic Credentialing

## **Outcome: Very Favorable**

### **Issue**

The issue in this case was whether Kentucky hospitals can be found liable for negligence in their credentialing of physicians.

### **AMA Interest**

The AMA encourages physicians to serve on medical staff credentialing committees and cooperate in the credentialing process.

### **Case Summary**

Dr. Guy Sava performed two spinal surgeries on Helen Adams at Lake Cumberland Regional Hospital ("LCRH"). For various reasons, she developed complications from the surgeries. As a result, she experienced radiating pain in her right leg, right foot numbness, and right foot drop.

Adams sued Dr. Sava for medical negligence, and she sued LCRH for negligent credentialing of Dr. Sava. LCRH moved for judgment on the pleadings, arguing that Kentucky did not recognize claims for hospitals' negligent credentialing of physicians. The trial court granted this motion, and Adams appealed to the Kentucky Court of Appeals.

The Court of Appeals acknowledged that Kentucky had never found a cause of action based on negligent credentialing, but it also found that the Kentucky Supreme Court had never disapproved such a claim. It noted that at least 28 states had recognized this claim. Further, it reasoned, patients rely on hospitals to ensure a competent medical staff. When hospitals breach this duty and injure their patients, it held, patients deserve compensation for their injuries and the hospitals should be held liable. Accordingly, it reversed the trial court's judgment in favor of LCRH. LCRH has appealed to the Kentucky Supreme Court.

On November 2, 2017, the Supreme Court reversed the Court of Appeals decision and remanded to the trial court. The Supreme Court declined to recognize a new and separate tort for negligent credentialing, as hospitals already have a duty to employ competent staff.

### **Litigation Center Involvement**

The Kentucky Medical Association filed an amicus brief on December 26, 2017 to support LCRH and oppose recognition of the tort of negligent credentialing. The Litigation Center is helped to defray the cost of the KMA amicus brief.