



Boggs v. Camden-Clark Memorial Hospital

609 S.E.2d 917 (W.Va. 2004)

Topics Covered: Certificate of Merit, Hospitals, Tort Reform and Abusive Litigation Against Physicians

Outcome: Somewhat Unfavorable

Issue

The issues in this case were the timeliness of pre-filing certificates of merit in a medical malpractice action filed in West Virginia and the constitutionality of a cap on non-economic damages recoverable under West Virginia's medical malpractice statute.

AMA Interest

The AMA supports tort reform, specifically the limitation of non-economic damages in medical malpractice cases.

Case Summary

Plaintiff Bernard Boggs claimed that Dr. Manish Koyawala caused his wife's death by failing to adhere to the standard of care in anesthetizing her. Mr. Boggs also made claims against United Anesthesia (Dr. Koyawala's anesthesiology group) and Camden-Clark Memorial Hospital for malpractice and various other torts.

The West Virginia Medical Professional Liability Act (MPLA), W.Va. Code §55.7B.1, et seq. provides (among other things) that medical malpractice plaintiffs must serve pre-filing notices of claim and certificates of merit at least 30 days prior to filing suit. Moreover, a revision to the MPLA provides that claims filed on or after July 1, 2003 are subject to a limit on the amount of non-economic damages recoverable. The defendants moved to dismiss, arguing that Mr. Boggs had failed to provide them with properly executed certificates of merit a full 30 days prior to filing suit. The trial court granted the motion, dismissing all claims. Mr. Boggs then asked for leave to amend his complaint, based on a West Virginia procedural rule providing for the "relating back" of claims. Such "relating back" would allow Mr. Boggs to avoid the applicability of the cap on non-economic damages. The trial court denied this motion. Mr. Boggs then appealed to the West Virginia Supreme Court.

The West Virginia Supreme Court decided the case in the plaintiff's favor, reasoning that the lower court had incorrectly denied plaintiff leave to amend his complaint. The Supreme Court held that the plaintiff was entitled to amend his complaint under the "relate back" rule to assert certain "non-medical practice" claims, in addition to the earlier-asserted malpractice claim (which the court held was not subject to the intervening changes to the West Virginia malpractice statute, which reduced the amount of recoverable non-economic damages).

Litigation Center Involvement

The Litigation Center, the West Virginia State Medical Association, and several public interest organizations filed an amicus curiae brief supporting defendants Camden-Clark Memorial Hospital, United Anesthesia, Inc., and Manish I. Koyawala, MD. The brief contended that Mr. Boggs lacked standing (in view of the lack of any harm suffered) to challenge the constitutionality of the medical liability reforms.

Supreme Court of Appeals of West Virginia brief