



# Sneed v. University of Louisville, 600 S.W.3d 22 (Ky. 2020)

Topics Covered: Abusive Litigation Against Physicians

## Outcome: Favorable

### Issue

The issue in this case was whether Kentucky’s “continuing care doctrine” tolls the statute of limitations for bringing a medical malpractice action if a patient continued to receive care following a procedure, but not from the same physicians who allegedly engaged in the malpractice.

### AMA Interest

The AMA opposes abusive litigation against physicians.

### Case Summary

On August 1, 2013, Jessica Sneed gave birth at the University of Louisville Hospital. She was under the care of Tanya E. Franklin, MD, an experienced OB/GYN, and Jennifer Allen, MD, a medical resident. During the childbirth, she suffered a deep vaginal laceration. Drs. Franklin and Allen sutured the laceration on August 2, 2013, which was the last date on which they rendered medical care to Sneed.

The next day, Sneed was discharged from the hospital, but she suffered continuing distress from the laceration. Sneed’s sister undertook an investigation about what had happened, and on August 18 or 19, 2013 she informed Sneed that she had learned that Drs. Franklin and Allen had repaired the laceration improperly. Finally, Sneed underwent reconstructive surgery on October 9, 2013.

On August 1, 2014, Sneed sued the hospital and “unknown doctors.” On October 20, 2014, she filed a first amended complaint which named, for the first time, Drs. Franklin and Allen as defendants.

Franklin and Allen moved for summary judgment, based on Kentucky’s one-year statute of limitations for medical malpractice actions. They asserted that Sneed was aware of the purported malpractice and of the persons who had perpetrated the malpractice when her sister reported the results of her previous investigation but had delayed suing Franklin and Allen. Sneed countered by asserting that the suit against the hospital was timely. Further, she said, Franklin and Allen knew or should have known that they would be sued because of the suit against the hospital. Accordingly, the delay in naming Franklin and Allen did not prejudice them, and under a legal theory known as the “relate back” principle they could be deemed effectively

sued as of the date she filed the original complaint.

The trial court granted partial summary judgment for Franklin and Allen. Knowledge of the lawsuit could not be imputed to them merely because the hospital had been sued. Thus, the relate back doctrine was inapplicable.

Sneed appealed to the Kentucky Court of Appeals. Rather than focusing on the “relate back” principle against Franklin and Allen, she emphasized the “continuing care doctrine.” This theory derived from the idea that as long as a patient is under the continuing care of a physician who negligently injured the patient, the statute of limitations is tolled. The idea is that a patient should not be required to choose between maintaining the doctor-patient relationship or compromising that relationship by initiating a lawsuit in order to satisfy the statute of limitations. Once the continuous treatment ends, the statute of limitations begins to run.

The Court of Appeals held that the continuing care doctrine applies only when the physician who negligently caused the injury continues to care for the patient. Here, Franklin and Allen stopped caring for Sneed on August 2, 2013. Although the hospital treated Sneed after that date, the rationale for the doctrine did not apply here because the care of Franklin and Allen had not continued. Therefore, the Court of Appeals affirmed the judgement for Franklin and Allen. Sneed appealed to the Kentucky Supreme Court, which affirmed the judgment for Franklin and Allen. The Court observed that the relationship a patient may have with her hospital is “different in degree and kind” than the relationship of trust and confidence she has with her treating physician.

### **Litigation Center Involvement**

The Litigation Center and the Kentucky Medical Association filed an *amicus* brief to support the defendants.

Kentucky Supreme Court Brief