

APPELLATE COURT OF ILLINOIS, FIRST DISTRICT

Wickersheim v. Broderick

2026 IL App (1st) 242195 · No. 1-24-2195 · Decided June 22, 2026

SUMMARY

The Illinois Appellate Court, First District, reviewed whether 14 pages from a hospital credentialing file were privileged under the Medical Studies Act. The court held that the hospital failed to establish the privilege as to those documents, but vacated the related civil contempt finding and monetary penalty.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| COURT                 | Appellate Court of Illinois, First District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| WRITING FOR THE COURT | Presiding Justice Fitzgerald Smith; Justice Howse; Justice Cobbs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| JURISDICTION          | Illinois Appellate Court, First District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| DECIDED               | June 22, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| DOCKET                | 1-24-2195                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Advocate Sherman Hospital appealed under Illinois Supreme Court Rule 304(b)(5) from an order finding it in civil contempt and imposing monetary penalties for refusing to produce 14 pages of credentialing-related records. The appeal also challenged the underlying discovery ruling that the records were not shown to be privileged under the Medical Studies Act.                                                                                                                                                                                                           |
| STANDARD OF REVIEW    | Whether the Medical Studies Act privilege applies is generally reviewed de novo, but whether specific information was part of the peer-review process is a factual question reviewed for manifest error. A decision is against the manifest weight of the evidence only when the opposite conclusion is clearly evident or the finding is unreasonable, arbitrary, or not based on the evidence presented. The denial of reconsideration as to factual findings is reviewed for abuse of discretion, subject to the manifest-weight standard for the underlying factual findings. |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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## PARTIES

Advocate Sherman Hospital v. Diane Wickersheim, as Guardian of David Kozlowski, a Disabled Person

## TOPICS

privilege discovery dispute health law contempt appellate procedure

## PRACTICE AREAS

health law civil procedure evidence appellate procedure

## QUESTIONS PRESENTED

1. Whether Sherman Hospital established that 14 pages of credentialing-related records were privileged under the Illinois Medical Studies Act.
2. Whether a party may establish a Medical Studies Act privilege claim by submitting hundreds or thousands of pages for in camera review without affidavits or other factual support.
3. Whether the civil-contempt order and escalating monetary penalty against Sherman Hospital should be vacated when the hospital sought contempt in good faith to obtain immediate appellate review of the discovery ruling.

## HOLDINGS

1. Sherman Hospital failed to meet its burden of establishing that the 14 pages were information initiated, created, prepared, or generated by a committee engaged in the peer-review process. The circuit court therefore did not err in ordering their production.
2. A trial court properly may require affidavits or other factual support establishing the basis for a Medical Studies Act privilege claim. The appellate court did not authorize a procedure under which a party may submit hundreds or thousands of pages for in camera review without affidavits or sufficient factual information.
3. The civil-contempt order and monetary penalty against Sherman Hospital were vacated.

## KEY QUOTATIONS

*“In other words, it is not enough that information “serve an integral function” in the peer-review process. To be privileged, it must also be information “initiated, created, prepared, or generated” by a committee engaged in the peer review process.” (¶ 32)*

*“A trial court faced with inadequate factual support for a claim of privilege acts properly either by requiring that all necessary affidavits be filed or by overruling the assertion of privilege for lack of substantiation by the party invoking it.” (¶ 37)*

*“The trial court’s order overruling defendant Advocate Sherman Hospital’s claims of privilege as to the 14 pages of documents at issue in this appeal and ordering that they be produced to the plaintiff, as well as its order denying the motion to reconsider that ruling, are affirmed. That portion of the order of October 21,*

2024, finding defendant Sherman Hospital in civil contempt and imposing a monetary penalty upon it is vacated.” (¶ 41)

## FACTUAL BACKGROUND

David Kozlowski's guardian brought a medical-negligence action alleging that providers failed to timely diagnose and treat intracranial hemorrhages following a car crash and emergency surgery. During discovery, the plaintiff sought credentialing, privilege, and scope-of-practice records for several medical providers, including Dr. Richard Broderick and physician assistant Sylvia Yung. Sherman Hospital produced more than 2,000 pages but withheld or redacted material under the Medical Studies Act, including 14 pages that the circuit court concluded were not sufficiently shown to have been generated by a peer-review or credentialing committee.

## PROCEDURAL HISTORY

In a medical-negligence action, the circuit court ordered Sherman Hospital to produce nonprivileged credentialing records and privilege logs. After an in camera review of more than 2,000 pages conducted without supporting affidavits, the court rejected the hospital's privilege claim as to 14 pages, ordered production, and later denied reconsideration. When the hospital refused production, the court held it in civil contempt and imposed escalating monetary penalties. The appellate court affirmed the discovery and privilege rulings but vacated the contempt order and monetary penalty because the hospital sought contempt in good faith to obtain immediate appellate review.

## DISPOSITION

other

## CASES CITED

- Jenkins v. Wu, 102 Ill. 2d 468, 480 (1984)
- Richter v. Diamond, 108 Ill. 2d 265, 269 (1985)
- Roach v. Springfield Clinic, 157 Ill. 2d 29, 40-41 (1993)
- Pietro v. Marriott Senior Living Services, Inc., 348 Ill. App. 3d 541, 548-49 (2004)
- Webb v. Mount Sinai Hospital & Medical Center of Chicago, Inc., 347 Ill. App. 3d 817, 825 (2004)
- Chicago Trust Co. v. Cook County Hospital, 298 Ill. App. 3d 396, 406 (1998)
- Nielson v. SwedishAmerican Hospital, 2017 IL App (2d) 160743, ¶ 36
- Ardisana v. Northwest Community Hospital, Inc., 342 Ill. App. 3d 741, 746-49 (2003)
- Berry v. West Suburban Hospital Medical Center, 338 Ill. App. 3d 49, 55 (2003)
- Green v. Lake Forest Hospital, 335 Ill. App. 3d 134, 138 (2002)
- Toth v. Jensen, 272 Ill. App. 3d 382, 385-86 (1995)
- Best v. Best, 223 Ill. 2d 342, 350 (2006)
- Mnookin v. Northwest Community Hospital, 2018 IL App (1st) 171107, ¶¶ 23, 26-30
- Toughin v. Ruggiero, 2021 IL App (1st) 192171, ¶ 110

- Ekstrom v. Temple, 197 Ill. App. 3d 120, 127 (1990)
- Anderson v. Rush-Copley Medical Center, Inc., 385 Ill. App. 3d 167, 174 (2008)
- Cornejo v. Mercy Hospital & Medical Center, No. 12 C 1675, 2014 WL 4817806, \*3-4 (N.D. Ill. Sept. 15, 2014)
- Shamrock Chicago Corp. v. Wroblewski, 2019 IL App (1st) 182354, ¶ 19
- Less v. Mercy Hospital & Medical Center, 2022 IL App (1st) 220247, ¶ 38

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