

LOSS OF CHANCE OF SURVIVAL

In *Roberts v. Ohio Permanente Medical Group, Inc.*, 76 Ohio St. 3d 483 (Ohio 1996), the Ohio Supreme Court held that in order to maintain an action for the loss of a less-than-even chance of recovery or survival, the plaintiff must present expert medical testimony showing that the health care provider's negligent act or omission increased the risk of harm to the plaintiff. It then becomes a jury question as to whether the defendant's negligence was a cause of the plaintiff's injury or death.

The amount of damages recoverable by a plaintiff in a loss-of-chance case equals the total sum of damages for the underlying injury or death assessed from the date of the negligent act or omission multiplied by the percentage of the lost chance.