

**IN THE DISTRICT COURT OF CHERRY COUNTY, NEBRASKA**

**CARRIE TITUS, Personal  
Representative of the Estate of  
LEONARD JEROME DREAMER,  
Deceased,**

Plaintiff,

vs.

**CHERRY COUNTY HOSPITAL and  
DR. D.D. ADAMS,**  
Defendants.

Case No. CI99-31

**ORDER DENYING  
APPLICATION**

**DATE OF HEARING:** June 9, 1999.  
**DATE OF DECISION:** June 10, 1999.  
**TYPE OF HEARING:** telephone conference call with no evidence and record  
waived pursuant to Rule 8-4.  
**APPEARANCES:**  
For plaintiff: no appearance.  
For defendants:  
hospital: Robert W. Wagoner.  
Adams (applicant): Earl G. Greene III without defendant.  
For Cherry Co. Attorney: no appearance.  
**SUBJECT OF ORDER:** applicant's ex parte application for order directing  
issuance of subpoena duces tecum.  
**FINDINGS:** The court finds and concludes that:

1. There is no express statutory authority for the relief requested by the applicant in the Nebraska Hospital-Medical Liability Act (the Act).
2. The Act does not provide for subpoena power for a medical review panel, nor does the Act authorize the panel to secure judicial assistance in marshaling evidence.
3. A medical review panel is not a court and any attempt by the Legislature to vest judicial authority in such a panel would probably be unconstitutional.

4. The court lacks jurisdiction in the absence of a pending case.

**ORDER:** IT IS THEREFORE ORDERED AND ADJUDGED  
that:

1. The application is denied without prejudice to any other remedies available to the parties.

2. All costs are taxed to the applicant.

Entered: June 10, 1999.

If checked, the Court Clerk shall:

- : Mail a copy of this order to all counsel of record and to any pro se parties.  
Done on \_\_\_\_\_, 19\_\_\_\_ by \_\_\_\_\_.
- : Note the decision on the trial docket as: 6/10/99 Pursuant to telephonic hearing on 6/9/99, signed "Order Denying Application" entered.  
Done on \_\_\_\_\_, 19\_\_\_\_ by \_\_\_\_\_.

Mailed to:

**BY THE COURT:**

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William B. Cassel, District Judge