

For Immediate Release

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Katten Wins Key Federal Antitrust Class Action Ruling on Behalf of Children's Memorial Hospital

CHICAGO – Katten Muchin Rosenman LLP today announced that it has won a significant victory in a federal antitrust wage fixing class action brought by registered nurses against its client, Children's Memorial Hospital, and four other Chicago-area health care providers.

On September 29, the U.S. District Court for the Northern District of Illinois issued an order denying class certification in a major antitrust action filed against Children's Memorial Hospital, Advocate Health Care, NorthShore University HealthSystem (formerly known as Evanston Northwestern Healthcare), University of Chicago Hospitals, and Resurrection Health Care, alleging that they had conspired, in violation of the Sherman Act, to depress the base hourly wages paid to Chicago-area registered nurses. The case is unusual in that it features a relatively new type of claim brought against employers by employees claiming collusion on wages.

Following extensive discovery and briefing, four days of oral argument, and wide-ranging expert testimony, Senior District Judge John F. Grady found that the plaintiffs had failed to meet their burden of establishing that common proof concerning the fact of injury would predominate over individualized inquiries. The plaintiffs further failed to show that a reliable formula for calculating damages in this matter could be devised. The case is *Reed, et al. v. Advocate Health Care, et al., Case No. 06 CV 3337 (N.D. Ill)*.

“We are pleased to represent Children's in this matter and are gratified by the ruling in favor of our client and the other nonprofit hospital and healthcare system defendants,” said Martin T. Tully, counsel to Children's Memorial and a partner in Katten's Chicago office. “Application of the requisite ‘rigorous analysis’ to the competing experts’ opinions in this case led the Court to appropriately conclude that the plaintiffs had presented no viable method of demonstrating class-wide injury with common proof. For that reason, among others, the named plaintiffs’ claims cannot properly proceed as a class action.”

The plaintiffs’ counsel had publicly indicated that they sought more than \$360 million in total damages from Katten's client and the other defendants, on behalf of approximately 19,000 putative class members. The *Reed* case is one of five similar actions pending in as many cities across the country, and the first in which the court has completely denied class certification based on an analysis of all elements of Rule 23 of the Federal Rules of Civil Procedure, which defines the

criteria under which a class action may be maintained. In denying class certification, Judge Grady utilized the standards for assessing expert opinion that were described in the landmark Third Circuit case, *In re Hydrogen Peroxide Antitrust Litigation*. As such, the *Reed* decision provides further guidance as to how the standards for resolving conflicting expert opinions on class certification are to be applied.

In addition to Mr. Tully, Katten partners Laura Keidan Martin of the Chicago office and James J. Calder of the New York office represented Children's Memorial in the matter. Assisting on the matter were Chicago associates Alyx S. Pattison, Laura A. Brake and Jenny R. Goltz, and Washington, D.C.-based associate David J. Gonen. Mr. Tully and Mr. Calder argued the motion for Children's.

Katten Muchin Rosenman LLP is a full-service law firm with more than 600 attorneys in locations across the United States and an affiliate in London. The firm's business-savvy professionals provide clients in numerous industries with sophisticated, high-value legal services, with a focus on corporate, financial services, litigation, real estate, commercial finance, intellectual property and trusts and estates. Among our clients are a wide range of public and private companies, including a third of the Fortune 100, as well as a number of government and nonprofit organizations and individuals. For additional information, visit www.kattenlaw.com.

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