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LEGAL >> *Joe Carlson*

Judge denies nurse class-action status

Chicago ruling latest in victory for hospitals facing antitrust lawsuits

In a legal victory for hospitals facing an antitrust lawsuit from 19,000 Chicago-area nurses, a federal judge has denied the workers class-action status. The judge said their arguments rested on a shoddy theory that the alleged anti-competitive activity by the hospitals affected all the workers similarly.

The ruling, however, does not absolve the hospitals' conduct, and leaves open the possibility of "19,000 minitrials."

The case is one of five similar lawsuits filed in different federal circuits across the country, and is at least the second in which a judge denied class-action status to the nurses. Last year, judges in Albany, N.Y., reached the same deci-

sion as the Chicago-based judge, while judges on a case in Memphis, Tenn., denied class certification for different reasons. Cases in Detroit and San Antonio are still pending.

In each of the cases, which were filed with the support of the Service Employees International Union in 2006, nurses allege that hospital administrators artificially depressed wages during a nursing shortage by sharing confidential salary information and conspiring to prevent "overbidding" that would usually result when supply of a resource is scarce.

In Chicago, U.S. District Judge John Grady's Sept. 28 opinion said that regardless of whether nurse wages were

depressed illegally, the nurses would have to litigate the issue independently because granting class-action status based on average losses would obscure the widely variable differences in pay and circumstances among individuals.

"District judges can no longer rubber-stamp the opinions of plaintiff's experts at the class-certification stage," said David Hanselman, a partner at the law firm McDermott Will & Emery, who represents nine-hospital Resurrection Health Care, Chicago, in a written statement.

The other providers that Illinois nurses sued were nine-hospital Advocate Health Care, Oak Brook, Ill.; 247-bed Children's Memorial Hospital, Chicago; four-campus NorthShore University HealthSystem, Evanston, Ill.; and 553-bed University of Chicago Medical Center. <<



Hanselman: No more rubber stamps from district judges.