

## Winston Cures Hospital Class Action Infected with Inadequate Class Members

MARCH 30, 2018

Winston & Strawn scored a significant victory for NorthShore University HealthSystem when the Northern District of Illinois agreed to decertify a class of plaintiffs in a decade-long antitrust class action regarding NorthShore's acquisition of a hospital more than 18 years ago.

Following NorthShore's acquisition of Highland Park Hospital in 2000, multiple private class actions were filed against our client by plaintiffs seeking treble damages for alleged overcharges to patients, employers, and insurers. The cases were consolidated in the Northern District of Illinois, where Winston initially succeeded in defeating class certification in 2010. That decision was reversed by the Seventh Circuit in 2012, and the class was certified on remand in 2014. Following years of subsequent fact and expert discovery, Winston moved to decertify the class, arguing that the named plaintiffs were inadequate class representatives and that the plaintiffs' proposed method of showing predominance did not demonstrate class-wide impact.

On March 30, 2018, the court agreed, finding the class could only include those who received inpatient hospital services and that none of the individual plaintiffs received such services from NorthShore. The court also agreed with Winston's argument that the final named plaintiff, a self-funded union benefits plan, was an indirect purchaser that cannot recover antitrust damages. Having thus dismissed all named plaintiffs from the case, the court decertified the class, though it allowed plaintiffs' counsel a short window to try and find a new named plaintiff; if they are able to do so, the court will then determine whether the class must be decertified or dismissed based on Winston's additional pending arguments. Winston's win has been featured in articles in [Law360](#), Mlex, and other publications.

The Winston team included Partner Chris Essig and Associates Conor Reidy and Joelle Ross.

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