

White and Williams Defeats Class Certification in Nursing Home Case

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An unprecedented medical malpractice class action brought against a nursing home and other entities was defeated in the Philadelphia Court of Common Pleas. In *Stoner v. Albert Einstein Medical Center d/b/a Willowcrest, et al.*, the estate of a deceased nursing home resident alleged numerous class-wide claims, including negligence, corporate negligence, breach of contract and fraud. Plaintiff sought to certify this class on behalf of more than 300 nursing home residents, arguing that every single resident received inadequate medical care over a four-year period. They argued that government surveys and documents, along with statistics, would support the putative class member's claims. Separately from the class action, a single class member proceeded to trial and received a verdict in excess of \$2 million on her individual claims.

White and Williams argued that the residents' alleged claims were too individualized and unique to be adjudicated as a class. They pointed out that it would be impossible to determine the putative class members without expert review of thousands of individual medical charts, which is not permissible under HIPAA and other privacy federal and state laws, and statistics and surveys were no substitute to assess individual medical care. They also contended that there would be different standards of care and medical causation defenses to each potential claimant, depending on their specific medical conditions and circumstances. Finally, White and Williams asserted that questions concerning the calculation of the residents' alleged damages, if any, could not be resolved on a classwide basis with regard to any formulaic calculation or otherwise.

The Court of Common Pleas agreed with White and Williams that class certification was not proper, as there was no showing of commonality, typicality, and that a class action was a fair and efficient method for adjudication. The Court stated that allowing this to be certified would essentially require hundreds of mini-trials to determine these professional liability claims. The Court's opinion is available [here](#).

Albert Einstein Medical Center and related defendants were represented by Kevin Cottone, Edward Koch, Mary Beth McClellan and Michael Jervis.

Attorneys

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Practice Areas

Healthcare