

## Blog Post

# Antitrust Exemption Allows Health System to Avoid All Claims for Damages in Antitrust Class Action

March 7, 2019

Atrium Health (formerly known as Carolinas Healthcare System) scored a big victory in its defense of an antitrust class action on March 4, when the Court ruled that the plaintiffs in *Benitez v. The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas Health System*, could not seek damages in the action. In granting the defendant’s motion for judgment on the pleadings on the issue, the Court held that Atrium was a governmental entity subject to the provisions of the Local Government Antitrust Act of 1984 (the LGAA), which grants local governments statutory immunity from antitrust claims for damages.

Notably, the plaintiffs’ antitrust claims in *Benitez* largely tracked allegations that had been made by the DOJ Antitrust Division when they brought an antitrust action against Atrium in 2016 (*United States v. The Charlotte-Mecklenburg Hospital Authority*). Specifically, the plaintiffs claimed that Atrium’s contracts with insurers contained “anti-steering” provisions that limited the ability of insurers to send their insureds to hospitals other than Atrium, driving up prices for inpatient services and thus inflating the amount of co-insurance that insureds were required to pay for services at Atrium. However, while the DOJ action (which was recently settled) sought only injunctive relief that would terminate the allegedly anticompetitive contract provisions,

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the *Benitez* plaintiffs sought damages for the alleged harm that contended they suffered as a result of the provisions.

As the Court in *Benitez* recognized, the key issue in the case was whether Atrium was a governmental entity within the scope of the LGAA's protections. The LGAA grants immunity from antitrust damages to any "city, county, parish, town, township, village or any other general function governmental unit established by state law" and "any school district, sanitary district, or any other special function governmental until established by the state law." In addition, the case law interpreting the LGAA has made clear that it is to be "broadly construed" and that it applies even when the local government acts as a market participant.

Focusing directly on Atrium, the Court noted that it had been created under North Carolina law as a "public hospital authority" and that, under North Carolina law, it is a "public body" Moreover, the Court observed that the North Carolina courts have held that the designation "body politic" is one that "connotes a body acting as government, i.e., exercising powers which pertain exclusively to the government." For these reasons, the Court determined that the LGAA applied to Atrium, and that plaintiffs' damages claims were barred.

Finally, turning to the *Benitez* claims for injunctive relief – which are not barred by the LGAA – the Court noted that the injunctive relief sought in the action was identical to the relief already obtained by the DOJ in its action, which is currently before the Court for approval. For that reason, the Court chose to stay the *Benitez* claims for injunctive relief pending its ruling on the proposed settlement in the DOJ action, while noting that "the resolution of the Government's suit would fully resolve the [remaining] matters at issue in this case."

Accordingly, the ruling in *Benitez* is clearly a major "win" for Atrium in its efforts to defeat any claims for

damages arising from its prior contracts. However, the ruling does not terminate all litigation over the issue for Atrium, at least not at this point, because an action is pending in state court against Atrium arising from the same alleged conduct – *DiCesare v. The Charlotte-Mecklenburg Hospital Authority*. And, with the antitrust claims in that case arising under North Carolina’s antitrust laws, not the federal antitrust laws, the LGAA is unlikely to apply in that case. Stay tuned.

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