

## Judge Won't Certify Class Of Health Workers In No-Poach Suit

By **Hailey Konnath**

*Law360 (June 10, 2026, 10:12 PM EDT)* -- An Illinois federal judge on Wednesday refused to certify a class of former healthcare employees claiming that their wages were suppressed by alleged no-poach agreements among DaVita, UnitedHealth Group's Surgical Care Affiliates and Tenet Healthcare Corp. unit United Surgical Partners International, ruling that the proposed class is too diverse.

U.S. District Judge Sunil R. Harjani of the Northern District of Illinois denied the motion for class certification from lead plaintiffs Scott Keech and Allen Spradling, finding that they haven't demonstrated that "common questions will predominate over the individualized questions." In particular, the workers haven't shown "predominance of common issues to assess antitrust impact and damages, including wage suppression and classwide impact," Judge Harjani said.

Keech and Spradling hoped to certify a nationwide class of employees who worked in positions at the director level and above from various dates from 2008 until 2019 depending on their employer.

But Judge Harjani said their proposed methods for proving wage suppression "through record evidence, economic theory and expert opinions are insufficient to demonstrate predominance given the diversity of the proposed class members in their skills, job titles and geographic locations."

"Because the proposed class has such varying job titles, spread across the country and with so many competitors, any evaluation of wage suppression would require an assessment of each individual employee's situation to determine whether they suffered any wage suppression as a result of a no-poach agreement among just three companies," the judge said.

The no-poach agreements at the heart of the dispute barred Surgical Care Affiliates and DaVita on the one hand, and Surgical Care and United Surgical Partners International on the other, from recruiting each other's senior employees. They also required those employees to tell their bosses before they applied to jobs at the other two companies, according to the plaintiffs. The employees claim that the defendants, led by their respective CEOs, shared confidential wage data, including plans for future wage hikes.

The former workers first sued UnitedHealth's Surgical Care Affiliates in Illinois federal court in 2021 as a proposed class seeking to represent the "hundreds, if not thousands" of senior-level employees affected by the company's alleged agreements with competitors not to hire one another's employees. That suit was later consolidated with similar cases.

A federal grand jury in Denver eventually returned a criminal indictment against DaVita and former CEO Kent Thiry that accused them of participating in two separate no-poach conspiracies with competitors. However, that case ultimately ended in a high-profile failure for the Department of Justice, with a jury in April 2022 acquitting DaVita and its former CEO of all criminal charges. The DOJ dropped its no-poach case against Surgical Care the following November.

At a hearing in May, Judge Harjani questioned putting workers from different sectors into one group. While the plaintiffs contended that they don't have to provide a market definition or prove market power — because their allegations are per se inherently anticompetitive antitrust violations that are illegal on their face — the judge said different types of employees would have different opportunities in the market depending on their role, such as someone from IT versus someone from human resources.

And on Wednesday, the judge rejected the plaintiffs' approach to establishing common impact, noting that they contend that the alleged no-poach agreements and sharing of compensation information caused injury in the form of wage suppression. They also argue that such wage suppression "had a widespread impact across the proposed class because employee pay was linked together through each defendant's compensation structures," Judge Harjani said.

Under this theory there were purportedly class members affected directly and those affected indirectly because their compensation was tied to those directly affected, Judge Harjani said.

The plaintiffs pointed to one of their experts' "multiple regression analysis," an analysis useful in determining whether a particular effect is present, measuring the magnitude of that effect and forecasting what a particular effect would be except for an intervening event, per the order. Here, the judge deemed the analysis inadmissible because it's not a reliable method for proving impact in this case. Specifically, he said, the "model is unreliable because [it] does not capture wage suppression during the class period."

"Plaintiffs' only remaining methods of proving wage suppression are some record evidence combined with compensation and labor economic theory about this evidence, as explained by their experts," Judge Harjani said.

But their method of proof falls short because the proposed class consists of "diverse groups of senior employees who operated in different labor markets and had different employment opportunities," the judge said.

"In other words, in the absence of a regression, individualized proof would be necessary to show the impact on individual class members, who have different employment options based on title, skills, and geography, which would affect whether their individual wages were actually suppressed at their company," he said.

Judge Harjani added that a regression analysis isn't necessarily always needed to prove effect.

"In the context of determining wage suppression, whether there are alternative employers and labor market mobility is relevant to determining whether there is common method to show wage suppression and to what extent," the judge said. "In the absence of [the expert's] wage regression, individual issues predominate on this topic" in this particular case.

He said the healthcare companies operated nationwide with headquarters in different regions — Denver

and Dallas — "and thus the proposed class members were susceptible to different labor conditions in different geographic markets."

Members of the proposed class held 400 different job titles at DaVita, 150 at Surgical Care Affiliates and 40 at United Surgical Partners, he said. The education, skill and experience required for the various titles of the proposed class differed, according to the opinion.

"Thus, they were not a fairly homogeneous group of employees all doing the same or similar functions in the same general industry," he said.

And the "record evidence does not support plaintiffs' theory about defendants' compensation structures," the judge said.

"As a result, plaintiffs cannot meet their burden of proof by a preponderance of the evidence that they have a viable method of showing classwide injury with common proof such that it will predominate over individual issues," Judge Harjani said.

DaVita, UnitedHealth Group, Tenet Healthcare and counsel for the former workers didn't immediately respond to requests for comment late Wednesday.

The former employees are represented by Nussbaum Law Group PC, Roberts Law Firm PC, Saveri Law Firm LLP and Lieff Cabraser Heimann & Bernstein LLP.

Surgical Care Affiliates is represented by McGuireWoods LLP.

DaVita is represented by Morgan Lewis & Bockius LLP.

United Surgical Partners and Tenet Healthcare are represented by King & Spalding LLP.

The case is In re: Outpatient Medical Center Employee Antitrust Litigation, case number 1:21-cv-00305, in the U.S. District Court for the Northern District of Illinois.

—Additional reporting by Celeste Bott, Cara Salvatore and Bryan Koenig. Editing by Karin Roberts.