

**General Docket
Seventh Circuit Court of Appeals**

Court of Appeals Docket #: 10-2514 Nature of Suit: 3410 Antitrust Steven Messner v. NorthShore University HealthSy Appeal From: Northern District of Illinois, Eastern Division Fee Status: Paid	Docketed: 06/22/2010 Termed: 01/13/2012
Case Type Information: 1) civil 2) private 3) -	
Originating Court Information: District: 0752-1 : 1:07-cv-04446 Court Reporter: Pamela S. Warren, Court Reporter Trial Judge: Joan Humphrey Lefkow, District Court Judge Date Filed: 08/07/2007 Date Order/Judgment: 04/12/2010 Date NOA Filed: 06/10/2010	
Prior Cases: None	
Current Cases: None	

STEVEN MESSNER Plaintiff - Appellant	Mary Jane Fait, Attorney Direct: 312-984-0000 [COR LD NTC Retained] WOLF, HALDENSTEIN, ADLER, FREEMAN & HERZ Suite 1111 55 W. Monroe Street Chicago, IL 60603-0000
AMIT BERKOWITZ Plaintiff - Appellant	Mary Jane Fait, Attorney Direct: 312-984-0000 [COR LD NTC Retained] (see above)
HENRY LAHMEYER Plaintiff - Appellant	Mary Jane Fait, Attorney Direct: 312-984-0000 [COR LD NTC Retained] (see above)
PAINTERS DISTRICT COUNCIL NO. 30 HEALTH & WELFARE FUND Plaintiff - Appellant	Mary Jane Fait, Attorney Direct: 312-984-0000 [COR LD NTC Retained] (see above)
v.	
NORTSHORE UNIVERSITY HEALTHSYSTEM Defendant - Appellee	Duane M. Kelley, Attorney Direct: 312-558-5764 [COR LD NTC Retained] WINSTON & STRAWN LLP Suite 4300 35 W. Wacker Drive Chicago, IL 60601-9703 Gene C. Schaerr, Attorney Direct: 202-282-5845 [NTC Retained] WINSTON & STRAWN LLP 1700 K Street N.W. Washington, DC 20006-3817

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



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STEVEN MESSNER, et al.,
Plaintiffs-Appellants

v.

NORTHSHORE UNIVERSITY HEALTHSYSTEM,
Defendant-Appellee

06/22/2010	 1 120 pg, 741.69 KB	Private civil case docketed. Fee paid. Docketing Statement due for Appellant Amit Berkowitz, Appellant Henry Lahmeyer, Appellant Steven Messner and Appellant Painters District Council No. 30 Health & Welfare Fund by 06/17/2010. Transcript information sheet due by 07/06/2010. Appellant's brief due on or before 08/02/2010 for Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund. Record on Appeal from Northern District of Illinois, Eastern Division due by 07/14/2010. [1] [10-2514] (ER)
06/22/2010		Case transferred from Miscellaneous Docket No. 10-8015. [6230560-2] [10-2514, 10-8015] (ER)
06/23/2010	 2 4 pg, 225.53 KB	Disclosure Statements filed by Attorneys Ms. Mary Jane Fait, Marvin A. Miller, and John E. Tangren for Appellants Steven Messner, Amit Berkowitz and Henry Lahmeyer. [2] [10-2514] (CD)
06/23/2010	 3 4 pg, 101.73 KB	Docketing statement filed by Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund. [6230787][3] [10-2514] (CD)
06/24/2010	 4 3 pg, 59.9 KB	Attorney Marvin A. Miller for Painters District Council No. 30 Health & Welfare Fund in 10-2514 terminated and added Attorney Mary Jane Fait for Appellant Painters District Council No. 30 Health & Welfare Fund, in case 10-2514 per plaintiffs-appellants' representation statement. Plaintiffs-Appellants' Representation Statement filed by Attorneys Mary Jane Fait and John E. Tangren for Appellants Steven J. Messner, Amit Berkowitz, Henry W. Lahmeyer, M.D., S.C., and Painters District Council No. 30 Health & Welfare Fund, in case 10-2514. [4] [6231375] [10-2514] (JLC)
07/06/2010	 5 4 pg, 51.08 KB	Original paper record on appeal filed. Contents of record : 2 vol. of transcripts; 4 sealed envelopes. [5] [6233627] [10-2514] (DW)
07/06/2010	 6 4795 pg, 103.35 MB	Original record on appeal filed electronically. Contents of record : 10 vol. of pleadings; 13 sealed documents. [6] [6233674] [10-2514]--[Edited 07/06/2010 by SK] (DW)
07/06/2010	 7	Filed electronic transcript of proceedings held on 07/23/08, 06/09/09, 09/10/09, 09/23/09, 04/06/10. [7] [6233701] THIS TRANSCRIPT IS FOR INTERNAL COURT USE ONLY. Remote electronic access to the transcript is ONLY available through the District Court's PACER system. [10-2514] (DW)
07/07/2010	 8 1 pg, 79.54 KB	ORDER: This Court has received 4 envelopes and 13 electronic files under seal from the district court. All documents filed in this Court, except those required to be sealed by statute or rule are considered public. Pursuant to 7th Circuit Operating Procedure 10(b), documents sealed in the district court will be maintained under seal in this Court for 14 days, to afford time to request the approval required by section (a) of this operating procedure. Absent a motion from a party these sealed documents will be placed in the public record on 07/22/2010. Motion shall be filed by 07/21/2010 [8] [6233787] [10-2514] (RT)
07/12/2010	 9 10 pg, 273.29 KB	Disclosure Statements filed by Attorneys Duane M. Kelley (as counsel of record), David E. Dahlquist, William P. Ferranti, Scott C. Walton and Gene C. Schaerr for Appellee NorthShore University HealthSystem. [9] [6235402] [10-2514] (JLC)
07/20/2010	 10 9 pg, 323.03 KB	Motion filed by Appellee NorthShore University HealthSystem to seal the record on appeal. [6237442] [10-2514] (KL)
07/23/2010	 11	Filed electronic transcript of proceedings held on 8/26/08, 9/25/08, 12/4/07, 2/21/08, 4/22/08, 6/12/08, 6/24/08, 6/11/09, 2/23/10, 4/15/09, 11/6/08. [11] [6238327] THIS TRANSCRIPT IS FOR INTERNAL COURT USE ONLY. Remote electronic access to the transcript is ONLY available through the District Court's PACER system. [10-2514] (RT)
07/27/2010	 12 1 pg, 85.69 KB	ORDER re: "Appellee's Motion to Keep Documents Under Seal." Appellee asks the court to maintain certain documents under seal, but appellee's request extends to items that do not appear to be under seal or even part of the appellate record, namely exhibits DX161, 162, and 164. And it appears that appellee intended to address all 17 items under seal, but the motion does not mention document nos. 304, 310, 359, 360, and 385, which are under seal. Appellee shall file a supplement to its motion by August 9, 2010 addressing these apparent discrepancies. SDK [12] [6238992] [10-2514] (SM)
08/02/2010	 13 115 pg, 482.15 KB	15 copies Appellant's brief filed by Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund. Appellee's brief due on or before 09/01/2010 for NorthShore University HealthSystem [6240866] [13] Disk Filed. [13] [6240866] [10-2514] (LB)
08/02/2010	 14	Filed 10 copies Appendix Vols. I-III by Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund. [14] [6240875] [10-2514] (LB)
08/02/2010	 15 6 pg, 163.33 KB	Motion filed by Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund for leave to file appendix volumes IV and V under seal. 10 copies of appendix tendered. [6240961] [10-2514] (FP)
08/09/2010	 16	Filed electronic transcript of proceedings held on 10/25/07. [16] [6242492] THIS TRANSCRIPT IS FOR INTERNAL COURT USE ONLY. Remote electronic access to the transcript is ONLY available through the District Court's PACER system. [10-2514] (DP)
08/09/2010	 17 5 pg, 213.39 KB	Supplement to motion to keep documents under seal filed by appellee NorthShore University HealthSystem. [17] [6242746] [10-2514] (AM)

08/09/2010	 18 6 pg, 287.54 KB	Filed motion by Non-Partys Consumer Federation of America and US PIRG to file amicus. 15c amicus curiae brief tendered. brief. [18] [6242754] [10-2514] (AM)
08/09/2010	 19 6 pg, 287.05 KB	Filed motion by Non-Party American Antitrust Institute to file amicus brief..15c amicus curiae brief tendered. [19] [6242757] [10-2514] (KH)
08/12/2010	 20 2 pg, 17.42 KB	Supplemental record on appeal filed electronically. Contents of record : 1 sealed document. [20] [6243431] [10-2514] (SK)
08/13/2010	 21 1 pg, 79.57 KB	ORDER: This Court has received 1 electronic file, document no. 426, under seal from the district court. All documents filed in this Court, except those required to be sealed by statute or rule are considered public. Pursuant to 7th Circuit Operating Procedure 10(b), documents sealed in the district court will be maintained under seal in this Court for 14 days, to afford time to request the approval required by section (a) of this operating procedure. Absent a motion from a party these sealed documents will be placed in the public record on 08/30/2010. Motion shall be filed by 08/27/2010 [21] [6243576] [10-2514] (RT)
08/13/2010	 22 1 pg, 79.53 KB	ORDER re: 1. Amici curiae Consumer Federation of America and US PIRG motion for leave to file. 2. Motion of the American Antitrust Institute for leave tofile an amicus curiae brief in support of appellants and reversal. #1 and #2 are GRANTED. The clerk of the court shall file INSTANTER the tendered amicus briefs. [18] [19] SDK [22] [6243711] [10-2514] (CD)
08/13/2010	 23 32 pg, 312.23 KB	15 copies Amicus brief filed by Amicus Curiae American Antitrust Institute per order. Disk Filed. [23] [6243887] [10-2514]--[Edited 08/17/2010 by RS] (RS)
08/13/2010	 24 4 pg, 292.66 KB	Disclosure Statement filed by Attorneys Avidan Joel Stern, Joshua P. Davis, Andrew C. Curley, and Eric L. Cramer for Amicus Curiae American Antitrust Institute . [24] [6244112] [10-2514] (SM)
08/13/2010	 25 20 pg, 232.56 KB	15 copies Amicus brief filed by Amici Curiae Consumer Federation of America and US PIRG per order. Disk Filed. [25] [6244444] [10-2514] (SP)
08/18/2010	 26 1 pg, 79.94 KB	Order re: 1. Appellee's motion to keep documents under seal. 2. Supplement to Appellee's motion to keep documents under seal. #1 and #2 are GRANTED. Document nos. 250, 251, 280, 281, 310, 313, 314, 315, 319, 345, 359, 360, 361, 366, 379, 385, DX161, DX162, and DX164 shall be maintained under seal. The clerk of this court shall remove document no. 304 from this court's docket. The document shall be maintained under seal in the district court. On or before September 1, 2010, counsel for the appellants shall file a copy of document no. 350, the redacted version of their reply brief, which was not made part of the appellate record. This document will be made part of the public record. [10] [17] SDK [26] [6244646] [10-2514] (AM)
08/18/2010	 27 1 pg, 83.89 KB	Instant order issued GRANTING Motion of Appellants for Leave to File Appendix volumes IV and V Under Seal. The clerk of the court shall file INSTANTER appellants' tendered volumes IV and V of their appendix. These volumes shall be maintained under seal. [15]. SDK [27] [6244816] [10-2514] (JLC)
08/18/2010	 28	SEALED DOCUMENT: Filed appendix vols. IV and V by Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund, per order. [28] [6244919] [10-2514] (LB)
08/27/2010	 29 3 pg, 106.15 KB	Second supplement to appellee's motion to keep documents under seal. [6247467] [10-2514] (CD)
08/31/2010	 30 1 pg, 83.91 KB	Order issued GRANTING Second Supplement to Appellee's Motion to Keep Documents under Seal. On August 18, 2010, the court ordered the clerk of the court to maintain document nos. DX161, DX162, and DX164 under seal. Document no. 426 contains these documents. Accordingly, the clerk of the court shall maintain document no. 426 under seal. [29] SDK [30] [6247710] [10-2514] (AD)
09/01/2010	 31 65 pg, 262.58 KB	15 copies Appellee's brief filed by Appellee NorthShore University HealthSystem. Appellant's reply brief, if any, is due on or before 09/15/2010 for Appellant Amit Berkowitz, Appellant Henry Lahmeyer, Appellant Steven Messner and Appellant Painters District Council No. 30 Health & Welfare Fund [6248498] [31] Disk Filed. [31] [6248498] [10-2514] (LJ)
09/15/2010	 32 23 pg, 82.64 KB	15 copies Appellant's brief filed by Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund. [6252137] [32] Disk Filed. [32] [6252137] [10-2514] (CO)
01/06/2011	 33 4 pg, 121.08 KB	Argument set for Tuesday, February 8, 2011, at 9:30 a.m. in the Main Courtroom, Room 2721. Each side limited to 20 minutes. [33] [6277423] [10-2514] (AB)
01/31/2011		Received argument confirmation per argument email form for. Gene C. Schaerr for NorthShore University HealthSystem, in case 10-2514 [6283050-2] [6283050] [10-2514] (LJ)
02/01/2011		Received argument confirmation per argument email form for Attorney Ms. Mary Jane Fait for Appellants Painters District Council No. 30 Health & Welfare Fund, Steven Messner, Amit Berkowitz and Henry Lahmeyer. [6283571-2] [6283571] [10-2514] (LJ)
02/08/2011	 34	Case heard and taken under advisement by panel: Diane S. Sykes, Circuit Judge; John Daniel Tinder, Circuit Judge and David F. Hamilton, Circuit Judge. [34] [6284954] [10-2514] (RT)
02/08/2011	 35	

		Case argued by Ms. Mary Jane Fait for Appellants Painters District Council No. 30 Health & Welfare Fund, Steven Messner, Amit Berkowitz and Henry Lahmeyer and Mr. Gene C. Schaerr for Appellee NorthShore University HealthSystem. [35] [6284961] [10-2514] (RT)
06/23/2011	 36 45 pg, 299.08 KB	Filed Appellee NorthShore University HealthSystem Citation of Additional Authority, per Circuit Rule 28 (e). [36] [6317550] [10-2514] (Schaerr, Gene)
06/24/2011	 37 3 pg, 58.81 KB	Filed Response by Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund to Defendant-Appellee's Citation of Supplemental Authority of 6/23/11. [37][6317954] [10-2514] (Fait, Mary Jane)
06/24/2011	 38 16 pg, 192.19 KB	Filed Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund Citation of Additional Authority, per Circuit Rule 28(e). [38] [6317955] [10-2514] (Fait, Mary Jane)
06/28/2011	 39 3 pg, 29.11 KB	Filed Response by Appellee NorthShore University HealthSystem to Plaintiffs' letter regarding the Supreme Court's decision in Erica P. John Fund, Inc. v. Halliburton Co. [39][6318448] [10-2514] (Schaerr, Gene)
09/09/2011	 40 101 pg, 721.76 KB	Filed Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund Citation of Additional Authority, per Circuit Rule 28(e). [40] [6336533] [10-2514] (Fait, Mary Jane)
09/14/2011	 41 3 pg, 111.71 KB	Filed Response by Appellee NorthShore University HealthSystem to Citation of Additional Authority, per Circuit Rule 28(e) [40]. [41][6337538] [10-2514] (Schaerr, Gene)
12/22/2011	 42 174 pg, 867.88 KB	Filed Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund Citation of Additional Authority, per Circuit Rule 28(e). [42] [6361427] [10-2514] (Fait, Mary Jane)
01/03/2012	 43 3 pg, 133.15 KB	Filed Response by Appellee NorthShore University HealthSystem to Plaintiffs' Rule 28(j) Letter. [43] [6363018] [10-2514] (Schaerr, Gene)
01/13/2012	 44 45 pg, 247.64 KB	Filed opinion of the court by Judge Hamilton. We VACATE the district court's order denying plaintiffs' motion for class certification and REMAND this matter for further proceedings consistent with this opinion. Diane S. Sykes, Circuit Judge; John Daniel Tinder, Circuit Judge and David F. Hamilton, Circuit Judge. [44] [6366188] [10-2514] (SM)
01/13/2012	 45 1 pg, 97.29 KB	ORDER: Final judgment filed per opinion. Costs are in favor of the appellants. [45] [6366446] [10-2514] (SM)
01/27/2012	 46 64 pg, 425.36 KB	Submitted petition for rehearing by Gene C. Schaerr for Appellee NorthShore University HealthSystem. [46] [6369969] [10-2514] (Schaerr, Gene)
01/27/2012	 47 64 pg, 442.22 KB	Filed Petition for Rehearing by Appellee NorthShore University HealthSystem. [47] [6370142] Paper copies due on 01/30/2012. [10-2514] (SP)
02/03/2012	 48 1 pg, 100.97 KB	Sent clerk's copy of request to Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund requesting 15 copies of their answer to the Petition for Rehearing filed by Appellee NorthShore University HealthSystem on 01/27/2012. Answer to Petition for Rehearing due for Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner, Painters District Council No. 30 Health & Welfare Fund by 02/17/2012. [48] [6371736] [10-2514] (AM)
02/17/2012	 49 19 pg, 64.08 KB	Submitted answer to petition for rehearing by Mary Jane Fait for Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund. [49] [6375462] [10-2514] (Fait, Mary Jane)
02/17/2012	 50 19 pg, 63.85 KB	Filed Answer to Petition for Rehearing by Appellants Amit Berkowitz, Henry Lahmeyer, Steven Messner and Painters District Council No. 30 Health & Welfare Fund. [50] [6375509] Paper copies due on 02/21/2012.. [10-2514] (RS)
02/28/2012	 51 1 pg, 113.18 KB	ORDER: Appellee NorthShore University HealthSystem Petition for Rehearing is DENIED. [51] [6377758] [10-2514] (JLC)
03/07/2012	 52 2 pg, 91.88 KB	Mandate issued. Entire record returned consisting of 2 vol. transcripts; 4 sealed envelopes;. [52] [6379634] [10-2514] (SP)
03/07/2012	 53 49 pg, 413.5 KB	FOR COURT USE ONLY: Certified copy of 01/13/2012 Final Order with Mandate sent to the District Court Clerk. [6379637-2] [6379637] [10-2514] (SP)

Documents and Docket Summary

Documents Only

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