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PRESS RELEASE - FOR IMMEDIATE RELEASE

DENIAL OF CLASS CERTIFICATION CONCERNING EMPLOYEES' RIGHT TO CLASS ACTION LAW SUIT AGAINST HOSPITAL FOR VIOLATING FAIR EMPLOYMENT RIGHTS REVERSED BY APPELLATE COURT

JOB APPLICANTS WERE REQUIRED TO DIVULGE REPRODUCTIVE DYSFUNCTIONS, INFERTILITY, PREGNANCY, VENEREAL DISEASE, STILL BORN BIRTHS, AND MISCARRIAGES IN ORDER TO GET A JOB

The Fourth Appellate District Court of Appeal recently reversed the trial court's denial of class action certification in the case of **Grace Fontana v. St. Joseph Hospital of Orange**, (Superior Court Case No. 03CC02559), arising out of the Hospital's policy and practice of requiring each and every job applicant to reveal personal and intimate details about their private lives in order to receive employment. [See OPINION](#)

After offering employment to job applicants, the Hospital required individuals to answer questions such as whether the applicant had ever had: (1) venereal disease; (2) taken birth control pills; (3) problems with infertility; (4) children with birth defects; (5) stillborn children; (6) fetuses/unborn children with birth defects; (7) miscarriages; (8) problems with pregnancies; or (9) problems with menstrual periods; (10) problems with urination; (11) seen a counselor, psychiatrist or psychologist and (12) cancer of any kind." The Appellate Court ruled: **"Recognizing plaintiff's theory that many questions ... are not related to any job at the hospital, and there is no business necessity to ask these questions, it is somewhat difficult to understand why a class cannot be certified, at least for the purpose of establishing whether or not there is classwide liability entitling the class to injunctive relief."**

Commenting on the decision, Ms. Fontana's attorney, V. James DeSimone of SCHONBRUN DESIMONE SEPLOW HARRIS & HOFFMAN, LLP stated: "This is an important victory. This decision vindicates the right to a class action for California workers when an employer violates California's Fair and Employment and Housing Act. The Appeal's Court was correctly persuaded by the excellent oral advocacy by attorney Michael Morrison."

Ms. Fontana's attorney, Gregory D. Helmer, of HELMER · FRIEDMAN LLP, stated: "For years, the hospital forced thousands of applicants to answer these horribly invasive questions in order to get a job. Now, these individuals may have an efficient way to correct the harm that has been done to them."

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