



BARTKO PAVIA OBTAINS ORDER STRIKING CLASS ALLEGATIONS AND ATTORNEYS' FEES FROM CLASS ACTION COMPLAINT

Press Release

13, March 2015

San Francisco, California

The Alameda County Superior Court today granted firm client Sutter Health's and Sutter East Bay Hospital's motion to strike the class action allegations and prayer for attorneys' fees from plaintiff's second amended complaint. Effectively, the action is now limited to an individual action only addressing the named plaintiff's own claims and with no right to recover attorneys' fees. [View a PDF copy](#) of the Order.

Judge Wynne Carville, of the Alameda Superior Court's complex department, granted Bartko Pavia clients Sutter Health's and Sutter East Bay Hospital's motion to strike the class action allegations and prayer for attorneys' fees from plaintiff's second amended complaint. Plaintiff's second amended complaint alleged common law negligence causes of action based on the alleged theft and misuse of private or personal information. Earlier versions of plaintiff's complaint had asserted a cause of action for the alleged violation of California's Confidentiality of Medical Information Act ("CMIA"), but plaintiff had dropped this claim as no CMIA medical information was involved. Our clients' motion to strike the class action allegations was based on the predominance of individualized causation issues, plaintiff's breaching her fiduciary duty by trying to force class configuration by limiting the scope of the requested recovery, and/or a class action not being superior to alternative procedures. In addition, the motion sought to strike the second amended complaint's prayer for attorneys' fees based on common law negligence causes of action not supporting the recovery of attorneys' fees and/or there is no private attorney general role for litigants under federal health care law. In ordering the class action allegations to be struck, Judge Carville held that plaintiff could not show sufficient common issues or common issues predominate or a class action was superior. In ordering the attorneys' fees prayer to be

struck, Judge Carville noted that plaintiff had abandoned any claim to attorneys' fees in response to our clients' motion.

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