

## Simpson Thacher Obtains Dismissal of Putative Class Action Against McKesson

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On June 26, 2019, Judge Cynthia M. Rufe of the U.S. District Court for the Eastern District of Pennsylvania dismissed all claims asserted against McKesson in *Marion Diagnostic Center, LLC et al. v. McKesson Corporation, et al.* Marion, a hospital in Illinois and a serial antitrust plaintiff, had sought to bring antitrust claims against McKesson in connection with an alleged price-fixing conspiracy among manufacturers of generic pharmaceuticals. Although several classes of private plaintiffs have been engaged in antitrust litigation against the manufacturer defendants since 2016, Marion was the only plaintiff to name McKesson as a defendant. In its opinion, the Court held that Marion had failed to state a claim against McKesson because its complaint “includes no factual allegations that would give substance to McKesson’s purported role in the alleged conspiracy.” It also separately held that Marion lacks standing to sue under federal antitrust law because it is an indirect purchaser of the allegedly price-fixed products, and that it lacks Article III standing to bring state antitrust claims on behalf of a class because the only state in which it was injured (Illinois) does not allow private class actions. The opinion dismissed Marion’s claims against McKesson only; it did not address Marion’s claims against the manufacturer defendants.

The decision received media coverage in *The Am Law Litigation Daily*, *Bloomberg Law* and *Law360*. To read *The Am Law Litigation Daily* article, [click here](#) (subscription required). To read the *Bloomberg Law* article, [click here](#) (subscription required). To read the *Law360* article, [click here](#) (subscription required).

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