

# **The Thrill of Victory and the Agony of Defeat: Illinois Home Health Aides Must Sue Individually To Recoup Fair Share Fees**

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Home health aides who successfully objected to the collection of “fair share” fees without their consent may not proceed as a class, a panel of the U.S. Court of Appeals for the Seventh Circuit has ruled, affirming a lower court’s determination. *Riffey v. Rauner*, No.16-3487 (7<sup>th</sup> Cir. Oct. 11, 2017).

The home health aides had prevailed at the U.S. Supreme Court on their claim that the deduction of “fair share” fees violated their rights under the First Amendment. *Harris v. Quinn*, 134 S.Ct. 2618 (2014).

On remand to the trial court, the aides sought class certification for their claim seeking a full refund of all fair share fees collected without their consent. The U.S. District Court for the Northern District of Illinois denied the request.

The three-judge panel of the Court of Appeals affirmed the trial court’s ruling. The panel focused on the over-breadth of the proposed class, the resulting “highly individualized” inquiries that would be required to determine whether any individual class member had suffered an injury, and the extent of any such injury. Accordingly, the home health aides, who obtained a landmark victory in the Supreme Court, must sue individually.

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