

Summary of SC89392, *Patricia Ward, Individually and In Her Capacity as Plaintiff Ad Litem for Nona Woods and Darrell Woods, Individually and In His Capacity as Plaintiff Ad Litem for Nona Woods v. National Healthcare Corporation, et al., Charleston Manor Nursing, LLC, et al.*

An appeal from the Dunklin County circuit court, Judge Stephen R. Sharp.

Attorneys: The nursing home was represented by Jon W. Jordan, Stephen M. Strum and Thais Ann Folta of Sandberg, Phoenix & von Gontard of St. Louis; and Ward and Woods were represented by David Terry of the Terry Law Firm LLC in St. Louis, Brian G. Brooks of Greenbriar, Ark., and Deborah Truby Riordan of Wilkes & McHugh PC in Little Rock, Ark.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: This case factually is similar to that of SC89291, also decided this day, except here the nursing home resident and her daughter both signed an admission agreement containing an arbitration agreement. In a 7-0 decision written by Judge Michael A. Wolff, the Supreme Court of Missouri affirms the circuit court's judgment overruling the nursing care facility's motion to compel arbitration of another daughter's suit over their mother's wrongful death. For the reasons discussed in SC89291, the arbitration agreement here is not binding against the daughter.

Facts: At the time Nona Woods was admitted into NHC Healthcare, a nursing care facility, in May 2003, she and her daughter Bobby Rouse signed an admission and financial contract that contained an arbitration provision. Woods died five months later. In 2005, another of Woods' daughters, Patricia Ward, filed a wrongful death suit against the nursing care facility, which filed a motion to enforce the arbitration clause. The trial court overruled the motion, and the nursing care facility appeals.

AFFIRMED.

Court en banc holds: (1) For the reasons discussed in *Dale Lawrence v. Beverly Manor*, ___ S.W.3d ___ (No. SC89291, decided January 13, 2009), the circuit court's judgment is affirmed.

(2) The arbitration agreement is not binding on Rouse or any other members of the class of wrongful death plaintiffs. Although the line under Rouse's signature indicates that she signed as her mother's "legal representative," this phrase legally has no meaning here. Rouse is not an attorney, was not her mother's guardian, and had not been given durable power of attorney or other legally binding status as her mother's agent. Factually,

however, the phrase makes clear Rouse was not signing in her individual capacity or as a potential member of a class of wrongful death plaintiffs.