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**PUBLIC RELATIONS**

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**Nebraska Supreme Court Ruling Could Have Major Impact on  
Nursing Home Admission Process**

**Lincoln, Neb.** (October 29, 2009) – The son of a nursing home resident who allegedly was injured because of negligence did not have the authority to sign a voluntary arbitration agreement on her behalf. As a result, he was not bound by the arbitration agreement, according to a recent Nebraska Supreme Court ruling. With this ruling, the court made an important decision for Nebraska residents currently in a nursing home, as well as for families considering a nursing home placement.

Even though Manda Baker granted her son Frank Koricic authority to sign medical and admissions forms, that authority did not extend to the arbitration agreement, which was not a condition of admission, the Supreme Court found. The court overturned a previous district court decision that favored the defendant, the Beverly Hallmark Nursing Home. The previous ruling by the trial court was appealed by Hauptman O'Brien Wolf & Lathrop, PC attorney, Rich Hitz, who took Manda's case all the way to the Nebraska Supreme Court.

The Nebraska Supreme Court said that because Baker had only given her son the authority to sign documents required for admission, and that the arbitration agreement was not a mandatory requirement for admission, Koricic was not authorized to sign the arbitration agreement.

This decision could have implications for other nursing homes that allow surrogates to sign admission materials. In the stacks of paperwork families must sign when a loved one is admitted to a nursing home, some nursing homes insert dense clauses called "mandatory binding arbitration" agreements. These agreements require, even when a nursing home resident is injured, or even killed, because of dangerous understaffing, neglect or abuse, a court to dismiss a lawsuit in favor of business arbitration. If such an arbitration agreement is signed during a

nursing home admission process, elderly residents and their families quickly discover they have given up their Seventh Amendment right in the United States Constitution to a jury trial.

As a result of this recent ruling, the Nebraska Supreme Court has thrown out an arbitration agreement and given a family back the right to have their case heard by a jury of peers, rather than by a panel of business people.

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**Rich Hitz and Hauptman O'Brien Wolf & Lathrop PC** is a firm of trial lawyers committed to the representation of our nation's elderly. We specialize in all areas of complex litigation involving elder neglect and abuse in senior care environments.