

# The Burger Court Opinion Writing Database

## *National Gerimedical Hospital and Gerontology Center v. Blue Cross of Kansas City*

452 U.S. 378 (1981)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University in St. Louis  
Forrest Maltzman, George Washington University



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

June 4, 1961

80-802, National Gerimedical Hospital and  
Gerontology Center v. Blue Cross of Kansas City

Dear Lewis:

I join.

Regards,



Justice Powell  
Copies to the Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

June 2, 1981

RE: No. 80-802 National Gerimedical Hospital, etc. v.  
Blue Cross of Kansas City, et al.

Dear Lewis:

I agree.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill".

Justice Powell

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

June 1, 1981

Re: No. 80-802, National Gerimedical Hosp.  
v. Blue Cross

Dear Lewis,

I am glad to join your opinion for the  
Court in this case.

Sincerely yours,

P.S.  
/

Justice Powell

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE BYRON R. WHITE

May 30, 1981

Re: 80-802 - National Gerimedical  
Hospital and Gerontology Center v. Blue  
Cross of Kansas City and Blue Cross  
Association /

Dear Lewis,

I agree.

Sincerely yours,



Justice Powell

Copies to the Conference

cpm

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

June 2, 1981

Re: No. 80-802 - National Gerimedical Hospital, etc.  
v. Blue Cross of Kansas City, et al.

Dear Lewis:

Please join me.

Sincerely,

*Jm.*

T.M.

Justice Powell

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

June 3, 1981

Re: No. 80-802 - National Geromedical Hospital &  
Gerontology Center v. Blue Cross of Kansas City

Dear Lewis:

Please join me.

Sincerely,



Mr. Justice Powell

cc: The Conference

The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Rehnquist  
Mr. Justice Stevens

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MAY 29 1981

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 80-802

**NATIONAL GERIMEDICAL HOSPITAL AND  
GERONTOLOGY CENTER, PETITIONER *v.*  
BLUE CROSS OF KANSAS CITY AND  
BLUE CROSS ASSOCIATION**

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE EIGHTH CIRCUIT

[May —, 1981]

JUSTICE POWELL delivered the opinion of the Court.

The petitioner in this case, National Gerimedical Hospital and Gerontology Center (National Gerimedical) filed an antitrust suit against respondents, Blue Cross of Kansas City (Blue Cross) and the national Blue Cross Association, challenging the refusal of Blue Cross to accept petitioner as a participating member provider under its health insurance plan. The issue presented here is whether this refusal by Blue Cross is immunized from antitrust scrutiny because it was intended to aid implementation of the plans of the "health systems agency" designated for the Kansas City area under the National Health Planning and Resources Development Act of 1974.

I

Petitioner National Gerimedical is a private, acute-care community hospital opened in 1978 in the Kansas City, Missouri metropolitan area.<sup>1</sup> Prior to the completion of con-

<sup>1</sup>As a Missouri hospital, petitioner has been licensed by the Missouri Division of Health since September, 1977. It also has been certified as a Medicare provider by the Department of Health and Human Services.

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10 ✓  
To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall ✓  
Mr. Justice Blackmun  
Mr. Justice Rehnquist  
Mr. Justice Stevens

6-5-81

From: Mr. Justice Powell

Circulated: \_\_\_\_\_

2nd DRAFT

JUN 5 1981

Recirculated: \_\_\_\_\_

SUPREME COURT OF THE UNITED STATES

No. 80-802

National Gerimedical Hospital  
and Gerontology Center,  
Petitioner,  
v.  
Blue Cross of Kansas City and  
Blue Cross Association.

On Writ of Certiorari to the  
United States Court of Ap-  
peals for the Eighth Cir-  
cuit.

[June —, 1981]

JUSTICE POWELL delivered the opinion of the Court.

The petitioner in this case, National Gerimedical Hospital and Gerontology Center (National Gerimedical) filed an anti-trust suit against respondents, Blue Cross of Kansas City (Blue Cross) and the national Blue Cross Association, challenging the refusal of Blue Cross to accept petitioner as a participating member provider under its health insurance plan. The issue presented here is whether this refusal by Blue Cross is immunized from antitrust scrutiny because it was intended to aid implementation of the plans of the "health systems agency" designated for the Kansas City area under the National Health Planning and Resources Development Act of 1974.

I

Petitioner National Gerimedical is a private, acute-care community hospital opened in 1978 in the Kansas City, Mo. metropolitan area.<sup>1</sup> Prior to the completion of construction, petitioner sought to enter into a participating hospital agree-

<sup>1</sup>As a Missouri hospital, petitioner has been licensed by the Missouri Division of Health since September 1977. It also has been certified as a Medicare provider by the Department of Health and Human Services.

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 8, 1981

Re: No. 80-802 National Gerimedical Hospital &  
Gerontology Center v. Blue Cross of Kansas City

Dear Lewis:

Please join me.

Sincerely,



Justice Powell

Copies to the Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

May 29, 1981

Re: 80-802 - National Gerimedical Hospital  
v. Blue Cross of Kansas City

Dear Lewis:

Please join me.

Respectfully,



Justice Powell

Copies to the Conference