

AntitrustConnect Blog

What Do Model Antitrust Class Actions Look Like?

Jeffrey May (Wolters Kluwer) · Friday, November 18th, 2011

“[O]vercome with a rare and gargantuan sense of awe,” a federal district court judge in Sioux City, Iowa, has called a consolidated class action case arising from price fixing conspiracies in the concrete industry “a model for the nation.”

The case was brought on behalf of purchasers of ready-mix concrete against ready-mix concrete producers and sellers and certain of their officers, directors, owners, and employees who have pleaded guilty to conspiring to fix prices for ready-mix concrete in the “Iowa region.” The first complaints were filed in May 2010, and others followed. The suits were eventually consolidated. The class period covered January 2006, through at least April 26, 2010. Three settlement agreements, totaling \$18.5 million, were approved on November 1.

Class Counsel achieved “fabulous results with incredible efficiency,” according to the court. The highly favorable settlements were achieved within a year and a half of the original case filing. Moreover, the combined settlement fund was sufficient to repay completely each class member’s actual overcharge damages, as calculated by the plaintiffs’ expert, even after fees and costs. Based on the Justice Department’s estimation that the total volume of commerce affected by the price fixing conspiracies was only \$5,666,348.61, the plaintiffs’ counsel recovered overcharge damages for the class members more than three times the total volume of commerce affected by the conspiracy.

The efforts of defense counsel were also recognized by the court. They “provided their clients—from rural northwest Iowa small businessmen to an international conglomerate—with invaluable and insightful guidance and representation, sparing their clients likely treble damages, years upon years of litigation stress, and millions of dollars of litigation costs in the trial court and the Eighth Circuit Court of Appeals.”

Federal District Court Judge Mark W. Bennett lauded class counsel and defense counsel in a November 9 unpublished decision, awarding more than \$6.6 million in attorney fees to class counsel. He praised both sides for “their professionalism, candor, and zealous and knowledgeable advocacy.”

Attorney Fees

The plaintiffs’ attorneys requested fees of \$6,166,666.67 (which closely approximated one-third of the common settlement fund). The court said that the unopposed request for attorney fees was quite modest, given the exceptional results in this case.

The court awarded an additional \$500,000 above the request. The \$6,666,666.67 award represented 36.04% of the common fund, which was “reasonable compared to other awards in this circuit in class action cases.” The court also granted class counsel’s request for reimbursement of \$911,445.92 in litigation expenses.

Incentive Awards

The court also awarded each of the named class representatives, which included construction companies, a municipality, and an individual, \$10,000 as an incentive fee. Each of the named plaintiffs made substantial contributions on behalf of settlement class members in achieving the settlement, the court noted.

The case is *In re: Iowa Ready-Mix Concrete Antitrust Litigation*, U.S. District Court, N.D. Iowa. No. C-10-4038-MWB. The [November 9, 2011, decision](#) will appear at **CCH 2011-2 Trade Cases ¶77,682**.

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