AntitrustConnect Blog

High Court Rejects Removal of Mississippi Antitrust Suit as Mass Action under Class Action Fairness Act

Jeffrey May (Wolters Kluwer) · Tuesday, January 21st, 2014

A price fixing action filed by the State of Mississippi as the sole named plaintiff was not a "mass action" under the Class Action Fairness Act (CAFA), even though the state sought restitution for injuries suffered by its citizens, the U.S. Supreme Court decided last week in a unanimous decision, written by Justice Sonia Sotomayor. The Court reversed a decision of the U.S. Court of Appeals in New Orleans (701 F. 3d 796, 2012-2 Trade Cases ¶78,150). The High Court concluded that the case should have been remanded to state court (*State of Mississippi v. AU Optronics Corp.*, Dkt. 12-1036).

The decision provides reassurance to state attorneys general that they can pursue state court actions against national and international cartels impacting their residents. The Court's analysis focused solely on the language of the statute. It did not consider the impact of allowing states to pursue such actions in state court.

Further, the Supreme Court bolstered its position that states have a right to pursue antitrust violations in state court by refusing, without comment, to disturb a decision of the U.S. Court of Appeals in Richmond, Virginia (699 F.3d 385, 2012-2 Trade Cases ¶78,100), in a similar action. Both matters involved state enforcement actions against manufacturers of liquid crystal displays (LCDs) for conspiring to fix prices. The Fourth Circuit upheld the remand of price fixing lawsuits brought by the State of South Carolina against the LCD makers under state law. AU Optronics' petition for *certiorari* was denied today (*AU Optronics Corp. v. State of South Carolina*, Dkt. 12-911).

In its January 14 decision, the Court refused to accept the broad reading of CAFA "mass action" adopted by the Fifth Circuit. The Fifth Circuit had concluded that, because the state and individual citizens who purchased products within Mississippi were the real parties in interest in the case, the suit amounted to a mass action. That decision conflicted with decisions of the Fourth, Seventh, and Ninth Circuits that deemed similar lawsuits not to be mass actions removable under CAFA.

Congress enacted CAFA at least in part out of concerns that certain requirements of federal diversity jurisdiction had functioned to keep "cases of national importance" in state courts rather than federal courts, the Court explained. CAFA loosened the requirements for diversity jurisdiction for "class actions" and "mass actions."

The Act defines "class action" to mean "any civil action filed under rule 23 of the Federal Rules of

Civil Procedure or similar State statute or rule of judicial procedure" and "mass action" to mean "any civil action . . . in which monetary relief claims of 100 or more persons are proposed to be tried jointly on the ground that the plaintiffs' claims involve common questions of law or fact."

The Court looked to CAFA's "plain text" to conclude that the suit was not a mass action. Under CAFA, a mass action must involve monetary claims brought by 100 or more persons who propose to try those claims jointly as named plaintiffs. Suits brought by fewer than 100 named plaintiffs did not amount to mass actions simply because there might be 100 or more unnamed persons who were real parties in interest or beneficiaries to the plaintiff's claims. Rejected was the defending LCD maker's argument that CAFA language referring to "claims of 100 or more persons" meant "the persons to whom the claim belongs, i.e., the real parties in interest to the claims," regardless of whether those persons were named or unnamed.

The Court noted that the statute specifically said "100 or more persons," not "100 or more named or unnamed real parties in interest." If Congress had intended otherwise, it could have drafted language to that effect. Moreover, Congress repeatedly used the word "plaintiffs" to describe the "100 or more persons" in the statute. The Court refused to stretch the meaning of "plaintiff" beyond recognition as the defending manufacturer urged and rejected the appellate court's determination that a "real party in interest inquiry" was necessary because federal courts were required "to look to the substance of the action and not only at the labels that the parties may attach."

Mississippi Attorney General's Reaction

"The United States Supreme Court was crystal clear that federal courts have no jurisdiction under the so-called Class Action Fairness Act over actions brought by state Attorneys General for consumer and anti-trust violations," said Mississippi Attorney General Jim Hood in response to the decision. "For far too long, large corporations have abused the federal judiciary by trying to drag every action filed by an Attorney General in state court into federal courts. The working people of Mississippi and other states won one this time."

This entry was posted on Tuesday, January 21st, 2014 at 7:59 pm and is filed under Price Fixing, State Enforcement
You can follow any responses to this entry through the Comments (RSS) feed. You can skip to the end and leave a response. Pinging is currently not allowed.