ZELLE LLP

Antitrust Cases

Examples of Antitrust Cases

***In re LIBOR-Based Financial Instruments Antitrust Litigation*, MDL No. 2262, No. 1:11-md-02262 (S.D.N.Y.).** Representing Freddie Mac and the FDIC as Receiver for 39 Closed Banks and serves as liaison counsel for more than two dozen DAPs (represented by, among others, Lieff Cabraser, Keller Rohrback, and Quinn Emanuel). Freddie Mac and the FDIC allege, among other things, that defendants horizontal conspiracy reduced product quality in the market for interest-rate benchmarks.

***United HealthCare Services, Inc. v. Cephalon, Inc., et al.*, No. 2:17-cv-00555 (E.D. Pa.).** Represented United HealthCare Services, Inc. in an individual antitrust matter against the makers of the branded pharmaceutical drug Provigil and its generic equivalents. The suit alleged a successful pay-for-delay scheme that kept lower-priced generics off the market for several years, allowing the brand manufacturer to continue charging inflated monopoly prices that caused United HealthCare Services, Inc. substantial damages.

***In re German Automotive Manufacturers Antitrust Litigation*, MDL No. 2796, No. 3:17-md-02796 (N.D. Cal.).** Appointed by the Court to the Plaintiffs Steering Committee and representing putative class of direct purchaser plaintiffs (dealers) of luxury German automobiles.

***In re Vitamins Antitrust Litigation*, MDL No. 1285, Misc. No. 99-197 (D.D.C.).** Represented more than 150 direct action plaintiffs, including Kraft Foods and GNC, alleging a 15-year international cartel covering more than a dozen vitamins. The case involved German Defendants BASF, Degussa, and Merck. Recoveries exceeded $2 billion. Served as liaison counsel for DAPs.

***In re TFT-LCD (Flat Panel) Antitrust Litigation*, MDL No. 1827, No. 3:07-md-01827 (N.D. Cal.).** Served as court-appointed co-lead counsel for end-user consumers and businesses that purchased TVs, computer monitors, and laptop computers containing LCD screens alleged to have been the subject of one of the largest antitrust cartels in history. All-cash settlements totaling nearly $1.1 billion were reached with the defendants just before trial,

leading to one of the largest consumer antitrust recoveries ever obtained.

***In re Cathode Ray Tube (CRT) Antitrust Litigation*, MDL No. 1917, No. 3:07-cv-05944 (N.D. Cal.).** Represented plaintiffs in this antitrust class action on behalf of consumers and businesses in 22 states that bought television and computer monitor products containing Cathode Ray Tubes made by electronics manufacturing giants Samsung, LG, Panasonic, Hitachi, Toshiba and others. Zelle attorneys took the lead on researching, briefing and arguing plaintiffs class certification motion, which was granted and certified 22 statewide damages classes covering an 11-year class period. Zelles attorneys also handled all of the work with the economic experts and defeated the motion to exclude the experts testimony. Plaintiffs ultimately secured a $576.75 million all-cash settlement for the end-user plaintiffs.

***ZF Meritor LLC v. Eaton Corp*., No. 06-623-SLR (D. Del.).** Represented a manufacturer of heavy-duty transmissions in a case alleging the dominant producer excluded it from the relevant market. The case went to trial and resulted in a liability verdict for violations of Sections 1, 2, and 3 of the Sherman Act. The Third Circuit upheld the verdict and the case settled for $500 million prior to the damages trial.

***In re Urethane Antitrust Litigation,* MDL No. 1616, No. 2:08-cv-05169 (D.N.J).** Represented 11 plaintiff families in an international price-fixing case involving three chemicals. The case involved German Defendants BASF and Bayer. Despite a lack of direct evidence, successfully defeated summary judgment motions challenging the existence of a conspiracy and its duration (the parallel class action alleged a shorter conspiracy period). Defeated three *Daubert* motions and handled all experts at trial. Defendant Dow settled during the defense case for $400 million.

***In re Methionine Antitrust Litigation*, MDL No. 1311, No. 3:00-md-01311 (N.D. Cal.).** Represented, as liaison counsel, more than three dozen DAPs, including Tyson Foods, alleging an international cartel involving, *inter alia*, German Defendant Degussa AG. Recoveries exceed $400 million.

***In re Linerboard Antitrust Litigation*, MDL No. 1261, No. CIV.A. 98-5055 (E.D. Pa.).** Represented more than 50 Fortune 500 companies, including

names such as PepsiCo and Coca-Cola, in a conspiracy among containerboard producers to take market downtime to restrict output and cause price increases. Successfully defeated summary judgment motions despite the lack of direct evidence. Served as liaison counsel for direct action plaintiffs. Recoveries exceeded $200 million.

***In re Lithium Ion Batteries Antitrust Litigation*, MDL No. 2420, No. 4:13-md-02420 (N.D. Cal.).** Appointed liaison counsel for a proposed class of direct purchasers of lithium-ion batteries, the dominant form of rechargeable battery found in a variety of consumer electronics. The defendant manufacturers were alleged to have formed a cartel to fix the prices of certain lithium-ion battery cells, in violation of federal antitrust law. The case settled for nearly $140 million in cash to the direct purchaser class.

***In re Automotive Parts Antitrust Litigation*, MDL No. 2311, No. 12-md-02311 (E.D. Mich.).** Serving on the Plaintiffs Executive Committee for the End-Payor Plaintiffs in this antitrust class action on behalf of consumers and businesses that bought vehicles containing auto parts systems made by defendant auto parts manufacturers. These cases involve alleged price fixing and bid rigging conspiracies pertaining to 28 different part systems and over 30 defendant company groups; it is one of the largest criminal antitrust investigations in the history of the U.S. Department of Justice. Zelle attorneys were tasked to handle the economic experts for the plaintiffs. Settlements to date are currently over $1 billion.

***Smokeless Tobacco Antitrust Litigation - Smokeless Tobacco Cases I-IV*, J.C.C.P. Nos. 4250, 4258, 4259 & 4262 (Cal. Super. Ct., San Francisco Cty.).** Served as a member of Plaintiffs Executive Committee in this action on behalf of a class of California indirect purchasers of moist snuff products. Plaintiffs alleged that U.S. Smokeless Tobacco monopolized the moist snuff market and engaged in restrictive and exclusionary acts in violation of California state antitrust laws. The case settled for $96 million. Under the settlement, class member claimants received cash payments of up to $585. This settlement was one of the largest consumer class action settlements in California state court history, and provided a substantially better recovery to class members than court-approved settlements in related actions against U.S. Smokeless in Wisconsin, Michigan, Minnesota, Kansas, and a 13-state

consolidated settlement in Tennessee. Those cases all settled for coupons for U.S. Smokeless moist snuff products rather than for cash payments to class members.

***In re Static Random Access Memory (SRAM) Antitrust Litigation*, MDL No. 1819, No. 4:07-cv-01819 (N.D. Cal.).** Appointed as lead counsel for 25 litigated indirect-purchaser classes with settlements totaling $41.3 million.

***Novell Inc. v. Microsoft Corp.*, No. 2:04-cv-01045 (D. Utah).** Represented the owners of WordPerfect in a long-running case alleging monopolization of the market for PC operating systems. At trial, the jury split 11-1 in favor of liability. The trial judge granted Microsofts JMOL, which was upheld by the 10th Circuit (Gorsuch J.).

***In re Marine Hose Antitrust Litigation*, MDL No. 1888, No. 1:08-md-01888 (S.D. Fla.).** Represented, as liaison counsel, Defendant Dunlop Oil & Marine in an international cartel case.

***In re Packaged Seafood Products Antitrust Litigation*, MDL No. 2670, No. 3:15-md-02670 (S.D. Cal.).** Representing class representatives and a putative plaintiff class of indirect, end-payor purchasers of packaged seafood products, including canned tuna, in this price-fixing action against the major manufacturers of packaged seafood products, including StarKist, Chicken of the Sea, and Bumble Bee and their affiliated entities.

***Air Cargo Antitrust Litigation Between Emerald Supplies Limited & Others and British Airways Plc*, Claim No. HC08C2648 (High Court of Justice, Chancery Div., London).** Representing a major international engineering and manufacturing company, shipping goods by air freight all over the world, in an antitrust lawsuit filed in the United Kingdom to recover the overcharges paid by the company as a result of a conspiracy by several of the worlds biggest airlines to fix the prices for international air cargo shipping services.

***Diamonds - Sullivan, et al. v. DB Investments, Inc., et al.*, No. 2:04-cv-02819 (D.N.J.).** Represented plaintiffs in a class action lawsuit brought on behalf of purchasers of diamonds and diamond jewelry in the United States, alleging that the De Beers group of companies unlawfully

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monopolized the gem diamonds market. The court approved a class action settlement on April 14, 2008. The settlement created a $295 million Settlement Fund for resellers and consumers who purchased diamonds from January 1, 1994 through March 31, 2006. In addition, as part of the settlement, De Beers agreed to a stipulated injunction, which provides that De Beers will abide by federal and state antitrust laws, will not engage in certain specific conduct to control prices or restrict supply, and will submit to the courts jurisdiction for the purpose of enforcement of the injunction. The settlement was upheld by the Third Circuits December 20, 2011 en banc decision. On May 21, 2012, the U.S. Supreme Court denied the objectors final petition for review.

***Microsoft Antitrust Litigation - California Microsoft Cases*, J.C.C.P. No. 4106 (Cal. Super. Ct., San Francisco Cty.); *Microsoft Antitrust Litigation*, No. 00-5994 (Minn. Dist. Ct., Hennepin Cty.); *Comes v. Microsoft Corp.*, No. CL 82311 (Iowa Dist. Ct., Polk Cty.); *Microsoft Antitrust Litigation*, No. 05-CV-010927 (Wis. Dist. Ct., Milwaukee Cty.).** Brought indirect-purchaser antitrust class actions in state courts in California, Minnesota, Iowa and Wisconsin, alleging that Microsoft illegally maintained a monopoly in the market for personal computer operating systems, and word processing and spreadsheet software. Zelle was co-lead counsel in the Minnesota and Iowa cases, both of which were settled in the middle of trial. We were liaison counsel and chair of the Executive Committee in the California case, and principal counsel in Wisconsin. These cases collectively settled for nearly $1.7 billion, a substantial portion of which went to provide computers and related products to lower-income school districts, in addition to compensating class members. These were the largest settlements of private state court antitrust cases in history.

***DRAM Antitrust Litigation*, MDL No. 1486, No. M:02-cv-01486 (N.D. Cal.).** Served as a member of plaintiffs Executive Committee in a nationwide class action brought by indirect purchasers of DRAM. Plaintiffs alleged that DRAM manufacturers conspired to fix prices from April 1, 1999 through December 31, 2002. The case settled for almost $310 million in cash, plus injunctive relief.

***Natural Gas Antitrust Cases - In re Western States Wholesale Natural Gas Antitrust Litigation*, MDL No. 1566, No. 2:03-cv-01431 (D. Nev.); *California Natural Gas Antitrust Litigation*, J.C.C.P. Nos. 4221, 4224, 4226 & 4228**

(Cal. Super. Ct., San Diego Cty.). Appointed co-lead counsel in the federal class action and served as a member of the Executive Committee in the state class action against marketers of natural gas in California, alleging violations of the Sherman Act, California Cartwright Act and the Unfair Competition Act. The actions were brought on behalf of persons and entities in California that indirectly and directly purchased natural gas between January 1, 2000 and December 31, 2001, i.e., during the California Energy Crisis. The actions alleged that, among other things, the defendants and their co-conspirators engaged in a variety of anticompetitive practices which raised interstate natural gas transportation prices, the bundled price of natural gas, spot natural gas prices, and natural gas market basis swap derivative settlement amounts in and for California. The federal class action ended with settlements totaling approximately $26 million, while the state class action resulted in settlements totaling almost $165 million.

***Credit/Debit Card Tying Cases*, J.C.C.P. No. 4335, No. CJC-03-004335 (Cal. Super. Ct., San Francisco Cty.).** Served as lead counsel for a class of California consumers of products and services from retail businesses that accepted and/or issued Visa and MasterCard payment cards, alleging that defendants violations of the California state antitrust and unfair competition laws resulted in higher prices for consumers. In April 2013, the Superior Court granted final approval to settlements totaling $31 million in cash with defendants.

***Pet Food Express Ltd. v. Royal Canin USA Inc.*, No. 3:09-cv-01483 (N.D. Cal.).** Represented Pet Food Express, a regional pet-supply retailer, in a breach of contract dispute with supplier Royal Canin where the supplier asserted counter-claims based on California unfair competition law. Zelle successfully obtained the district courts dismissal of the counter-claims on a motion for summary judgment.

***Transpacific Passenger Air Transportation Antitrust Litigation*, MDL No. 1913, No. 3:07-cv-05634 (N.D. Cal.).** Representing purchasers of passenger air transportation services for international flights involving at least one flight segment between the United States and Asia/Oceania. Plaintiffs allege that defendant airlines conspired to fix the price of air passenger travel, including associated surcharges, beginning no later than January 1, 2000.