

# CASE STUDIES

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## Eleventh Circuit En Banc Appellate Ruling Affirms Dismissal of Antitrust Claims Against Automobile Insurer

Antitrust / 2019

**Client industry:** Automobile insurance

**Type of case:** Antitrust

**Court:** U.S. District Court for the Middle District of Florida and the Eleventh Circuit Court of Appeals

**Result:** En banc appellate court affirmed dismissals with prejudice of first cases appealed from MDL proceedings

Hal K. Litchford and Amelia Koch represent an automobile insurer in more than 20 separate antitrust lawsuits that have been consolidated in an MDL proceeding. This automobile insurer is one of several dozen automobile insurers that are named Defendants. The Plaintiffs are independent body repair shops that allege that automobile insurers colluded to fix maximum reimbursement rates and to steer insureds away from the Plaintiffs. The presiding District Judge dismissed a number of the lawsuits on the grounds that the allegations were too conclusory to be actionable. Plaintiffs appealed and the District Court stayed the cases still before it pending the outcome of the appeal.

In a 2-1 decision, a panel of the Eleventh Circuit Court of Appeals reversed and ruled that the complaints stated valid claims for horizontal per se violations of the federal antitrust laws. This ruling could expose the automobile insurance industry to treble damages claims by independent body shops across the country.

In September 2017, Defendants petitioned for en banc rehearing of the panel opinion before the full Eleventh Circuit on the grounds that the result conflicted with controlling Supreme Court and Eleventh Circuit precedent. This automobile insurer undertook a major role in this appeal. In the 18 months prior to this petition, the Eleventh Circuit only granted rehearing en banc two times. The Court granted the insurers' petition in April 2018. On March 4, 2019, following oral argument, the en banc Court by an 8-1 majority rejected the panel opinion and affirmed the District Court's dismissal of the antitrust claims. The opinion had the effect of preventing erosion of strict pleading standards in antitrust cases to ensure that only meritorious cases advance to the costly discovery stage so that competition is not unduly inhibited by unwarranted threats of treble damages lawsuits.