

PUBLICATION

Florida Court Rejects Auto Body Shops' Effort to Revive their Antitrust Claims Against the Auto Insurance Industry

June 28, 2016

On May 12, District Judge Gregory Presnell (Middle District of Florida) denied plaintiffs' motion for reconsideration in the *In re Auto Body Shop Antitrust Litigation*, delivering another victory to insurers seeking to derail a collection of class action antitrust lawsuits filed by auto body shop owners in several states. The cases, which were commenced in early 2014 and consolidated before Judge Presnell later that year, all allege that the insurers engaged in antitrust conspiracy intended to suppress the amounts the auto body shops receive in reimbursement rates from the insurers for auto repairs.

Over the last six months, in a series of rulings, Judge Presnell has examined the allegations in each of the plaintiffs' complaints, and has consistently held that they failed to state an antitrust claim. While the plaintiffs in several of the cases have appealed Judge Presnell's rulings to the 11th Circuit, the plaintiffs in one of the cases – *Alpine Straightening Systems v. State Farm* – instead filed a motion requesting that Judge Presnell reconsider his decision.

In support of their motion, the *Alpine* plaintiffs argued that they had uncovered new evidence of unlawful, conspiratorial conduct by the defendants that justified a change in Judge Presnell's earlier ruling. Specifically, they contended that they had obtained a statement from a Progressive Insurance employee indicating that insurers "get together at big meetings to set body shop labor rates," and that the insurers "uniformly apply the labor rates agreed upon at these meetings."

However, Judge Presnell was not persuaded by the plaintiffs' new evidence. First, Judge Presnell noted that to prevail on a motion for reconsideration, the moving party must show that the new evidence was previously unavailable, and that the plaintiffs had failed to make such a showing. More significantly, Judge Presnell observed that the new statements "do not identify any defendant (aside from, presumably, Progressive) that allegedly participated in the agreement to fix prices, or even what states the agreement covered," and that "the speaker of the statement is not identified – even by job title – and thus there is no basis for a determination that the statements were made by someone with actual knowledge of the underlying facts." Judge Presnell also noted that the plaintiffs had not presented the evidence in admissible form, which was also an independently sufficient basis for rejecting plaintiffs' motion.

With Judge Presnell's latest ruling, the action turns to the appellate court, which will review Judge Presnell's rulings. Stay tuned.