

# PUBLICATION

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## In re Auto Body Shop Antitrust Litigation Heads to the 11th Circuit

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Having succeeded in having class-action antitrust claims brought by auto body shops in several states dismissed by the district court in the *In re Auto Body Shop Antitrust Litigation*, the auto insurer defendants in those cases will now seek to have those rulings affirmed by the 11<sup>th</sup> Circuit.

The cases, commenced in early 2014 and consolidated by the Multidistrict Panel for Litigation before Judge Presnell (Middle District of Florida) later that year, all alleged that some of the largest auto insurers in the country (including State Farm, Allstate, Nationwide, Progressive and Farmers) engaged in antitrust conspiracies intended to suppress the payments that the auto body shops received from the insurers for auto repairs. In a series of rulings over the last six to nine months, Judge Presnell repeatedly held that the plaintiffs had failed to allege any cognizable antitrust claim against the insurers and dismissed them on that basis.

In the appeal, styled *Automotive Alignment & Body Service v. State Farm Mutual Automobile Insurance et al.*, the appellant auto body shops maintain that Judge Presnell acted too quickly in dismissing their antitrust claims. Specifically, they assert that Judge Presnell applied a higher pleading standard to their claims than permitted under *Twombly*, "disregarding or discrediting facts alleged in the complaint, mischaracterizing factual allegations as conclusory statements, applying affirmative defenses to causes of action and requiring appellants to plead specific facts beyond that required by Rule 8 of the Federal Rules of Civil Procedure." They seek a reversal of the lower court's ruling, returning the case for discovery on the claims to commence.

In a response filed at the end of August 2016, the insurers contend that the appellants failed to appeal the correct order in the case, potentially divesting the appellate court of jurisdiction to hear the substance of appellants' appeal. They point to the fact that the auto body shop's appeal was only to Judge Presnell's order denying their motion for reconsideration of his dismissal of their antitrust claims, and not the order dismissing the claims themselves. In addition, as to the substance of the auto body shops' argument, the insurers maintain that Judge Presnell got it just right, recognizing that the appellants had alleged nothing more than parallel conduct that has repeatedly been found to be insufficient to assert a claim of conspiracy.

The cases have been carefully watched by the entire auto insurance industry since they were commenced, now more than two years ago, and the appeal will undoubtedly be closely watched as well. A decision by the 11<sup>th</sup> Circuit is likely in the next few months. Stay tuned.