

PUBLICATION

Eleventh Circuit Refuses to Reinstate Auto Body Shop Antitrust Case that Was Dismissed on Procedural Grounds

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In early December, the Eleventh Circuit Court of Appeals issued a one sentence decision refusing to reinstate the plaintiff/appellants' appeal in *Parker Auto Body v. State Farm Automobile Insurance Company*. The appeal had previously been dismissed by the Court based upon the appellants' failure to file their case Appendix (the records from the district court that the appellate court reviews when considering an appeal) on a timely basis. As a result of the Court's most recent ruling, barring a successful appeal to the Supreme Court – which would seem unlikely – the Eleventh Circuit's refusal to reinstate the appeal brings an end to the case for the auto body shop plaintiffs in that case.

Notably, however, the *Parker* case is only one of a series of class action proceedings brought by auto body shops in several states against many of the largest auto insurers in the nation. In each case, the auto body shops contended that the insurers had conspired to limit the reimbursement rates provided by the insurers for insured repairs. The cases were ultimately all consolidated before Judge Gregory Presnell (Middle District of Florida) as the *In re Auto Body Shop Antitrust Litigation*, and Judge Presnell subsequently dismissed the antitrust claims in most of the cases, many on a case-by-case basis, for failure to state a claim.

The plaintiffs in several of the dismissed cases filed appeals with the Eleventh Circuit, with the *Parker* case being the earliest appealed action. Because the dismissal in the *Parker* case was on procedural grounds, it does not impact the other appeals. However, there is reason to believe that at least one of the other appeals may also be in procedural jeopardy. Specifically, in the *Alpine Straightening Systems v. State Farm, et al.* appeal, appellants (represented by the same counsel as the *Parker* plaintiffs) failed to file their Appendix in that matter on a timely basis as well. To date, no action has been taken by the Court in that action.

While the dismissal of the *Parker* case is certainly welcome news for insurers (as would be a dismissal of the *Alpine Straightening* case, should it occur), these developments do not yet bring the *In re Auto Body Antitrust Litigation* to a close. As noted above, there are several other appeals also currently before the Eleventh Circuit, some of which do not appear to suffer from the same types of procedural defects identified by the Court in *Parker*. So, at least for now, at least *some* auto body shops may yet get their opportunity to have the Eleventh Circuit address Judge Presnell's rulings on the merits. Stay tuned.