
Competitor Communications Not Enough to Infer Antitrust Conspiracy

Date: 12/18/18

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Two federal appellate courts considered whether plaintiffs had garnered sufficient circumstantial evidence – including discussions among competitors – to present antitrust conspiracy claims to a jury. In one case, the U.S. Court of Appeals for the Second Circuit affirmed summary judgment for magazine publishers accused of orchestrating a group boycott in response to a wholesaler’s announcement of new pricing terms. In another case, the U.S. Court of Appeals for the Seventh Circuit affirmed summary judgment for containerboard manufacturers alleged to have agreed to fix prices. In both cases, the courts of appeals decided that despite the presence of frequent communications among rivals and some parallel conduct, there was not enough evidence of a conspiracy to proceed to trial.

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