

Judge Cites Dr. Lamb's Analysis in Certifying Class of Direct Purchasers of Gypsum Wallboard

In 2013, Plaintiffs filed a Consolidated Amended Complaint on behalf of a proposed class of direct purchasers of gypsum wallboard alleging price-fixing by Defendants. Counsel for the Plaintiffs retained Dr. Russell Lamb to analyze whether the co-conspirators engaged in a conspiracy to fix, maintain, or stabilize prices of gypsum wallboard; whether prices of gypsum wallboard were artificially inflated due to the alleged cartel; whether there was widespread payment of overcharges across the proposed class; and whether aggregate damages to the proposed class as a whole could be reliably computed using standard economic methods and analyses. Dr. Lamb filed two Expert Reports concerning class certification issues, two Expert Reports concerning liability and damages issues,* and one Supplemental Expert Report responding to a report submitted by a technical advisor retained by the Court. Dr. Lamb also testified at deposition twice concerning class certification and at an extensive evidentiary hearing on the issue of class certification.

** In February 2016, the Court denied summary judgment to all but one of the Defendants remaining in the litigation.*

On August 23, 2017, the Court certified the proposed class of direct purchasers, citing extensively to Dr. Lamb's analysis of class-wide issues and testimony. For instance, in its Opinion, the Court noted: "Dr. Lamb's expert opinion fits the facts of the case, is relevant, and is therefore admissible to show classwide injury and measurable damages in support of Plaintiffs' Motion for Class Certification. [...] The Court [...] has thoroughly considered Dr. Lamb's opinion in its decision on the DPPs' Class Certification Motion." The Court also noted that Dr. Lamb "presented sufficient evidence from which a jury could conclude that all or nearly all Plaintiffs were impacted by Defendants' alleged agreement to fix prices. This supports the conclusion that Plaintiffs have shown, by a preponderance of the evidence, that they can prove antitrust impact on a classwide basis." Further, the Court stated that Dr. Lamb's "opinions and testimony are entitled to more weight than [Defendants' economist] Dr. Hausman's, in large part because his opinions adhere to the factual record." Similarly, in its April 2017 Order denying Defendants' Daubert motion against Dr. Lamb, the Court found that Dr. Lamb's "reports, and his testimony, establish that he has carefully acquainted himself with the issues of this case, as well as the factual record, and that his reports are 'reliable' and also 'fit' to the issues and facts in this case."

The Court's Memorandum re: Direct Purchaser Plaintiffs' Motion for Class Certification can be read [here](#).