

US foam manufacturers named in NC antitrust suits

Following investigations undertaken by the FDI, several lawsuits have been filed in recent weeks involving a significant number of foamers operating in the US. The lawsuits allege that major North American foam producers have been engaged in an antitrust conspiracy to fix foam prices at inflated prices and to allocate customers since as far back as 1999. The complaints, filed by various foam buyers, seek class-action status on behalf of all purchasers who bought polyurethane foam from the companies from 1 January 1999, to the present day.



Suits have been filed in the U.S. District Court for the Western District of North Carolina and in similar complaints have been filed in Ohio and California. The North Carolina action lists **Hickory Springs, Valle Foam Industries., Domfoam International, Carpenter Co., the Woodbridge Group, Flexible Foam Products, Scottdel, Foamex Innovations, Future Foam, Vitafoam Products Canada** and **Vitafoam** as defendants. However, the suits do not state whether the Department of Justice has taken any action, or whether the defendants face criminal prosecution.

"Every price increase known during the class period was the result of conspiratorial discussions among defendants to fix prices," the suit says. "Defendants also agreed to allocate customers in specific communications between each other." The suit alleges that whenever foam raw material suppliers announced price increases, the foam manufacturers contacted each other to discuss supporting specific price increases and the timing of announcements regarding an effective date of such increases. It also says representatives of the defendants regularly met at industry meetings and used them as an opportunity "to fix prices and divvy up their customers in person." The representatives of the defendants disguised their attendance at those events as information-gathering in nature, the suit says.

Vitafoam shown leniency

The suit also shows that one of the defendants, Vitafoam approached the U.S. Department of Justice's Antitrust Division in February this year "to self-report" evidence of illegal antitrust activities amongst itself and other companies and individuals in the industry and to seek acceptance into the Antitrust Division's Corporate Leniency Program. The North Carolina suit says that a former president of Vitafoam and others at the company participated in the long-running price fixing and customer allocation conspiracy. As a result, Vitafoam has received a conditional leniency letter. According the leniency program, a corporation can avoid criminal conviction and fines, and individuals can avoid criminal conviction, prison terms and fines, by being the first to confess participation in an antitrust violation, cooperating with the division, and meeting other specified conditions.

Since several complaints have been filed in U.S. District Court for the Western District of North Carolina and a judge has ruled that they should be consolidated, according to Larry McDevitt, an attorney with the Asheville, N.C. law firm Van Winkle, one of the firms filing the claims. It is feared that that damages in this case could run into the millions and the cases may take anywhere from six months to several years to resolve.

A hearing will be held in Charlotte, N.C., in October on motions raised in connection with the North Carolina claims.

Adresse:

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