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CLASS ACTION BLOG

Sixth Circuit Dismisses "Objecting" Arizona Attorney General's Appeal of Coupon Settlement

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Kenneth Chapman and others filed a class action lawsuit in an Ohio federal court with separate classes for Ohio, Pennsylvania, and Colorado residents. They alleged that Tri-Star pressure cookers were defective and would potentially injure users. Trial began after several weeks of settlement discussions overseen by a magistrate judge. Plaintiffs' case presentation at trial did not go well, so during a recess on the first day of trial, "both sides agreed to a settlement of the case with a nationwide class." After giving the required notice to the state attorneys general and the United States Department of Justice (DOJ), Arizona's attorney general and the DOJ appeared at the fairness hearing and objected to the class settlement's fairness. The district court calculated that the coupon settlement had a value of $1,020,985 and the court approved an attorneys' fee award of $1,980,382.59. Arizona and the DOJ "argued that a fair settlement would see a higher proportion of the funds going to the class members rather than to class counsel. None of the class, however, ever joined in either Arizona or DOJ's objections to the settlement." The district court approved the settlement after denying Arizona's motion to intervene and its alternative request to be recognized as an objector.

Arizona appealed, but the circuit court only addressed whether Arizona had standing. The court found it did not. Arizona argued that it had standing on three grounds, either as *parens patriae*, under CAFA, or under a participatory interests theory.

This blog post only addresses the CAFA standing argument due to the fact the *parens patriae* and participatory interests standing arguments are rarely employed in class action cases. However, the CAFA argument is likely to appear in many future cases.

Arizona's attorney general pointed out, "the legislative history of CAFA makes clear that this [statutorily required] notification of state attorneys general is to give the attorneys general the opportunity, if they so desire, to intervene in the litigation." Arizona cited portions of the legislative history stating that the provision was "designed to ensure that a responsible state and/or federal official … is in a position to react if the settlement appears unfair to some or all class members." Even so, the Sixth Circuit did not seriously consider the legislative history argument; it concluded that the text was clear on its face precluding a consideration of legislative history. Looking at the "statute's plain text" the court found the statute "requires parties to notify state attorneys general of proposed settlements and mandates that final approval of settlements '[are triggered by] dates on which the appropriate federal official and the appropriate state official are served with the notice.'" But the court noted a different subsection provides that nothing was to "be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials." The Sixth Circuit panel reasoned that that plain language "foreclose[d] Arizona's argument." That was essentially the extent of the court's analysis.

Class action litigators can turn to the *Chapman* case for guidance on this issue. Nevertheless, no one should be surprised if other circuits come to a different conclusion. The Sixth Circuit's analysis was cursory, at best. If state attorneys general and the DOJ are not allowed to intervene or object to protect the interests of absent class members, there seems to be little purpose for Congress's requirement that they be provided notice of CAFA class action settlements. In fact, the portions of the statute the court quoted are at least ambiguous. And it is almost universally accepted that it is proper to use legislative history to clarify ambiguous statutory language. We should all stay tuned and remain alert for other opinions handed down by other courts addressing this issue.

Case Citation: Chapman v. Tristar Products, Inc., 940 F.3d 299 (6th Cir. 2019)