Korean Ramen Noodles

Related Lawyers: **Michael P. Lehmann**, **Christopher L. Lebsock**

Related Practice Areas: **Antitrust / Competition**

Hausfeld served as co-lead counsel for a class of direct purchaser plaintiffs of Korean Ramen Noodles in the action *In re Korean Ramen Antitrust Litigation,* 13-cv-04115-WHO-DMR, litigated in a federal district court in San Francisco, California. Plaintiffs alleged that Defendants Nongshim Co. Ltd., Ottogi Co. Ltd., their subsidiaries, and Samyang Foods Co. Ltd. conspired to fix the price of Korean Ramen Noodles sold in South Korea, which was then used to set the price of Korean Ramen sold in the United States. Upon surviving the motions to dismiss, plaintiffs successfully reached a settlement agreement with defendant Samyang. The court certified our class of direct purchasers after which the plaintiffs defeated the defendants' summary judgment motions. Ultimately, the case was tried before a federal jury.

The plaintiffs achieved numerous legal victories during this final stage of litigation. In its order on the parties' motions *in limine*, the court:

- Determined that mitigation is not a permissible defense in a horizontal price-fixing case where the plaintiffs' theory is that defendants positioned their products as unique, rendering functionally identical supplier cases inapposite;
- Confirmed that *Royal Printing* is still valid and applicable law in the Ninth Circuit, despite the defendants' challenge that *Royal Printing's* exception is contrary to Supreme Court precedent; and
- Held that there will be no due process problems with respect to "duplicative" damages or trebling any awards if the DPPs are awarded the full amount of the alleged overcharges and the IPPs are awarded the amount of damages available under the various state laws.

The Plaintiffs also attained a favorable reading of the Ninth Circuit decision *Arandell Corp. v. Centerpoint Energy Servs., Inc.*, 900 F.3d 623 (9th Cir. 2018). Consistent with the appellate court's ruling, the trial court preliminarily held that "for purposes of anticompetitive intent, anticompetitive purpose will be presumed for a wholly-owned subsidiary." As for the separate element of knowledge, the court found that "plaintiffs can show purpose *or* knowledge and do not need to prove both" and that under California law, knowledge can be imputed "if evidence shows an overlap among the directors and managers of the parent and subsidiary." Lastly, the court held that "significant coordinated activity with respect to the anticompetitive acts" can be shown "by sales of the price-fixed products in the domestic market by the subsidiaries even if the subsidiaries contend that no direct evidence exists showing their knowing agreement to join and participate in the alleged price-fixing." Jury instructions were formulated in line with this ruling.

This case has been added to the firm's portfolio of antitrust trial experience.
