

7th Circ. Says Plaintiffs Can't Game Antitrust Venue Rules

By Melissa Lipman

Law360, New York (August 05, 2013, 6:16 PM ET) -- The Seventh Circuit ruled Friday that antitrust plaintiffs can't mix and match jurisdictional rules in order to sue corporate defendants anywhere in the country, but instead must play by the venue limits of the Clayton Act.

A three-judge panel upheld the dismissal of an antitrust suit between two companies that make systems that allow ambulances to bypass normal traffic light patterns, ruling that the plaintiff, Illinois-based KM Enterprises Inc., couldn't sue Minnesota-based Global Traffic Technologies Inc. in the Southern District of Illinois because the company did little business in the district.

In the process, the court waded into a circuit split over whether the Clayton Act's specialized provisions allowing nationwide service-of-process and specifying how to determine whether a venue is appropriate must be read together or if they can be split.

If the two provisions must be read together, even though virtually any federal court would have personal jurisdiction over a defendant, venue would only be appropriate where the defendant is incorporated, "is found" or does business. While the Clayton Act venue rule is far broader than the normal federal rules, it "falls well short of providing universal venue in every judicial district in the United States," according to Friday's opinion.

If the provisions are split, however, plaintiffs could pair the antitrust law's nationwide personal jurisdiction with the regular federal rules on venue, which allow a company to be sued in any district that has personal jurisdiction over it. That pairing would let a plaintiff "drag an alien [corporation] into court anywhere in the United States," the panel said.

Both academia and the other circuits that have looked at the issue are split over the best way to approach the dispute. The Third and Ninth circuits, traditionally viewed as two of the more plaintiff-friendly circuits, have ruled that the two provisions can be decoupled, but the Second and D.C. circuits have held that the plain meaning of the law requires the pair to be read together, according to the decision.

While the Seventh Circuit said it wasn't convinced that the text alone provided the answer, it ultimately agreed that the Second and D.C. circuits had gotten it right by holding that the provisions are linked.

"If the clauses are not linked, then the venue language is superfluous," the panel said. "Interpretations that render words of a statute superfluous are disfavored as a general matter ... and this principle has even greater force in a context such as this, where, in order to decouple Section 12's venue and service-of-process provisions, we would have to assume that Congress intentionally joined the two provisions with a semicolon, but nevertheless intended for the second provision to render the first 'disposable.'"

The panel further pointed out that allowing the two provisions to be read separately would create "some very odd results," including making the question of venue pointless since venue would be automatically present. That contradicts the point of Congress putting venue requirements in the law in the first place, according to the opinion.

"In sum, while we find the language of Section 12 too ambiguous to rely on the 'plain meaning' rationale endorsed by the Second and D.C. circuits, the practical effects of decoupling the clauses of Section 12 are ultimately too bizarre and contrary to Congress' apparent intent for us to endorse," the panel said. "Thus, we hold that Section 12 must be read as a package deal."

Global Traffic's attorney Emily Chow of Faegre Baker Daniels LLP said Monday that she was pleased with the decision.

KME's attorney Jana Yocom emphasized that the ruling did not address the merits of the case, which can still be refiled in another venue.

Judges Joel M. Flaum, Diane P. Wood and David F. Hamilton sat on the panel for the Seventh Circuit.

KME is represented by Jana Yocom.

Global Traffic is represented by Richard A. Duncan and Emily E. Chow of Faegre Baker Daniels LLP.

The case is KM Enterprises Inc. v. Global Traffic Technologies Inc. et al., case number 12-3406, in the U.S. Court of Appeals for the Seventh Circuit.

--Editing by Andrew Park.

All Content © 2003-2013, Portfolio Media, Inc.