

Landmark \$2.67 Billion Antitrust Settlement Upheld by U.S. Appeals Court



In a groundbreaking decision, the 11th U.S. Circuit Court of Appeals recently reaffirmed the legitimacy of a \$2.67 billion settlement that marks the resolution of long-standing civil antitrust claims. The allegations were centered on purported collusion by the Blue Cross Blue Shield Association and its member plans to inflate health insurance costs. This comprehensive ruling is a critical development in a legal saga spanning almost a decade and brought forth by individual policyholders, corporations, and other stakeholders.

Resounding Approval of Historical Settlement

Alabama-based U.S. District Judge R. David Proctor approved this monumental settlement in August 2022, setting the stage for this recent appellate decision. The unanimous affirmation by a three-judge panel of the 11th U.S. Circuit Court of Appeals underscores the significance of this legal milestone. The settlement, resulting from a labyrinthine litigation process, has far-reaching implications for the insurance industry, antitrust enforcement, and healthcare consumers.

Challenges Overcome

Notably, this appeals court's ruling decisively rejected several legal challenges mounted by several entities, including retail giant Home Depot. One of the objections pertained to the substantial \$667 million designated for legal fees and expenses as part of the settlement. However, the court's Chief Circuit Judge William Pryor articulated that Home Depot failed to convince the court that the payment would undermine the future ability of antitrust enforcers and others to pursue claims against Blue Cross Blue Shield.

Limited Impact on Antitrust Laws

Judge Pryor emphasized in his written opinion, "The release in this appeal is limited and affects the rights of only some private individuals to sue Blue Cross, and it does not affect public enforcement of the [antitrust laws](#)." [The panel resolutely dismissed Home Depot's concerns](#) as "overstated."

Positive Reactions and Future Implications

While Home Depot and its legal representatives have yet to respond to the court's decision, attorneys representing the class, including David Boies from the renowned law firm Boies Schiller Flexner, have celebrated this outcome. Boies referred to the settlement as "historic" and highlighted its potential to enhance healthcare insurance competition nationwide while providing substantial monetary relief to affected parties.

Charles Cooper of Cooper & Kirk, who co-argued the case with Boies, also approved the court's ruling.

The Blue Cross Blue Shield Association, a proponent of the settlement, issued a statement expressing its readiness to put the litigation to rest, pending the conclusion of the appeals process.

Pervasive Antitrust Allegations

At the heart of this legal dispute were allegations raised by policyholders, who accused the Blue Cross Blue Shield Association and its member plans of anti-competitive practices in violation of U.S. antitrust law. These allegations first surfaced in a complaint filed in 2012.

The plaintiffs' legal representatives, led by prominent firms like Boies Schiller and Hausfeld, declared this settlement "one of the largest monetary recoveries ever achieved in a private antitrust class action." A remarkable feature of the payment was the allocation of \$667 million, equivalent to 25% of the settlement fund, for legal fees and expenses.

The 11th Circuit panel unambiguously asserted that these legal fees "fell within the range of reasonableness."

Ongoing Claims and Future Possibilities

It is important to note that this settlement does not bring closure to claims filed by individual companies that opted out of the class action and chose to pursue separate civil lawsuits. Additionally, healthcare providers, including hospitals and doctors, maintain pending claims that have yet to be resolved.

For the objectors to the settlement, avenues for recourse remain open. They may seek reconsideration from the appeals court or potentially take their case to the U.S. Supreme Court.

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