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Sugar Price-Fixing Suits Combined In NY

By **Jared Foretek**

Law360 (May 2, 2024, 8:30 PM EDT) -- A New York federal judge consolidated six proposed price-fixing class actions against domestic sugar producers, siding with plaintiffs who wanted to try the cases as part of a multidistrict litigation.

Four proposed class actions from direct granulated sugar purchasers and two from indirect buyers are included in the consolidated case, which moves them under one docket for discovery and pretrial proceedings in the Southern District of New York. U.S. District Judge Victor Marrero signed the order Wednesday.

"Transfer to and centralization of the related actions in the Southern District of New York, a readily accessible and convenient District where direct purchasers filed the first cases, where the vast majority of the direct purchaser cases are currently pending, and where the Honorable Victor Marrero, the presiding jurist in all of these cases has extensive experience with multidistrict antitrust litigation," plaintiff New York-based KPH Healthcare Services and Redner's Market wrote in their request for the move.

Attorneys for KPH and Redner's did not immediately respond to Law360's request for comment.

Plaintiffs and defendants were split on where to consolidate the cases. Some plaintiffs, including Duluth-based Great Harvest Bread Company, sought to move the MDL to U.S. District Judge Jeffrey Bryan in Minnesota. Pennsylvania resident Heidi Humphreys, who brought her own proposed class action just last month, **requested** it be moved to the Southern District of Florida.

But defendants United Sugar, Michigan Sugar, American Sugar Refining and Domino Foods all requested that the cases be moved to U.S. District Judge Maryellen Noreika's courtroom in Delaware, where in 2022, following a four-day bench trial, Judge Noreika rejected the U.S. Department of Justice's 2021 bid to block U.S. Sugar's acquisition of Imperial Sugar. United Sugar, one of the plaintiffs, is a marketing cooperative owned in part by U.S. Sugar.

The Justice Department case triggered most of the class action plaintiffs' claims, the sugar companies said in a filing last month, so much so that Judge Noreika should hear the case despite the fact that none of the plaintiffs brought their cases in Delaware.

"Plaintiffs' allegations regarding the alleged conspiracy — including all of the communications purportedly excerpted in the various complaints — mirror the Government's," the plaintiffs wrote in an April 12 filing asking for Judge Noreika to hear the case. "Judge Noreika's familiarity with the facts and evidence underlying plaintiffs' allegations and the complexities of the refined sugar industry ... makes Judge Noreika uniquely qualified to oversee these matters."

The proposed class actions **allege** that the biggest players in the American sugar industry have conspired for years to share nonpublic pricing, production capacity and demand information with each other through an industry analyst, colluding to raise prices without the risk of competitors undercutting the commodity sellers on cost.

Judge Marrero has overseen a series of prominent MDLs in the past, including one in which a group of financial services companies like Bank of America, UBS, JPMorgan and others **settled class claims** from municipalities of price-fixing in the municipal bond market.

He also oversaw a seven-year MDL regarding claims against Bernie Madoff feeder funds like Fairfield

Greenwich Group and its auditor, PricewaterhouseCoopers.

"The [Judicial] Panel [on Multidistrict Litigation] has recognized many times over the years that Judge Marrero and other judges in that District are well equipped to manage, and have a positive track record of actually managing, MDL proceedings," KPH and Redner's wrote in their request.

Attorneys for the defendants did not immediately respond to Law360's requests for comment.

KPH Healthcare Services and Redner's Markets are represented by William E. Hoese, Joseph C. Kohn, William E. Hoese and Douglas A. Abrahams of Kohn Swift & Graf PC, Michael L. Roberts, Erich P. Schork, Sarah E. DeLoach, Christopher B. Sanchez and Morgan Hunt of Roberts Law Firm US PC, Scott Martin, Michael Hausfeld and Michael P. Lehmann of Hausfeld LLP, Gregory S. Ascioffa and Jonathan S. Crevier of Dicello Levitt LLP, Joshua H. Grabar of Grabar Law Office and Marc H. Edelson of Edelson Lechtzin LLP.

United Sugar Producers & Refiners Cooperative is represented by Lawrence E. Buterman of Latham & Watkins LLP.

Michigan Sugar Company is represented by Vanessa G. Jacobsen of Eimer Stahl LLP.

ASR Group International, American Sugar Refining and Domino Foods are represented by Djordje Petkoski of Shearman & Sterling LLP.

The case is In re Granulated Sugar Antitrust Litigation, case number 1:24-cv-01941, in the U.S. District Court for the Southern District of New York.

--Editing by Vaqas Asghar.

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