

Cases of Note

VENEZUELA CREDITOR LITIGATION (D. DEL., 3D CIR., S.D. TEX.)

Eimer Stahl represents CITGO Petroleum Corporation and its parent companies, CITGO Holding, Inc. and PDV Holding, Inc., in a series of cases brought by creditors of the Bolivarian Republic of Venezuela and of its national oil company *Petróleo de Venezuela S.A. (PDVSA)*, which are seeking to recover several billion dollars in international arbitration judgments they hold against Venezuela or PDVSA. CITGO and its affiliates are indirectly owned by Venezuela, which has led creditors such as Crystallex International Corp., ConocoPhillips Petrozuata, OI European Group, B.V., and Rusoro Mining, Ltd. to pursue their claims against Venezuela and PDVSA by seeking to recover against assets in the United States. Most of these cases involve allegations of fraudulent conveyance, challenging the propriety of dividends paid by CITGO's affiliates and allegations of alter ego, seeking to pierce the corporate veils in order to recover directly from PDVSA and our clients. Eimer Stahl is defending these matters in U.S. District Courts in Delaware and Texas and in the Court of Queen's Bench in Alberta, Canada. On an appeal to the U.S. Court of Appeals for the Third Circuit, Eimer Stahl won dismissal of fraudulent conveyance claims brought by Crystallex. Eimer Stahl also represents the interests of its clients in related attachment proceeding in federal court in Delaware, through which Crystallex and others seek to attach and ultimately auction off the shares of PDV Holding as a means to satisfy their arbitration awards. Partners Nate Eimer and Lisa Meyer are the lead attorneys on the case, assisted by Partners Ryan Walsh and Alec Solotorovsky, Of Counsel Dan Birk, and Stakeholders Greg Schweizer and Emily Sullivan.

IN RE: INTERIOR MOLDED DOORS ANTITRUST LITIGATION (E.D. VA.)

Eimer Stahl partners Vanessa Jacobsen and Nate Eimer are lead trial counsel for Masonite Corporation, along with partners Ben Waldin and Alec Solotorovsky, and Stakeholders Greg Schweizer and Sarah Kinter, in multiple antitrust class actions filed in the Eastern District of Virginia in 2018. At issue is whether Masonite participated in a conspiracy with its competitor, JELD-WEN, to raise, fix, maintain and/or stabilize the prices of interior molded doors. The plaintiffs contend that this alleged coordinated effort purportedly caused purchasers to pay artificially inflated prices for interior molded doors. The plaintiffs purport to represent classes of direct and indirect purchasers of interior molded doors from Masonite and JELD-WEN. The litigation is currently in the class certification phase.

MTBE LITIGATION (D.R.I., D. MD., S.D.N.Y.)

Pam Hanebutt and Lisa Meyer represent CITGO in multidistrict litigation and individual federal actions filed on behalf of state and local governments and water suppliers against dozens of oil refining and marketing defendants, alleging that the use of MTBE in gasoline contaminated groundwater and drinking water resources. The complaints generally allege common law claims such as strict liability for design defect and failure to warn, negligence, nuisance, and trespass, along with state environmental and consumer statutory claims. This MDL has presented numerous cutting edge legal issues, including federal preemption, market share and other theories of alternative liability, the *parens patriae* doctrine, and the use of statistical, aggregate evidence. As a result of successful motion practice and strategic settlements, the MDL has been reduced from over 100 cases to only five cases, four of which were filed by state attorneys general in

their *parens patriae* capacity alleging statewide injuries and seeking billions of dollars in damages. Lisa and Pam have been actively involved in the formulation and execution of the case-wide strategy, including the development and presentment of novel defenses, dispositive motion briefing and argument, trial preparation, and settlement strategy on behalf of both the joint defense group and their client. Also assisting in these cases are Partner Sue Razzano, Of Counsel Joan Radovich, and Stakeholders Greg Schweizer and Emily Sullivan.

IN RE: RAIL FREIGHT FUEL SURCHARGE ANTITRUST LITIGATION (NO. II) MDL NO. 2925 (D.D.C.)

A team from Eimer Stahl including Nate Eimer, Ben Waldin, Sue Razzano, and Jake Hamann are counsel for four of the largest rail shippers in the United States, The Dow Chemical Company, GenOn, Gerdau Ameristeel, and International Paper, in antitrust actions filed in the District Court for the District of Columbia. At issue in these cases is whether the firm's clients were overcharged by the four major U.S. Railroads—CSX, BNSF, Union Pacific and Norfolk Southern—as a result of a conspiracy to increase freight rates, in part through the imposition of coordinated fuel surcharges. The litigation is currently in the discovery phase.

FROST, ET AL. V. LG CORPORATION, ET AL. (N.D. CAL., 9TH CIR.)

Eimer Stahl represents Korean electronics company LG Electronics, Inc. and its American subsidiary LG Electronics U.S. A., Inc. in a federal antitrust class action alleging that the LG Defendants engaged in a nation- and world-wide conspiracy with various Samsung Electronics affiliates and subsidiaries to suppress wages in the high technology and other markets. The firms representing the plaintiffs' class have previously collected over \$500 million in settlements from other tech firms in similar lawsuits alleging no-poach agreements in the Silicon Valley tech industry. In a first for these types of cases, the defendants obtained dismissal of the plaintiffs' antitrust claims for failure to state a claim and for lack of personal jurisdiction over the Korean LG entities twice, once with leave to amend and once with prejudice. Eimer Stahl took the lead role in briefing and arguing the motions to dismiss, with arguments by Partner Vanessa Jacobsen and Of Counsel Dan Birk. The plaintiffs appealed to the U.S. Court of Appeals for the Ninth Circuit, which recently affirmed the dismissals. The Ninth Circuit denied plaintiffs' petition for rehearing *en banc*.

DAY V. HUMANA INSURANCE CO. (N.D. ILL.)

This litigation is a putative class-action alleging a claim for benefits and a breach of fiduciary duty under an employee welfare benefit plans pursuant to the Employee Retirement Income Security Act of 1974 (ERISA). In particular, plaintiffs allege that defendants improperly denied reimbursement for proton beam radiation therapy (PBRT) to treat certain types of cancers. Scott Solberg was hired to represent Humana in this matter after serving as lead counsel in Humana's first-ever jury-trial win for a case in which a Chicago-area not-for-profit hospital alleged systematic underpayments in excess of \$40 million. Partner Ryan Walsh and Stakeholder Brian Chang are also integral members working on the matter.

GREER, ET AL. V. BOARD OF EDUCATION OF THE CITY OF CHICAGO (ILL. CIR. CT.)

Eimer Stahl's Brent Austin and Caroline Malone, along with attorneys from the Chicago Lawyers' Committee for Civil Rights and the Legal Assistance Foundation, won a historic victory for its pro bono client National Teachers Academy (NTA) over Chicago Public Schools (CPS). In early 2018, CPS released plans to close NTA – an elementary school located in Chicago's South Loop neighborhood, serving mostly African-American and low-income students – and convert the campus into a high school. The move would have forced students to transfer to another elementary school. In June 2018, four NTA families filed a civil rights lawsuit challenging CPS's plan – citing that CPS used racially discriminatory metrics in its proposal, as well as improper academic criteria, and was explicitly violating the Illinois Civil Rights Act and the Illinois School Code. On December 3, 2018, Cook County Judge Franklin Ulyses Valderrama granted an injunction, forcing CPS to abandon its plan, allowing NTA to remain open and continue operating as an elementary school for South Loop students – a feat many say may be the first court-ordered freeze of a school-closing measure in Chicago history.