

A yellow right-angled triangle pointing downwards and to the right.

BLOGS
Antitrust

Federal Court Denies ExxonMobil's Motion to Dismiss Price Discrimination and Franchise Claims

A federal district court in New Jersey has denied ExxonMobil's motion to dismiss various antitrust, franchise, and common law claims brought by a group of more than 50 gas station franchisees. *S. Gas, Inc. v. ExxonMobil Oil Corp.*, 2016 WL 816748 (D.N.J. Feb. 29, 2016). The plaintiffs, who leased retail gas stations from Exxon and were required to purchase gas from Exxon for resale to their customers, alleged that Exxon had sold to them at discriminatory prices compared to competing wholesale customers in violation of the Robinson-Patman Act, violated the New Jersey Franchise Practices Act ("NJFPA") by imposing unreasonable standards of performance with the intention of driving them out of business, and committed other common law breaches and torts.

Regarding the Robinson-Patman Act claims, Exxon had argued that there were numerous legitimate explanations for the higher prices charged to the plaintiffs in comparison to the prices charged to their allegedly favored competitors. Although the court acknowledged that those explanations might ultimately have merit, it concluded that the plaintiffs had alleged sufficient other facts—such as Exxon's control over their profit margins, retail prices, rent, and technology costs—that, when viewed together, raised a plausible inference of price discrimination over a substantial period of time. In light of this inference, the plaintiffs did not need to prove that sales were actually diverted to any favored competitor in their pleading. Although the plaintiffs' NJFPA claim had previously been dismissed without prejudice, the court concluded that their recently amended complaint contained sufficient allegations about Exxon's inventory standards and volume requirements that, if true, could amount to evidence of "unreasonable standards of performance" within the meaning of the statute.

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