

A yellow right-angled triangle pointing towards the top-left corner.

BLOGS
Antitrust

Federal Court Grants Summary Judgment for Defendant on Claim of Monopolization

The United States District Court for the Eastern District of Virginia recently granted a manufacturer's motion for summary judgment on a claim of monopolization brought against it by a competitor. In *Kolon Industries, Inc. v. E.I. DuPont de Nemours & Co.*, Bus. Franchise Guide ¶ 77,857 (E.D. Va. Apr. 5, 2012), Kolon claimed that DuPont monopolized the United States para-aramid market, in which DuPont sold its Kevlar product, through the use of long-term, multi-year supply agreements with high volume para-aramid purchasers.

To prove its claim, Kolon had to show that DuPont possessed monopoly power and willfully acquired or maintained that power. In determining whether DuPont possessed monopoly power, the court assessed DuPont's market share and the durability of its power. The evidence showed that DuPont controlled no more than fifty-nine percent of the market during the relevant time period. The court noted that many courts have found that a market share of less than seventy percent is insufficient to support a claim of monopolization. The court also found that DuPont's closest competitor had as much as a forty-four percent market share, and that DuPont's market share had been decreasing before and during the relevant time period, while its competitors' shares were increasing. In addition, it found that the supply contracts alleged did not foreclose a sufficient portion of the relevant market to constitute "willful maintenance" of DuPont's market share. Therefore, the court granted DuPont's motion for summary judgment on Kolon's claim for monopolization and its companion claim for attempted monopolization.