

BLOGS

Antitrust

Two Franchisors Agree to Settle Anti-Poaching Class Actions

Subject to court approval, franchisors Jiffy Lube and Papa John's have agreed to settle separate putative civil class actions alleging that anti-poaching provisions previously included in their franchise agreements violated antitrust law. *In re: Papa John's Employee and Franchisee Employee Antitrust Litig.*, No 3:18-cv-00825-BB-RSE (W.D. Ken. July 27, 2022); *Fuentes v. Jiffy Lube Int'l, Inc.*, No. 2:18-cv-05174-AB (E.D. Pa. July 22, 2022).

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The \$2 million and \$5 million settlements appear to represent a high-water mark for the plaintiffs (and class action counsel) in the cases that have been brought against numerous franchisors based upon the anti-poaching provisions that once were almost ubiquitous in franchise agreements. At the same time, these figures represent a massive discount from the theoretically available damages (subject to automatic trebling) if plaintiffs could have proven that wages had been suppressed for all employees system-wide over a period of years. In their unopposed motions seeking approval of the settlements, the plaintiffs noted these difficulties of proof, as well as the fact that class action certification had been denied in cases against other franchisors brought under the same theory. Cases against some franchisors have been thrown out entirely for failure to state a valid claim under the antitrust laws. As one accommodation to these constraints, the Jiffy Lube settlement class was limited to employees in one metropolitan statistical area, as opposed to the nationwide class that had originally been pled.

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