

## Ford can sue Fujikura for auto parts conspiracy, judge rules

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- Ford purchased wire harnesses from other companies
- Ruling could have impact on huge auto parts case
- Ford still has heavy burden of proof, attorney says

A federal judge has ruled that **Ford Motor Company** may sue **Fujikura** over allegations that it fixed the price of wire harnesses even though Ford did not purchase the part from the Japanese auto parts company.

The denial of a motion to dismiss the suit could have wide repercussions for the dozens of auto parts civil suits.

“This is a huge ruling,” Robert Lande, a law professor at the University of Baltimore and a former FTC official, said. He added that US District Judge Marianne Battani “could have dismissed [the suit] saying it was just too difficult to prove that kind of allegation.”

Fujikura is one of several Japanese manufacturers of wire harnesses that have pleaded guilty to price-fixing charges as part of the Department of Justice’s (DoJ) huge probe of the auto parts industry.

Ford purchased wire harnesses from several companies caught up in the probe—but not Fujikura. Fujikura argued in its motion to dismiss the suit that it had pleaded guilty to charges of fixing prices for autos manufactured by Subaru and therefore, Ford had no grounds to sue the company.

However, on 4 March Battani ruled that the suit can proceed. “Given the nature of the conspiracy alleged by Ford, it is not necessary for Fujikura Defendants to have supplied Ford directly,” the judge said. “Ford purchased from Defendants’ co-conspirators and if Ford is able to prove its allegations, Fujikura Defendants’ guilt is as great as that of’ their co-conspirators from whom Ford did purchase wire harnesses.”

Battani is the judge overseeing all of the civil suits against Japanese auto parts companies and her ruling has an impact on those cases, said an antitrust attorney with experience in the auto industry.

“The significance is that a larger number of potential victims [are] still in the case than if [the case] were dismissed, and so the potential damages for all the defendants remain as large as we thought,” the attorney said. “Ford hasn’t won the case, but they didn’t lose it, and it took a big step toward winning or convincing Fujikura to settle.”

But Ford still carries a heavy burden of proof, said Hays Gorey, an attorney with GeyerGorey who spent many years with the DoJ’s Antitrust Division. “Ford will still have the burden at trial of showing that US commerce was affected by the conspiracy,” he said. “At some point, the connection between the unlawful conduct and the injury becomes too remote or too problematic to establish injury even if there was a conspiracy.”

The auto parts civil cases have been consolidated and at least 28 auto parts are now the subject of civil antitrust suits.

Those civil suits generally have been filed after the DoJ files criminal charges against a company.

To date, 26 companies have pleaded guilty or agreed to plead guilty in connection with the auto parts probe. An additional 29 individuals have been charged. The companies and individuals have agreed to pay more than \$2.25 billion in fines.

The case is *In Re: Automotive Parts Antitrust Litigation, US District Court for the Eastern District of Michigan, 12-md-02311*.

by David Baumann in Washington DC

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