

## Corporate & Financial Weekly Digest

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### **New York District Court Applies a More Relaxed Standard and Certifies Two Classes in an Antitrust Class Action**

Plaintiffs filed a class action suit in the District Court for the Eastern District of New York against Chinese manufacturers (the defendants) of vitamin C, alleging that the defendants violated antitrust laws by engaging in a cartel to fix prices and limit the output of vitamin C. In this long-pending litigation, class certification motions were addressed nearly seven years after the litigation was commenced. The plaintiffs moved to certify two classes, one that sought damages from the defendants, and another that sought injunctive relief. The defendants challenged the creation of both classes on a number of different grounds.

The defendants offered a host of arguments to defeat the plaintiff's class certification motions, but all failed. The Court, noting that the Second Circuit has emphasized that class certification requirements should be "given liberal rather than restrictive construction," allowed both classes to be certified. The Court held that the damages class could be certified with The Ranis Company (Ranis) acting as lead plaintiff. The defendants argued that since Ranis had its claim by virtue of an assignment from a direct vitamin C purchaser, it was not an appropriate class representative. The Court rejected that argument, citing *Cortes & Co. Fin. Servs, Inc. v. A.G. Edwards & Sons, Inc.*, 502 F.3d 91 (2d. Cir. 2007) for the proposition that there are no particular dangers inherent in transferring class membership that do not arise in the context of claim assignment generally. The Court was similarly unmoved by the Defendants' arguments that Ranis had shown no meaningful commitment to the litigation and that class counsel was the true driver of the suit. The Court stressed that in the Second Circuit, a proposed representative need only show a willingness and ability to pursue the class litigation, and a basic understanding of the litigation. The Court acknowledged that many class actions, including the present case, were substantially driven by class counsel. The Court, however, reasoned that this practice facilitated what it considered to be a primary objective of Fed. R. Civ. P. 23 class actions: to bring claims that would not otherwise have been brought. Taken together, the Court's holdings on the requirements for class certification demonstrated a more permissive standard than the one employed by the court in *Kottaras*.

*In re Vitamin C Antitrust Litigation*, Nos. 06-MD-1738 (BMC)(JO), 05-CV-0453, 2012 WL 251909 (E.D.N.Y. January 26, 2012).

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