UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: AUTOMOTIVE PARTS ANTITRUST LITIGATION	MASTER FILE NO. 12-md-02311
In Re: Wire Harness Systems	HON. MARIANNE O. BATTANI
THIS DOCUMENT RELATES TO: Truck and Equipment Dealership Actions	14-14451

OPINION AND ORDER GRANTING MOTION TO DISMISS TRUCK AND EQUIPMENT DEALERSHIP FIRST AMENDED CLASS ACTION COMPLAINT

Before the Court is Defendants Mitsubishi Electric Corporation ("MEC"), Mitsubishi Electric US Holdings, Inc., and Mitsubishi Electric Automotive America, Inc.'s (collectively "MELCO Defendants") Motion to Dismiss Truck and Equipment Dealership First Amended Class Action Complaint (Doc. No. 68). The Court heard oral argument on October 6, 2015, and for the reasons that follow, the motion is **GRANTED**.

I. INTRODUCTION

Trucks and Equipment Dealership Plaintiffs ("TED Plaintiffs") filed their Amended Complaint in May 2015, "on behalf of themselves" and all other similarly situated dealers of medium-duty (Class 4, 5, 6, & 7) trucks and "heavy-duty (Class 8) trucks,

buses, commercial vehicles (excluding automobiles, light trucks, vans, sports utility vehicles, and/or similar motor vehicles sold by automobile dealers), construction equipment, mining equipment, agricultural equipment, railway vehicles, and other similar vehicles" (collectively, "Trucks and Equipment"). (Doc. No. 64, Am. Compl. at ¶ 235). Truck and Equipment excludes by definition "automobiles, light trucks, vans, sport utility vehicles, and/or similar motor vehicles sold by automobile dealers (hereinafter "passenger vehicles") (Doc. No. 68 at ¶ 235).

TED Plaintiffs allege that Defendants, the largest suppliers of Vehicle Wire Harness Systems ("VWHS") globally and in the United States conspired to fix prices from at least as early as January 1, 1999, until the present (Doc. No. 64 at ¶¶ 1, 2). "Vehicle Wire Harness Systems" act as the central nervous system of vehicles; they "direct and control electronic components, wiring, and circuit boards in a vehicle," and include vehicle wire harnesses, speed sensor wire assemblies, vehicle electrical wiring, lead wire assemblies, cable bond, vehicle wiring connectors, vehicle wiring terminals, electronic control units, fuse boxes, relay boxes, junction blocks, high voltage wiring, and power distributors. (Id. at ¶ 3).

At Paragraph 98 of the amended complaint, TED Plaintiffs allege:

> Defendants and the co-conspirators supplied Vehicle Wire Harness Systems to OEMs [Original Equipment Manufacturers] for installation in Trucks and Equipment manufactured and sold in the United States and elsewhere. Defendants and their co-conspirators manufactured Vehicle Wire Harness Systems (a) in the United States (including in all of the states having laws permitting recovery of damages by indirect purchasers, as listed infra), for installation in Trucks and Equipment manufactured and sold in the United States (including all of the states having laws permitting recovery of damages by indirect purchasers as listed *infra*), (b) in Japan, and possibly other countries, for export to the United States (including all of the states having laws permitting recovery of damages by indirect

> purchasers, as listed *infra*) and installation in Trucks and Equipment manufactured and sold in the United States (including all of the states having laws permitting recovery of damages by indirect purchasers as listed *infra*), and (c) in Japan, and possibly other countries, for installation in Trucks and Equipment manufactured in Japan, and possibly other countries, for export to and sale in the United States (including all of the states having laws permitting recovery of damages by indirect purchases. . . .

(Doc. No. 64 at ¶ 98).

According to TED Plaintiffs, the alleged conspiracy targeted many Original Equipment Manufacturers ("OEMs"), including Toyota, Honda, Ford, Chrysler, Mitsubishi Motors, Subaru, Fuji Heavy Industries, Isuzu, and Nissan, that manufacture and sell Trucks and/or Equipment directly or through subsidiaries or affiliated companies. (Id. at ¶ 18). Many of the defendant companies under investigation in the passenger vehicles wire harness systems component parts cases also manufacture and sell parts for Trucks and Equipment; (id. at ¶ 17); many of the OEMs involved in the passenger vehicle wire harness systems conspiracy also manufacture and "sell Trucks and/or Equipment directly or through subsidiaries or affiliated companies;" (id. at ¶¶ 18, 91, 230); and many of Defendants' employees responsible for negotiating the prices and terms for parts, including passenger vehicle wire harness systems, were involved in sales to Trucks and Equipment manufacturers as well as automobile manufacturers (id. at ¶¶ 95, 231).

Mitsubishi Electric Corporation ("MEC") is a Japanese corporation, alleged to "directly and/or through its subsidiaries, which it wholly owned and/or controlled—manufactured, marketed and/or sold Vehicle Wire Harness Systems that were purchased throughout the United States, including in this District, during the Class

Period." (Doc. No. 64 at ¶ 74). The same allegations are advanced toward its United States subsidiary-- Mitsubishi Electric US Holdings, Inc. ("Mitsubishi US") (id. at ¶ 75), and its subsidiary, Mitsubishi Electric Automotive America, Inc. ("MEA") (id. at ¶ 76). In Paragraphs 77-79, TED Plaintiffs allege the following conduct relating to MELCO Defendants:

> Mitsubishi Electric Company sells electronic control units which are part of a Vehicle Wire Harness System. On information and belief, Mitsubishi Electric Company sells electronic control units to Fuji Heavy Industries which manufactures generators, engine equipped machinery, agricultural machinery, construction machinery, other machine tools, and their components. Mitsubishi Electric Company also sells starters and alternators for use in Trucks and Equipment and specifically identifies Peterbilt, Kenworth, Mack Trucks, Volvo Trucks, Freightliner, International Trucks, and Prevost in its sales materials.

(Doc. No. 64 at ¶ 77).

> On November 22, 2012, the JFTC [Japan Fair Trade Commission] imposed fines totaling $41.3 million against various automotive parts manufacturers, including a $17.2 million fine against Defendant Mitsubishi Electric Corporation, for violating antitrust laws by forming a cartel to fix prices **for automotive parts** including alternators and starters.

(Doc. No. 64 at ¶ 78) (emphasis added).

> On November 6, 2013, Mitsubishi Electric Company pleaded guilty for price-fixing in connection with the sale of starter motors, alternators, and ignition coils and admitted that its sales affected Ford Motor Company, General Motors LLC, Chrysler Group LLC, Fuji Heavy Industries Ltd., Nissan Motor Company Ltd, Honda Motor Company Ltd., and certain of their subsidiaries. Mitsubishi Electric Company agreed to pay a $190 million criminal fine.

(Doc. No. 64 at ¶ 79).

III. STANDARD OF REVIEW

Federal Rule of Civil Procedure 12(b)(6) allows district courts to dismiss a complaint which fails "to state a claim upon which relief can be granted." To survive a

motion to dismiss for failure to state a claim under Rule 12(b)(6), the plaintiff must show that his complaint alleges facts which, if proven, would entitle him to relief. First Am. Title Co. v. DeVaugh, 480 F.3d 438, 443 (6th Cir. 2007). "A complaint must contain either direct or inferential allegations with respect to all material elements necessary to sustain a recovery under some viable legal theory." Weiner v. Klais & Co., 108 F.3d 86, 88 (6th Cir. 1997).

When reviewing a motion to dismiss, the Court "must construe the complaint in the light most favorable to the plaintiff, accept all factual allegations as true, and determine whether the complaint contains enough fact to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). Although the federal procedural rules do not require that the facts alleged in the complaint be detailed, "'a plaintiff's obligation to provide the 'grounds' of his 'entitlement to relief' requires more than labels and conclusions, and a formulaic recitation of a cause of action's elements will not do.' " Twombly, 550 U.S. at 555; Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) ("Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.").

Thus, "[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Ashcroft, 556 U.S. at 678 (2009) (quoting Twombly, 550 U.S. at 570). A claim is facially plausible "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Id. Rule 8 of the Federal Rules of Civil Procedure "does not unlock the doors of discovery for a plaintiff armed with nothing more than conclusions." Id. at 678-79. In reaching a

decision about the sufficiency of a complaint, the court must "draw on its judicial experience and common sense." Id. at 679 (citation omitted).

IV. ANALYSIS

The parties dispute the sufficiency of the antitrust allegations. In Twombly, the Supreme Court considered the pleading requirements needed to withstand a motion to dismiss relative to a section 1 Sherman Act claim. It held that the complaint must contain enough factual matter to "plausibly suggest" an agreement:

> Asking for plausible grounds to infer an agreement does not impose a probability requirement at the pleading stage; it simply calls for enough fact to raise a reasonable expectation that discovery will reveal evidence of illegal agreement. And, of course, a well-pleaded complaint may proceed even if it strikes a savvy judge that actual proof of those facts is improbable, and that a recovery is very remote and unlikely.

550 U.S. at 556.

According to MELCO Defendants, the amended complaint, when stripped of the boilerplate allegations about the impact of wire harness antitrust conduct on the Trucks and Equipment market, does not meet the pleadings standards articulated in Twombly. The Court agrees.

At the outset, the Court observes that the amended complaint contains specific allegations about MEC's antitrust conduct in the passenger vehicle market. MELCO Defendants concede that MEC does sell a particular kind of electronic control unit ("ECU"), known as a Body ECU, which is connected to wire harness systems in certain passenger vehicles. Although MEC did not plead guilty to collusion involving wire harness products, it did agree to cooperate with the electronic control units investigation. MEC did plead guilty to involvement in an antitrust conspiracy relating to

passenger vehicle parts (alternators, starters, and ignition coils) installed in automobiles sold to Ford, GM, Chrysler, Fuji Heavy Industries, Nissan, Honda, Toyota, and certain of their subsidiaries. (Doc. No. 64 at ¶¶ 78-79, 182-83, 201). Simply put, MEC participated in a conspiracy related to price-fixing of other passenger vehicle parts.

TED Plaintiffs do not rely exclusively on MEC's guilty plea. The amended complaint includes allegations of numerous guilty pleas by other defendants involving component parts other than VWHS. TED Plaintiffs also allege that there is an overlap of both defendants and manufacturers in the auto parts/Trucks & Equipment markets and that price-fixing was commonplace in the automotive component parts market. TED Plaintiffs maintain that these allegations are similar to those deemed sufficient in other passenger vehicle component part cases.

Notwithstanding these similarities, the existence of case law supporting TED Plaintiffs' position that antitrust conduct occurring in one market can suggest a conspiracy in another, and this Court's recognition that a conspiracy in the automobile market that targeted one manufacturer made it more plausible that defendants engaged in price-fixing with respect to other vehicle manufacturers, the Court finds MELCO Defendants are entitled to dismissal. The differences in this case rather than the similarities are dispositive.

First and foremost, MEC's plea agreement covers passenger vehicle products, not Trucks and Equipment products. It is undisputed that neither the Department of Justice nor the Japan Fair Trade Commission referenced Trucks and Equipment in their investigations into the activities of MEC. The Court acknowledges its repeated observation in prior MDL opinions that relatively few defendants plead guilty to all of the

charges against them because guilty pleas factor in such considerations as government resources. Nevertheless, a defendant's conduct relevant to the passenger vehicle conspiracy does not establish the defendant's involvement in the Trucks and Equipment conspiracy. The pleas referenced in the amended complaint relate to wire harness products for passenger vehicles, not Trucks and Equipment. According to MELCO Defendants, MEC does not sell Vehicle Wire Harness Systems products to Truck & Equipment manufacturers. The allegations in the complaint do not contradict this assertion.

The amended complaint, stripped of the generic allegations against MELCO Defendants, merely alleges that MEC sells Body ECUs to an OEM, Fuji Heavy Industries. (Doc. No. 64 at ¶ 77). Fuji Heavy Industries sells Subaru passenger vehicles and also happens to sell Trucks & Equipment. (Id.) TED Plaintiffs do not specifically allege that MEC supplies Body ECUs for use in Trucks and Equipment; yet, in the same paragraph, TED Plaintiffs allege that MEC sells different products–alternators and starters--for "use in Trucks & Equipment." (Id.) Notably, TED Plaintiffs do not include Fuji Heavy Industries as one of those customers to which MEC sells alternators and starters. (Id.) Therefore, the dots do not connect, and no inference arises from Paragraph 77 that Body ECUs sold to Fuji Heavy Industries were installed in Trucks and Equipment.

The absence of any factual allegation connecting MELCO Defendants' conduct to the Trucks & Equipment market differentiates this set of allegations from those the Court has deemed sufficient in the passenger vehicle component part cases. For example, the Court has allowed other plaintiff classes to proceed against defendants in

light of allegations of guilty pleas against other suppliers in the same market. It has allowed plaintiff classes to proceed against defendants in light of guilty pleas specific to a particular country when the same product market was involved as well as an overlap of defendants. It has allowed plaintiff classes to proceed against defendants involving products other than the limited product involvement specified in their guilty pleas. Compare In re TFT-LCD (Flat Panel) Antitrust Litig., MDL NO. 1827, 2010 WL 2629728 (N. D. Cal. June 29, 2010) (assessing the argument that those defendants that have been investigated for anticompetitive conduct in a different market rendered the plaintiffs' allegations that the same defendants participated in a global conspiracy in a different specified market more plausible). See also In re Packaged Ice Antitrust Litig., 723 F. Supp. 2d 987, 1011-12 (E.D. Mich. 2010) (observing that a guilty plea does not dictate the parameters of the antitrust claims alleged by the plaintiffs).

In contrast, here, the Court finds the boilerplate allegations as to all Defendants do not salvage the amended complaint relative to MELCO Defendants. The collective acts cannot be attributed to MELCO Defendants given the lack of a plausible allegation that MEC even competed in the Truck and Equipment market. See Michigan Div.-Monument Builders of N. Am. v. Michigan Cemetery Ass'n, 458 F. Supp. 2d 474, 485 (E.D. Mich. 2006) aff'd, 524 F.3d 726 (6th Cir. 2008) (observing that even under liberal pleading requirements set forth in the federal procedural rules, a plaintiff must include allegations regarding each specific defendant's involvement in the conspiracy). TED Plaintiffs' failure to allege that MEC sold VWHS to Truck and Equipment dealers subjects the amended complaint to dismissal.

IV. CONCLUSION

For the reasons stated above, Defendants' motion is **GRANTED.**

IT IS SO ORDERED.

Date: December 30, 2015

s/Marianne O. Battani
MARIANNE O. BATTANI
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order was served upon counsel of record via the Court's ECF System to their respective email addresses or First Class U.S. mail to the non-ECF participants on December 30, 2015.

s/ Kay Doaks
Case Manager