

Judge Refuses to Toss Antitrust Suit Over Bar Review Courses

By Susan McRae
Daily Journal Staff Writer

LOS ANGELES — Former law students have moved a step closer to trial in their \$300 million antitrust lawsuit against BAR/BRI, the country's biggest bar review company, after a federal judge in Los Angeles refused to toss out the case.

U.S. District Judge Manuel L. Real Monday denied a motion by BAR/BRI co-defendant Kaplan Inc., the largest college and graduate-school test preparation company, for summary judgment.

"With all the fallen trees, there has to be something under there," Real said in issuing his denial.

BAR/BRI is accused of colluding with Kaplan and parent company West Publishing Corp. to stifle competition and drive up the price of bar review and LSAT preparation courses.

The antitrust class action is scheduled for trial Feb. 13, but a settlement conference is set for November. *Rodriguez v. West Publishing*, CV05-3222.

Plaintiffs' lawyer Eliot G. Disner said that, as a result of BAR/BRI's market monopoly, law students have been forced to acquire "bar loans" to pay for the six-week courses.

"The increase in price is staggering," Disner, of Los Angeles' McGuireWoods, said. In California, he said, students pay up to \$3,000.

The complaint says the companies conspired to carve up the markets for bar review and LSAT preparation, with West's agreeing to make annual payments of

\$500,000 to Kaplan in exchange for an agreement to stay out of the bar review business. In turn, West allegedly agreed not to compete with Kaplan in the LSAT preparation market, according to the complaint.

Lawyers for Kaplan, Stuart N. Senator of Los Angeles' Munger, Tolles & Olson, and for West, Steven F. Molo of New York's

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Sherman & Sterling, were unavailable for comment. Molo previously denied his client engaged in wrongdoing.

Carina Wong, a Kaplan spokesperson, issued a statement saying the firm "would like to point out that the decision does not mean that plaintiff's allegations are correct."

"The evidence will show that Kaplan's only agreement with BAR/BRI is to market BAR/BRI material to Kaplan students. Such marketing agreements are common and perfectly proper."

The class members, which could be as many as 300,000 nationwide, are seeking up to \$300 million in damages, along with an injunction ordering the defendants to cease the allegedly anti-competitive behavior.