WEST VIRGINIA CODE: §47-18-17

§47-18-17. Attorney general to bring actions on behalf of state residents; procedures used in such actions; damages.

(a) The Attorney General shall be permitted to bring an action as parens patriae of natural persons who are citizens and residents of this state, under this article, and in proper federal court for violations of the federal antitrust laws or of both this article and the federal antitrust laws, to secure relief as provided under this article and other lawful relief as appropriate.

(b) In any action brought under this section, the Attorney General shall, at such times, in such manner, and with such content as the court may direct, cause notice to be given by publication. If the court finds that notice given solely by publication would deny due process of law to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

(c) Any person on whose behalf an action is brought under this section may elect to exclude from adjudication the portion of the state claim for monetary relief attributable to him by filing notice of such election with the court within such time as specified in the notice given pursuant to this subsection.

(d) The final judgment in an action under this section shall be res judicata as to any claim under this article by any person on behalf of whom such action was brought and who fails to give such notice within the period specified in the notice given pursuant to subsection (c).

(e) An action under subsection (a) shall not be dismissed or compromised without approval of the court, and notice of any proposed dismissal or compromise shall be given in such manner as the court directs.

(f) In any action brought under this section, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought. The court shall exclude from the amount of monetary relief awarded in such action any amount of monetary relief which:

(1) duplicate amounts which have been awarded for the same injury; or

(2) are properly allocable to natural persons who have excluded their claims pursuant to subsection (c).

(g) In any action brought under this section, the court shall award to the state for payment

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into the state Treasury for the use of the antitrust enforcement fund:

(1) an amount attributable to the recovery of the state and its public agencies; and

(2) the greater of:

(A) any amount assessed as reasonable attorney fees, filing fees, and reasonable costs of the action; or

(B) an amount equal to the expenses and costs of investigation, litigation and fund administration attributable to the case.

(h) The court shall afford the citizens and residents and the public bodies of this state other than the state and its public agencies a reasonable opportunity individually to secure appropriate portions of the remainder of the monetary relief assessed under this section and thereafter shall award the undistributed portion of said remainder to the state for payment into the General Fund of the state Treasury for the overall benefit of the citizens, residents and public bodies of this state.

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