

Class Action Ethics in Antitrust Cases

November 18, 2015

Should defendants be permitted to settle the claims of absent class members before class certification is granted?

- A. Yes, because nothing prohibits it.
- B. Yes, because of the judicial policy favoring settlement.
- C. No, because all communications with absent class members should be approved by the court.
- D. No, because it undermines the purposes of Rule 23.

Under what circumstances should settlement with absent class members not be permitted?

- A. If the communication is misleading.
- B. If the communication is coercive.
- C. If consideration is not fair and reasonable.
- D. If class certification has been granted.
- E. Settlements with absent class members should always be permitted.

To what extent should outside defense counsel be involved in communications about settlements with absent class members?

- A. Not at all.
- B. Limited to advising the client about permissible communications.
- C. Scripting the communications.
- D. Engaging directly in the communications.