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Plaintiffs object to payout in law prep course case

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Plain Dealer Reporter

Thousands of young Ohio attorneys would get about \$125 each in the settlement of a nationwide lawsuit that accused two companies of monopolizing the market for law prep courses.

But the deal to end the antitrust case has prompted several lead plaintiffs to file objections. They, and other attorneys in Ohio and across the country, complain the settlement is paltry given supposed overcharges of \$1,000 per test-cramming law student.

"It doesn't seem like much compared to what I paid for that course, which was in the thousands," said Lucas Caldwell-McMillan, a staff attorney at the Legal Aid Society of Cleveland.

Caldwell-McMillan is among the vast majority of law students who take a six-week BAR/BRI course before tackling the bar exam, which about one-third of law students fail on their first try.

It is that fear - after sinking tens of thousands of dollars into their law education - that prompts most students to take the prep course before facing the final hurdle to their law degree.

The proposed \$49 million settlement affects 300,000 law students who took the course between 1997 and 2006. It resolves a class-action lawsuit against West Publishing Corp., BAR/BRI's corporate parent, and Kaplan Inc., which sells prep coursework for the Law School Aptitude Test. A federal judge is expected to approve the settlement June 18.

The lawsuit said that BAR/BRI and Kaplan, the test-prep division of the Washington Post Co., divvied up the market for law review courses, creating a monopoly and overcharging students.

"It's not the only course out there on the market, but it's really the only course that people pay attention to," said Ryan Fitzgerald, an associate in the litigation department at McDonald Hopkins who took the BAR/BRI course last May. "It does not surprise me that there are claims of collusion."

The proposed settlement would end the co-marketing agreement that the plaintiffs said constituted an anti-competitive splitting of the markets for bar review and LSAT prep courses, plaintiffs' law firm McGuireWoods said in a statement.

However, three of seven named plaintiffs in the lawsuit said the agreement does not protect future customers.

Also objecting is Eliot Disner, a McGuireWoods attorney who was lead counsel for the affected students for two years. He argued in a brief that the case was strong enough to warrant a bigger payout.

Another opponent to the settlement is the former president of BAR/BRI, Stan Chess, who initiated the lawsuit. Chess is president of LawTV Inc. and various Web sites.

McGuireWoods spokesman William Allcott did not return calls Thursday afternoon. Kaplan spokeswoman

Carina Wong said in an e-mail that Kaplan agreed to settle the class-action suit "to avoid extended litigation. . . . This settlement has absolutely no relation to, or impact on, any of our students or programs. There has been no finding or admission of wrongdoing."

Messages left for attorneys for West Publishing were not returned. Both companies have denied violating antitrust laws.

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