

Winston Defeats Motion to Dismiss Antitrust Claim By Solyndra

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In a major victory covered closely by the national media, Winston & Strawn defeated defendants' motion to dismiss a \$1.5 billion antitrust suit filed by client Solyndra against China's three largest solar panel manufacturers in U.S. District Court for the Northern District of California. Solyndra alleged that the defendants conspired to flood the U.S. market with below-cost solar panels in an effort to drive U.S. manufacturers out of business, in violation of both Section 1 of the Sherman Act and various California state laws. In moving to dismiss the suit, the defendants argued that Solyndra had not made a "plausible" antitrust claim.

U.S. District Judge Sandra Brown Armstrong disagreed. Rejecting the argument that Solyndra failed to allege a "plausible" conspiracy because the complaint doesn't sufficiently show an express pricing agreement among the alleged co-conspirators, Judge Armstrong ruled that the complaint was "more than sufficient to suggest that defendants reached an agreement to fix prices and flood the American market with their below cost Chinese-made panels for the purpose of stifling competition." The court also denied the defendants' motion to dismiss Solyndra's claims under California state law.

The Winston team included partners Gordon Dobie and Bill O'Neil.

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