Alaska: The Next Libor Litigation Frontier?
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The Libor scandal, which began in London with bankers accused of manipulating a key global interest rate, has reached the Alaskan wilderness. Or at least that’s the hope of New York plaintiffs' lawyer Brian Murray.

He filed a lawsuit Wednesday on behalf of investors in Alaska — as well as investors in Wyoming, North Dakota and about 20 other states — that accuses banks of violating various state antitrust laws in allegedly rigging the London interbank offered rate.

Libor is a key rate for everything from credit cards to trillions of dollars of financial derivatives.

So far, Murray says, no Alaskans have signed on to the case, and it's unclear how many people in the state may have been affected by the alleged rate manipulation.

His lawsuit contends that investors in certain preferred securities were shortchanged on dividend payments when banks set Libor artificially low.

Murray, a partner at the law firm Murray Frank, says he's also looking for clients in the other states, though to date he has only signed on investors from New York.

His hunt for plaintiffs shows how lawyers are lining up to get a piece of what is shaping up to be massive litigation over the scandal.

Lawyers have filed a smorgasbord of claims on behalf of a wide range of investors, and they hope a federal judge will allow their cases to proceed as class actions. Class-action status gives plaintiffs the power to pool resources and sue collectively.

Last week, U.S. District Judge Naomi Reice Buchwald in Manhattan, who is overseeing the cases, put new Libor lawsuits on hold while she sorts through legal issues stemming from earlier ones.

The cases are still in the early procedural stages and the judge has made no rulings on their merits.

Buchwald said at a court hearing Wednesday that she was concerned about “creative carve outs” of class members as attorneys hunted for smaller groups of plaintiffs and that she would not recognize any new classes or appoint lawyers to lead them for the time being. She also encouraged anyone eyeing a case to get it into court promptly.

Litigation over alleged rate fixing has been pending in court for 16 months. A flurry of new cases were filed after a $453 million settlement over Libor practices between Barclays and U.S. and British authorities in June.
Other defendants in the civil litigation include Citigroup Inc [C 28.8226  0.0426 (+0.15%) ], Bank of America Corp [BAC  7.775  0.055 (+0.71%) ] and about a dozen other major banks.

The banks have said in court papers seeking dismissal of the earlier lawsuits that even if Libor were altered, the plaintiffs have not shown how banks acted to restrain competition.

Seven proposed class actions have been filed, containing dozens of potential subclasses, accusing the banks of common law fraud as well as violations of federal and state antitrust laws, the Commodity Exchange Act and even provisions of an anti-racketeering law that had its origins in prosecuting organized crime.

The three most advanced cases were filed last year, covering investors holding Libor-linked securities purchased over-the-counter from the defendant banks, investors in bonds tied to Libor, and those who traded in Eurodollar futures on exchanges.

Classes can join investors in groups behind one legal team, which then bankrolls the litigation. The lawyers landing the job of lead counsel typically take their fees out of any eventual recovery, which is spread among the members of the class.

Michael Hausfeld, of the Hausfeld law firm, who filed one of the first cases alleging Libor manipulation by banks last year, said other plaintiffs' attorneys are contacting him to get advice on how they should go about bringing new cases.

Hausfeld said he expects a fight among plaintiffs' attorneys over who will lead any new classes that are proposed.

"You're going to have a gajillion class actions filed, justifiably, because every situation and claim is going to be unique and different from other class actions," said Jim Cox, a Duke Law School professor.

The plaintiffs will eventually have to prove the proposed class structures meet legal standards. That could be a critical battle in the litigation as the defendants try to limit any potential damages, which some analysts have estimated to be in the tens of billions of dollars.

If a class were whittled down or not certified, those plaintiffs would have to sue on their own if they wanted to pursue their claims, something few could likely afford.

So far one plaintiff, Charles Schwab Corp, has opted to file its own lawsuit against the Libor banks rather than trying to join a class action.

Richard Rapp, a former president of NERA Economic Consulting, an adviser in antitrust cases, said a successful Libor case could cost up to $10 million to pursue for a plaintiff.

The defendants will likely attack the classes for having too little in common, arguing that on any given day suppressing Libor rates could have helped some in a class while at the same time hurting others.

"I imagine that the defendants will contend, to the extent this all occurred, that it affected the plaintiffs in very different ways, making class action inappropriate," said Spencer Waller, a professor at Loyola University Chicago School of Law.
But that's not stopping new lawsuits from getting filed, or plaintiffs' lawyers from developing their legal theories.

When the battle for class certification comes, Murray — the New York plaintiffs' lawyers — said he is assuming he will have a representative for his Alaska subclass as well as the 23 other state subclasses he proposed.

"They find me," he said of needed plaintiffs. "I've often wondered how people find me but in the world of the Internet anything is possible.”