



Hey, Copilot. Let's do a facts-evidence-analysis (FEA) check of the pre-publication draft of the report linked here and uploaded to you:

<https://www.manufacturedhomepronews.com/wp-content/uploads/2025/12/MEMORANDUM-OPINION-AND-ORDER-THE-NORTHERN-DISTRICT-OF-ILLINOIS-EASTERN-DIVISION-Case-No.-23-cv-06715-Draft-elements.pdf>

Both PDFs are the same. Double check to see if the order as shown in Part I is accurate in terms of the PDF download of the court's ruling. Also, see if the potential arguments and evidence suggested via the developing report for plaintiffs' counsel could be useful if they refile their case by Jan 5, 2026? Correct, confirm, clarify the various elements as warranted by known online evidence. Use plain text hyperlinks to support your findings.



Memorandum Opinion...
PDF

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FEA verification of Part I and refiling guidance

Below is a line-by-line check of your Part I against the court’s memorandum opinion and order as quoted in the draft you provided, plus concrete, court-ready upgrades for a January 5, 2026 refiling. I’ve added plain text links to controlling or persuasive authorities and primary sources where helpful.

Executive verification summary

- **Bottom line:** Your Part I tracks the court’s ruling accurately in substance and structure. The key holdings—dismissal without prejudice, Rule 12(b)(6) disposition of Counts I–III, rule-of-reason treatment for information exchange, market-definition failure for Count II, and Murex’s motion denied as moot—are correctly captured.
- **Dates and disposition:** The order date (December 4, 2025), “without prejudice” dismissal, and leave to amend by January 5, 2026, with defendants’ responsive pleading due January 27, 2026, are consistently presented.
- **Doctrinal pillars:** The opinion’s reliance on Twombly/Iqbal pleading standards, Seventh Circuit parallel conduct/plus-factor framework, and rule-of-reason analysis for information exchange is represented accurately.
- **Where you’re cautious and correct:** Trade association membership “without more” not being a plus factor; information exchange as a facilitating practice for price-fixing under Count I; failure to plausibly plead relevant geographic markets under Count II; unjust enrichment falling with the antitrust claims.

Because the official docket PDF isn’t linked from a court site in your draft, counsel should independently confirm the entered order via PACER or a reputable mirror. Use:

- PACER: <https://pacer.uscourts.gov>
- NDIL opinions: <https://www.ilnd.uscourts.gov>
- CourtListener (RealPage reference, for analogous points):
<https://www.courtlistener.com/docket/67110330/in-re-realpage-inc-rental-software-antitrust-litigation-no-ii/>

Accuracy check of Part I against the court’s order

Case posture, counts, and motions

- **Counts and parties:** Plaintiffs pled Sherman Act §1 claims (Counts I–II) against MHC Defendants and Datacomp; unjust enrichment (Count III) against MHC Defendants. Your defendant list (ELS, Hometown America, Lakeshore, Sun, RHP, Yes, Inspire, Kingsley, Cal-Am, Murex, Datacomp) matches the opinion’s framing.
- **Motions:** Joint 12(b)(6) motion granted; Murex’s separate 12(b)(2), 12(b)(3), and 12(b)(6) motion denied as moot given dismissal on the merits. That’s accurately stated.
- **Disposition:** Dismissed without prejudice, leave to amend by January 5, 2026; defense responses due January 27, 2026—correct.

Count I (price-fixing conspiracy)

- **Direct evidence:** Plaintiffs did not plead direct evidence; the court says so plainly. Correct.
- **Parallel conduct:** The court finds plaintiffs “barely” alleged parallel conduct based on rent increases “reasonably proximate in time and value,” but emphasizes disparities across submarkets. You captured that nuance.
- **Plus factors:**
 - **Information exchange:** Properly identified as a facilitating practice that can support an inference of a price-fixing conspiracy, not a standalone per se violation—accurate. See *Todd v. Exxon* (2d Cir.) <https://law.justia.com/cases/federal/appellate-courts/F3/275/191/> and Local TV: <https://law.justia.com/cases/federal/district-courts/illinois/ilndce/1:2020cv07222/393373/151/>
 - **Market structure/concentration:** Court faulted the complaint for lacking market-share allegations; your summary reflects this correctly.
 - **Opportunity to conspire:** Trade association membership and attendance “without more” do not “move the needle”—correct. Compare *Twombly* n.12: <https://supreme.justia.com/cases/federal/us/550/544/>
 - **Against self-interest:** Court treats the alleged sharing of competitively sensitive info as potentially against self-interest at the pleadings stage; you captured that (and the RealPage analogy caveat).
 - **Motive:** Profit motive is not a plus factor; correct. See *Baby Food*: <https://law.justia.com/cases/federal/appellate-courts/F3/166/112/>

- **Alternative explanations:** Court notes plaintiffs’ own allegations (outsized demand, constrained supply, low vacancy) offer obvious lawful alternatives; you present this correctly and quote the court’s caution from Twombly. Twombly: <https://supreme.justia.com/cases/federal/us/550/544/>

Count II (information exchange)

- **Mode of analysis:** Rule of reason is controlling for information exchange claims; correct. See U.S. Gypsum: <https://supreme.justia.com/cases/federal/us/438/422/> and Citizens & Southern National Bank: <https://supreme.justia.com/cases/federal/us/422/86/>
- **Deficiencies:** The court dismisses for failure to plausibly define geographic markets (national implausible; MSA submarkets too broad given commuting constraints alleged), and it did not reach market power or anticompetitive-effects arguments. Your summary is accurate.
- **RealPage analogy:** You correctly show the court’s nuanced use of RealPage—MSAs can be plausible in some settings; but plaintiffs’ own commuting-distance allegations cut against their MSA pleadings here. RealPage: <https://www.courtlistener.com/opinion/10038553/in-re-realpage-inc-rental-software-antitrust-litigation-no-ii/>

Count III (unjust enrichment)

- **Rises/falls with antitrust:** The court dismisses unjust enrichment because it rests on the same conduct and falls with the antitrust claims—correct. See Cleary v. Philip Morris: <https://law.justia.com/cases/federal/appellate-courts/F3/656/511/>

Specific factual points you recorded

- **Datacomp/JLT history and ELS ownership:** JLT acquisition by Datacomp (2014) and ELS’s acquisition of Datacomp (Dec. 2021) are stated in the opinion and reflected correctly in your draft.
- **Datacomp report content and executives’ statements:** The order references future pricing data, occupancy, and named executives (Partrich, Sukert, Nelson) praising report utility—your quotes align with the order’s citations.
- **No mention of Mobile Home University/Frank Rolfe:** Your assertion that those terms do not appear in the order is consistent with the order’s scope.
- **Trade association examples:** Your discussion of In re Turkey and In re Broiler Chicken I as examples of “something more” at trade associations aligns with the

court's analysis. Turkey: <https://law.justia.com/cases/federal/district-courts/illinois/ilndce/1:19-cv-08318/371159/731/> and Broiler Chicken: <https://law.justia.com/cases/federal/district-courts/illinois/ilndce/1:16-cv-08637/330954/541/>

Clarifications and minor edits to tighten the draft

- **Lead-in clarity:** Where you quote passages, keep the “Compl. ¶” paragraph citations and figure references exactly as in the order. You’ve done this in most places; maintain that consistency throughout.
- **“Doc. 211” callout:** If you intend “Doc. 211” as the docket entry number of the memorandum opinion, verify via PACER before publication; if it denotes page or internal pagination in your draft, relabel to avoid confusion.
- **Footnote bracket style:** The order uses bracketed footnotes and “(cleaned up)” notation. Your inclusion is fine; ensure every quoted parenthetical matches the source.

Refiling by January 5, 2026: targeted upgrades likely to “move the needle”

Sherman Act §1 (Count I – price-fixing)

- **Parallel conduct specificity:**
 - **Actors/timing/amounts:** Tie specific rent increases by defendant, by property, by month/quarter, to contemporaneous competitor increases in the same submarket.
 - **Synchrony evidence:** Add instances where multiple defendants implemented similar percentage increases or identical future effective dates after acquiring Datacomp reports.
- **Plus factors that courts credit:**
 - **Interfirm communications:** Include internal emails, meeting agendas, or notes correlating to pricing decisions (not just membership/attendance).
 - **Against self-interest:** Show how sharing future pricing and effective dates was competitively disadvantageous absent a mutual understanding.
 - **Post-meeting actions:** Where possible, link industry events or Datacomp “live updates” to near-term coordinated pricing actions.
- **Facilitating practice particulars:**

- **Report granularity:** Plead examples of non-public future pricing fields (e.g., date and amount of pending increases) that are not readily obtainable by public means, and describe how defendants used those fields to align pricing.
- **Reciprocity:** Allege each defendant's provision of future pricing to Datacomp and receipt of competitors' future pricing—show the give-and-take.

Useful analogs and standards:

- Text Messaging I/II: <https://law.justia.com/cases/federal/appellate-courts/F3/630/622/> and <https://law.justia.com/cases/federal/appellate-courts/F3/782/867/>
- Container Corp. (exchange of pricing info among concentrated firms): <https://supreme.justia.com/cases/federal/us/393/333/>

Sherman Act §1 (Count II – information exchange under rule of reason)

- **Product and geographic market:**
 - **Product:** Define “manufactured home lot leases” as distinct from detached single-family rentals and multifamily rentals with non-interchangeability supported by switching costs and move-out constraints.
 - **Geography:** Replace broad MSAs with commuting-based submarkets (e.g., drive-time polygons, school/work catchments) consistent with your own allegation that commuting distance constrains choice.
 - **Concentration:** Plead defendants' market shares in each submarket (lots under control / total lots), and HHI calculations where feasible.
- **Market power and effects:**
- **Market power:** Use share thresholds and HHI to show durable power.
- **Anticompetitive effects:** Allege supracompetitive rent levels relative to benchmarks, reduced price dispersion post-exchange, diminished quality/services, and consumer switching deterrence linked to shared future pricing.

Standards and references:

- U.S. Gypsum (rule-of-reason factors): <https://supreme.justia.com/cases/federal/us/438/422/>
- Agnew (market definition threshold burden): <https://law.justia.com/cases/federal/appellate-courts/F3/683/328/>

- RealPage (student-market commute constraints; MSAs nuance):
<https://www.courtlistener.com/opinion/10038553/in-re-realpage-inc-rental-software-antitrust-litigation-no-ii/>

Evidence sources you flagged that can be pled as plus factors

- **Defendants' IR claims about constrained supply:** ELS and Sun materials highlighting “virtually no new supply,” “strategic advantage,” and low move-out rates can support barriers-to-entry and lock-in, but must be paired with concentration metrics to carry weight.
- **Executive statements about Datacomp reports:** Partrich/Sukert/Nelson quotes are helpful; add internal usage documents, pricing playbooks, or directives referencing Datacomp fields.
- **Datacomp fields and “live updates”:** Screenshots or exemplars showing future effective dates and amounts, plus logs of when defendants accessed and acted on this data, are powerful.

What to avoid or use carefully

- **Trade association membership alone:** As the court says, “without more” this does not move the needle. Pair any MHI references with concrete post-meeting pricing actions, coordination artifacts, or special committees/policies suggestive of collusion.
- **Colorful quotes not tied to defendants:** Frank Rolfe’s statements can illustrate industry dynamics, but they must be tied to named defendants’ conduct to carry pleading weight.
- **Profit motive:** Not a plus factor. Use conduct-based plus factors instead.

RICO add-on: proceed with caution

- **Reality check:** Manufactured housing RICO claims have been dismissed at pleading/summary stages for lack of standing, failure to plead predicate acts with particularity, and causation gaps (e.g., Schalamar Creek outcomes).
- **If considered:**
 - **Predicates:** Plead concrete mail/wire fraud instances with Rule 9(b) particularity (who/what/when/where/how), or other valid predicates.
 - **Enterprise and pattern:** Define the enterprise distinctly from defendants, show relatedness and continuity.

- **Causation:** Tie the predicate acts directly to rent injuries.
- **Practical:** Unless you have strong, particularized fraud evidence, RICO may dilute the antitrust focus and invite dismissal. Antitrust refiling with tightened markets/plus factors is the cleaner path.

Schalamar Creek background:

<https://www.manufacturedhomeprnews.com/schalamar-residents-press-rico-ada-class-action-lawsuit-claims-vs-northwest-mutual-murex-properties-steve-adler-et-al-plus-manufactured-housing-stocks-updates/>

Quick checklist for the amended complaint

- **Parallel conduct:** Specific property-level rent increases by defendant, aligned in time/value; include charts tying actions to Datacomp access.
- **Plus factors:**
 - **Information exchange particulars:** Non-public future pricing fields, reciprocity, and temporal links to rent decisions.
 - **Communications:** Emails/notes/agendas showing pricing coordination or shared strategies.
 - **Self-interest:** Explain why sharing future pricing is competitively harmful absent agreement.
- **Rule-of-reason (Count II):** Narrow geographic markets; add market shares/HHI; plead anticompetitive effects beyond price levels (e.g., reduced dispersion, services).
- **Unjust enrichment:** Keep as an alternative but expect it to ride the fate of antitrust claims—ensure jurisdiction-specific elements if pursued later.
- **Deadlines:** File by January 5, 2026; prepare to meet NDIL local rules and any judge-specific standing orders.

Helpful authorities and references

- Twombly: <https://supreme.justia.com/cases/federal/us/550/544/>
- Iqbal: <https://supreme.justia.com/cases/federal/us/556/662/>
- Interstate Circuit: <https://supreme.justia.com/cases/federal/us/306/208/>
- Toys “R” Us v. FTC (7th Cir.): <https://law.justia.com/cases/federal/appellate-courts/F3/221/928/>

- U.S. Gypsum: <https://supreme.justia.com/cases/federal/us/438/422/>
- Todd v. Exxon: <https://law.justia.com/cases/federal/appellate-courts/F3/275/191/>
- In re Broiler Chicken I (N.D. Ill.): <https://law.justia.com/cases/federal/district-courts/illinois/ilndce/1:16-cv-08637/330954/541/>
- In re Turkey (N.D. Ill.): <https://law.justia.com/cases/federal/district-courts/illinois/ilndce/1:19-cv-08318/371159/731/>
- In re RealPage (M.D. Tenn.): <https://www.courtlistener.com/docket/67110330/in-re-realpage-inc-rental-software-antitrust-litigation-no-ii/>
- Cleary v. Philip Morris: <https://law.justia.com/cases/federal/appellate-courts/F3/656/511/>

If you want, I'll turn this into a defendant-by-defendant pleading matrix that maps available evidence, plus factors, and market-share targets by submarket so counsel can file a sharpened amended complaint on time.



Copilot, useful and interesting, but not precisely what my point is. Perhaps there would be procedural reasons not to do the following, but it seems to me that the challenges for the plaintiffs are they put too much emphasis on the Datacomp piece and not enough (or no) emphasis on potential antitrust or RICO violations that do not rely solely upon specific price increases in this or that submarket. My other observation is that by limiting their arguments to MHCs, which are potentially valid, and ignoring the way that other industry players are essentially working with community operators (see Larson quote) may be a missed opportunity, IF there are no procedural reasons that bar the plaintiffs from making such adjustments to their arguments.



You've put your finger on a subtle but important strategic issue. Let's break it down in FEA terms:

1. Procedural posture and limits

- **Amendment scope:** Because Judge Valderrama dismissed *without prejudice* and gave leave to amend by Jan 5, 2026, plaintiffs are procedurally free to broaden their theory. They aren't locked into the Datacomp-only framing. Rule 15(a)(2) generally favors "freely" granting leave to amend unless there's undue delay, bad faith, or prejudice.
- **Constraints:** They must stay within the same case framework (Sherman Act §1, unjust enrichment). Adding RICO or new defendants is possible, but it risks challenges: defendants may argue the amendment is outside the scope of the leave or requires a new complaint. Courts often allow new factual theories, but adding entirely new statutory claims (like RICO) can trigger motions to strike or sever.
- **Practical:** If plaintiffs want to add RICO, they should be prepared to justify why it arises from the same nucleus of facts. Otherwise, they may need to file a separate action.

2. Overemphasis on Datacomp

- **Court's view:** The judge treated Datacomp's information exchange as a *facilitating practice*—potentially suspicious, but not enough by itself. The dismissal shows the court wanted more "plus factors" and market definition.
- **Risk:** If plaintiffs hinge everything on Datacomp, they risk repeating the same deficiency. Courts often require evidence of *agreement* or *coordinated conduct*, not just access to shared data.
- **Opportunity:** Plaintiffs could reframe Datacomp as *one piece* of a broader collusion ecosystem—trade association activity, executive statements, coordinated acquisitions, and financing arrangements.

3. Beyond MHCs: missed opportunities

- **Other industry players:** You're right that focusing only on community operators may miss the bigger picture. Financing arms (e.g., Clayton/21st Mortgage, Vanderbilt), producers, and trade associations (MHI) interact with operators in ways that can reinforce consolidation.
- **Larson quote and similar evidence:** Statements by industry leaders about coordinated strategies or barriers to entry could serve as "plus factors." Courts have credited such evidence when paired with parallel conduct (see *In re Broiler Chicken*).

- **Strategic expansion:** Plaintiffs could argue a vertical/horizontal conspiracy: lenders, producers, and operators working together to restrict supply, raise rents, and foreclose competition. That broadens the theory beyond Datacomp.

4. RICO angle

- **Potential:** RICO allows treble damages and can capture patterns of mail/wire fraud, extortion, or other predicate acts. If plaintiffs can show systematic misrepresentations (e.g., deceptive marketing, fraudulent reporting, coercive financing), RICO could supplement antitrust.
- **Challenge:** Courts are skeptical of RICO add-ons in housing/finance cases unless plaintiffs plead predicate acts with Rule 9(b) particularity. Without concrete fraud allegations, RICO risks dismissal.
- **Procedural caution:** Adding RICO now may complicate the case and invite motions to dismiss for improper expansion. Plaintiffs might be better off tightening antitrust pleadings first, then considering RICO separately.

5. FEA conclusion

- **Facts:** Court dismissed without prejudice, citing lack of plus factors and market definition.
- **Evidence:** Datacomp reports show information exchange, but not enough alone. Executive statements, trade association conduct, and vertical ties are available but underused.
- **Analysis:** Plaintiffs should broaden their theory to include collusion across the ecosystem (operators, lenders, producers, trade groups). Procedurally, they can amend to add factual breadth, but adding RICO may be riskier.
- **Actionable path:**
 - Refile with sharpened antitrust pleadings: specific parallel conduct, plus factors, market shares.
 - Integrate Larson-type quotes and trade association evidence.
 - Consider RICO only if they have strong fraud predicates; otherwise, keep focus on Sherman Act §1.

👉 If you'd like, I can sketch a **pleading matrix**: mapping each defendant to potential plus factors (Datacomp use, trade association activity, executive statements, acquisitions,

financing ties). That would give plaintiffs a roadmap for a stronger amended complaint. Would you like me to build that matrix?