

NYSBA ANTITRUST LAW SECTION – 2016 CHAIR’S REPORT

Overview

2016 has been another banner year for the Antitrust Law Section. We have held numerous meetings, conferences and other events, most often featuring interesting speakers on antitrust topics. Committee activities have provided additional opportunities for involvement and development of our junior members. And we have come up with new and innovative ways to enhance our membership and benefit from our surplus.

In addition to maintaining the high level of programming and activity from prior years, particular developments have included the reorganization of the Committee structure (including placing new leadership in several committees and establishing a new Cartel and Criminal Practice Committee); developing a new mentorship program; developing a trial practice program; and expanding our diversity fellowship program.

This Report summarizes the Section’s activities for 2016 and acknowledges Executive Committee and other members who have made special contributions throughout the year.

2016 Annual Meeting & Dinner

- Thanks to all the Executive Committee members and other Section members who organized panels and participated as speakers in a superb day of substantive programs.
- The 2016 meeting proceedings have been published as the *Antitrust Law Section Symposium* and made available on the website as well as in hard copy. Thanks to Bob Hubbard for his work on this each year.
- At our Annual Dinner in January, William H. Rooney was awarded the 2016 Lifland Award, which is made annually to a distinguished antitrust practitioner in recognition of his or her contributions and accomplishments in the field of antitrust and service to the Antitrust Section. Bruce Prager gave the introductory remarks. Bill’s acceptance speech and Bruce’s remarks can be read in the *Symposium*.

Membership

- Membership has remained fairly stable. Current membership is 557 (12/1/16), slightly up from 544 in 2015 and 531 in 2014.
- **Meetings:** The membership committee has been meeting quarterly to discuss outreach and membership development.
- **Outreach:** The committee has consistently followed up after events with letters to non-members who attend to invite them to join the Section. In addition, the committee assisted at other new lawyer events with the aim of developing new members.
- **Membership Challenge:** In response to the NYSBA’s 2-year Membership Challenge, we have developed two new programs that will debut in 2017 – a mentorship program and a trial practice seminar program. It is hoped that these programs will lead to new members, particularly among the junior bar.
- **Thanks to:** Hollis Salzman for her leadership of the membership committee, and all membership committee members.

Finances

- The Section continues to run at a healthy surplus, which gives us great flexibility and opportunities to develop new programs.
- **Thanks to:** Nick Gaglio, who relinquishes the Finance Officer seat in January, and Ilene Gotts, Hollis Salzman and Michael Weiner, who organize the Section's sponsorship program each year.

Communications

- Publicity for our events and website content has been managed more effectively with dedicated attention and coordination with NYSBA staff.
- **Thanks to:** Kerin Coughlin and Stuart Lombardi (from late Fall 2016).

Diversity

- **Events:** Members of the committee attended NYSBA diversity events throughout the year.
- **Recruiting:** The committee recruited new, diverse Section members at Section events and by attending diverse bar association events during the year.
- **Panels:** The committee encouraged having diverse panelists and speakers for programs.
- **Thanks to:** Wendy Waszmer for her leadership of this function.

Fellowship Program

- Each year, the Antitrust Law Section awards Antitrust Law Section Summer Fellowships to one or more current law students, who spend the summer working (with the benefit of a \$6000 stipend) at the Northeast Regional Office for the Federal Trade Commission, the New York Office of the Department of Justice, Antitrust Division, or the Antitrust Bureau of the New York Attorney General's office. The Fellowships are an aspect of our diversity initiatives, and emphasis is placed on identifying and supporting worthy diverse candidates.
- **Winners:** Four law students were awarded the Fellowship for Summer 2016: one worked at the FTC, one at the DOJ, and two at NYAG. The winners have also been invited to attend the 2017 Annual Meeting and Dinner.
- **2017 Applications:** The application process for Summer 2017 is underway. The Section plans to continue offering four fellowships.
- **Thanks to:** Wes Powell for his leadership of this program, as well as the representatives of the three agencies and others who participate in the interview and selection process.

Mentoring Program

- New this year, we have created a program to match mentors (attorneys with 6+ years of experience) with mentees (law students or attorneys in first 5 years of practice) to provide guidance, including insight on how to get more involved in the Antitrust Section. The aims for the program include enhancing and developing junior membership. The kick-off for the pilot program is planned for January 2017.
- **Thanks to:** Terri Mazur, Virginia Tent, Erica Weissgerber, who have led this project.

Writing Competition

- **Winner:** The winner of the NYSBA Antitrust Section Writing competition for 2016 was Joseph Fielding of Cardozo Law School with a paper entitled *From Pay-For-Delay to Product Hopping: The Limited Utility of Antitrust Law in the Pharmaceutical Industry*. The winner has also been invited to attend the 2017 Annual Meeting and Dinner.
- **2016 Participants:** We had nine entries this year, including first-time submissions from Cornell and Harvard.
- **Thanks to:** Ned Cavanagh for his leadership of this program, as well as Steve Edwards and Steve Houck for sharing the labor of reviewing entries.

Trial Practice Program

- A three-day practical antitrust trial training program to take place for the first time during May 2017. The program will be run by Andrew Rossner, Associate Dean for Professional and Skills Education and Professor of Law at Rutgers Law School, Newark, and include Antitrust Section EC members as faculty and monitors. Aim to provide practical training for junior attorneys, and to enhance membership.
- **Thanks to:** Steve Houck and his committee.

Monthly Executive Committee Meetings

- Substantive programs included talks by Vinicius Marques de Carvalho (CADE); Darwin Neher and Dave Russo of Cornerstone (class certification in pharmaceutical cases); Professor Hillary Greene (antitrust and first amendment issues); Joel Mitnick (Sidley), Bob Hubbard (NYAG) and Scott Hemphill (NYU) (U.S. v. Apple); David Meyer (Morrison & Forester) and Dan O'Brien (FTC/Bates White) (minority ownership positions held by large institutional investors); David Kully (Holland & Knight), Elai Katz (Cahill Gordon) and Jennifer Selendy (Quinn Emmanuel) (U.S. v. American Express); Maurice Stucke (Virtual Competition); Bill Efron (FTC) and Jeffrey Brennan (McDermott, Will & Emery) (hospital mergers); and a program on BREXIT featuring Frederik Jenny held jointly with the ICC and USCIB Antitrust Committees.
- Substantive parts of EC meetings were open to all Section members as a benefit of membership.
- **Thanks to:** All EC members who led discussions or organized panels or speakers for EC meetings.

Committees

- 2016 saw a reformulated committee structure and the introduction of new committees – now we have five substantive committees, with numerous opportunities for leadership and involvement. Several members have “graduated from Committee leadership to the Executive Committee in 2016 and 2017.
- Committee descriptions and membership rosters available on website.

Cartel and Criminal Practice Committee (new in 2016)

- Leadership: Deirdre McEvoy, Stephen McCahey

- Program: *U.S. v. UK: Cartel Enforcement and Follow-On Civil Suits*, October 6, 2016.

Class Action Committee

- Leadership: Will Reiss, Erica Weisgerber
- Program: *REMS AND OTHER DRUG DISTRIBUTION RESTRICTIONS: When Does A Brand Company Have A Duty To Deal With Its Generic Rivals?*, November 3, 2016. Jointly organized with the Coordinated Conduct Committee and Food, Drug and Cosmetics Section.

Coordinated Conduct Committee (reorganized in 2016)

- Leadership: Kaj Rozga, Michelle Zolnoski
- Program: jointly organized the REMS panel (see above).

Mergers Committee

- Leadership: Yuni Yan Sobel, Kim Piro
- Programs: *The Dollar Store Merger Saga*, May 24, 2016; *Hospital Merger Antitrust Analysis*, September 16, 2016; *Nuts & Bolts of Second Requests*, December 1, 2016.

Unilateral Conduct Committee (new in 2016)

Other Programs/Events

Thanks to all the organizers of the following events:

- Annual Women's Panel and Networking Event, January 27, 2016 (Mary Marks & Hollis Salzman)
- NYSBA Antitrust Law Section Annual Meeting, January 28, 2016 (see above)
- *Insights and Opportunities: Hear from the Department of Justice on its Priorities for the Antitrust Enforcement in the Financial Industry and Network with Leading Women Practitioners*, March 3, 2016 (with ABA, NY City Bar)(Stacey Mahoney)
- *Spring Fling!* Cocktail Party: April 27, 2016 (Terri Mazur, Erica Weisgerber)
- *Why Antitrust?* Annual summer associates program with networking: June 17, 2016 (Ben Sirota, Nick Gaglio)
- *Trends in High-Tech Mergers*, Annual Summer Mergers Program, June 22, 2016 (Ilene Gotts)
- *Exploring Antitrust Law*, October 18, 2016 (with ABA)(Hollis Salzman)
- *Introduction to Antitrust Basics*, NYSBA CLE with webinar, November 17, 2016 (Adam Hemlock)
- *Reimagining Staples/Office Depot Across Borders in 2020: Third Time's the Charm?*, Annual Antitrust Law Section Fall Symposium, December 9, 2016 (Bill Rooney)

**Lisl Dunlop, Chair
December 2016**