

# **Speaker Biographies**



## Arthur J. Burke

PARTNER

New York | Northern California

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As a partner in Davis Polk's Litigation Department in New York and Northern California, Mr. Burke has represented clients in a variety of antitrust, securities, corporate governance and general litigation matters. In his antitrust practice, he also advises clients on the competition law aspects of mergers and acquisitions.

### Work Highlights

#### RECENT M&A-RELATED ANTITRUST REPRESENTATIONS

- Stewart Title in its proposed \$1.2 billion acquisition by Fidelity National Financial, Inc. (2018)
- SS&C, a global provider of financial services software and software-enabled services, in multiple transactions, including its:
  - \$1.5 billion acquisition of Intralinks (2018)
  - \$5.4 billion acquisition of DST Systems (2018)
  - \$321 million acquisition of Citi's alternative investor services business (2016)
  - \$2.3 billion acquisition of Advent Software (including a DOJ second request investigation) (2015)
- Equinix, a provider of global data center services, in multiple acquisitions, including its acquisition of data centers from Verizon (2017) and its acquisition of Switch and Data (including a DOJ second request investigation) (2009-10)
- Suez, a French-based multinational with operations in water, electricity, natural gas supply and waste management, in a DOJ review of its acquisition of the water treatment business of General Electric (2017)
- Chemtura, a specialty chemicals firm, in its \$2.7 billion acquisition by Lanxess (2017)
- NBCUniversal in its \$3.8 billion acquisition of DreamWorks Animation (2016)
- ARM Holdings plc, a semiconductor and software design company, in its \$38 billion acquisition by SoftBank Group Corp. (2016)
- Affymetrix, a provider of life science products and molecular diagnostic products, in its \$1.3 billion acquisition by Thermo Fisher Scientific (2016)
- Comcast, the nation's largest cable company, in:
  - A DOJ investigation of its \$3.6 billion spectrum sale to and commercial agreements with Verizon Wireless (2012)
  - DOJ and FCC investigations of its acquisition of a majority interest in NBCUniversal (2009-11)
- TE Connectivity in connection with its acquisitions of Creganna (2016), Deutsch Group SAS (2012) and ADC Telecommunications (2010) and its divestiture of its M/A-COM business (2007); also coordinated international merger approvals; all deals closed without conditions
- Blackbaud, an application software company, in a DOJ investigation of its acquisition of Convio (2012)
- SDI Health, a provider of healthcare analytics and market insights, in an FTC investigation of its acquisition by IMS Health; the transaction closed in 2011 pursuant to an FTC consent decree
- LoopNet, an online real estate marketplace, in an FTC investigation of its \$860 million acquisition by CoStar; the transaction closed in 2012 pursuant to an FTC consent decree

Mr. Burke has also provided antitrust advice in connection with the formation of joint ventures and standard-setting organizations and consortia.

#### RECENT LITIGATION REPRESENTATIONS

- Leading financial institutions in numerous antitrust suits alleging price-fixing and/or manipulation of financial benchmarks and financial instruments, including:
  - A major financial institution in an ongoing MDL antitrust litigation alleging a conspiracy to manipulate the LIBOR benchmark; in this matter, Mr. Burke and Davis Polk are liaison counsel for the joint defense group and have successfully obtained dismissals of multiple claims brought by various plaintiff groups and successfully defeated class certification for several purported classes, see, e.g., *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 2016-2 Trade Case (CCH) ¶79,860 (S.D.N.Y. 2016) (dismissing multiple claims because plaintiffs did not meet "efficient enforcer" criteria); 299 F. Supp. 3d 430 (S.D.N.Y. 2018) (denying class certification for multiple purported classes)
  - A major financial institution in an ongoing antitrust litigation alleging a conspiracy to manipulate the market for Mexican government bonds
  - A major financial institution in an ongoing antitrust litigation alleging a conspiracy to manipulate the ISDAfix benchmark rate
  - A major financial institution in an ongoing antitrust litigation alleging a conspiracy to manipulate foreign exchange rates
  - A major financial institution in an ongoing antitrust litigation alleging a conspiracy to block the exchange trading of interest rate swaps
- Comcast and NBCUniversal in a successful defense of a suit, challenging NBC's decision not to renew its affiliation agreement with a local broadcaster in Boston; the complaint was dismissed in 2016, see *WHDH-TV v. Comcast Corp.*, 186 F. Supp. 3d 109 (D. Mass. 2016)
- Comcast in:
  - Successfully obtaining summary judgment (after extensive discovery), disposing of a monopolization claim brought by a competitor in the advertising sales representation business, see *Viamedia, Inc. v. Comcast Corp.*, 2018 U.S. Dist. LEXIS 138661 (N.D. Ill. August 16, 2018)

### Practice Focus

- Litigation
- Antitrust and Competition
- Crisis Management for Corporate Boards and Officers
- Energy Litigation
- Internal Investigations
- M&A-Related Litigation
- Securities Litigation
- Trial Practice

### Bar Admissions

- State of New York
- State of California
- U.S. Court of Appeals, D.C. Circuit
- U.S. Court of Appeals, First Circuit
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. District Court, C.D. California
- U.S. District Court, E.D. California
- U.S. District Court, N.D. California
- U.S. District Court, S.D. New York

### Education

- B.A., University of Pennsylvania, 1989  
*magna cum laude*
- B.S., University of Pennsylvania, 1989
- J.D., University of Michigan Law School, 1992  
*magna cum laude*  
Editor, *Law Review*

- Successfully defending two lawsuits challenging certain territorial rules of the National Hockey League and Major League baseball (both of which were co-defendants); following a three-day hearing, the District Court denied certification of a damages class and granted a Daubert motion excluding plaintiffs' damages expert, see *Lauman v. NHL*, 105 F. Supp. 3d 384 and 117 F. Supp. 3d 299 (S.D.N.Y. 2015); the lawsuits subsequently settled on favorable terms in 2015 and 2016
- Successfully defending an antitrust suit in Los Angeles federal court challenging the alleged practice of selling cable channels in "bundled tiers"; Mr. Burke argued the appeal of this case for the joint defense group and the Ninth Circuit affirmed the dismissal of the case in 2012, see *Brantley v. NBC Universal, Inc.*, 675 F.3d 1192 (9th Cir. 2012)
- Successfully defending multiple antitrust lawsuits brought by cable networks challenging refusals to deal by Comcast and seeking compelled carriage, see, e.g., *Southern Entertainment Television v. Comcast*, 270 Fed. Appx. 747 (11th Cir. 2008); *America Channel v. Time Warner Cable, Inc.*, 2007-2 Trade Cas. (CCH) ¶75,833 (D. Minn. 2007)
- Successfully defending two 2009 trials before an FCC administrative law judge concerning "discrimination" claims brought by sports programming channels; both matters settled on favorable terms
- Successfully defending a suit seeking to challenge the FCC's approval of Comcast's acquisition of AT&T Broadband; Mr. Burke successfully argued that matter before the D.C. Circuit, see *Consumer Fed. of Am. v. FCC*, 348 F.3d 1009 (D.C. Cir. 2003)
- Oracle Corporation in:
  - A 2007 lawsuit in Santa Clara Superior Court seeking to block its \$500 million acquisition of Agile Software; the court denied the plaintiffs' motion for a preliminary injunction and the case was dismissed with prejudice
  - Litigation and a two-week trial arising out of its unsolicited tender offer for PeopleSoft, including a two-week trial in Delaware Chancery Court; Oracle acquired PeopleSoft in January 2005
- Various companies and individuals in nonpublic criminal grand jury investigations alleging price-fixing conspiracies among competitors

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## Recognition

Mr. Burke is listed as a leading lawyer for Antitrust and Competition in numerous legal industry publications, including:

- *Chambers Global*
- *Chambers USA*
- *The Legal 500 U.S.*
- *Benchmark Litigation*
- *Expert Guide*
- *Who's Who Legal—International*
- *U.S. News – Best Lawyers*
- *Law360* – "Competition MVP of the Year," 2013

Mr. Burke is a member of Davis Polk's Antitrust Group, which was named:

- *Law360* – "Competition Group of the Year," 2012, 2014, 2015 and 2016
- *U.S. News – Best Lawyers Best Law Firms* – "Law Firm of the Year," 2013

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## Of Note

- Speaker at numerous antitrust seminars and conferences

## CURRENT MEMBERSHIPS

- Publications Officer, Section of Antitrust Law, American Bar Association, 2018-present

## PAST MEMBERSHIP

- Council Member, Section of Antitrust Law, American Bar Association, 2015-2018
- Chair, Media & Technology Committee, Section of Antitrust Law, American Bar Association, 2012-2015
- Co-Chair, Antitrust Section's Intellectual Property Committee, American Bar Association, 2009-2012
- Member, Antitrust Committee and Mergers Subcommittee, New York City Bar, 2001-2003

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## Professional History

- Partner, 2000-present
- Associate, 1993-2000
- Law Clerk, Hon. Douglas H. Ginsburg, U.S. Court of Appeals, D.C. Circuit, 1992-1993



## Seth C. Farber

Partner

Co-Chair, White Collar, Regulatory Defense and Investigations Practice  
sfarber@winston.com

### Services

Antitrust / Competition, Litigation, Antitrust Litigation, Complex Commercial Litigation, White Collar, Regulatory Defense & Investigations, Compliance Programs, Class Actions, Government Investigations, Global Cartel Defense, Asia Competition & Regulatory Advice, False Claims, Government Program Fraud & Qui Tam Litigation, Latin America White Collar, Regulatory Defense & Internal Investigations, Latin America Antitrust/Competition

### Sectors

Financial Services & Banking, Professional Services, Health Care, Pharmaceuticals & Medical Devices, Retail & Consumer Products

### Clerkships

USDC - District of Massachusetts for the Honorable Joseph L. Tauro

### Court Admissions

Eastern District of Michigan, Eastern District of New York, Southern District of New York, USCA – 2nd Circuit, USCA - 4th Circuit, USCA - 5th Circuit, USCA - 6th Circuit, USCA - 9th Circuit, USCA - 10th Circuit, USCA – 11th Circuit, U.S. Supreme Court

Seth Farber has tried numerous federal cases to juries and is an experienced appellate advocate who has argued both civil and criminal appeals in federal circuit courts around the country. He has also provided pro bono representation to indigent criminal defendants, both as a member of the Criminal Justice Act Panel in the Southern District of New York, and as appointed counsel in other jurisdictions.

Prior to joining the firm, Seth worked for five years as an Assistant U.S. Attorney for the Southern District of New York, where he concentrated in prosecuting white collar crime, including commercial fraud and securities fraud. Following his graduation from law school, he was a law clerk for the Honorable Joseph L. Tauro, U.S. District Judge for the District of Massachusetts.

### Experience

#### Representative Matters

- Represented Pennsylvania Attorney General Kathleen Kane in jury trial on charges of perjury, official oppression, and obstruction of justice
- Represented multinational corporations and executives in international criminal antitrust investigations of global cartels

- Represented multinational corporations and executives in parallel Foreign Corrupt Practices Act (FCPA) investigations by the Department of Justice (DOJ) and the SEC
- Represented senior executive of global investment bank in parallel investigations of foreign exchange markets by DOJ Fraud Section, DOJ Antitrust Division, and SEC
- Represented Deutsche Bank in criminal tax shelter investigations and parallel nationwide fraud and civil Racketeer Influenced and Corrupt Organizations Act (RICO) litigation
- Represented BNP Paribas (BNPP) executive in connection with parallel criminal investigations of BNPP for violations of U.S. sanctions law
- Represented board of directors of a public company in connection with a FCPA investigation of one of its members
- Represented Gregory Bell, hedge fund manager and owner of Lancelot Investment Management, LLC, in parallel federal criminal prosecution and SEC enforcement action
- Represented the outside directors of Kmart Corporation in connection with investigations by the DOJ, the SEC, and Congress, as well as in breach of fiduciary duty litigation regarding Kmart's 401(k) plan
- Represented the controller of Dreier LLP in connection with investigations by the DOJ and SEC
- Representation of an investment bank in civil litigation and government investigations relating to the collapse of National Century Financial Enterprises, Inc
- Represented Omnicare, Inc. in its successful hostile tender offer for NCS Healthcare, Inc
- Internal investigation of accounting issues for the Audit Committee of a Fortune 500 company
- Internal investigation of suspected accounting errors for the Audit Committee of the Board of Directors of Warnaco
- Represented a mutual fund executive in connection with parallel investigations by the New York State Attorney General and the SEC
- Represented an investment banker in connection with the research analyst investigations conducted by the New York State Attorney General and the National Association of Securities Dealers (NASD)
- Represented a former Arthur Andersen partner in Enron matters
- Represented a former CEO in an insider trading investigation
- Represented the CEO of a pharmaceutical distribution company in a federal grand jury investigation into counterfeit drugs

## Honors & Awards

Seth has been named a "Recognized Practitioner" by *Chambers USA* 2018 in the area of New York Litigation: White-Collar Crime & Government Investigations and ranked in *Chambers USA* 2012–2014 as one of the nation's top lawyers in tax fraud practice. In 2018, Seth was also recognized in *The Legal 500* for Cartel and Corporate investigations & White-Collar Criminal Defense. From 2006-2018, Seth has been consistently recognized by *Super Lawyers* (New York-Metro) in the fields of White Collar Criminal Defense, Business Litigation, and Securities Litigation. He is part of the group awarded the "2015 Team of the Year" in Cartel Defense by *The Legal 500*. Seth also received the "Burton Award for Legal Achievement" in 2007.

## Activities

Seth is a member of the American Bar Association's Litigation and Antitrust Sections and is Vice-Chair of the Cartel and Criminal Practice Committee of the New York State Bar Association's Antitrust Section. He is also a member of

the Federal Bar Council and Vice-President of the Federal Bar Foundation, as well as a former Trustee of the Council and former Chair of the Council's Program Committee.

## Credentials

Seth received a B.A., *summa cum laude*, from Harvard University in 1986, and a J.D., *cum laude*, from Harvard Law School in 1989, where he was an Editor for the *Harvard Law Review*.

## Publications & Speaking Engagements

### Speeches and Panels

- "Cross-border transactions: The Importance of Proactive Risk Management Under the U.S./Mexico Regulatory Framework," Winston & Strawn and Kaye Trueba Abogados Co-Hosted Program, Mexico City, Mexico, August 7, 2018
- "Criminal Practice: Recent Leniency Developments in North America," New York State Bar Association Antitrust Section Annual Meeting, January 25, 2018
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- “Corporate Remediation: One Justice Department, Two Approaches...And Now a Third?,” *American Bar Association, Section of Antitrust Law, Cartel & Criminal Practice Committee Newsletter*, Fall 2014
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- “Klein Conspiracies In The Wake Of US V. Coplan,” *Law360*, March 4, 2013
- “An Unnecessary Complication to Defending International Cartel Investigations: Is it Really Necessary for U.S. Counsel To Travel Overseas To Review Foreign Documents?,” *American Bar Association, Section of Antitrust Law, Cartel & Criminal Practice Committee Newsletter*, October 2010
- “War on Tax Fraud and in Afghanistan: Who Knew They Were Linked?” *New York Law Journal*, May 10, 2010
- “Definitely Avoid ‘Utter Failure’: Dodging Risk Can Be a Taxing Job,” *Corporate Counsel* at [www.law.com](http://www.law.com), April 7, 2010
- Co-editor, *Antitrust Enforcement: Focus on Criminal Cartels*
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- “Cooperating with the Government In Corporate Criminal Investigations: Has Andersen Changed the Landscape?” *American Bar Association Annual Meeting, Section of Litigation Written Materials*, August 2002



## JAMILLIA P. FERRIS

**Partner**  
*Antitrust*

### Contact Information

1700 K Street NW  
Fifth Floor  
Washington, DC 20006  
Phone | 202-973-8843  
jferris@wsgr.com

### Areas of Expertise

Antitrust and Intellectual Property  
Antitrust Litigation

### EXPERIENCE:

Jamillia Ferris is a partner in the Washington, D.C., office of Wilson Sonsini Goodrich & Rosati, where she is a member of the antitrust practice. She regularly appears before the U.S. Department of Justice (DOJ) and the Federal Trade Commission, representing companies in government antitrust investigations, including mergers and acquisitions and other civil antitrust matters. Jamillia also provides antitrust counseling on a wide range of business conduct, including joint ventures and pricing and distribution, among others.

Jamillia served in leadership positions and has overseen mergers at both the Antitrust Division of the DOJ and the Federal Communications Commission (FCC). She was hired in 2014 to lead the FCC's review of AT&T's proposed \$49 billion acquisition of DIRECTV. In this role, she directed all aspects of the FCC process, including coordination with the DOJ. She was also a member of the steering committee overseeing the FCC's review of Comcast's proposed \$45 billion acquisition of Time Warner Cable.

Jamillia also served as chief of staff and counsel to the assistant attorney general of the DOJ's Antitrust Division.

### SELECT REPRESENTATIONS:

Jamillia has provided antitrust representation to clients with respect to the following recent matters:

- Microchip in its acquisition of Microsemi
- Brocade in connection with its sale to Broadcom
- iControl in connection with its sale to Alarm.com
- Cvent in connection with its acquisition by Vista Partners
- NetSuite in connection with its acquisition by Oracle
- Coherent in its acquisition of ROFIN-SINAR Technologies

### EDUCATION:

- J.D., Georgetown University Law Center  
*Cum Laude; Editor-in-Chief, The Tax Lawyer*
- B.A., The George Washington University

### ASSOCIATIONS AND MEMBERSHIPS:

- Vice Chair, Media and Technology Committee, Section of Antitrust Law,

American Bar Association, 2015-present

- Vice Chair, Intellectual Property Committee, Section of Antitrust Law, American Bar Association, 2013-2015
- Co-Chair, Fall Forum Conference, Section of Antitrust Law, American Bar Association, 2014
- Vice Chair, Professional Development Committee, Hispanic Bar Association of the District of Columbia, 2014
- Non-Governmental Advisor, International Competition Network, 2013-2014

**SELECT PUBLICATIONS:**

- Co-author, "Lessons from the ATT/Time Warner Decision," WSGR Alert, June 18, 2018
- Co-author with S. Creighton, T. Hoang, and R. Maddock, "Innovations Market Analysis: Twenty Years On" chapter, *Douglas H. Ginsburg: An Antitrust Professor on the Bench*, Vol. 1, Institute of Competition Law, 2018
- "Antitrust in the Trump Administration: New Landscape, Still Enforcing," *Corporate Counsel Business Journal*, January 17, 2018
- Co-author, *2017 Antitrust Year in Review*, WSGR publication, January 4, 2018
- Co-author, "DOJ Reminds Companies That Expiration of HSR Waiting Period Is Not Always the Antitrust Agencies' Final Say," WSGR Alert, October 3, 2017
- Co-author, "Tips for Negotiating a Third-Party Subpoena in a Merger Investigation," WSGR Alert, June 21, 2017
- Co-author with T. Serra, "DOJ Sues to Block Halliburton's Purchase of Competitor Baker Hughes," WSGR Alert, April 11, 2016
- Co-author, "Unlocking the Set-Top Box and Access to Video Programming—The FCC's Latest Foray into Video Competition," WSGR Alert, February 22, 2016
- Interview: FCC Merger Review, Fall/Winter 2015 edition of *The Threshold*, Mergers and Acquisitions Committee, ABA Section of Antitrust Law, Vol. 16, No. 1
- Co-author with C. Olsen, "Five Things to Know About Net Neutrality," WSGR Alert, December 10, 2015

**SPEAKING ENGAGEMENTS:**

- Panel Moderator, "What Can Regulation Learn from Antitrust? And Vice Versa?" The 46th Research Conference on Communications, Information, and Internet Policy, American University Washington College of Law, Washington, D.C., September 22, 2018
- Speaker, "DC Regulatory: Spotlight on Antitrust and CFIUS," Ivy Associates and Silicon Valley Association of General Counsel 2017 All Hands Meeting, October 18, 2017
- Panelist, "Broadcasting to a Different Audience: Interagency Review in Telecomm Mergers," ABA Section of Antitrust Law, Mergers and Acquisitions Committee, May 3, 2017
- Panelist, "Invitations to Collude: A Brown Bag Panel," ABA Section of Antitrust Law, Cartel and Criminal Practice Committee, May 1, 2017

- Moderator, "2016 Merger Challenges Retrospective," GCR Live 6th Annual Antitrust Law Leaders Forum, Miami, Florida, February 3, 2017
- Speaker, "Regulatory Expectations from the New Administration," WSGR panel presentation, Menlo Park, California, January 25, 2017
- Moderator, "An Obama Retrospective," GCR Live Fourth Annual New York, New York, November 7, 2016
- Panelist, "Prospectives on Government Service Advancing Careers," Women in Law Empowerment Forum, Washington, D.C., October 13, 2016
- Speaker, "Consumers v. the Public Interest: Divergent Merger Standards?" ABA Section of Antitrust Law Spring Meeting, Washington, D.C., April 7, 2016
- Panelist, "A Hands-On Review of a Telecommunications Merger Challenge," The State Bar of California, Antitrust, UCL and Privacy Section webinar, March 3, 2016
- Panelist, "Future of Broadband Competition," The Capitol Forum's Second Annual Future of Broadband Competition Conference, December 17, 2015
- Speaker, "Merger Review: A Recap of the Comcast/Time Warner Cable/Charter and AT&T/DIRECTV Proceedings," Federal Communications Bar Association Transactional Practice Committee CLE Seminar, November 17, 2015
- Speaker, "Nuts and Bolts of FCC Merger Review," ABA Section of Antitrust Law, November 16, 2015
- Moderator, "PAEs: Privateering, Purchasing, and Patent Reform," ABA Antitrust Intellectual Property Conference, 2015
- Luncheon Speaker, "One Practice, Many Paths," The Grapevine, Women's Network of Competition and Consumer Protection Professionals, 2015
- Panelist, "Are Antitrust Attacks on Patents Harming Innovation," ABA Section of Antitrust Law Spring Meeting, 2015
- Panelist, "Hot Topics in Antitrust," Hispanic National Bar Association National Convention, 2014
- Moderator, "Antitrust Fundamentals," ABA Section of Antitrust Law Spring Meeting, 2014
- Panelist, "Social Media and Competition Policy," New York State Bar Association Antitrust Section Annual Symposium, 2014
- Moderator, "Patent Commitments Outside of Standard-Setting Organizations," ABA Section of Antitrust Law, Intellectual Property Committee Brownbag, 2013
- Moderator, "State Action on the Rocks," ABA Section of Antitrust Law Fall Forum, 2013

**ADMISSIONS:**

- Bar of the District of Columbia
- State Bar of Maryland

Harry First is the Charles L. Denison Professor of Law at New York University School of Law and Co-Director of the law school's Competition, Innovation, and Information Law Program. He was twice a Fulbright Research Fellow in Japan and taught antitrust as an adjunct professor at the University of Tokyo. From 1999-2001 he served as Chief of the Antitrust Bureau of the Office of the Attorney General of the State of New York. Professor First's recent scholarly writing includes a study of the Microsoft litigation, *The Microsoft Antitrust Cases: Competition Policy for the Twenty-first Century* (co-authored with Andrew Gavil), the casebook *Free Enterprise and Economic Organization: Antitrust* (co-authored with John Flynn and Darren Bush), and various book chapters and law review articles. Professor First is a contributing editor of the *Antitrust Law Journal*, foreign antitrust editor of the *Antitrust Bulletin*, a member of the Executive Committee of the Antitrust Section of the New York State Bar Association, a member of the Advisory Board and a Senior Fellow of the American Antitrust Institute, and a Fellow of the Innovators Network Foundation. He was awarded the William T. Lifland Service Award by the Antitrust Section of the New York State Bar Association in 2017.

Eleanor M. Fox is the Walter J. Derenberg Professor of Trade Regulation at New York University School of Law, where she specializes in antitrust law and international and comparative competition policy with a focus on Europe and developing countries. She was a partner in the New York law firm Simpson Thacher & Bartlett. She served as a member of President Carter's antitrust commission and President Clinton's international competition advisory committee.

Fox received her law degree from New York University School of Law in 1961 and an honorary doctorate degree from the University of Paris-Dauphine in 2009. She was awarded an inaugural Lifetime Achievement award in 2011 by the Global Competition Review for "substantial, lasting and transformational impact on competition policy and practice." She received the inaugural award for outstanding contributions to the competition law community in 2015 by ASCOLA, the world network of professors of antitrust law and economics. She was awarded the Lifetime Achievement Award of the Antitrust & Economic Regulation Section of the Association of American Law Schools in 2017. Her books include *Global Issues in Antitrust and Competition Law* with Daniel Crane, 2d ed. West 2017, *EU Competition Law* casebook with Damien Gerard, Elgar 2017, *The Design of Competition Law Institutions* edited with Michael Trebilcock, Oxford 2013, and *US Antitrust in Global Context* casebook, 3d ed. West 2012. Her book with Mor Bakhoun, *Making Markets Work for Africa: Markets, Development and Competition in Sub-Saharan Africa*, will be published by Oxford University Press in January 2019.

December 2018

**John Harkrider** co-chairs Axinn's antitrust practice and has worked on some of the largest and most significant antitrust matters over the last 20 years. He has been lead or co-lead counsel on nearly half a trillion dollars' worth of M&A deals, including cross-border deals such as Thermo Fisher/Life Technologies and Ball/Rexam and Google/ITA. He was named American Lawyer's Litigator of the Week for his representation of Google, and GCR's Lawyer of the Year for his representation of Tyson and Thermo Fisher. He has represented Google, Motorola Mobility and Red Hat on competition deals involving standard essential patents and privateering and has represented Stanley Black & Decker, Tyson and United Technologies in Sherman Act litigation in multiple courts across the United States.

**Adam Hemlock** is a partner in Weil's Antitrust Practice Group. He regularly represents clients in civil and criminal antitrust investigations and litigations, as well as commercial litigations and disputes.

Adam has been recognized in a variety of legal and business publications for his work on civil and criminal antitrust matters, including as a leading lawyer nationwide and in New York by *Chambers USA*, a recommended lawyer nationwide by *Legal 500*, and a "Future Star" in New York by *Benchmark Litigation*. *Chambers USA* reports that Adam has a "particularly impressive practice," and "is respected in the market for his adept handling of criminal cartel investigations." According to peers, he is a "really exceptional lawyer" and is commended for his "business sense and practical advice."

Adam regularly represents clients in criminal antitrust investigations by the U.S. Department of Justice, and has served as lead coordinating counsel for clients under investigation in multiple jurisdictions, including the European Union, Japan, Canada, Mexico, Korea, Taiwan, Singapore and Brazil. Adam routinely defends clients in cartel class action lawsuits across the United States. In addition to cartel litigation, Adam has handled a variety of private antitrust litigation cases, including disputes regarding exclusivity, bundling/tying, joint ventures and group boycotts. Adam has substantial experience in the antitrust/intellectual property area, where he has litigated cases and counseled clients on the antitrust legality of patent pools, standard setting activities, and technology transactions among competitors. He has also represented clients in merger counseling and notifications under the Hart-Scott-Rodino (HSR) Act. In addition to his work in the antitrust area, Adam has represented clients in various commercial dispute matters, including complex commercial litigation and alternative dispute resolution procedures. He has particular experience representing foreign clients in U.S. legal proceedings.

Adam has worked on behalf of many major domestic and foreign clients, including Panasonic, Bridgestone, Chemtrade, United HealthCare, Taiyo Yuden, S&P Global, Sumitomo Heavy Industries, JVC Kenwood, Interstate Batteries, Calsonic Kansei, Copyright Clearance Center, Toray Industries, Kyowa Hakko Kogyo, Polyplastics, Vantec, Pegatron, American Airlines, Telecom Italia, Medpointe, Houghton Mifflin Riverdeep, Global Foundries, Mitsubishi Heavy Industries, Texas Instruments, Perricone, Reuters, Denak, Iridian, DirecTV, Hughes Aircraft, Sumitomo Chemical, Sony Pictures Entertainment, and others.

Adam is currently a Vice-Chair of the Cartel and Criminal Practice Committee of the ABA Antitrust Section, and previously served as Vice-Chair of the Intellectual Property Committee. He is a member of the executive committee of the New York State Bar Association Antitrust Section. He is a member of the Board of Directors of Practising Attorneys for Law Students Program, Inc., a member of the New York City Bar Association Committee on Minorities in the Profession, and a leader of Latinos@Weil, the Firm's Hispanic affinity group. He heads the Firm's Asylum Practice Team and routinely represents asylum applicants in administrative proceedings before the Department of Homeland Security and in federal courts.

Adam is an adjunct professor at Columbia Law School, where he teaches a class on international antitrust cartels. He has lectured at Fordham Law School, Benjamin N. Cardozo School of Law, the Practising Law Institute, the Japan Business Federation (Keidanren) and other venues. Adam previously served as a legal intern at the Federal Trade Commission, where he worked on several antitrust and consumer protection investigations. Adam also worked for Panasonic Corporation in Japan as legal counsel for two years, where he advised the company on a variety of dispute, regulatory, and transactional matters. He is a contributing author to *Antitrust Adviser* and the ABA's *Antitrust Law Developments*, and has appeared on Japanese national television on the subject of e-discovery and U.S. litigation.

## Biography



Eric S. Hochstadt is a partner in Weil's Litigation Department. Mr. Hochstadt's practice focuses on civil antitrust, class action, and other complex and sports-related litigation, as well as criminal cartel investigations and antitrust counseling. He has represented clients in a broad range of industries, including broadcasting, e-commerce, electronics, financial services, pharmaceuticals, private equity, publishing, and transportation.

Mr. Hochstadt has extensive experience with consumer and antitrust class action litigation, as well as antitrust lawsuits and commercial disputes between rivals or suppliers and distributors. He has litigated in state and federal courts around the country and participated in confidential arbitrations. He has litigated numerous dispositive and strategic motions, appeals, and has facilitated a number of favorable settlements, on behalf of litigation teams representing clients including CBS, eBay, Houghton Mifflin, GE, MasterCard, and StubHub, among others.

Mr. Hochstadt is recognized by *Chambers USA* as a "Leading" Lawyer for Antitrust in New York, by *Legal 500* as a recommended lawyer for Antitrust nationwide and a "Next Generation Lawyer" for the Sports industry, and by *Best Lawyers in America* for Litigation - Antitrust. On a nationwide basis, *Benchmark Litigation* has named Mr. Hochstadt a Future Star in 2018 following three consecutive years on its "40 & Under Hot List", *Law360* has listed him as a "Rising Star" in 2015 for Competition and in 2018 for Class Action litigation, and *Euromoney* has named him "Best in Litigation: General Commercial" in its inaugural "Americas Rising Stars Awards" in 2018.

Mr. Hochstadt is a Lecturer in Law at Columbia Law School teaching an advanced seminar on "U.S. Civil and Criminal Enforcement of International Cartels." He also is a leader on the Economics Subcommittee of the ABA Section of Litigation's Expert Witness Committee. In addition, he serves as Co-Chair of the Benjamin N. Cardozo School of Law Alumni Mentor Program for law students. Mr. Hochstadt also regularly speaks and writes on a wide variety of issues.

Mr. Hochstadt began his career with the firm in 2003, following the receipt of his J.D. degree, magna cum laude and Order of the Coif, from the Benjamin N. Cardozo School of Law, where he was a Notes Editor on the *Cardozo Law Review*. Mr. Hochstadt received his B.A. degree in Political Science, High Distinction, from the University of Michigan in 2000. From 2006-07, Mr. Hochstadt served as a judicial clerk for the Honorable Loretta A. Preska, the former Chief Judge of the US District Court for the Southern District of New York.

## Representative Matters

- *In re: Wholesale Grocery Products Antitrust Litigation*, MDL No. 02090 (D. Minn.) – As lead trial counsel, secured a complete defense jury verdict for C&S Wholesale Grocers in a multi-hundred million dollar antitrust class action alleging that C&S and Supervalu entered into a conspiracy to allocate certain geographic markets in violation of the Sherman Act. Mr. Hochstadt was recognized along with Weil partner David Lender as *The American Lawyer's* "Litigators of the Week," in which the publication called the case "An Antitrust Unicorn – With \$800M on the Line." The team also won *Global Competition Review's* "Litigators of the Week" accolades for its role in securing this win.
- *In re McGregor-Mayweather Boxing Match Pay-Per-View Litigation*, MDL Docket No. 2806 – Successfully obtained the early dismissal of Showtime Networks from a series of putative class actions arising out of the August 2017 boxing match between Floyd Mayweather and UFC star Conor McGregor. This outcome followed a ruling granting Showtime Networks' motion to compel arbitration on an individual basis.
- *Lightbourne v. Printroom, et al.*, No. 8:13-cv-00876-JLS (C.D. Cal.) – Represented CBS Interactive in a putative nationwide right of publicity class action regarding photographs of NCAA student-athletes made available for sale on universities' athletic department websites. Mr. Hochstadt and the Weil team successfully obtained a denial of class certification and grant of summary judgment dismissing the named plaintiff's individual claims.
- *Bais Yaakov of Spring Valley v. Houghton Mifflin Harcourt Publishers, Inc. et al.*, No. 7:13-cv-4577 (S.D.N.Y.) – Represented Houghton Mifflin entities and an employee in a putative nationwide Telephone Consumer Protection Act class action regarding alleged facsimiles advertising educational products that were supposedly sent to schools without their consent and without a proper opt-out notice. Weil successfully compelled arbitration of the school's claim on an individual basis.
- *Marshall et al v. ESPN Inc. et al.*, No. 3:14-cv-01945 (M.D. Tenn.) – Represented CBS in a putative nationwide right of publicity and antitrust class action regarding names, images and likenesses of student athletes in college football and basketball broadcasts. With counsel for other defendants, Mr. Hochstadt and the Weil team successfully moved to dismiss the lawsuit with prejudice. The dismissal was affirmed unanimously on appeal by the Sixth Circuit.
- *In re Auto Body Shop Antitrust Litig.*, MDL No. 2557 (M.D. Fla.) – Defending Farmers Insurance entities in nearly twenty cases brought by auto repair shops

across the country alleging antitrust, RICO, and other violations of state law to artificially suppress reimbursement rates. With counsel for other insurance carriers, Mr. Hochstadt and the Weil team successfully consolidated these cases for pretrial proceedings. Thus far the RICO complaint has been dismissed against the Farmers Insurance entities.

- *Meredith Corporation, et al. v. SESAC LLC, et al.*, No. 09-cv-9177 (S.D.N.Y.) – Successfully represented a group of local television stations as plaintiffs in a putative class action alleging violations of Sections 1 and 2 of the Sherman Act based on SESAC’s licensing practices for access to its repertory of musical performances. Mr. Hochstadt served as a lead attorney in successfully opposing summary judgment thus ensuring that plaintiffs would get to a jury trial, and subsequently entered into a very favorable industry-wide class action settlement that provided \$42.5 million in refunds and placed various restrictions on SESAC’s dealings with local television stations over a 20-year period.
- *Adams Book Company, Inc. v. Houghton Mifflin Harcourt Publishing Company*, No. 1:14-cv-04069 (E.D.N.Y.) – Representing Houghton Mifflin in a lawsuit by Adams Book Company claiming its distribution policies for resellers of its textbooks are anticompetitive and otherwise unlawful. Weil successfully opposed the application by Adams for a preliminary injunction to force Houghton Mifflin to do business with Adams on the same terms and conditions from when they did business in 2012. The court concluded that Adams failed to show irreparable harm from not being able to obtain Houghton Mifflin textbooks and Adams thereafter voluntarily agreed to dismiss the lawsuit with prejudice.
- *American Airlines, Inc. v. Sabre, Inc., et al.*, No. 067-249214-10 (Tex. Dist. Ct., Tarrant County); *American Airlines Inc. v. Travelport Ltd., et al.*, No. 11-0244 (N.D. Tex.) – Represented American Airlines in antitrust litigation arising out of disputes with the nation’s two largest global airline ticket distribution system (GDS) companies (Sabre Holdings and Travelport), as well as Orbitz Worldwide, an online travel agency partially owned by Travelport. American Airlines alleged that Sabre and Travelport imposed artificial barriers through their dealings with travel agencies, software developers and others to the adoption of American’s new “direct connect” technology that would allow American’s flight and fare information to bypass the GDSs and go directly to travel agencies. American Airlines sued in federal and state court for unlawful monopolization, unreasonable restraints of trade, and an illegal group boycott under federal and state antitrust law. With co-counsel, Mr. Hochstadt was involved in drafting the complaints, successfully opposing multiple motions to dismiss, participating in fact and expert discovery, and, in the case against Sabre, a jury trial. American Airlines ultimately secured favorable resolutions with each defendant.
- *Klein et al v. Bain Capital Partners, LLC et al.*, No. 1:07-cv-12388 (D. Mass.) – Represented Thomas H. Lee Partners (THL), one of the world’s largest private equity firms, in a putative nationwide antitrust class action in which shareholders of publicly-traded companies that were taken private in “club” leveraged buyouts that occurred between 2003 and 2007, and that involved purchase prices in excess of \$2.5 billion. Plaintiff alleged that THL and ten of the other largest private equity firms and investment banks in the world conspired to artificially

suppress the prices paid to shareholders through horizontal agreements to allocate deals, rig auction bids and refrain from competing with one another in violation of the Sherman Act. Mr. Hochstadt was a lead attorney in successfully obtaining summary judgment for THL.

- *Sirius XM Radio, Inc., v. SoundExchange, Inc., et al.*, No. 12-cv-2259 (S.D.N.Y.) – Represented leading satellite radio service provider suing the SoundExchange performance rights organization and an industry trade association for licensing practices and conduct that violate the federal antitrust laws, 15 U.S.C. §§ 1, 2. Mr. Hochstadt was a lead attorney in securing favorable settlements with each defendant to stop and prevent the conduct that gave rise to the lawsuit.
- *Hill v. StubHub, Inc., et al.*, No. COA11-685 (N.C. Ct. App.) – Represented StubHub, Inc. in securing a reversal on appeal and judgment in its favor in a putative consumer class action lawsuit alleging violations of North Carolina's ticket statute, N.C. Gen. Stat. § 14-344, and North Carolina's unfair and deceptive trade practices act, N.C. Gen. Stat. § 75-1.1, in connection with the resale of tickets to a "Miley Cyrus as Hannah Montana" concert. The case involved the scope of immunity under the Communications Decency Act – an issue of first impression under North Carolina law. Mr. Hochstadt was a primary drafter of the appellate brief.
- *Precision Associates, Inc., et al. v. Panalpina World Transport (Holding) Ltd., et al.*, No. 1:08-cv-00042 (E.D.N.Y.) – Representing Vantec World Transport entities in a putative treble damage class action lawsuit alleging that numerous air cargo freight forwarders conspired to fix or pass-on certain charges to customers. Mr. Hochstadt was a lead attorney involved in facilitating a favorable class action settlement in this matter, obtaining final approval at the district court, and having a most-favored nation's clause upheld against an objection from certain non-settling defendants.
- *Mitsubishi Heavy Industries, Ltd., et al. v. General Electric Co.*, No. 10-5087 (W.D. Ark.) – Represented GE in a lawsuit brought by a competitor alleging that GE is attempting to monopolize the U.S. market for variable speed wind energy turbines through the unlawful enforcement of its patents. Mr. Hochstadt was a primary drafter of GE's successful motion to stay Mitsubishi's antitrust and other claims in favor of the ongoing patent cases between the parties.
- *Weinstein v. eBay Inc., et al.*, No. 10-cv-8310 (S.D.N.Y.) – Represented eBay Inc., StubHub, Inc., and the New York Yankees Partnership in a putative consumer class action lawsuit alleging violations of New York's ticket statute, N.Y. ACAL § 25 et seq., and New York's deceptive trade practices act, N.Y. GBL § 349, in connection with the resale of Yankees tickets on StubHub's website. Mr. Hochstadt was a primary drafter of a successful motion to dismiss with prejudice for failure to state a claim.
- *Sanofi-Aventis U.S. LLC, et al. v. Sandoz*, Nos. 3:07-cv-02762 and 3:08-cv-02693 (D.N.J.) – Represented the patent holder and exclusive licensee in defending antitrust counterclaims asserted by a generic drug maker in patent infringement litigation involving Eloxatin®. Mr. Hochstadt was a lead drafter of the successful motion to bifurcate and stay discovery of the antitrust counterclaims pending resolution of the underlying patent case. He also provided settlement counseling



**ELAI KATZ**

Cahill Gordon & Reindel LLP

Elai Katz is a partner of Cahill Gordon & Reindel LLP in New York, where he leads the antitrust practice groups. His practice focuses on a wide range of antitrust law matters, including litigation, M&A, counseling, and government investigations.

Elai represents clients in the financial, insurance, pharmaceutical, and publishing industries, among others, in a variety of matters, including complex class actions alleging price fixing and monopolization. He has represented defendants in various benchmark cases, including *Foreign Exchange* and *LIBOR* (S.D.N.Y./2d Cir.), as well as exclusive dealing, in *Nicsand v. 3M* (6th Cir.), among many other matters, including representation of scholars in antitrust economics as *amici curiae* in *Ohio v. American Express*.

Elai has successfully guided a broad range of transactions through the antitrust regulatory review process. Elai has a strong record in obtaining quick and positive resolutions during the early phases of merger reviews and is attuned to the role global antitrust review plays in negotiating and completing mergers and acquisitions. He advises clients on antitrust compliance, joint ventures, distribution arrangements, trade association activities and interaction with competitors.

Elai writes and speaks frequently on antitrust topics. He writes an antitrust developments column in *The New York Law Journal* and is recognized among the top antitrust lawyers in New York by *Chambers USA*. He was chair of the Executive Committee of the New York State Bar Association's Antitrust Law Section and is Vice Chair of the ABA Antitrust Section's Corporate Counseling Committee.

Elai graduated from Yale University and Columbia Law School.

and has been involved in successfully defending against a generic drug maker's challenge to its settlement.

- *In re Currency Conversion Fee Antitrust Litig.*, MDL No. 1409 (S.D.N.Y.) – Represented MasterCard in defending against nationwide class action claims for allegedly conspiring with Visa and leading U.S. banks to charge a price-fixed currency conversion “fee.” Mr. Hochstadt was a primary drafter of the global settlement agreement and related papers that obtained final judicial approval.



Redefining risk management.



## David E. Kovel

David E. Kovel is a managing partner based in our New York office focusing on commodities, antitrust, whistleblower, securities and corporate governance matters. Mr. Kovel has been recognized as an expert on antitrust and commodities litigation and is a frequent commentator on these matters. He has an active appellate practice having argued significant commodities, antitrust and whistleblower matters before various appeals courts. Mr. Kovel also has an active pro bono practice. His work is more fully described below.

Mr. Kovel traded commodities for several years before attending business and law school. Prior to joining KM, Mr. Kovel practiced at Simpson Thacher & Bartlett LLP. He is fluent in Spanish and at one time played professional soccer in Nicaragua.

Mr. Kovel is a member of the New York City Bar Association Committee on Futures and Derivatives Regulation, and is a former member of the New York City Bar Association Antitrust Committee.

### Appellate Experience

- *Wacker v. JP Morgan Chase & Co.* (No. 16-2482) (2d Circuit) (achieved reversal under antitrust pleading standards and on behalf of traders of silver futures, alleged victims of market manipulation)
- *Doe v. United States Securities and Exchange Commission* (No. 17-4161) (2d Circuit) (Appeal of a whistleblower award under the Dodd Frank whistleblowers provisions of the Securities Exchange Act)
- *State Of New York, Ex Rel. Aniruddha Banerjee, Et Ano v. Moody's Corporation, et al.* (No. 103997/2012) (First Department) (responded to Moody's appeal in seminal tax case under the New York False Claims Act)
- *In re Libor-Based Financial Instruments Antitrust Litigation* including *Gelboim v. Credit Suisse Group AG*, (No. 17-1989) (2d Circuit) (involved in various appeals on pleading standards, jurisdiction, class certification and other matters stemming from this complex class action)
- *In re North Sea Brent Crude Oil Futures Litig.*, 13-md-02475-ALC (2d Circuit) (engaged in appeal on first impression issues related to extraterritoriality under the Commodity Exchange Act)
- *United States of America Ex Rel. Lawton v. Takeda Pharmaceutical Company, et al.*, (No. 16-1382) (1st Circuit) (argued appeal of whistleblower alleging violations of federal and state False Claims Acts for off-labeling marketing)
- *Anastasio v. Total Gas & Power North America*, (No. 17-1199) (2d Circuit) (argued appeal on behalf of natural gas futures traders alleging market manipulation)

### Commodities Cases

- *In re Libor-Based Financial Instruments Antitrust Litigation*, 1:11-md-02262-NRB; *FTC Capital GMBH et al. v. Credit Suisse Group AG et al.*, 1:11-cv-02613-NRB (S.D.N.Y.) (Buchwald, J.). Court appointed co-liaison counsel for all class actions in the multi-district litigation and co-lead counsel for exchange-based class alleging the

### Practice areas

Antitrust  
Consumer Fraud  
Whistleblower/Qui Tam

### Current Cases

- North Sea Brent Crude Oil  
- Libor

### Settlements & Class Notices

- Unocal

### Articles

- J.P. Morgan Chase precious metals markets rigging lawsuit paused - cnbc.com
- How Ex-JP Morgan Silver Traders Guilty Plea Could Boost Manipulation Suit
- Kirby McInerney Partner, David E. Kovel, Quoted in Financial Times Article on Forex Class Action Lawsuit
- Kirby McInerney to Lead Brent Crude Manipulation Case
- Brent Crude Traders Claim Proof BFOE Boys Rigged Market
- Kirby McInerney Profiled in Law360's Most Feared Plaintiffs Firms list
- Proposed IRS Whistleblower Rules Could Undermine FATCA, Critics Argue
- The British Government's Response to LIBOR Manipulation Takes Shape
- Banks Too Big to Jail? Lawyers Say Lenders above the Law
- UBS Is Reported to Be Near a Deal on Rate Rigging

### Television

- David Kovel Comments to Bloomberg Television Regarding Libor Manipulation

### David E. Kovel, Partner

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### Education

Yale University (B.A.)

Columbia University School of Law (J.D.)

Columbia University Graduate School of Business (M.B.A.).

### Bar Admissions

New York State Bar

Connecticut State Bar

United States District Courts for the Northern, Southern, Eastern and Western Districts of New York

United States Court of Appeals for the First Circuit

United States Court of Appeals for the 2nd Circuit

fixing of prices of a benchmark interest rate. Obtained over \$150 million settlement with several of 16 defendants.

- *In re North Sea Brent Crude Oil Futures Litig.*, 13-md-02475-ALC (S.D.N.Y.). Sole lead counsel on behalf of a proposed class of Brent crude oil futures traders alleging benchmark manipulation.

- *Shak et al. v. JP Morgan Chase & Co. et al.*, 15-cv-922 (PAE) (and related cases). Represents silver futures trading alleging manipulation of silver futures spread.

- *In re Reformulated Gasoline (RFG) Antitrust and Patent Litigation and Related Actions*, 05-cv-01671 (C.D. Cal) (2005). Co-lead counsel in an antitrust class action pertaining to Unocal's alleged manipulation of the standard-setting process for low-emissions reformulated gasoline in California, which plaintiffs claim caused inflated retail prices. Obtained a \$48 million settlement for indirect purchasers.

- *In re BP Propane Indirect Purchaser Antitrust Litigation*, 06-CV- 3541 (N.D.Ill. 2010). Co-lead counsel for propane purchaser class. Secured a \$15 million settlement.

- *In re Potash Antitrust Litigation*, 1:08-cv-06910 (N.D.Ill. 2008). In leadership group which secured a \$13 million settlement for a class of potash purchasers.

- *CFTC v. Shak*, 1:14-cv-01632-EGS (D.D.C.). Represented defendant in case brought by the CFTC under the Commodity Exchange Act's newest provisions for violations of an administrative order in the gold futures market.

- *Supreme Auto Transport LLC v. Arcelor Mittal et al.*, 1:08-cv-05468 (N.D. Ill. 2008). In the leadership group on behalf of a proposed class of steel purchaser alleging price fixing.

- *In re Commodity Exchange, Inc., Gold Futures and Options Trading Litigation*, 14-md-02548 (S.D.N.Y.). Counsel for plaintiff on behalf of gold purchasers in a market manipulation case.

- *In re Exide Technologies*, 13-11482 (KJC) (Bankr. D. Del.). Expert for bankrupt debtor, a purchaser of metals, opining on the dynamics of plaintiffs' side representation in antitrust and commodities market cases.

#### Other Antitrust Cases

- *In re Ductile Iron Pipe Fittings Antitrust Litigation*, MDL No. 2347 (D. NJ. 2012). Co-lead counsel on behalf of a proposed class of purchasers of iron pipe fittings for water projects. Class representatives include Wayne County, Michigan. Case pending.

- *Microsoft antitrust cases*: Lead counsel to various classes of indirect purchasers in connection with antitrust proceedings against Microsoft. The litigations resulted in settlement totaling nearly a billion dollars for consumers in the states of New York, Florida, Tennessee, West Virginia, and Minnesota (where the litigation proceeded to trial).

- *The City of New York v. GlaxoSmithKline PLC and SmithKline Beecham Corporation*, 04-CV-2134-JP (D.Pa. 2004). Represented City of New York in pharmaceutical drug monopolization case. Private settlement.

#### Corporate Governance

- *In re Pfizer Inc. Shareholder Derivative Litigation*, 09-CV-7822 (S.D.N.Y.). Counsel for lead plaintiff in a shareholder derivative action. Obtained a \$75 million award and groundbreaking changes to the Board of Director's oversight of regulatory matters

#### Public Whistleblower Cases

- *State Of New York, Ex Rel. Aniruddha Banerjee, Et Ano v. Moody's Corporation, et al.* (No. 103997/2012) (New York County)

- *The State of New York Ex Rel. Vinod Khurana et al v. Spherion Corp.*, 1:15-cv-06605-JFK-AJP (S.D.N.Y.)

- *United States of America Ex Rel. Lawton v. Takeda Pharmaceutical Company, et al.* (D. Mass.)

- *Doe v. United States Securities and Exchange Commission* (No. 17-4161) (D.C. Circuit)

#### Confidential Whistleblower Cases Ongoing and Resolved

- Commodities.
- Securities.
- Procurement fraud.
- Medical Device/Pharmaceutical fraud.

#### Pro Bono

Mr. Kovel also has an active pro bono practice, having represented, among others, clients in need of housing referred through the office of pro se litigation in the Southern District of New York, whistleblowers various governmental settings, clients in foreclosure matters, and a Latino soccer association in its efforts organize and obtain a fair proportion of field time from a municipality.

#### Frequent commentator on commodities, finance and whistleblower matters

- *Bloomberg* (television and print), *New York Times*, *Wall Street Journal*, *Reuters*, *Financial Times*, *Forbes*

Representative comments include the following articles:

Representative comments include the following articles:

- [Market fixing inquiry gathers pace.](#)
- [Brent Crude Traders Claim Proof BFOE Boys Rigged Market.](#)
- [Haunted by Inflation, He Snapped Up Silver at \\$2, Made a Fortune and Lost It.](#)
- [Regulators Try to Beat Clock in Rate Probe.](#)
- [The Coming New Age Of Whistleblower Lawsuits.>](#)
- [Proposed IRS Whistleblower Rules Could Undermine FATCA, Critics Argue.](#)
- [Arrests Mount In Libor Manipulation Probe.](#)



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Law Firm Website Design by Business Edge



## Kellie Lerner

Partner; Co-Chair, Diversity Committee  
KLerner@RobinsKaplan.com  
212.980.7400

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New York | 399 Park Avenue | Suite 3600 | New York, NY 10022

### Practice Areas

- Antitrust and Trade Regulation

### Industries

- Financial
- Food and Beverage
- Insurance

### Education

- Rutgers Law School, J.D. (2003)
- Rutgers University, B.A., *cum laude*, Phi Beta Kappa (1999)

### Professional Associations

- New York State Bar Association, Commercial & Federal Litigation Section – Antitrust Committee and Women in Antitrust Committee
- Antitrust & Trade Regulation Committee of the City Bar of New York
- National Association of Women Lawyers

### Bar Admissions

- New York
- U.S. Court of Appeals, Second Circuit
- U.S. District Court, Southern District of New York

### Experience

Kellie Lerner has nearly two decades of experience litigating high stakes antitrust disputes on behalf of both plaintiffs and defendants in federal courts throughout the country. She has worked on a number of groundbreaking antitrust cases and has obtained almost \$100 million in recoveries on behalf of her clients. Ms. Lerner currently serves as Co-Lead Counsel in *In re Merck Mumps Vaccine Antitrust Class Action* and *In re Wells Fargo Collateral Protection Insurance Litigation*. She also recently represented a publicly traded corporation in *Insulate SB Inc. v. Abrasive Products & Equipment et al.*, where she successfully obtained a complete dismissal of a federal and multi-state antitrust class action filed against her client, which was affirmed by the United States Court of Appeals in the Eighth Circuit. She also counsels generic pharmaceutical, alternative energy and entertainment companies on competition issues.

Ms. Lerner is also principally responsible for identifying and initiating new antitrust actions at the firm. In this capacity, she has initiated the first antitrust class action lawsuits in the country in dozens of actions that have ultimately resulted in billions of dollars in recoveries for victims of anti-competitive conduct. In 2018, Ms. Lerner was recognized in the 2018 *Chambers USA Guide*, in which she was praised by her peers for her ability to "get large teams of people to work effectively together." In recent years, she has also been selected by *Benchmark Litigation* as a "Future Star," by *The National Law Journal* as an "Antitrust and M&A Trailblazer" (2016), by *The New York Law Journal* as one of 44 competition lawyers under 40 "who have made their mark on the New York legal community," and by *Law360* in its "Rising Star" list of five competition lawyers under the age of 40 to watch. The *Legal 500 USA* also recommended her for the last two consecutive years, praising her "superior intellect, determination and political savvy in getting the job done." A frequent author and lecturer, Ms. Lerner is a recognized voice on all issues of antitrust law and her opinions have been quoted in *The Washington Post*, *Bloomberg Businessweek*, *Yahoo News*, and *CBS MoneyWatch*, among other publications.

Ms. Lerner is the Vice Chair of the American Bar Association Section of Antitrust Law's Joint Conduct Committee and an Associate Editor of *Antitrust* magazine.

- U.S. District Court, New Jersey



Ms. Lerner co-founded Roseann's Gift, an organization named for her late mother and dedicated to raising research funding to cure lung cancer. The organization is currently funding lung cancer research at Weill Medical College of Cornell University. She is a member of the Tri-State Area Advisory Board of Jumpstart, which works to provide equal access to literacy education for preschool children in low-income communities and was previously a member of the Board of Directors for the Jewish Community Project Downtown, an organization that was formed in the wake of the September 11th attacks to revitalize the Jewish community in lower Manhattan. She currently provides pro bono assistance to KIND (Kids In Need of Defense) and has previously provided assistance to AARP and the Lawyers Committee for Civil Rights Under the Law.

### Selected Case Results\*

*Insulate SB, Inc. v. Advanced Finishing Systems, Inc.*, Lead counsel for fluid-handling equipment manufacturer Graco Inc. in putative nationwide antitrust class action alleging unlawful business acquisitions and boycott, exclusive-dealing, and monopolization conspiracies. We obtained the dismissal of all claims with prejudice, 2014 U.S. Dist. LEXIS 31188 (D. Minn. Mar. 11, 2014), and we represented Graco in the appeal, where the judgment was affirmed. \_\_\_ F.3d \_\_\_, 2015 U.S. App. LEXIS 14233 (8th Cir. Aug. 13, 2015).

*In re Merck Mumps Vaccine Antitrust Litigation*: Involving an alleged decade-long scheme to falsify efficacy data and maintain a monopoly in the market for the mumps vaccine.

*In re Flat Glass II Litigation*: Over \$22 million settlement on behalf of direct purchasers of construction flat glass. (Prior to joining Robins Kaplan LLP)

*In re Puerto Rican Cabotage Antitrust Litigation*: \$52 million settlement for an alleged conspiracy to fix the prices of ocean freight services between the continental United States and Puerto Rico. (Prior to joining Robins Kaplan LLP)

*In re Abbott Labs Norvis Antitrust Litigation*: \$10 million settlement stemming from Abbott Laboratories' price increase of Norvir, which provides for a payment to non-profit organizations serving individuals with HIV. (Prior to joining Robins Kaplan LLP)

*In re TriCor Indirect Purchaser Antitrust Litigation*: \$65.7 million settlement for claims that the price charged for Tricor was inflated because of anticompetitive conduct, including product hopping in order to unlawfully suppress generic competition. (Prior to joining Robins Kaplan LLP)

Past results are reported to provide the reader with an indication of the type of litigation we practice. They do not and should not be construed to create an expectation of result in any other case, as all cases are dependent upon their own unique fact situation and applicable law.

### Recognition\*\*

- Received a "National Women in Law Award," *Corporate Counsel and InsideCounsel* (2018)
- Named a "Notable Practitioner in Antitrust Law," *Chambers USA* (2018)
- Named a "New York Super Lawyer," *Super Lawyers* (2018)
- Named a "Diversity Leader," *Profiles in Diversity Journal* (2018)
- Named a "Future Star," *Benchmark Litigation* (2016-2017, 2019)
- Named an "Antitrust and M&A Trailblazer," *National Law Journal* (2016)
- Named a "Woman Worth Watching," *Profiles in Diversity Journal* (2015)
- Named a "Rising Star," *New York Law Journal* (2013)

- Recommended in the Field of Class Action-Antitrust, *The Legal 500* (2013-2016)
- Named to *Law360's* "Rising Star" List (2012)
- Named a "New York Rising Star," *Super Lawyers* (2012-2017)

\*\*Being named to the list or receiving the award is not intended and should not be viewed as comparative to other lawyers or to create an expectation about results that might be achieved in a future matter.

## Community Service

- Roseanne's Gift, Co-Founder
- Jumpstart, Advisory Board
- KIND (Kids In Need of Defense), Volunteer Lawyer

## Resources

### Articles

- No-Poachers Find Themselves in Hot Water  
*August 29, 2018 (Bloomberg Law)*
- Judges Can Demand Diversity In Rule 23(g) Applications  
*(August 15, 2018)*
- How Do You Solve a Problem Like Algorithmic Price Fixing?  
*Bloomberg Law (February 8, 2018)*
- Addressing the Gender Divide in the Courtroom  
*The New York Law Journal (September 8, 2017)*
- Consumer Protection Developments: New Challenges and Unanswered Questions  
*Antitrust (July 10, 2017)*
- Market Share Calculations Are A Starting Point, But Not A Litmus Test, For Analyzing Competitor Collaborations  
*(July 2016)*
- The 9th Circ.'s Rule 6(e) Test For Private Antitrust Cases  
*Law360 (October 20, 2015)*
- REMS and Antitrust  
*(June 3, 2015)*
- Early Lessons From The REMS Battlefield  
*Law360 (March 9, 2015)*
- Tech-Tying Vs. Section 2 Of The Sherman Antitrust Act  
*Law360 (December 4, 2014)*
- The 5 Hidden Benefits of a Diverse Legal Team  
*InsideCounsel (November 17, 2014)*
- It's Time to Revisit Antitrust Penalties  
*Daily Journal (October 28, 2014)*
- Five Things To Know About Antitrust Class Action Lawsuits  
*(August 25, 2014)*
- DOJ Stays Are Often Unfair To Private Antitrust Plaintiffs  
*Law360 (March 3, 2014)*

- 5 Overlooked Reasons to Be Class Rep in an Antitrust Suit  
*Law360 (May 16, 2013)*
- When You Lose the Race to Corporate Leniency  
*Law360 (March 15, 2013)*
- American Needle v. NFL: The Supreme Court Tackles Whether Pro Football Should Be Exempt From Antitrust Laws  
*Andrews Litigation Reporter (December 2009)*
- Trinko and Beyond  
*NY Litigator (Winter 2007)*

### **Legal Updates**

- The Robins Kaplan Justice Report - Vol. 12, No. 1  
*(Winter 2018)*
- The Robins Kaplan Justice Report - Vol. 10, No. 3  
*(Fall 2016)*

### **News**

- Robins Kaplan Receives High Rankings by Benchmark Litigation 2019
- New York Attorneys Recognized as 2018 “Super Lawyers” and “Rising Stars”
- Robins Kaplan LLP Files Antitrust Lawsuit Against Largest Owners of Local Television Stations
- Robins Kaplan’s National Antitrust Practice Recognized in 2018 Legal 500 Guide
- Chambers USA Ranks Robins Kaplan LLP Extensively in 2018 Guide
- Robins Kaplan LLP Files Lawsuit Alleging Major Rail Equipment Suppliers Entered into Unlawful No-Poach Agreements
- Robins Kaplan LLP Appointed Co-Lead Counsel in Civil Action Over Wells Fargo Auto Insurance Scheme
- Robins Kaplan Receives High Rankings by Benchmark Litigation 2018
- Keurig Green Mountain Loses Bid to Dismiss Monopoly Suit Over K-Cups
- Robins Kaplan Partner Kellie Lerner Named a 2018 Diversity Leader by Profiles in Diversity Journal
- New York Attorneys Recognized as 2017 “Super Lawyers” and “Rising Stars”
- Robins Kaplan LLP Named a “Top Ten Plaintiffs Firm” by Benchmark Litigation 2017
- Kellie Lerner Named to The National Law Journal’s Annual List of “Antitrust and M&A Trailblazers”
- New York Attorneys Recognized as 2016 “Super Lawyers” and “Rising Stars”
- Chambers Names Robins Kaplan LLP Most Inclusive Law Firm for LGBT Lawyers at Inaugural Diversity Awards Ceremony

- Legal 500 Recognizes Robins Kaplan LLP's Leading Antitrust Practice
- Robins Kaplan LLP Named Co-Lead Counsel in Antitrust Class Action Against Total Gas and Power North America, Inc.
- New York Attorneys Recognized as 2015 "Super Lawyers" and "Rising Stars"
- Robins Kaplan Secures Two Eighth Circuit Wins for Firm's Clients
- Women Worth Watching - Kellie Lerner
- Robins Kaplan LLP Antitrust Practice Highly Ranked Among U.S. Firms by Legal 500 2015
- Robins, Kaplan, Miller & Ciresi L.L.P. Antitrust Practice Highly Ranked Among U.S. Firms by Legal 500 2014
- Robins, Kaplan, Miller & Ciresi L.L.P. Enhances Antitrust Practice with Two Partners in New York
- The Legal 500 US Recognizes Antitrust Lawyers Hollis Salzman, Bernard Persky and Kellie Lerner
- New York Law Journal Recognizes Kellie Lerner as a Rising Star 2013
- Graco Escapes Antitrust Class Action Over Rival Buys

### **Speeches**

- Role of Market Power in the Digital Economy  
*New York State Bar Association, New York, New York (January 25, 2018)*
- Women in Antitrust – The Times They Are A-Changing  
*New York State Bar Association – Antitrust Law Section, New York, New York (January 24, 2018)*
- Class Action Reform: Necessary or Nocuous?  
*American Bar Association, New York, New York (January 17, 2018)*
- Class Action Settlements for Antitrust Practitioners and In-house Counsel  
*Practising Law Institute (PLI), New York, New York (June 21, 2017)*
- REMS Litigation-Key Insights From Government and Private Practitioners  
*Panel Moderator, American Bar Association, Webinar (June 16, 2016)*
- Communicating Without Signaling: Antitrust Compliant Public Communications  
*Webinar, American Bar Association, Section of Antitrust Law (May 2, 2016)*
- Antitrust Legislation in Congress in 2016 – A Preview  
*American Bar Association, Section of Antitrust, Webinar (February 17, 2016)*
- Antitrust Criminal Penalty Enhancement and Reform Act (ACPERA): An Insider's Perspective on the First Ten Years and Beyond  
*American Bar Association, Webinar (October 26, 2015)*

- Objectors: Strategies for Dealing with Professional Objectors  
*Panelist, Practising Law Institute, New York, New York (July 10, 2015)*
- Antitrust Institute 2015  
*Practising Law Institute, New York, New York (May 7, 2015)*
- Antitrust Basics: An Introduction for New Attorneys  
*CLE Program, New York, New York (February 19, 2015)*
- Antitrust Litigation: What Every Lawyer Needs to Know  
*Panel, Massachusetts Bar Association, Boston, Massachusetts (February 19, 2015)*
- Antitrust Litigation: A Primer for Solo and Small Firm Practitioners  
*Massachusetts Bar Association, Boston, Massachusetts (June 18, 2014)*
- A Study of In re Electronic Books Antitrust Litigation from Diverse Perspectives  
*Moderator, Antitrust & Trade Regulation Committee of the City Bar of New York, New York (April 2, 2013)*
- Antitrust Institute 2012: Developments & Hot Topics  
*Panelist, Practising Law Institute (May 7, 2012)*
- The Doctrinal and Practical Aspects of Rule of Reason, Quick Look, and Truncated Rule of Reason Analysis in Section 1 Cases  
*Panelist, American Bar Association – Section of Antitrust Law (February 14, 2012)*
- Litigating Cases Between Class Certification and Trial  
*Panelist, Strafford Webinar (January 31, 2012)*
- Class Certification Standards in the Second Circuit  
*New York State Bar Association (January 26, 2012)*
- State Consumer Protection Laws: Enforcement and Litigation Trends in New York  
*Panelist, American Bar Association – Section of Antitrust Law (November 7, 2011)*
- 14th Annual National Institute on Class Actions  
*Panelist, American Bar Association (October 14, 2010)*
- Antitrust Section's Annual Program for Law Students Interested in Antitrust Law  
*Commentator, New York State Bar Association (July 7, 2010)*

## Webinars

- 5 Hidden Benefits of a Diverse Legal Team  
*Capitalizing on a growing body of evidence demonstrating that diverse teams perform better and improve profitability, a number of Fortune 500 companies are meaningfully incorporating diversity into their long term business plans. Join Robins Kaplan partners Kellie Lerner and Stacey Slaughter as they discuss the top 5 reasons every law department should similarly insist on diversity in their outside legal teams.*  
*(March 3, 2015, 12:00 P.M. CST)*

## In The News

- *New York Law Journal*, "Amidst Filing Blitz, MDL Sought in Wells Fargo Actions" (August 10, 2017)
- *Law360*, "Total SA Seeks Exit From Traders' Market Manipulation Suit" (September 26, 2016)
- *Bloomberg BNA*, "Total Faces \$213.6 Million Penalty in U.S. Gas Rigging Case" (April 29, 2016)
- *Global Competition Review*, "Louisiana Representative proposes Illinois Brick repealer" (March 15, 2016)
- *Law360*, "Competition Cases to Watch in 2016," (December 24, 2015)
- *Inside Health Policy*, "'Shared' REMS Policy Continues To Draw Brand, Generic Makers' Concerns" (July 16, 2015)
- *Law 360* "Contact Lens Cos. Face Collusion Suit From Indirect Buyers" (March 9, 2015)
- *Inside Counsel*, "Another Lawsuit Filed in Response to Alleged Contact Lens Price Conspiracy" (March 12, 2015)
- *Law360*, "Competition Legislation and Regulation to Watch in 2015" (January 2, 2015)
- *The Wall Street Journal*, "Did Merck Unfairly Monopolize the Market for a Mumps Vaccine?" (September 10, 2014)
- *Reuters Legal*, "Merck Must Face Antitrust Suits Over Mumps Vaccine" (September 9, 2014)
- *FiercePharma*, "Judge: Merck Must Fight Claims That it Lied About Mumps Vaccine Benefits" (September 9, 2014)
- *FierceVaccines*, "Lawsuits Claiming Merck Lied About Mumps Vaccine Efficacy Headed to Trial" (September 9, 2014)
- *PharmaManufacturing.com*, "Merck Virologists Claim Merck Lied About Mumps Vax Efficacy, Trial Moves Forward" (September 9, 2014)
- *Drug Discovery News*, "Antitrust and Some Other Mumps Claims Against Merck Proceed" (September 8, 2014)
- *The Legal Intelligencer*, "Qui Tam, Class Action Cases Against Merck Proceed" (September 8, 2014)
- *The Inquisitr*, "Lawsuits Allege Merck Lied About MMR Efficacy, Motions To Dismiss Denied" (September 7, 2014)
- *CNN iReport*, "Merck's Motion to Dismiss Denied in Mumps Whistleblower Suits" (September 6, 2014)
- *Law360*, "Antitrust, FCA Claims on Merck Mumps Vaccine to Advance" (September 5, 2014)
- *Reuters Legal*, "Antitrust litigation seen emerging from forex manipulation probes" (October 31, 2013)
- *Reuters Legal*, "Class actions aim to apply antitrust laws to oil pricing" (June 26, 2013)
- *Bloomberg*, "Apple's Cue Is Key to Defense of E-Book Price-Fixing Case" (June 13, 2013)
- *Law360*, "Robins Kaplan Adds Ace Antitrust Negotiators from Labaton" (January 30, 2013)
- *Forbes*, "'All Natural Turkeys.' One Huge Reason to Buy Them" (November 19, 2012)
- *Yahoo News*, "Lawsuits Slams 'Natural' Claims from OJ to Chips" (May 31, 2012)
- *PC World Business*, "DOJ's Antitrust Case May Have Huge Implications for Publishing" (April 18, 2012)
- *The Washington Post*, "Winners and Losers from DOJ Suit Against Apple, Publishers" (April 11, 2012)
- *Business Insider*, "Vita Coco Will Pay \$10 Million to Settle Suit Over 'Super Hydrating' Coconut Water" (February 10, 2012)
- *CBS Money Watch*, "Vita Coco Will Pay \$10 Million to Settle Suit Over 'Super Hydrating' Coconut Water" (February 10, 2012)
- *Associated Press via Yahoo! News*, "Vita Coco Settles Lawsuit on Nutrition Contents" (February 8, 2012)
- *Law360*, "Coconut Water Maker Reaches \$10M Deal Over Mislabeling" (February 8, 2012)
- *Bloomberg Businessweek*, "Vita Coco Settles Lawsuit on Nutrition Contents" (February 8, 2012)
- *Law360*, "ATM Users Swipe at Banks, Cards Cos. in Antitrust Suit" (November 19, 2011)
- *Law360*, "Lensmaker Transitions Can't Shake Antitrust MDL" (November 1, 2011)
- *BNA Banking Report*, "Suit Charges Price-Fixing on ATM Fees by Visa, Mastercard, and Member Banks" (October 20, 2011)

- *Law360*, "Labaton Sues Auto Parts Cos. on Heels of DOJ Fine" (October 6, 2011)
- *Law360*, "Oil Traders Face Investor Class Action After CFTC Suit" (May 31, 2011)
- *Reuters*, "Investor Sues Oil Traders Over Alleged Manipulation" (May 26, 2011)
- *Law360*, "Rising Star: Labaton Sucharow's Kellie Lerner" (March 14, 2011)

**Matthew Perez** is an associate at Labaton Sucharow LLP and focuses on representing businesses and public pension funds in complex antitrust and commodities class actions. His experience litigating class actions ranges across a variety of industries including healthcare and pharmaceuticals and financial products and services.

Matthew joined Labaton Sucharow from the New York State Attorney General's office, where he served as a Volunteer Assistant Attorney General in the Antitrust Bureau. While there, he received the Louis J. Lefkowitz Memorial Award for his work investigating bid rigging and other illegal conduct in the municipal bond derivatives market, resulting in more than \$260 million in restitution to municipalities and nonprofit entities. He also investigated pay-for-delay matters involving multinational pharmaceutical companies. Prior to that, he served as an intern for the Honorable Richard B. Lowe III at the New York Supreme Court, Commercial Division.

Matthew obtained his B.A. in Political Science and History from Swarthmore College and his J.D. from Benjamin N. Cardozo School of Law School, where he was Executive Editor of the Cardozo Journal of Conflict Resolution and received the Jacob Burns Medal for Outstanding Contribution to the Law School.

## Lisa M. Phelan



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### EDUCATION

AMERICAN UNIVERSITY  
(B.A., 1983)  
AMERICAN UNIVERSITY  
WASHINGTON COLLEGE OF  
LAW (J.D., 1986)

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### BAR ADMISSIONS

PRACTICE LIMITED TO  
FEDERAL MATTERS;  
ADMITTED IN  
PENNSYLVANIA ONLY.  
PENNSYLVANIA

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### PRACTICES

[ANTITRUST LAW](#)  
[ANTITRUST LAW | CARTELS](#)  
[INVESTIGATIONS + WHITE](#)  
[COLLAR DEFENSE](#)

Lisa M. Phelan, former Chief of the National Criminal Enforcement and Washington Criminal I Sections of the Antitrust Division of the U.S. Department of Justice (DOJ), is a partner in Morrison & Foerster's Global Antitrust Law Practice and Investigations + White Collar Group. With more than 25 years of service at the DOJ as one of the leading authorities in criminal antitrust matters, Ms. Phelan draws upon her unmatched criminal investigations, litigation, and enforcement experience, to guide clients through sensitive matters pertaining to international cartel actions and white collar investigations, and to rapidly assess and address their total exposure to potential claims of unlawful collusion.

As Chief of the National Criminal Enforcement and Washington Criminal I Sections of the Antitrust Division, Ms. Phelan supervised and coordinated all investigative and litigation work on international and national criminal cartel cases. Ms. Phelan regularly coordinated investigations and prosecutions with cartel enforcement agencies throughout the world, including in the European Union, Japan, Mexico, Korea, the United Kingdom, Australia, New Zealand, Chile, and Brazil, among others. She also regularly interfaced with other law enforcement units when investigations raised non-antitrust issues. *Practice limited to Federal matters; admitted in Pennsylvania only.*

Prior to Ms. Phelan's appointment as Chief of National Criminal Enforcement, she served as a senior criminal litigator at the Antitrust Division, leading investigations and trials of multinational corporations and their executives for price fixing and related crimes. Ms. Phelan has prosecuted more than 300 federal criminal cases, and oversaw dozens of jury trials throughout her tenure at the DOJ.

Clients turn to Ms. Phelan for her deep knowledge and experience in moments of crisis. She is a trusted advisor when companies and executives are subpoenaed, or when enforcement agencies execute a search warrant or stage a dawn raid. Few in the world have the breadth of her experience to counsel and represent clients through each step of a cartel investigation, leniency application, plea negotiation, or criminal jury trial. She is also an expert in the necessary components of effective compliance programs, and as an asset to clients in preventing antitrust problems before they arise. She has worked on complex antitrust matters across numerous major industries, including financial services, technology, aviation, automotive, shipping, paper, petroleum, chemicals, and pharmaceuticals, among others.

Ms. Phelan has received numerous noteworthy accolades throughout her career, including the Presidential Rank Award, awarded by President Obama in 2015; the Attorney General's Distinguished Service Award, awarded by Attorney General Eric Holder in 2014; and the Assistant Attorney General's Outstanding Service Award, bestowed on multiple occasions, in her capacity as a lead trial attorney and senior official at the DOJ.

Ms. Phelan is consulted by law enforcement agencies and competition partners around the globe on best practices and policies in cartel enforcement and leniency programs. Ms. Phelan speaks frequently at American Bar Association (ABA), International Competition Network, International Bar Association, and various prominent white collar crime conferences.

As an active participant in ABA programs and activities for close to three decades, she has served as the Vice Chair of the Criminal Practices and Procedures Committee of the Antitrust Section, and on the Section's International Cartel Task Force, which regularly meets with competition agency heads from around the globe to provide thought leadership, and to advise on competition law changes and practices, including leniency program criteria. Ms. Phelan was a co-developer of the ABA's inaugural Global Private Litigation Conference, held in Amsterdam in 2017, offering expert insights into the continuing path of multi-jurisdictional and collective antitrust redress in a rapidly changing landscape in antitrust enforcement and follow-on cartel litigation, and for 2018 and 2019, she has been elected to a top leadership post for the ABA Antitrust Section.

Ms. Phelan has long championed the advancement of women within the legal profession and in the Antitrust Bar in particular. Recognized by *MLex* as a 'trailblazer' for women in antitrust, in recent years she founded the "Women in Cartel" group that has expanded its membership nationally and internationally. In 2013, she was named one of *Global Competition Review's* Top "Women in Antitrust." Ms. Phelan serves on the firm's Women's Strategy Committee, working closely with firm leaders to ensure that the advancement of women is a constant strategic priority.

Ms. Phelan received her J.D. magna cum laude from American University, Washington College of Law, where she served on the *International Law Journal*. She received her B.A. summa cum laude, also from American University.

## Lawrence Reicher

Lawrence Reicher is a Trial Attorney in the Telecommunications and Broadband Section of the Antitrust Division of the Department of Justice. At DOJ, Lawrence participates in a variety of merger and conduct investigations, including serving as a counsel of record in the recent *U.S. v. AT&T* and *U.S. v. DirecTV* litigations. Before joining DOJ in 2016, Lawrence practiced with Cahill Gordon & Reindel and Dechert in New York City. He graduated from Princeton University (*cum laude*) and Emory University School of Law (*with honors*).

Fun facts...Favorite Child: Lily. Favorite Antitrust Statutes: Foreign Trade Antitrust Improvement Act and Antitrust Civil Process Act (tie). Favorite Metadata Field: MD5 Hash.



**William V. Reiss**

***Principal***

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**EXPERIENCE**

William Reiss has more than a decade-and-a-half of experience representing both plaintiffs and defendants in high profile antitrust litigation. Mr. Reiss was a member of the successful trial team in the precedent-setting antitrust litigation captioned *Coalition for a Level Playing Field, L.L.C. v. AutoZone, Inc.*, 00-cv-00953-LDW (E.D.N.Y.).

Mr. Reiss focuses his practice on complex antitrust litigation and class actions, with particular focus litigating antitrust claims in the pharmaceutical, automotive, marine products, and financial services industries. In addition, Mr. Reiss provides extensive antitrust counseling work on behalf of generic pharmaceutical companies. He currently serves as co-lead class counsel on behalf of a class of end-payor purchasers of automobiles in *In re Automotive Parts Antitrust Litigation* for which he has been instrumental in achieving one of the largest indirect purchaser recoveries in U.S. history (over \$1 billion in partial settlements to date). In addition, Mr. Reiss is currently litigating *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litigation*, a proposed class action against Keurig for allegedly obtaining an unlawful monopoly through a multifaceted scheme of anticompetitive acquisitions, exclusive dealing, and sham patent litigation.

He was recently awarded *The National Law Journal's* "Antitrust and M&A Trailblazer Award for 2018.

Mr. Reiss is committed to *pro bono* work and has successfully advocated on behalf of the families of the victims of the 9/11 attacks in several *pro bono* World Trade Center Victims' Compensation Fund hearings before the Special Master, Kenneth R. Feinberg. He currently provides *pro bono* representation on behalf of immigrant children who have suffered abuse and/or neglect in their home countries.

**RECOGNITION**

Named an "Antitrust and M&A Trailblazer," *The National Law Journal* (2018)  
"Outstanding Antitrust Litigation Achievement by a Young Lawyer," *American Antitrust Institute* (2016)  
Named a "Rising Star," *Law360* (2016)  
Named a "Rising Star," *New York Law Journal* (2014)

**EDUCATION**

New York University School of Law, J.D.; Staff Editor, *Environmental Law Journal*  
The George Washington University, B.A. in Political Science and History, *magna cum laude*, Phi Beta Kappa (1998)

## General/Web Bio

**Dov Rothman, Ph.D., Managing Principal;** *Ph.D., business administration, Haas School of Business, University of California, Berkeley; M.Phil., development studies, Cambridge University; B.A., political science, University of California, Berkeley*

Dr. Rothman specializes in the economic analysis of antitrust and competition issues. He is retained by private parties to present analyses to the US Department of Justice (DOJ) and the US Federal Trade Commission (FTC). He is also retained by and has testified for the FTC as an expert witness in merger litigation, including in the FTC's successful challenge of the Wilhelmsen/Drew merger. Additionally, Dr. Rothman has recently led teams that supported the DOJ's testifying economist in its challenge of the Anthem/Cigna merger, the FTC's testifying economist in its challenge of the Sanford Health/Mid Dakota Clinic merger, and the FTC's testifying economist in its challenge of the Penn State Hershey Medical Center/PinnacleHealth merger. In addition to his merger work, he has worked on multiple joint conduct and unilateral conduct matters.

Dr. Rothman is a senior editor of the *Antitrust Law Journal*. He has published research in outlets including *The Antitrust Source*, *Journal of Health Economics*, *Journal of Competition Law & Economics*, and *Concurrences: Competition Law Journal*, and he has an article forthcoming in the *Antitrust Law Journal*. Dr. Rothman has taught a course on the economics of merger analysis in the economics department at Harvard University. Prior to joining Analysis Group, he was an assistant professor at Columbia University.

## **Christine A. Varney**

*Cravath, Swaine & Moore LLP*

Christine A. Varney is a partner in Cravath's Litigation Department and serves as the Chair of the Firm's Antitrust practice. Ms. Varney has been widely recognized as one of the leading antitrust lawyers in the United States in both private practice and in government service, and she is the only person to have served as both the U.S. Assistant Attorney General for Antitrust and as a Commissioner of the Federal Trade Commission. Ms. Varney formulates global antitrust strategy for clients in connection with joint ventures, mergers, acquisitions, dispositions and other business transactions, including advising on business conduct or potential investments to ensure compliance with antitrust laws, securing antitrust regulatory approvals, and handling internal or governmental investigations into anticompetitive behavior. Her clients span diverse industries, including cable, financial services, manufacturing, pharmaceuticals, retail, transportation, technology and telecommunications.

From 2009 until 2011, Ms. Varney served as Assistant Attorney General and headed the Justice Department's Antitrust Division. In that role she oversaw all aspects of the Division's operations, including merger review, criminal and civil litigation and investigations and coordination with competition regulators outside the United States.

From 1994 through 1997, Ms. Varney served as a Commissioner of the FTC. While at the FTC, she played a leading role on a broad range of competition law issues, and she is widely credited with pioneering the application of innovation market theory analysis to information technology and biotechnology transactions.

Prior to becoming FTC Commissioner, Ms. Varney served as Assistant to the President and Secretary to the Cabinet in the Clinton Administration.

From 1997 when she left the FTC until her appointment as Assistant Attorney General in 2009, Ms. Varney was in private practice, representing major corporations before the DOJ and the FTC and advising her clients on a wide variety of legal and business issues.

Ms. Varney has been recognized as a leading lawyer by numerous professional publications. *The National Law Journal* selected her as one of the “100 Most Influential Lawyers in America” and as one of 50 “Governance, Risk & Compliance Trailblazers & Pioneers.” She was also recognized by the publication as a Mergers & Acquisitions and Antitrust Trailblazer. Ms. Varney was named a “Competition MVP” by *Law360* and “Lawyer of the Year” by *Global Competition Review (GCR)*. She also was featured by *GCR* as one of the top “Women in Antitrust” worldwide and received Euromoney Legal Media Group’s Americas Women in Business Law Award for “Best in Antitrust/Competition.” Ms. Varney has been recognized as a leader in antitrust law by *Chambers Global: The World’s Leading Lawyers for Business*, *Chambers USA: America’s Leading Lawyers for Business*, *Lawdragon’s* list of “500 Leading Lawyers in America,” *Benchmark Litigation*, *The Best Lawyers in America*, *The Legal 500*, *PLC Which Lawyer?*, *Who’s Who Legal*, *Crain’s New York Business* and the Ethisphere Institute. She is often asked to speak publicly on the topics of antitrust, international competition, mergers and government investigations.

Ms. Varney currently serves on the Boards of Trustees of the American Museum of Natural History and Third Way. She also serves on the Boards of Directors of the Brennan Center for Justice and The Legal Aid Society and on the Board of Advisors of the American Constitution Society. Ms. Varney is a Fellow of the American Bar Foundation and serves as a member of the International Bar Association, the Council on Foreign Relations, The American Law Institute and The Economic Club of New York. She is a Lecturer in Law at Columbia Law School, teaching the course “Antitrust in Action.”

Ms. Varney was born in Washington, D.C. She received a B.A. from the State University of New York at Albany in 1977, an M.P.A. from Syracuse University in 1982 and a J.D. from Georgetown University Law Center in 1986.

Ms. Varney may be reached by phone at +1-212-474-1140 or by email at [cvarney@cravath.com](mailto:cvarney@cravath.com).

*Ms. Varney is admitted only in New York and District of Columbia.*



## WENDY HUANG WASZMER

Partner  
Antitrust

### Contact Information

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New York, NY 10019  
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wwaszmer@wsgr.com

### Areas of Expertise

Antitrust and Intellectual Property  
Antitrust Litigation  
Commercial Litigation  
Criminal Enforcement  
Government Investigations  
White Collar

### EXPERIENCE:

Wendy Huang Waszmer is a partner in the New York office of Wilson Sonsini Goodrich & Rosati, where she is a member of the antitrust practice. Her practice focuses on representing companies and individual clients in high stakes antitrust and other government investigations, federal court litigation, and civil commercial disputes. She has experience with industry-wide domestic and cross-border investigations, including in technology, energy generation, life sciences, transportation, financial services, and petrochemicals. She has been recognized as a future leader in antitrust investigations and litigation by *Global Competition Review/Who's Who*, *Benchmark Litigation*, and *Global Investigations Review*.

She previously served in several leadership and trial counsel roles for the Department of Justice (DOJ) in New York and Washington, D.C. She has been a first-chair trial counsel in jury and bench trials. As the Assistant Chief of the New York field office of the DOJ Antitrust Division, Wendy supervised federal trials and criminal and civil investigations. She also was a liaison with federal and state enforcement and regulatory agencies in joint and parallel antitrust and fraud investigations. In addition, she served as counsel to the Assistant Attorney General of the Antitrust Division, advising on enforcement policy matters.

Earlier in her career, Wendy served as Assistant U.S. Attorney in the Civil Division of the U.S. Attorney's Office for the Southern District of New York, where she appeared as lead counsel in trials and hearings in more than 50 federal district court cases and numerous appeals, as well as in False Claims Act and other investigations. At the start of her career, she was a law clerk to the Honorable Richard J. Leon of the U.S. District Court for the District of Columbia.

### REPRESENTATIVE EXPERIENCE:

- Representation of a U.S./Japan joint venture in a DOJ global criminal antitrust investigation
- Representation of global automakers in coordinated U.S. and cross-border regulatory and civil enforcement investigations and litigation
- Representation of Fortune 100 and other public companies in conducting internal antitrust and integrity investigations into cross-border businesses
- Representation of healthcare and life sciences companies in False Claims Act litigation
- Representation of CEO and start-up company in federal and state court civil litigation
- Representation of individual executives in DOJ criminal antitrust investigations into life sciences, media, and other industries
- Representation of companies in global petrochemical, professional liability, manufacturing and other industries in evaluating complex antitrust and compliance issues

### EDUCATION:

- J.D., Georgetown University Law Center  
*Magna Cum Laude*; *Order of the Coif*; *Executive Articles Editor*,  
Georgetown Law Journal

- B.A., College of William and Mary  
*Summa Cum Laude, Phi Beta Kappa*

## ASSOCIATIONS AND MEMBERSHIPS:

- Member and Diversity Chair, Executive Committee, Antitrust Law Section, New York State Bar Association
- Member, Section of Antitrust Law, American Bar Association
- Non-Governmental Advisor, International Competition Network (ICN), 2015

## HONORS:

- Named a Future Leader in *Global Competition Review/Who's Who Legal*, 2017 and 2018
- Named to the 2016 edition of *Benchmark Litigation's* "Under 40 Hot List"
- Named to *Global Investigations Review's* "Women in Investigations 2015" list
- Recipient, Attorney General's Distinguished Service Award, 2012
- Recipient, Assistant Attorney General's Award, Antitrust Division, 2010 and 2012
- Recipient, Internal Revenue Service Criminal Investigation Chief's Award

## SELECT PUBLICATIONS:

- Co-author, "Navigating the Intersection of Antitrust and White Collar Enforcement," *ABA Antitrust Magazine*, Fall 2016
- Co-author, "McWane Dismissal May Impact Future FTC Cases," *Law360*, February 18, 2014
- Co-author, "Why Financial Institutions Should Think About Antitrust Leniency," *The Metropolitan Corporate Counsel*, November 26, 2013
- "Parallel Proceedings: Responding to Antitrust Division and Other Government Investigations with Related Litigation," *Cartel & Criminal Practice Committee Newsletter*, American Bar Association, November 1, 2013
- Co-author, "Comparing EU Marine Hose Cartel Case to U.S. Enforcement," *Law360*, May 31, 2013

## SELECT SPEAKING ENGAGEMENTS:

- Panelist, "Market Manipulation – When is it an Antitrust Issue?" American Bar Association, Section of Antitrust Law, July 20, 2017
- Panelist, "Recent Developments in DOJ Antitrust Division's Criminal Enforcement Program: Cooperation, View of Compliance Programs, Corporate Trials," 68th Annual Oil and Gas Law Conference, Center for American and International Law, Houston, Texas, February 17, 2017
- Speaker, "Ethical Issues on a Global Scale," Antitrust Section Annual Meeting, New York State Bar Association, New York, New York, January 26, 2017
- Speaker, "Women and Personal Branding," Section of Antitrust Law Seminar, American Bar Association, Washington, D.C., October 27, 2016
- Speaker, "International Antitrust Enforcement," Cambridge Symposium on Economic Crime, London, United Kingdom, September 6, 2016
- Panelist, "Why Are So Many Companies Rolling the Dice and Litigating Against the Government?" GCR Live: Second Annual Antitrust Litigation USA Conference, New York, New York, June 7, 2016
- Panelist, "Bid Rigging and Price Fixing," Sixth Annual KPMG Automotive Executive Share Forum Series, Los Angeles, California, November 19, 2015
- Panelist, "Public, Private Enforcement," ICN Cartel Workshop, Cartagena, Columbia, October 21, 2015
- Moderator, "The Competition & Markets Authority, Financial Conduct Authority and Competition Concurrency in the UK," American Bar Association teleconference, September 21, 2015
- Panelist, "FCA Approach to Enforcement Action Against Misconduct," Culture and Conduct: Implementing the FCA Conference, July 10, 2015
- Panelist, "Extradition in Cartel Cases," American Bar Association, Cartel & Criminal Practice Committee, June 24, 2014
- Chair of Opening Session, "Antitrust Goals," Third Next Generation of Antitrust Scholars Conference, New York University School of Law, New

York, New York, January 17, 2014

- Speaker, "Antitrust Enforcement Against International Cartels," New York State Bar Association Seasonal Meeting, Hanoi, Vietnam, October 25, 2013

ADMISSIONS:

- Bar of the District of Columbia
- State Bar of New York
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Southern District of New York
- U.S. Court of Appeals for the Second Circuit
- U.S. Supreme Court

# Samuel Weglein

*Analysis Group*

Dr. Weglein specializes in applying economics, statistics, and valuation to the analysis of liability issues and damages in antitrust, finance and securities, and general business litigation matters. Much of his recent antitrust work has been in health insurance and hospital markets. He has also assisted with antitrust litigation in a number of financial benchmark cases, including LIBOR and foreign exchange matters. In addition, Dr. Weglein has analyzed the economics of prepackaged software and managed projects to assess potential damages involving alleged anticompetitive conduct by Microsoft. He has also worked on behalf of Intel in antitrust litigation matters brought by AMD and the State of New York. In securities and finance litigation matters, Dr. Weglein has worked on behalf of several large financial institutions. These projects have included valuing long-defaulted sovereign debt, assessing damages arising from collateral calls on a total return swap, analyzing the reasonableness of the corporate governance regime of a publicly traded REIT, measuring the economic harm caused by management in a dispute over corporate control, and measuring the impact of short sales on securities prices. Dr. Weglein's experience spans numerous industries, including health and life insurance, investment and commercial banking, securities brokerage and clearing, asset management, semiconductors, computer hardware and software, minerals, oil and gas, shipping, automotive, food packaging, steel, real estate, medical devices, agribusiness, and biotechnology. He has coauthored a number of publications, including three white papers addressing the incentives facing dealers and manufacturers in the auto and heavy-duty vehicle industry.

## Selected Cases

- **Argentinian Economic Crisis**
- **Corvex Management et al. v. Commonwealth REIT et al.**
- **JP Morgan Chase, Dresdner & CSFB v. Republic of Uruguay**
- **Multiple Antitrust Litigations on Behalf of Large Semiconductor Manufacturer**
- **Proyectos y Construcciones Procisa v. Continental Tire of North America**
- **U.S. et al. v. Anthem Inc. et al.**
- **Veleron Holding, BV v. BNP Paribas SA et al.**

**Michael L. Weiner**, co-leader of Dechert's antitrust/competition practice group, provides strategic advice, resolves government investigations and effectively litigates for clients with antitrust issues in a broad range of industries.

Mr. Weiner has significant experience in successfully completing complex merger transactions, having represented SK hynix on its role in the acquisition of Toshiba's NAND (flash memory) business, American Express Global Business Travel in its acquisition of Hogg Robinson Group, Shanghai Shenda on its agreement to form a global joint venture with International Automotive Components, Yahoo!, Inc. in its joint venture with Microsoft, Inc., Avis in its acquisition of Budget, Genzyme in its acquisition of Ilex Oncology, Centennial Communications in its acquisition by AT&T, and Rural Cellular in its acquisition by Verizon Wireless.

In his litigation work, Mr. Weiner has represented clients in price fixing and other antitrust class actions in a variety of industries, including insurance (AXIS Specialty Insurance Company and AXIS Surplus Insurance Company), real estate brokerage (Realogy Corp.), art auctions (Christie's, Inc.) and magnesite (China Minmetals Corporation and China National Minerals Co., Ltd). He represented Travelport Inc. in a high-profile, bet-the-company monopolization and antitrust conspiracy lawsuit with American Airlines.

Mr. Weiner is known as an innovator in his field and is recognized for his extensive knowledge of the industries he serves. *Chambers USA* notes he was "praised by commentators who note that 'he is extremely knowledgeable on substantive antitrust law, and better yet, he's easy to work with.'" *Chambers USA* also wrote that Mr. Weiner has won "particular acclaim" for his "M&A expertise" and is also noted for providing "thoughtful guidance" by commenters who consider him "extremely knowledgeable" and "extremely practical." He has been named a national and New York "litigation star" in *Benchmark Litigation*, "recommended" in *Legal 500*, and listed in *Chambers Global*, *Who's Who Legal*, *International Who's Who of Competition Lawyers* and *Global Counsel Handbooks' Competition Law*, as well as in *The Best Lawyers in America*. He was also featured (a number of years ago) in *Global Competition Review's* "45 Under 45 Survey of International Competition Lawyers."

He is a frequent speaker and author on a wide range of antitrust/competition issues and currently serves as an officer of the New York State Bar Association's Antitrust Section. Mr. Weiner also sits on the editorial board of *World Competition Law and Economics Review* and is the former editorial chair of *ANTITRUST* magazine (1994-1998), as well as a former Council Member and Officer of the ABA's Antitrust Section.

**Erica S. Weisgerber** is counsel in the Litigation Department of Debevoise & Plimpton LLP whose practice focuses on antitrust and competition law. Ms. Weisgerber's antitrust practice includes representation of plaintiffs and defendants in civil litigation, representing clients before the antitrust agencies in government review of proposed transactions, and counseling clients with respect to antitrust issues associated with mergers and acquisitions, joint ventures, and competitor's exchange of information.

Ms. Weisgerber's antitrust litigation practice encompasses a wide range of complex civil antitrust litigation, including class and individual actions addressing a range of issues and claims. She has represented plaintiffs and defendants in all phases of the litigation process, from pre-complaint investigations and negotiations through trial and appeal, including clients in the pharmaceutical, healthcare, technology, financial, and freight forwarding industries. She also currently represents defendants in several benchmark-related class actions, including the TIBOR and SIBOR-related litigation in the Southern District of New York.

In her merger practice, Ms. Weisgerber guides investors and companies through Hart-Scott-Rodino Act merger review analysis and process, negotiating with governmental and private parties, responding to second requests and agency investigations, advocating before the Federal Trade Commission and U.S. Department of Justice Antitrust Division, and coordinating cross-jurisdictional antitrust strategies around the world. She has obtained merger clearances for transactions across an extensive range of industries, including pharmaceuticals and healthcare, automotive, technology, media, telecommunications, construction and industrial services. Ms. Weisgerber is also currently assisting Judge Michael Mukasey in his role as divestiture monitor to the Bayer/Monsanto merger divestiture to BASF.

Ms. Weisgerber also maintains an active pro bono practice and is a 2012 and 2013 recipient of The Legal Aid Society's Pro Bono Publico Award for outstanding service to The Legal Aid Society and its clients. She has also been recognized as Empire State Counsel by the New York State Bar Association for her pro bono contributions.

Ms. Weisgerber is a member of the Bar of New York and is admitted to appear before the U.S. District Courts for the Southern and Eastern Districts of New York, the U.S. Courts of Appeals for the Second, Third and Tenth Circuits, and the U.S. Supreme Court. Ms. Weisgerber is a member of the New York State Bar Association, for which she currently serves as Chair of the Antitrust Section's Class Action Committee. Ms. Weisgerber is also a member of the American Bar Association and is currently a Vice Chair of the Antitrust Section's Legislation Committee and is co-editor of the Antitrust Section's State Action Practice Manual. She is also a member of the National Association of Women Lawyers, for which she serves as a co-chair of the NAWL's Membership Committee. Ms. Weisgerber also serves as an Editor-in-Chief of the Debevoise Women's Review.

From 2009 to 2010, she clerked for the Hon. Joseph Bianco of the United States District Court for the Eastern District of New York. Ms. Weisgerber received a J.D. magna cum laude from Georgetown University Law Center in 2008, where she was Order of the Coif and Managing Editor of the Georgetown Law Journal. She received a B.A. magna cum laude from Georgetown University in 2005.