

AMERICAN ANTITRUST INSTITUTE

Private Antitrust Enforcement Conference

WEDNESDAY, NOVEMBER 18, 2015
WASHINGTON, D.C.

AGENDA

***8:30 a.m.-9:45 a.m. –Young Lawyers Breakfast: Future of Private Antitrust Enforcement –
Holeman Lounge***

This breakfast session is designed for junior practitioners, who represent the future for private antitrust enforcement. A panel of lawyers will give a variety of perspectives on how junior lawyers can succeed in the practice. Topics will include how to contend with the pressures and challenges of litigation, how to develop business, how to gain valuable experience, and related matters.

Moderator: Joshua P. Davis, Associate Dean for Academic Affairs, Professor, and Director of the Center for Law and Ethics University of San Francisco School of Law

Panelists: Bradley J. Demuth, Director, Nussbaum Law Group, P.C.
Matthew Duncan, Member, Fine, Kaplan and Black, R.P.C.
Candice J. Enders, Shareholder, Berger & Montague, P.C.
Hiba Hafiz, Associate, Cohen Milstein Sellers & Toll PLLC
Dean M. Harvey, Partner, Lieff Cabraser Heimann & Bernstein, LLP

9:30 a.m. – Continental Breakfast Sponsored by KCC – Ballroom

10:00 a.m. – Welcome – Ballroom
Diana Moss, President, American Antitrust Institute

10:15 a.m. – Developments on Class Certification in the Antitrust Context

This panel will discuss the important class actions that the Supreme Court will be deciding this Term. These include *Tyson Foods*, which involves the propriety of using statistics and averaging to prove liability and damages in a class action, as well as the issue of whether class certification is defeated by the presence of some uninjured class members; *Spokeo*, which involves the issue of whether a plaintiff possesses Article III standing to pursue statutory damages even in the absence of actual damages; and *Gomez*, which presents the question of whether defendants can utilize Rule 68 offers of judgment to render a class plaintiff's claim moot and thus short-circuit a class action. The panel will also discuss several significant antitrust decisions from the past year, including *Urethanes* and *Nexium*.

Moderator: Roberta D. Liebenberg, Senior Partner, Fine, Kaplan and Black, R.P.C.

Panelists: Paul Bland, Executive Director, Public Justice
Ellen Meriwether, Partner, Cafferty Clobes Meriwether & Sprengel LLP
Richard C. Pepperman II, Partner, Sullivan & Cromwell LLP

11:15 a.m. – Collusion in Wage Suppression

Several antitrust cases over the last few years have alleged conspiracies by employers to suppress wages. These allegations have been made by a wide variety of plaintiffs including nurses and other medical professionals, high tech employees, mixed martial arts fighters, and visual effects and animation artists. These cases raise interesting issues because they involve the sale of labor rather than products, buyer cartels rather than seller cartels, and rule of reason claims instead of (or in addition to) per se claims. This panel will discuss these issues as they arise in a number of recent and ongoing cases.

Moderator: Daniel Small, Partner, Cohen Milstein Sellers & Toll PLLC

Panelists: Joe Goldberg, Senior Shareholder, Freedman Boyd Hollander Goldberg Urias & Ward P.A.

Joseph R. Saveri, Joseph Saveri Law Firm, Inc.

Hal Singer, Principal, Economists Incorporated

12:15 p.m. – Networking Break Sponsored by Nathan Associates, Inc. – Holeman Lounge

12:45 p.m. – Luncheon – Ballroom

Address: Diana Moss, President, American Antitrust Institute

Introduction: Daniel Small, Partner, Cohen Milstein Sellers & Toll PLLC

Keynote Address: Aaron S. Edlin, Richard Jennings Professor of Economics and Law, University of California, Berkeley

2:00 p.m. – Developments in Antitrust Cases Against Sports Leagues

In the past few years, several major antitrust class actions have been waged against major sports leagues, hitting some of the world's most powerful organizations with suits that challenge the economic underpinnings of their businesses and raise questions about whether the mechanisms by which they are organized or developed improperly suppressed competition in violation of the antitrust laws. Athletes and consumers have brought suits claiming antitrust injury in the purchase of tickets, the sale of merchandise, the provision of compensation, the procurement of identity rights, and more. This panel will address recent developments in recent such cases against entities such as, e.g., the NCAA, the NHL, PGA, and the UFC.

Moderator: Eric L. Cramer, Managing Shareholder, Berger & Montague, P.C.

Panelists: Jeffrey Kessler, Partner, Winston & Strawn LLP

Daniel A. Rascher, Ph.D., Partner, OSKR, LLC; Professor, University of San Francisco

Sathya S. Gosselin, Partner, Hausfeld LLP

Renae Steiner, Partner, Heins Mills & Olson, P.L.C.

3:15 p.m. – Break

3:30 p.m. – Class Action Ethics in Antitrust Cases

This panel will cover topics of solicitation, communications, conflicts, and investigation ethics (witness, confidential informants, using the Internet to find former employees). This panel will also focus on the obligations of lead and co-lead counsel in light of recent decision regarding what contacts and offers can defendants or their agents make to settle the claims of class representatives or large class members in an attempt to defeat class certification.

Moderator: Linda Nussbaum, Senior Partner, Nussbaum Law Group, P.C.

Panelists: Christopher M. Burke, Partner, Scott + Scott LLP

Howard M. Erichson, Professor of Law, Fordham University School of Law

Kimberly Justice, Partner, Kessler Topaz Meltzer & Check, LLP

Brent Landau, Administrative Partner, Hausfeld LLP

Margaret M. Zwisler, Partner, Latham & Watkins

4:50 p.m. – Closing

Diana Moss, President, American Antitrust Institute

5:00 p.m. – Cocktail Reception Sponsored by Rust Consulting/Kinsella Media – JW Marriott

6:00 p.m. – Antitrust Enforcement Awards Dinner

8:00 p.m. – Champagne Reception Sponsored by Economists Incorporated and Epiq Systems