

Matthew S. Wild
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OVERVIEW

- Experienced in all facets of antitrust including litigation, mergers and counseling on issues such as the price-fixing, market allocations, group boycotts, gun jumping, joint ventures, bundling of products, intellectual property licensing, exclusive dealing, distribution systems (including dealer terminations and creation of exclusive sales territories), restrictions on resale price or price advertising and price discrimination.
- Appointed interim lead class counsel for the indirect purchaser classes in *In re Packaged Ice Antitrust Litig.*, MDL No. 1951 and *In re Dairy Farmers of Am. Cheese Antitrust Litig.*, MDL No. 2031.
- Drafted successful *Daubert* motions in antitrust litigation.
- Author of www.antitrustcommentary.com and antitrust articles.

ANTITRUST EXPERIENCE

LITIGATION

PRICE-FIXING, BID RIGGING AND MARKET ALLOCATION:

In re Vitamins Antitrust Litigation: Defended fourth largest vitamins manufacturer that pleaded guilty to price fixing in lawsuits brought by direct and indirect purchasers (including class actions) under the federal and state antitrust laws- supervised testifying and consulting economists; assisted in preparation of expert reports and development of damages theories; drafted *Daubert* motions that resulted in the withdrawal of one expert and the criticism of another expert; took and defended expert depositions; and ran joint defense meetings.

In re Monosodium Glutamate Antitrust Litigation: Defended manufacturer from indirect purchaser class actions in federal and state courts including devised and implemented coordinated strategy to defend numerous state court actions as well as settlement of claims nationwide.

In re Packaged Ice Antitrust Litigation: Representation of class of plaintiffs in putative class action on behalf of indirect purchasers of packaged ice under the antitrust and consumer protection laws in 28 states.

UNLAWFUL INFORMATION EXCHANGE:

Todd v. Exxon Corp., 126 F. Supp. 2d 321, 323 (S.D.N.Y. 2000) (*reversed on appeal*): Obtained pre-answer dismissal of complaint against oil company.

GROUP BOYCOTT AND CONSPIRACY TO MONOPOLIZE:

Ad/Sat v. Associated Press, 920 F. Supp. 1278 (S.D.N.Y. 1996), *aff'd*, 181 F. 3d 216 (2d Cir. 1999). Part of team that successfully defended trade association from claims of group boycott and conspiracy to monopolize.

PRICE DISCRIMINATION:

In re Brand Name Prescription Drug Antitrust Litigation: Defended brand name prescription drug manufacturer from claims that the difference in prices charged to retail pharmacies and managed care violated Robinson-Patman Act – part of team that prepared successful *Daubert* motion.

MERGER CHALLENGES:

United States v. UPM-Kymmene Oyj, et al.: Defended labelstock manufacturer from government challenge to its acquisition of a competitor at two-week evidentiary hearing- supervised team that obtained more than 200 declarations from customers that supported the transaction; interviewed and selected customer witnesses and prepared them to testify; conducted direct testimony of key customer witness; and handled pre-trial motion practice and briefing.

FTC v. H.J. Heinz, Co., 116 F. Supp.2d 190 (D.D.C. 2000): Assisted in successful trial defense (reversed on appeal) at two-week preliminary injunction hearing of merger between two baby food manufacturers.

United States v. Engelhard Corp., 970 F. Supp. 1463 (M.D. Ga. 1997): Part of team that successfully defended at trial (affirmed of appeal) a merger of competitors from a government challenge.

FRANCHISE:

Representing a franchisee alleging claims for violations of the New York Franchise Sales Act.

COUNSELING

Evaluated and advised clients concerning the likelihood that proposed mergers would receive agency clearance.

Supervised pre-merger integration planning activities and trade association meetings to ensure antitrust compliance.

Advised clients on distribution systems, including on creation of exclusive territories, bundling of products, restrictions on resale price and price advertising and dealer terminations to minimize risks of litigation.

Advised clients on the structuring of joint ventures and mergers to ensure antitrust compliance.

MERGER ADVOCACY

Advocated for clearance of mergers between competitors before FTC, U.S Department of Justice and state attorney general.

Responded to second requests for information under the H-S-R Act, and drafted white papers and presentations to show that mergers would have no adverse effect on competition.

Convinced U.S. Department of Justice to challenge a merger based on a complaint from a competitor.

PUBLICATIONS

Author and publisher of widely-read blawg, www.antitrustcommentary.com.

Contributing Author, *Market Definition*, Economics Committee of Antitrust Section, American Bar Association (work in progress)

Co-Author, "Buyer Beware: Consummating Non-HSR Reportable Transactions May Prove Costly in the End," *American Bar Association Antitrust Litigator* (Winter 2007)

Co-Author, "Private Equity Groups Under Common Legal Control Constitute A Single Enterprise," 3 *New York University Journal of Law & Business* 231 (Fall 2006)

"Pitfalls to Avoid in Proving Price Fixing Damages," *American Bar Association Antitrust*, Spring 2006

EDUCATION

New York University School of Law, J.D., 1994

Associate Editor, *New York University Law Review*

Recipient, American Jurisprudence Award in Civil Procedure

University of Rochester, B.A., cum laude, 1991