Proskauer



Contact

Colin Kass

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Colin Kass is a partner in the Litigation Department and co-head of the Antitrust Group. As a seasoned trial lawyer, Colin has handled many of the nation's most complex and innovative antitrust cases over the past 20 years.

Colin's practice involves a wide range of industries, including financial services, healthcare, sports, media, pharmaceuticals, and automotive markets, and spans the full-range of antitrust and unfair competition-related litigation, including class actions, competitor suits, dealer/distributor termination suits, price discrimination cases, criminal price-fixing probes, and merger injunctions.

Colin also has extensive experience interfacing with the Federal Trade Commission and Department of Justice, obtaining clearance for competitively-sensitive transactions and handling anticompetitive practices investigations.

As a trusted advisor, Colin also counsels clients on their sales, distribution, and marketing practices, strategic ventures, and general antitrust compliance.

Selected Publications

- *Trial Graphics and Your Antitrust Story*, Trial Practice Committee of the ABA, co-authored with Scott Abeles (Spring 2017)

- *New FTC Leadership Continues to Flex Their Muscles: New Practice of Issuing Warnings Imposes Unnecessary Uncertainty on Merging Parties*, co-authored with David Munkittrick and John Ingrassia (October 2021)
- *Can Purchasing Efficiencies Save Mega-Mergers?*, co-authored with John Ingrassia and Rucha Desai (May 2017)
- *Has the Supreme Court Thrown Health Care Regulation into Disarray? A Comment on the Court's Reworking of the State Action Doctrine*, Antitrust Source, co-authored with Scott Abeles and John Ingrassia (Fall 2015)
- *The International Comparative Legal Guide to Competition Litigation 2015, 7th Edition*, *Competition Litigation: USA*, co-authored with Scott Abeles (September 2014)
- *DOJ Merger Policy Shines New Light on Conduct Remedies, Association of Corporate Counsel, Lexology*, co-authored with John Ingrassia (June 2011)
- *Demanding Antitrust Side-Letter Disclosure*, *LAW360*, co-authored with John Ingrassia (April 2011)
- *The Uncertain State of Class Action Waivers*, *LAW360*, co-authored with Amy Crafts (March 2010)
- *Predatory Pricing Redux*, *National Law Journal* (2010)
- *Going Horizontal: Why File and Duck Strategies No Longer Work*, *Association of Corporate Counsel* (2010)
- *Holding Parent Companies Liable for Their Children's Wrongs*, *LAW360*, co-authored with Mireille Dany and Marianne Le Moullec (August 2010)
- *Cartel Investigations: Selective Disclosures and Privilege Preservation By the Target Company Seller*, *Competition Law International*, Vol. 3, No. 2, co-authored with James H. Mutchnik and David Spiegel (October 2007)
- *Consumer Pricing Will Never Be the Same*, *Antitrust Litigator* (Summer 2007)
- *Bundled Rebates: A Temporary Blip on the Antitrust Radar*, *Antitrust Litigator* (Fall 2006)
- *Competition is Good Again*, *Legal Times*, co-authored with Tefft W. Smith and Scott M. Abeles (March 2007)

Matters

Monopolization Cases

- *Castro v. Sanofi Pasteur Inc.* Lead counsel for Sanofi Pasteur in defense of a nationwide class action alleging that Sanofi monopolized the alleged market for meningitis vaccines in the United States through bundling and other exclusionary conduct.
- *TrueEx LLC v. MarkitServ Ltd.* Lead counsel for MarkitServ in defense of an antitrust claim, seeking to impose a duty to deal with a competitor in the alleged market for processing Interest Rate Swaps.
- *ChampionsWorld v. Major League Soccer.* Counsel for Major League Soccer in its successful defense of a claim that it foreclosed competition in the alleged market for the promotion of international exhibition soccer matches.
- *NASL v. Major League Soccer.* Counsel for Major League Soccer in its defense of an alleged monopolization and conspiracy case brought by a competing league.
- *Briggs & Stratton v. Kohler Co*. Counsel for Briggs & Stratton in its defense of an antitrust counterclaim brought by Kohler Co. under Section 2 of the Sherman Act, which challenged the industry's practice of "program pricing," unlawful bundling, and exclusive dealing.
- *Infineon Technologies v. Rambus Inc.* Counsel for Infineon in its antitrust counterclaim against Rambus, which challenged Rambus's abuse of DRAM standard setting process. Counsel to Infineon, as a third-party, in the FTC related investigation of Rambus's practices. Counsel to Infineon in Rambus's subsequent suit against Infineon for alleged conspiracy to boycott Rambus.
- *Netscape v. Microsoft Corp.* Counsel for Netscape in private suit for recovery of treble damages resulting from conduct found illegal by the D.C. Circuit.
- *Beech-Nut Nutrition Corp. v. Gerber Prods. Co.* Counsel for Beech-Nut in its illegal monopolization and predatory pricing claim against Gerber Products Company

Price Fixing/Section 1 Cases

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NFL Merchandise Antitrust Litig. Counsel for the National Football League and its 32 team in defense of a nationwide class action alleging monopolization of the online market for NFL merchandise.

- *In re Dental Supplies Antitrust Litigation.* Counsel for Henry Schein, Inc. in a series of cases brought by the Federal Trade Commission, competitors, and putative nationwide class of dentists, alleging a conspiracy among the leading dental supply distributors to fix prices, boycott manufacturers and others, and to allocate customers and employees via no poaching agreements.
- *In re Turkey Antitrust Litigation.* Counsel for Butterball in defense of an antitrust class action alleging a conspiracy among turkey producers to fix prices through the exchange of production and sales information.
- *In re Credit Default Swaps Antitrust Litigation.* Lead counsel for Markit in defense of an antitrust class action alleging a conspiracy among major financial institutions to prevent competition in the market for credit default swaps.
- *In re Turkey Antitrust Litig.* Counsel for Butterball in defense of a nationwide class actions alleging a conspiracy to fix prices and restrict output of turkey.
- *In re Generics Antitrust Litigation.* Lead counsel for Lupin Pharmaceuticals U.S. in defense of antitrust cases brought by State AGs and private plaintiffs alleging a conspiracy to fix the prices generic pharmaceuticals.
- *Garber v. Major League Baseball.* Counsel for Major League Baseball in its defense of an antitrust challenge to rules relating out-of-market television broadcasts.
- *Synthetic Rubber Litigation.* Counsel for the Dow Chemical Company in a series of cases pending in the United States and elsewhere involving an alleged conspiracy to fix prices for Butadiene and Styrene Butadiene synthetic rubber.
- *In re Plastic Additives Antitrust Litig.* Counsel for The Dow Chemical Company in a nationwide federal class action lawsuit alleging a conspiracy to fix prices in the plastic additives and epoxidized soybean oil markets.
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The Broadway League v. Telsey & Co. Lead counsel for The Broadway League in suit challenging the attempted unionization and cartelization of the Broadway casting director services market by the Teamsters and various casting service companies.

- *In re Cigarette Antitrust Litig.* Counsel for Brown & Williamson in nationwide federal and state class action lawsuits alleging a conspiracy to fix prices among major cigarette manufacturers.
- *Discover Financial Services Co. v. Visa USA, et al.* Counsel for Discover Card, first as a third-party in the United States' suit to enjoin anticompetitive practices by Visa and MasterCard, and subsequently in Discover's follow-on treble damages suit against Visa and MasterCard.

Price Discrimination Cases

- *Mathew Enterprise Inc. v. Chrysler Group LLC. Lead Trial* Counsel for Chrysler in the successful defense of a $5.1 million price discrimination action brought by a dealer. After a two week trial, we obtained a jury verdict in our client's favor, which was later affirmed by the Ninth Circuit.
- *Budget Pest Prevention Inc. v. Terminix Int'l Co.* Counsel for Terminix in its defense of Robinson-Patman Act claims brought against manufacturers and distributors of pesticides.
- *Coalition for a Level Playing Field v. Autozone et al.* Counsel for Honeywell as a third-party manufacturer in Robinson-Patman Act claims brought by independent distributors against major retailers of auto parts.
- *B.K. Miller v. Coca Cola Enterprises.* Counsel Coca Cola Enterprises in price discrimination claim under the Robinson-Patman Act

Merger Clearance

- *Learfield Communications/IMG College.* Counsel for Learfield in its proposed merger with IMG College, which will combine the two largest providers of

collegiate multimedia rights services.

- *Celgene/Juno.* Counsel for Celgene in its $9 billion purchase of Juno Therapeutics, which combined the leading developers of BCMA CAR-T cancer therapies.
- *Celgene/Receptos.* Counsel for Celgene in its $7.2 billion acquisition of Receptos, which significantly enhanced the combined entity's portfolio of inflammation and immunology products.
- *Grifols/Biotest.* Counsel for Grifols S.A. in acquisition of Biotest U.S. Corp, which combined the largest captive plasma collection network of donor centers with the largest independent plasma collection network in the United States.
- *West Virginia United Health Systems.* Counsel for WVUHS in its acquisition and affiliation with Camden-Clark Memorial Hospital and St. Joseph's Hospital in Parkersburg, West Virginia.
- *Navistar/General Motors.* Counsel for Navistar International in its proposed acquisition of General Motor's medium duty truck business.
- *Agricore United/Saskatchewan Wheat Pool/James Richardson International.* Counsel for Agricore United in its proposed acquisition by JRI and hostile take-over attempt by Saskatchewan Wheat Pool.
- *TransWestern/Yellow Book.* Counsel for TransWestern Publishing in its successful acquisition by Yellow Book, which combined the two largest independent publishers of yellow page directories in the United States.
- *Ebay/Paypal.* Counsel for PayPal in its acquisition by EBay, which combined the largest on-line auction service provider and the second largest on-line payment provider with the largest on-line payment provider.
- *ADT/Cambridge/SecurityLink.* Counsel for Cambridge/SecurityLink in its acquisition by ADT, which combined the two largest providers of electronic security services.
- *S.C. Johnson & Son/DowBrands.* Counsel for S.C. Johnson in its acquisition of DowBrands' assets, including Ziploc, Saran Wrap, and Fantastic Brands

Merger Litigation

- *Allied Signal v. BF Goodrich Corp., et al.* Counsel for AlliedSignal in its challenge to BF Goodrich's acquisition of Coltec Industries.
- *FTC v. Heinz Co. et al.* Counsel for Beech-Nut in preliminary injunction proceedings brought by the Federal Trade Commission challenging the merger of Heinz and Beech-Nut.
- *FTC v. Staples, et al.* Counsel for Office Depot in preliminary injunction proceedings brought by the Federal Trade Commission challenging the merger of Staples and Office Depot.
- *MSC.Software Corp.* Counsel for MSC.Software in administrative proceedings brought by the Federal Trade Commission challenging MSC's acquisition of its only two competitors

Other Commercial Litigation

- *Bright Data Ltd.* Counsel for Bright Data defending allegations relating to the scraping of data from Meta Platforms, Inc. and X Corp (Twitter).
- *Allstate Insurance Co. v. Abbott.* Counsel for Allstate in its suit against the State of Texas challenging the constitutionality of legislation banning insurer ownership of collision repair facilities.
- *In re Pharmaceutical Industry Average Wholesale Price Litigation.* Counsel for B. Braun Medical Inc. in defending a nationwide class action alleging violations of RICO and state unfair competition laws based on Medicare's use of published "AWP" prices in setting reimbursement rates.

Anticompetitive Practices/Criminal Investigations

- Counsel for Alpharma in defending a Federal Trade Commission investigation into its licensing agreement with its sole competitor in the alleged generic liquid suspension ibuprofen market.

- *Barr Laboratories*. Counsel for Barr Labs in a variety of investigations by the Federal Trade Commission and the Department of Justice relating to the legality of patent settlements and other conduct relating to generic entry.
- *Consumer Products Manufacturer.* Counsel for a major consumer products manufacturer in defending a Department of Justice investigation into its suggested resale pricing policy. Restructured policy and implemented procedures acceptable to both client and the Department of Justice, which resulted in closure of investigation without further action.
- *In re Grand Jury Investigation*. Counsel for a major producer of chemical product in antitrust grand jury proceedings and its related application for conditional amnesty.

Practices

Litigation, Antitrust, Antitrust Technology Task Force, Health Care Regulatory Compliance

Industries

Health Care, Life Sciences, Private Capital

Market Solutions

Artificial Intelligence

Education

University of Michigan Law School, J.D.
University of Chicago, M.A.
University of Chicago, B.A.

Admissions & Qualifications

District of Columbia
Illinois

Court Admissions

Supreme Court of the United States

U.S. Court of Appeals, Federal Circuit

U.S. Court of Appeals, First 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, Ninth Circuit

U.S. District Court, District of Columbia

U.S. District Court, Illinois, Northern District

Awards & Recognition

The American Lawyer: Litigator of the Week 2024

Benchmark Litigation Litigation Star 2023-2026

Chambers USA: District of Columbia: Antitrust: Litigation Specialists 2015-2026

The Legal 500 United States: Antitrust: Civil Litigation/Class Actions 2017-2026

The Legal 500 United States: Healthcare: Life Sciences 2020

Washington, DC Super Lawyers 2016, 2019

Thomson Reuters Acritas Star Lawyer 2018-2021

Lawdragon 500 Leading Litigators in America 2024

Lawdragon 500 Leading Global Antitrust & Competition Lawyer: Antitrust Investigations & Litigation 2025