

Benjamin R. Dryden

Partner

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Benjamin Dryden is an antitrust lawyer and serves as the vice chair of the Firm's Antitrust & Competition Practice Group. His practice focuses on the antitrust issues that arise in mergers and acquisitions. His experience includes advising clients on the antitrust risk profiles of potential transactions, counseling clients through the due diligence and integration planning processes, negotiating antitrust risk provisions in purchase agreements, and representing clients in investigations before the Department of Justice, Federal Trade Commission, and state attorneys general. He has particular experience with transactions in the hospital, health insurance, and manufacturing sectors. Benjamin also provides a broad range of antitrust counseling and compliance services, with particular focuses on healthcare and antitrust issues relating to labor and employment.

In his M&A practice, Benjamin regularly represents clients in merger investigations before federal and state antitrust enforcers, including "Second Request" merger investigations. Because Second Requests can require sorting through massive volumes of documents in a short amount of time, Benjamin is an expert at leveraging artificial intelligence to achieve the best results in the quickest, most cost-effective way. In 2023, the legal technology company Relativity named Benjamin an "AI Visionary" for his innovative work deploying artificial intelligence in Second Requests.

In addition, Benjamin helps clients navigate the complex requirements of the Hart-Scott-Rodino (HSR) Act. He has prepared well over 100 HSR filings and routinely advises clients on the intricate HSR reportability rules. He also negotiates and oversees "clean team" agreements to ensure compliant information sharing throughout the due diligence and integration planning processes.

Benjamin provides a broad range of antitrust counseling services, ranging from one-off counseling questions to employee compliance trainings and full-scale antitrust audits. Benjamin complements his legal and industry knowledge with a down-to-earth, plain-spoken style, allowing him to effectively communicate complex concepts with a broad range of audiences. Benjamin is a sought-after speaker on antitrust topics, with quotes

in publications such as the *Wall Street Journal*, *CNBC.com*, *Reuters*, and *Bloomberg Law*, as well as dozens of articles to his name.

Representative Experience

Benjamin maintains a broad practice representing businesses in complex civil litigation. He has litigated antitrust, constitutional law, breach-of-contract, and regulatory disputes in federal and state courts across the country. Representative litigation matters include:

- *Association of Equipment Manufacturers v. Burgum*, 932 F.3d 727 (8th Cir. 2019), 2017 WL 8791104 (D.N.D. 2017) — Successful challenge to the North Dakota Farm Equipment Dealership Statute under the Contracts Clause of the United States Constitution.
- *Lloyd's Material Supply Co. v. Regal Beloit Corp.*, 2017 WL 5172206 (C.D. Cal. 2017) — Achieved full dismissal of antitrust claims on grounds including lack of actionable conduct and lack of plausible antitrust injury.
- *Central Telephone Co. of Virginia, Inc. v. Sprint Communications Co. of Virginia, Inc.*, 715 F.3d 501 (4th Cir. 2013), 759 F. Supp. 2d 789 (E.D. Va. 2011) — Successfully recovered more than US\$25m for the plaintiff, for breach of telecommunications interconnection agreements; the trial court described the defense as “founded on post hoc rationalizations ... as part of [the defendant’s] cost-cutting efforts, and the witnesses who testified in support the defense were not at all credible.”

Awards and Recognition

- Recipient, Washington Super Lawyers® Rising Stars list for Antitrust Litigation (2014-2023)
- Artificial Intelligence Visionary, named by Relativity

Presentations and Media

- Quoted, [“How the FTC’s noncompete ban could impact manufacturing operations and innovation,”](#) *Manufacturing Dive* (May 8, 2024)
- Panelist, “Takeaways from the Trenches: The JetBlue/Spirit Merger Trial,” ABA M&A Committee Program (May 3, 2024)
- Quoted, “FTC Noncompete Ban Presents Several Trade-Offs For Behavioral Health,” *Behavioral Health Business* (April 24, 2024)
- Quoted, [“What We’ve Learned From Biden-Era Merger Remedies,”](#) *Law360* (April 22, 2024)
- Quoted, [“JetBlue-Spirit Ruling Casts Uncertainty Over Airline Deals,”](#) *Law360* (January 17, 2024)
- Co-author, “Behind antitrust Enforcers’ 2023 Labor and Employment Push,” *Law360* (December 19, 2023)
- Quoted, “What the new health counsels at FTC, DOJ, and HHS might do,” *STAT* (December 19, 2023)
- Co-author, “Biden Administration Announces New Efforts to Promote Competition in Health Care,” *Health Care Law Today* (December 8, 2023)
- Quoted, “FTS-Amgen Deal: ‘Major Advance,’ Or ‘Narrow Assurance’?”, *Law360* (September 7, 2023)

- Co-author, “[An Analysis of the “Deputization” Theory of Section 8 of the Clayton Act,](#)” *The Antitrust Source* (August 2023)
- Quoted, “2023 Is Far From Done With Government Merger Cases,” *Law360* (July 20, 2023)
- Quoted, “DOJ’s Merger Record Improves & Other Early 2023 Highlights,” *Law360* (July 7, 2023)
- Quoted, “What To Watch In Mass. Courts In The 2nd Half of 2023,” *Law360* (July 3, 2023)
- Quoted, ““FTC’s Proposed Rule to Ban Noncompetes Faces Stiff Resistance,” *WorldatWork* (May 31, 2023)
- Co-presenter, “Recent Antitrust Developments in Health Care and Pharma” for the ABA Antitrust Law Section’s Health Care and Pharmaceuticals Committee (April 19, 2023)
- Quoted, “Analysis: JetBlue faces ‘uphill battle’ in merger fight with government,” Reuters (March 9, 2023)
- Speaker, “What the FTC’s Proposed Ban on Employee Noncompetes Means for Healthcare,” Association of Corporate Counsel, Health Law Network (March 7, 2023)
- Co-presenter, “[Prepare for 2023: What to Expect in Labor & Employment this Year,](#)” *Foley Insights* (February 1, 2023)
- Quoted, “Nonprofit hospitals may evade noncompete ban enforcement, experts say,” *Healthcare Dive* (January 20, 2023)
- Quoted, “Proposed ban on noncompete clauses could affect ‘every business in the country,’ says attorney — what that means for you,” CNBC (January 11, 2023)
- Quoted, “Kroger-Albertsons Antitrust Review Likely to Focus on Local Store Overlap,” *The Wall Street Journal* (October 21, 2022)
- Quoted, “Labor Violations to Receive New Merger Scrutiny Via Agency Pact,” Bloomberg Law (July 22, 2022)
- Quoted, “Mid-Year Update: No Antitrust Redux Yet Despite Stack of Bills,” *Law360* (July 13, 2022)
- Speaker, “[Noncompetes under Attack – Biden Administration Seeks to Limit Restrictive Covenants in the United States,](#)” *Foley Insights* (July 21, 2021)
- Speaker, “A New Doctrine for Trust-Busting: The Evolving View on Antitrust Litigation” (June 2, 2021)
- Speaker, “2021 Antitrust Trends in the US” (April 14, 2021)
- Co-presenter, “[Antitrust Counseling for Health Care Providers,](#)” *Foley Insights* (October 22, 2020)
- Co-presenter, “Antitrust Update” for the ABA Antitrust Law Section’s Corporate Counseling Committee (February 24, 2020)

Sectors

- [Health Care & Life Sciences](#)

Practice Areas

- [Antitrust & Competition](#)
- [Business Litigation & Dispute Resolution](#)
- [Distribution & Franchise](#)
- [Labor & Employment](#)

- [Litigation](#)
- [eDiscovery & Data Management](#)

Education

- University of Pennsylvania Law School (J.D., 2008)
 - Articles editor, *University of Pennsylvania Journal of Constitutional Law*
- Wharton School
 - Certificate in Business and Public Policy 2008
- University of Michigan (B.A., 2004)
 - Member, Phi Beta Kappa

Admissions

- District of Columbia
- Maryland
- U.S. Court of Appeals
 - Fourth, Fifth, Eighth and D.C. Circuits