

Alan D. Rutenberg

Partner

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Alan D. Rutenberg regularly represents clients on a variety of antitrust issues, including those arising in mergers and acquisitions, litigation matters, agency investigations, joint ventures, competitor collaborations, licensing, and other intellectual property matters, pricing practices, distribution matters, and compliance programs. In the antitrust area, he has advised clients in hundreds of mergers and acquisitions matters, ranging from multimillion-dollar to multibillion-dollar transactions and is active in representing clients with regard to both domestic and international antitrust aspects of transactions.

Alan is a member and the former chair of the firm's national Antitrust & Competition Practice and a member of its Litigation Department.

Alan has represented clients in a wide range of industries, including health care, commercial and industrial products, energy, insurance and financial services, funeral and cemetery services, automotive related products, consumer goods, printing, software, media, food, scrap recycling, electric motors, and pharmaceuticals.

Alan was featured in "Halcyon Days Are Here Again, The Return of Antitrust to M&A, Best Practices of the Best Dealmakers," published by *The M&A Advisor* and *Merrill DataSite*, 2014.

Representative Experience

- Regularly represents clients before the Federal Trade Commission and the Antitrust Division of the Department of Justice on mergers and acquisitions investigations. His experience involves managing every phase of the investigation, including coordinating premerger notification filings, developing white papers and presentations for agency submission, responding to agency "Second Requests," and negotiating to address agency concerns, including through consent decrees. He represents clients that are parties to agency investigations as well as third party complainants, and third parties subpoenaed by the government.

- Litigates antitrust matters, including class action defense and antitrust issues that arise in intellectual property litigation.
- Counsels clients on reportability and compliance matters under the Hart-Scott-Rodino Act and international premerger notification regimes and coordinating premerger notification obligations for cross-border transactions.
- Represents clients in antitrust civil conduct investigations by the Federal Trade Commission and Antitrust Division of the Department of Justice and criminal investigations by the Antitrust Division of the Department of Justice.
- Provides antitrust compliance assistance, including preparing company policy manuals and providing training.

Affiliations

- American Bar Association's Section of Antitrust Law
 - Contributor to its publication *Antitrust Law Developments* (7th ed. 2012)
 - Previously served for a number of years (2003-2008) as co-editor-in-chief of its *Mergers and Acquisitions Newsletter*

Presentations and Publications

- Co-author, "FTC Proposes Sweeping Changes to Hart-Scott-Rodino Filing Requirements," *Foley Insights*, June 28, 2023
- Co-author, "DOJ Withdraws Policy Statements That Defined Limited Safe Harbor for Information Sharing Among Competitors," *Foley Insights*, February 6, 2023
- Co-author, "Hart-Scott-Rodino Reporting Thresholds and Filing Fee Structure to Change Significantly," *Foley Insights*, January 26, 2023
- Co-author, "FTC Proposes Sweeping Federal Ban on Employee Noncompetes," *Health Care Law Today*, January 6, 2023
- Co-author, "FTC Releases New Policy Statement on "Unfair Methods of Competition" Enforcement under Section 5 of the FTC Act," *Foley & Lardner LLP Legal News Alert: Antitrust*, November 17, 2022
- Co-author, "One Year of Action Since President Biden's Executive Order on Competition," *Foley & Lardner LLP Legal News Alert: Antitrust*, July 27, 2022
- Co-author, "Hart-Scott-Rodino Reporting Thresholds to Increase Significantly," *Foley & Lardner LLP Legal News Alert: Antitrust*, January 24, 2022
- Co-author, "President Biden's Executive Order on Competition Could Mean Broad Changes Across a Range of Industries," *Foley & Lardner LLP Legal News Alert: Antitrust*, July 14, 2021
- Co-author, "Hart-Scott-Rodino Reporting Thresholds Adjust Downward for Just Second Time Ever," *Foley & Lardner LLP Legal News Alert: Antitrust*, February 2, 2021
- Co-author, "M&A Antitrust Considerations" section of "Post-COVID M&A Transactions Guidebook," *Coronavirus Resource Center: Back to Business*, October 8, 2020
- Co-author, "FTC and DOJ Issue Final Vertical Merger Guidelines," *Manufacturing Industry Advisor, Health Care Law Today*, July 21, 2020

- Co-author, “Three Ways Antitrust Enforcement Has Changed Under Coronavirus, and One Way it Has Not,” *Coronavirus Resource Center: Back to Business*, March 26, 2020
- Co-author, “FTC and Pennsylvania AG Sue to Block Merger of Philadelphia Healthcare Systems,” *Health Care Law Today*, March 16, 2020
- Co-presenter, “Antitrust Update” for the ABA Antitrust Law Section’s Corporate Counseling Committee, February 24, 2020
- Co-author, “Hart-Scott-Rodino Reporting Thresholds to Increase Once Again,” *Foley & Lardner LLP Legal News Alert: Antitrust*, January 29, 2020
- Co-author, “FTC and DOJ Issue Draft Vertical Merger Guidelines,” *Manufacturing Industry Advisor*, January 22, 2020
- Co-author, “Hart-Scott-Rodino Reporting Threshold Reaches \$90 Million,” *Foley & Lardner LLP Legal News Alert: Antitrust*, March 4, 2019
- Co-author, “Hart-Scott-Rodino and Interlocking Directorates Thresholds Rise for 2018,” *Foley & Lardner LLP Legal News Alert: Antitrust*, January 30, 2018
- Co-author, “The General Counsel’s Cheat Sheet to the Hart-Scott-Rodino Act,” *The M&A Journal*, August 2017
- Instructor, M&A session, “Antitrust and Competition Laws: Foundations and New Developments,” International Law Institute Seminar, June 14, 2017
- Co-author, “EU Antitrust Continuity Potentially Threatened by Brexit,” *Dashboard Insights*, February 6, 2017
- Co-author, “2017 Antitrust Outlook – A Year of Uncertainty,” *Dashboard Insights*, February 2, 2017
- Co-author, “Hart-Scott-Rodino Threshold Crosses \$80 Million Mark,” *The National Law Review*, January 27, 2017
- Co-author, “FTC Again Finds Success in High-Profile Hospital Merger Appeal,” *The National Law Review*, November 2, 2016
- Co-author, “FTC Finds Success in High-Profile Hospital Merger Appeal,” *The National Law Review*, September 29, 2016
- Co-author, “Judge Allows Advocate-NorthShore Merger to Proceed; FTC May Appeal,” *Foley & Lardner LLP Legal News Alert: Antitrust*, June 15, 2016
- Co-author, “Federal Judge Refuses FTC Request to Block Hershey/Pinnacle Deal; FTC to Appeal,” *Foley & Lardner LLP Legal News Alert: Antitrust*, May 11, 2016
- Co-author, “Annual Adjustments to Hart-Scott-Rodino and Interlocking Directorates Thresholds,” *Foley & Lardner LLP Legal News Alert: Antitrust*, January 28, 2016
- Co-presenter, “Staying Competitive and Compliant in the EU: 2015 Key Developments on Competition Matters,” *Foley & Lardner Webinar*, January 28, 2016
- Co-author, “Clarity Put on Hold as FTAIA Conflict/Confusion Continues,” *Foley & Lardner LLP Legal News Alert: Antitrust*, June 22, 2015
- Co-author, “Takeaways From the FTC/DOJ Workshop on Health Care Competition,” *Health Care Law Today*, March 15, 2015

- Co-author, book chapter, “The Antitrust Laws and Big Data,” *Big Data: A Business and Legal Guide*, Taylor & Francis Group, 2014
- Co-presenter, ABA Antitrust Section Corporate Counsel Monthly Updates, October 2014
- Co-author, “Commission Tightens Rules of Exemption Under the EU De Minimis Safe Harbor,” *Foley & Lardner LLP Legal News Alert: Antitrust*, August 6, 2014
- Co-author, “District Court Upholds FTC Hart-Scott-Rodino Rules for Pharmaceutical Patent Transfers,” *PharmaPatents* blog, June 26, 2014
- Co-author, “New FTC Rules for Exclusive Pharmaceutical Patent Licenses,” *PharmaPatents* blog, November 20, 2013
- Co-author, “Timely Merger Clearance Becomes Increasingly Problematic As Complex Rules and Procedures for Required Approvals Spread Around the World,” *Bloomberg BNA: Antitrust & Trade Regulation Report™*, August 23, 2013
- Co-presenter, “Access to Capital: Managing the Antitrust Risks Associated With Mergers and Affiliations,” *Foley & Lardner Webinar*, August 15, 2013
- Co-author, “Fourth Circuit Hands FTC Win Against State Dental Board,” *Bloomberg BNA: Antitrust & Trade Regulation Report™*, June 28, 2013
- Co-author, “Supreme Court Game Changer: Rule of Reason Applies to ANDA Reverse Payment Settlements,” *Foley & Lardner LLP Legal News Alert: Antitrust*, June 19, 2013
- Co-author, “Supreme Court Issues Landmark Ruling in Hospital Merger Case on Scope of Action Immunity,” *Foley & Lardner LLP Legal News Alert: Antitrust*, February 20, 2013
- Co-author, “Inside FTC’s New Rules for Investigations,” *Competition Law 360*, November 9, 2012
- Co-author, “Understanding Recent Developments in Hospital Merger Enforcement,” *Foley & Lardner LLP Legal News Alert: Antitrust*, May 9, 2012

Sectors

- [Health Care & Life Sciences](#)
- [Payor Provider Convergence](#)

Practice Areas

- [Antitrust & Competition](#)
- [Litigation](#)

Education

- Harvard Law School (J.D., cum laude, 1994)
 - Member of the best team in its Ames Moot Court Competition
- Transylvania University (B.A., summa cum laude, 1991)