



Ben Bradshaw

Partner

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The Co-Chair of the Firm's Antitrust and Competition Practice, Benjamin G. Bradshaw focuses on antitrust and competition law litigation, investigations, and regulatory counseling. In addition to his antitrust and competition law practice, Ben has developed extensive expertise in the financial services area, representing financial services institutions in a range of class action litigation involving retirement plan services matters. Ben also regularly advises aviation clients on a wide variety of aviation regulatory and compliance issues and has significant litigation experience in the healthcare industry.

Ben has been recognized by *Legal 500* United States for his antitrust litigation practice. He has a wealth of experience in complex antitrust counseling, investigations, and litigation, as well as agency investigations and merger reviews. Ben regularly represents multinational clients in connection with international cartel investigations and class action litigation. He has defended major companies in a wide range of private antitrust actions involving claims of price-fixing, monopolization, and unfair and deceptive trade practices. He has also represented clients in multiple criminal proceedings and investigations before the Department of Justice.

Ben frequently represents financial institutions in connection with ERISA-related class action litigation involving 401(k) plan fees and alleged breaches of fiduciary duty. In addition, he has extensive transportation and aviation regulatory experience. Ben regularly advises clients on compliance, advertising, airport privatization, foreign investments, international route rights, and aviation-related transactions.

Admissions

Bar Admissions

District of Columbia

California

Court Admissions

US District Court, District of Columbia

US District Court, Northern District of California

Education

University of Southern California,
J.D., 1996: Executive Articles Editor,
University of Southern California Law Review

University of Southern California,
M.A., International Relations, 1996

Yale University, B.A., 1993

Ben works diligently to guide his clients through extremely complex and sensitive litigation. He utilizes his broad experience and robust skills to devise effective strategies to resolve client matters efficiently while mitigating litigation's impact on business operations and reputations. Ben is also an experienced trial lawyer, having tried several cases to verdict since 2009.

Ben is a frequent author and speaker addressing a variety of subjects, including antitrust damages, foreign sovereignty, and U.S. antitrust enforcement.

Ben is also O'Melveny's firmwide Talent Development Partner.

Experience

Antitrust and Competition

- Representing Par Pharmaceutical, Inc. in a purported antitrust class action alleging a conspiracy to monopolize and allocate the market for the drug Seroquel XR based on a so-called "reverse payment" arising from a settlement of patent litigation between the manufacturer of the brand drug and a generic company
- Representing Samsung Bioepis in *In re Humira Antitrust Litigation*, the first purported antitrust class action involving allegations of a so-called "reverse payment" involving biologics and biosimilar drug products
- Representing American Airlines in connection with a series of class action complaints alleging collusion to restrain capacity in the domestic airline industry
- Representing Par Pharmaceutical Companies, Inc. and Par Sterile Products LLC in antitrust treble damages action involving claims of exclusive dealing and monopolization brought by Fresenius Kabi USA
- Represented Samsung Electronics Co. in *In re Optical Disk Drives Antitrust Litigation*, obtaining summary judgment and dismissal of multi-billion dollar treble damages claim
- Represented Alaska Airlines in connection with the DOJ investigation of its merger with Virgin America and in connection with private litigation challenging the transaction
- Represented Sysco Corporation at trial in connection with the Federal Trade Commission's suit to block Sysco's acquisition of US Foods
- Represented Samsung Electronics Corporation and Samsung Electronics of America in the *In re Cathode Ray Tube (CRT) Antitrust Litigation* involving federal direct purchaser conspiracy claims and state indirect purchaser claims
- Represented Asiana Airlines in the *In re Air Cargo Shipping Service Antitrust Litigation* in claims of price-fixing in the air cargo industry
- Represented affiliates of Humana, Inc. in litigation involving allegations of a group boycott and other unfair competition practices in health care provider contracting
- Represented a major managed care organization in federal litigation relating to a Department of Defense healthcare program

- Represented Chemtura Corporation in multiple federal and state price-fixing actions, including the Multi-District Litigation proceedings In re Rubber Chemicals Antitrust Litigation (alleging price-fixing of rubber chemicals), In re EPDM Antitrust Litigation (alleging price-fixing of ethylene propylene diene monomer), In re Plastic Additives Antitrust Litigation (alleging price-fixing of plastic additives), In re NBR Antitrust Litigation (alleging price-fixing of nitrile rubber), and In re Urethanes Antitrust Litigation (alleging price-fixing of urethanes chemicals)
- Represented US Airways in In re Northwest Airlines Antitrust Litigation, a class action lawsuit alleging that airline ticketing rules that prohibit "hidden-city ticketing" violated Section 1 and 2 of the Sherman Act

Investment and Retirement Plan Services

- Defending Reliance Trust Company in putative class action alleging various fiduciary breaches under ERISA arising from investment selections and recordkeeping fees in connection with a 401(k) plan
- Representing Ameriprise Financial, Inc. in class action litigation alleging fiduciary breaches and prohibited transactions in connection with propriety investment options in 401(k) plan
- Represented affiliates of Fidelity Investments in class action litigation, including a trial, challenging the reasonableness of fee structures, including excessive administrative and investment management fees, in 401(k) plan service arrangements

Transportation Regulatory

- Representation of numerous clients in connection with the United States Department of Transportation foreign investment regulations
- Represented US Airways in multiple proceedings before the United States Department of Transportation on various matters, including international route authority proceedings, consumer protection investigations, certificate transfers, and airport access and slot proceedings
- Represented Prestige Cruise Holding, Inc., in connection with United States Department of Transportation investigation involving consumer advertising regulations
- Represented Midway Investment and Development Company in connection with the privatization of Chicago's Midway International Airport, the first attempted privatization of a large-hub U.S. commercial airport

Professional Activities

Clerkships

- Honorable Tena Campbell, U.S. District Court, District of Utah

Member

- American Bar Association, Antitrust Section

Author

- "Further Liberalization of the U.S. — European Aviation Market is Probably on its Way, But When and in What Form?" *The Transportation Update*, ABA Section of Antitrust Law (Winter 2005)

Co-Author

- "Extraterritoriality After Vitamin C: Are We Between a Rock and a Hard Place?," *ABA Antitrust Magazine* (Fall 2018, with Stephen McIntyre and Scott Schaeffer)

- “International Comity in the Enforcement of U.S. Antitrust Law in the Wake of In Re Vitamin C,” *ABA Antitrust Magazine* (Spring 2017, with Julia Schiller and Remi Moncel)
- “Where to Draw the Line: Should the FTAIA’s Domestic Effects Test Apply in Criminal Prosecutions?,” *ABA Antitrust Magazine* (Summer 2015, with Ian Simmons and Stephen McIntyre)
- “Foreign Sovereignty and U.S. Antitrust Enforcement: Is “The State Made Me Do It” a Viable Defense?,” *ABA Antitrust Magazine* (Summer 2012, with Julia Schiller and Ramesh Nagarajan)
- “Litigating Venue in Federal Antitrust Actions: Are Contacts With The Forum Required?,” *The Antitrust Practitioner*, ABA Section of Antitrust Law (January 2010, with Ben Labow)
- “Final Descent? The Future of Antitrust Immunity in International Aviation,” *Competition Policy International* (September 2009, with Bimal Patel)
- “ACPERA - Lasting Limits Or Fleeting Experiment?” *Competition Law 360* (March 2009, with Angela Wilks)

Contributor

- *Antitrust Law Developments*, ABA Section of Antitrust Law (6th ed. 2007)

Chapter Author

- *The Indirect Purchaser Handbook*, American Bar Association (2007)

Honors & Awards

- Recommended by *Legal 500*, Antitrust, Transportation Litigation and Mergers & Acquisitions