



Sergei Zaslavsky

Partner

Washington, DC

D: +1-202-383-5162

szaslavsky@omm.com

Sergei Zaslavsky is an antitrust attorney with broad experience in trials, regulatory merger reviews, conduct investigations, antitrust audits, and antitrust counseling. Sergei effectively represents his clients by being both detail-oriented and strategic, and by studying his clients' businesses to understand how legal questions intersect with marketplace realities. In doing this, he is able to synthesize antitrust doctrine, economics, and facts into advocacy that is both rigorous and intuitive.

Sergei is a veteran of four federal trials and one arbitration hearing. He has taken the testimony of executives and economic experts and has deposed numerous fact and expert witnesses. Sergei has obtained favorable verdicts for his clients in both bench and jury trials as plaintiff and defendant. In 2019, the *National Law Journal* named Sergei as a "DC Rising Star," an award recognizing "the Washington, DC, region's 40 most promising lawyers age 40 and under."

Sergei has a diverse and deep set of experience, having worked on both litigation and regulatory matters, represented both plaintiffs and defendants, and prepared both expert and fact witnesses. Within that broad set experience, however, there are areas where Sergei has developed particular expertise:

- **Merger Litigation.** Sergei has taken part in six merger litigations. His accomplishments in this area include:
 - Key member of the O'Melveny AT&T-Time Warner merger trial team that prevailed against the DOJ in what the press has dubbed "the antitrust trial of the century." The representation

Admissions

Bar Admissions

District of Columbia

Maryland

Education

Harvard University, J.D.: *magna cum laude*

Dartmouth College, A.B., Economics: *summa cum laude*

received *Global Competition Review's* 2018 "Merger Matter of the Year – Americas" award.

- Represented US Airways in defending the merger with American Airlines against a DOJ challenge. The airlines settled the DOJ suit, allowing the merger to proceed and paving the way for the creation of the world's largest airline. The representation garnered *Global Competition Review's* 2014 "Matter of the Year" award.
- Played a pivotal part in Honeywell's challenge to Alarm.com-Icontrol merger, which resulted in favorable settlement for the client. Sergei was the principal drafter of the complaint and the briefing.
- **Two-sided markets.** Sergei played a pivotal role in developing, preparing, and presenting the expert case in the *US Airways v. Sabre* litigation. The 2016 Sabre trial was the first district court case where two-sided platform doctrine played a key role after the Second Circuit's *Amex* decision established the modern judicial approach to platform markets, and the 2022 trial was the first case after the 2018 Supreme Court *Amex* decision where evidence of net two-sided anticompetitive effects was presented to a jury. The O'Melveny team obtained favorable verdicts for its client US Airways in both the 2016 and 2022 trials. Sergei is one of the few lawyers to have both plaintiff and defense-side experience in two-sided market cases, giving him a comprehensive perspective on this important area of antitrust law.
- **Economic Experts.** While Sergei has worked on virtually all aspects of antitrust litigation, he frequently focuses on the economic case. Sergei has taken the testimony of economic experts in federal court; second-chaired the expert presentations in a merger trial, a rule of reason trial on platform MFNs, and an ICC arbitration; and has deposed both economic and non-economic experts.

In addition to maintaining his busy and successful practice, Sergei is an active member of the antitrust bar and regularly contributes thought leadership on cutting edge competition topics. Sergei is a member of ABA Antitrust Law Section Leadership and a founding member of ABA's *Our Curious Amalgam* podcast, a weekly program featuring interviews with leading antitrust and consumer protection thinkers and practitioners.

Experience

- Defense of AT&T and Time Warner against DOJ's challenge of their historic merger. The trial was characterized as a "sweeping victory for AT&T" by *The Wall Street Journal*. *United States v. AT&T Inc.*, 310 F. Supp. 3d 161, 164 (D.D.C. 2018), *aff'd sub nom. United States v. AT&T, Inc.*, 916 F.3d 1029 (D.C. Cir. 2019).
- Defense of medical device company C.R. Bard in a tying case against competitor AngioDynamics. AngioDynamics sought over \$135M (originally over \$260M) in damages and an injunction forcing Bard to unbundle the technology it developed to help place catheters inside the patient. Following a three-week trial, the jury returned a complete defense verdict, finding that Bard was not liable for tying.
- Representation of C.R. Bard in a tying class action brought by a hospital customer.

- Preparation of key fact witnesses and second-chairing economic experts' direct and cross examinations in *US Airways v. Sabre*, an eight-week trial that resulted in a favorable jury verdict and garnered *Global Competition Review's* "Litigators of the Week" award for the O'Melveny trial team. *US Airways, Inc. v. Sabre Holdings Corp.*, No. 11 CIV. 2725, 2017 WL 1064709 (S.D.N.Y. Mar. 21, 2017), *remanded*, 938 F.3d 43 (2d Cir. 2019). Sergei also helped prepare the economic case for the 2022 retrial that resulted in the first ever jury verdict finding that the defendant monopolized a two-sided market.
- Defense of a major tech platform in a series of two-sided market monopolization and tying cases brought by various private and government plaintiffs.
- Defense of US Airways - American Airlines merger.
- Defense of a major bank in a class action involving allegations of collusion to inflate interest rates on bonds.
- Representation of Global Music Rights in antitrust litigation against the Radio Music Licensing Committee.
- Defense of cryptocurrency pioneer Roger Ver and software developers in *United American v. Bitmain*, the first federal antitrust case involving cryptocurrency. The claims were dismissed with prejudice.
- Representation of Honeywell in a lawsuit to block a merger between two competitors, resulting in a favorable settlement.
- Representation of Honeywell in its acquisition of Intermecc.
- Representation a major electronics company in a high-stakes ICC arbitration, taking the testimony of high-ranking marketing executives and second-chairing expert examinations.
- Representation of Sysco in a merger trial against the FTC, where Sergei second-chaired economic experts' direct and cross examinations.
- Representation of a Fortune 100 Company in an FTC investigation relating to joint venture agreement and IP licensing issues. FTC dropped the investigation, allowing Sergei's client to continue its joint venture.
- Counseling of major clinical laboratory company on licensing issues.
- Antitrust audit for Fortune 500 petrochemical company.
- Representation of manufacturer of a weight loss product in an FTC Bureau of Consumer Protection investigation.

Professional Activities

Member

- ABA Antitrust Law Section Leadership
- ABA Antitrust Law Section *Our Curious Amalgam* Podcast

Author / Co-Author

- "Buyer Cartel Doctrine: Lessons From Labor Antitrust," *Competition Policy International* (June 29, 2021)
- "Merger Control and Privacy: The Right Tool for the Job?" *The Deal* (October 12, 2020)
- "Chilling Tech M&A Could Hurt Competition," *Law360* (June 23, 2020)

- “OpEd: M&A No Special Antitrust Concern During Downturns,” *The Deal* (May 13, 2020)
- “Blockchain and Antitrust: How Counsel Can Mitigate Risk,” *Bloomberg BNA* (January 9, 2019)
- “Deciding Between Bench and Jury Trial: Reflections After *US Airways v. Sabre*,” *Antitrust* (Fall 2017) (with Charles Diamond)
- “Price Discrimination Markets in Merger Cases: Practical Guidance from *FTC v. Sysco*,” *Antitrust* (Fall 2016) (with Ian Simmons)

Contributing Author

- Antitrust Law Developments Update, *ABA* (2019)
- Consumer Protection Law Developments, *ABA* (2016)

Podcasts

- Our Curious Amalgam, “What’s the Hubbub About No-Poach? Recent Antitrust Enforcement in Labor Markets,” Co-Host, *ABA* (2020)
- Our Curious Amalgam, “Who Is Ready for 2021? Year in Review: Part 1,” Host, *ABA* (2020)
- Our Curious Amalgam, “Who Does Antitrust Work For? An Exploration of Labor Antitrust” Co-Host, *ABA* (2020)
- Our Curious Amalgam, “All Bundled Up? Making Antitrust Sense of Product Bundles and Clusters,” Co-Host, *ABA* (2020)
- Our Curious Amalgam, “What is the Relationship Between Privacy and Competition? A Conversation with Commissioner Noah Phillips” Co-Host, *ABA* (2020)
- Our Curious Amalgam, “Breaking News Special: Draft Vertical Merger Guidelines,” Co-Host, *ABA* (2020)
- Our Curious Amalgam, “Why Does it Matter? The Role of Big Data in Antitrust” (interview with Daniel Sokol), Co-Host, *ABA* (2020)
- Our Curious Amalgam, “Why the Techlash? Antitrust Policy and Big Tech” (interview with Hal Varian), Co-Host, *ABA* (2019)
- Our Curious Amalgam, “What’s The State of Things: 3 Things I Keep, 3 Things I Change” (interview with Josh Wright), Co-Host, *ABA* (2019)
- Our Curious Amalgam, “What is the Secret Sauce Behind Developing a Complaint” (interview with Melinda Coolidge) Co-Host, *ABA* (2019)
- Our Curious Amalgam, “Can We Have Mergers Without Tears: Understanding the Basics of Merger Review” (interview with Mike Keeley), Co-Host, *ABA* (2019)

Speaker

- *ABA Fundamentals of Antitrust Economics Series: Statistical Significance* (November 2018)
- *ABA Consumer Protection Update* (October 2015)

Honors & Awards

- Selected as one of *The National Law Journal's* 2019 “DC Rising Stars”