

THE ANTITRUST MASTERS COURSE IV

ABA SECTION OF ANTITRUST LAW

September 25-28, 2008

The Homestead, Hot Springs, VA

FACULTY (as of 10.03.08)

Joseph Angland	Heller Ehrman LLP	New York, NY
The Hon. Thomas O. Barnett <i>Assistant Attorney General, Antitrust Division</i>	US Department of Justice	Washington, DC
Roxane C. Busey	Baker & McKenzie LLP	Chicago, IL
Stephen Calkins	Wayne State University	Detroit, MI
Andrew I. Gavil	Howard University School of Law	Washington, DC
Scott D. Hammond <i>Deputy Assistant Attorney General, Antitrust Division</i>	US Department of Justice	Washington, DC
Kenneth Heyer <i>Economics Director, Antitrust Division</i>	US Department of Justice	Washington, DC
Christopher B. Hockett	Davis Polk & Wardwell	Menlo Park, CA
Robert T. Joseph	Sonnenschein Nath & Rosenthal LLP	Chicago, IL
Donald C. Klawiter	Mayer Brown LLP	Washington, DC
William Kolasky Jr.	WilmerHale	Washington, DC
J. Robert Kramer <i>Director of Operations, Antitrust Division</i>	US Department of Justice	Washington, DC
Abbott B. Lipsky Jr.	Latham & Watkins LLP	Washington, DC
Richard G. Parker	O'Melveny & Myers LLP	Washington, DC
Debra J. Pearlstein	Weil Gotshal & Manges LLP	New York, NY
Mark S. Popofsky	Kaye Scholer LLP	Washington, DC
Phillip A. Proger	Jones Day	Washington, DC
The Hon. J. Thomas Rosch <i>Commissioner</i>	Federal Trade Commission	Washington, DC

FACULTY

Howard Shelanski	University of California-Berkeley	Berkeley, CA
Vincent Smith	Cohen Milstein Hausfeld & Toll LLP	London, England
Christopher J. Sprigman	University of Virginia School of Law	Charlottesville, VA
Randolph W. Tritell	Federal Trade Commission	Washington, DC
Allan Van Fleet	Greenberg Traurig LLP	Houston, TX
The Hon. Sarah S. Vance <i>District Judge</i>	United States District Court, E.D. La.	New Orleans, LA
Daniel M. Wall	Latham & Watkins LLP	San Francisco, CA
Richard J. Wallis <i>Deputy General Counsel</i>	Microsoft	Redmond, WA
Darrell L. Williams	LECG LLC	Washington, DC
Margaret M. Zwisler	Latham & Watkins LLP	Washington, DC

2:30 – 5:30 pm
Appalachian

ECONOMICS

- Econometrics in the courtroom
- Network effects
- Economics of vertical restraints

Presenters: Joseph Angland
Ken Heyer
Darrell L. Williams

2:30 – 5:30 pm
Mt. Vernon/Stratford

HORIZONTAL AND VERTICAL ISSUES

HORIZONTAL ISSUES (2:30 – 4:00 pm)

- Conscious parallelism, “plus factors” and circumstantial evidence of agreements
- Information exchanges with competitors
- Trade association activities -- data collection and standard setting
- Analysis of joint purchasing risks
- Structuring and implementing joint ventures to avoid antitrust problems

VERTICAL ISSUES (4:00 – 5:30 pm)

- Market power and other screens in evaluating vertical restraints
- What is the effect of *Leegin* on counseling with respect to resale prices?
- How can suppliers deal with discounters without engaging in resale price maintenance? When is use of Colgate right for your client?
- How should dual distribution claims be evaluated?
- Exclusive dealing, bundling and volume discounts – separating competition on the merits from anticompetitive exclusionary conduct

2:30 – 5:30 pm
Mt. Vernon/Stratford

HORIZONTAL AND VERTICAL ISSUES

- Price differentials and the Robinson-Patman Act – defining and maximizing risk
- Giving advice cutting across competition regimes – dealing with the least common demonator

Presenters: Robert T. Joseph
Debra J. Pearlstein
Richard J. Wallis

6:15 pm
Bell Stand

TRANSPORTATION TO DEPART FOR RECEPTION/DINNER

6:30 – 9:30 pm
Gun Club

RECEPTION/DINNER

Keynote Speaker: Kenneth Heyer

Friday, September 26

8:00 am
Regency Ballroom Foyer

REGISTRATION

8:30 - 10:30 am
Regency Ballroom West

PLENARY SESSION:

- Distributional Restraints
- An Introduction to the Economics of Exclusion
- Exclusionary Conduct -- Unilateral and Concerted

Presenters: Stephen Calkins
 Darrell L. Williams

10:30 – 11:00 am

BREAK

11:00 am – 12:30 pm

PLENARY SESSION:

- Mergers
- Efficiency
- Conditions of Entry

Presenters: Stephen Calkins
 Andrew I. Gavil
 Phillip A. Proger

12:30 - 2:00 pm
Regency Ballroom East

LUNCHEON

Keynote Speaker: The Hon. Thomas O. Barnett

2:30 – 4:00 pm

BREAK-OUT SESSIONS

2:30 – 4:00 pm
Blue Ridge

CIVIL LITIGATION: TRIAL OF AN ANTITRUST CASE

- Preparing to try the case—trial themes, mock trials, rehearsals, witness selection, motions in limine, and jury selection
- Opening statements
- Presentation of witnesses and evidence, including economic evidence
- Closing arguments

Presenters: Christopher B. Hockett
 Richard G. Parker
 The Hon. Sarah A. Vance
 Margaret M. Zwisler

2:30 – 4:00 pm
Piedmont

MERGERS

- Overview of substantive analysis in the United States and Europe
- Merger process in the United States and Europe
- Some practical problems and challenges in the global transaction
- Key considerations in litigating the merger challenge

Presenters: J. Robert Kramer
Deborah Platt Majoras
Phillip A. Proger

4:00 – 6:00 pm
Mt. Vernon/Stratford

ANTITRUST COUNSELING

- Solving common counseling questions, riddles, puzzles and conundrums
- Shock and Awe: Strategies for counseling the high risk client
- State, federal and foreign: Strategies for serving many antitrust masters

Presenters: Roxane C. Busey
Abbott B. Lipsky Jr.

4:00 – 6:00 pm
Appalachian

INTERNATIONAL CRIMINAL

- U.S. criminal process and the investigative processes of other jurisdictions, especially the E.C
- Key steps in a cartel investigation from the initial steps through sentencing, as well as the impact of private actions
- The role of corporate leniency in various jurisdictions as well as the sentencing and fining procedures in each major jurisdiction

Presenters: Scott D. Hammond
Donald C. Klawiter
Vincent Smith

6:30 – 9:30 pm
Commonwealth

RECEPTION/DINNER

ANTITRUST ENFORCEMENT UNDER THE NEXT ADMINISTRATION

Moderator: Donald C. Klawiter

Keynote Speakers: William Kolasky Jr.
Abbott B. Lipsky Jr.

Saturday, September 27

7:30 am
Regency Foyer

REGISTRATION

8:00 - 10:00 am
Regency Ballroom West

PLENARY SESSION:

- Judicial Analysis of Antitrust

Presenters: Stephen Calkins
 Hon. Sarah S. Vance

10:00 – 10:30 am

BREAK

10:30 am – 12:30 pm

BREAK-OUT SESSIONS

Blue Ridge

ANTITRUST & IP

- Fundamental Relationship of IP and Antitrust
- IP and Market Power
- Acquisition of IP Rights
- Settlement of IP Litigation
- Joint Ventures, Licensing, and Patent Pools
- Standard-Setting and “IP Holdup”: Rambus and NDC

Presenters: Mark S. Popofsky
 Howard Shelanski
 Dan Wall

Appalachian

ECONOMICS IN MERGER CASES

- Critical loss analysis
- Market definition and entry analysis in a hypothetical deal

Presenters: Joseph Angland
 Ken Heyer
 Darrell L. Williams

Piedmont

INTERNATIONAL – UNILATERAL CONDUCT

- Basic doctrinal differences between the US and EU
- Developments in jurisdictions beyond the US and EU
- Institutions and structures that influence different approaches to unilateral conduct

Presenters: Abbott B. Lipsky Jr.
 Christopher J. Sprigman
 Randolph W. Tritell

Saturday, September 27 (cont)

- 12:30 - 2:00 pm
Regency Ballroom East LUNCHEON
Keynote Speaker: Vincent Smith
- 2:00 – 6:00 pm FREEDOM TO CHOOSE: Golf or other Client Development Activities
- 6:15 pm
Bell Stand TRANSPORTATION TO DEPART FOR MOUNTAIN LODGE
- 6:30 – 9:30 pm
Mountain Lodge RECEPTION/BUFFET DINNER
Keynote Speaker: Allan Van Fleet
- 10:00 – 11:30 pm
Homestead Bowling Alley BOWL-A-THON

Sunday, September 28

- 7:30 am
Regency Ballroom Foyer REGISTRATION
- 8:00 - 8:30 am PLENARY SESSION:
Regency Ballroom West THE INTERSECTION OF IP AND ANTITRUST
Presenter: Howard Shelanski
- 8:30 - 9:00 am WHAT TO KEEP IN MIND IN HANDLING THE “HOT CRIMINAL
ANTITRUST MATTER
Presenter: Donald C. Klawiter
- 9:00 - 9:30 am THE SIGNIFICANCE OF THE SUPREME COURTS RECENT
DECISIONS
Presenter: Stephen Calkins
- 10:00 – 10:30 am BREAK
- 10:30 - 11:00 am DEALING WITH COMPETITION REGIMES OUTSIDE THE US
Presenter: Donald C. Klawiter
- 11:00 - 11:30 am ATTRACTING AND KEEPING A FORTUNE 500 CLIENT
Presenter: Richard J. Wallis
- 11:30 - 12:00 pm THE FIVE MAJOR ANTITRUST DEVELOPMENTS TO ADVISE YOUR
CLIENTS TO ANTICIPATE
Presenter: James A. Wilson

Sunday, September 28 (*cont*)

12:00 – 12:30 pm

REPRISE – WHAT WE'VE LEARNED

Presenter: [Andrew I. Gavil](#)

12:45 pm

LUNCHEON

Regency Ballroom West