



Antitrust

Ever since the landmark Corrugated Container price-fixing case in 1980, in which Susman Godfrey recovered \$500 million on behalf of plaintiffs as a result of settlements and a verdict after a 3-month jury trial, the firm has been at the forefront of antitrust litigation. We have successfully represented plaintiffs bringing price-fixing, market allocation, refusal to deal, no-poach, and monopolization claims in numerous industries: consumer products, healthcare, real estate, technology, telecommunications, and transportation.

Susman Godfrey represents businesses and individuals in class actions against some of the largest and most powerful companies in the world including global investment banks Barclays, Citigroup, and Deutsche Bank; Hollywood heavyweights Disney, Pixar, DreamWorks, and Sony; News Corp.; Microsoft; Qualcomm; and the entire international auto parts manufacturing industry. We also handle significant antitrust cases on the defense side, representing companies such as Aetna, Chubb (previously ACE Limited), NASDAQ, Northwest Airlines, Intel, and Little Caesars.

Representative Experience

Monopolization Claims

- ***In re Qualcomm Antitrust Litigation.*** Appointed by the Court as co-lead counsel in this multi-district litigation on behalf of purchasers impacted by Qualcomm's anti-competitive conduct. Denying Qualcomm's motion to dismiss, the Court granted class certification in a 66-page order finding "substantial," "strong," and "compelling" evidence to support the certification. The certification order is currently subject to an interlocutory appeal in the Ninth Circuit. This complex case straddles the intersection of antitrust and technology and involves Qualcomm's monopoly in the modem chipset market to extract supra-competitive licensing fees on its intellectual property. With damages topping \$5 billion, the defense has called it "the largest class action in history."

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- ***Dial et al. v. News Corp.*** Secured a \$244 million settlement (\$187.5 million after fees and expenses) of federal monopolization claims in this class action against News Corporation and its affiliates. The media giant also agreed to change its contracting practices regarding in-store advertising. The settlement ended three years of litigation by a class of more than 600 consumer packaged goods companies who alleged News Corp. monopolized the market for in-store advertising in grocery and drug stores. Susman Godfrey was co-lead counsel for a class of businesses including lead plaintiffs H.J. Heinz Company, The Dial Corporation, Henkel Consumer Goods Inc., Smithfield Foods Inc., Foster Poultry Farms, HP Hood, and BEF Foods, Inc. In an opinion approving the settlement, the presiding judge stated that the plaintiffs “were represented by some of the finest antitrust lawyers in the nation” in this “exceptionally complex” antitrust action.
- ***SIFMA v. NASDAQ.*** Won a trial before an SEC administrative law judge on behalf of NASDAQ. A consortium of big banks had challenged NASDAQ’s rule changes on pricing for market data as being anti-competitive. When it was clear the case would result in a hearing with live witnesses, NASDAQ’s General Counsel called on Susman Godfrey to take charge, and our team delivered. Despite having to wait a year for a final ruling, Susman Godfrey’s team convinced the judge to uphold NASDAQ’s rule changes and pricing decisions in every respect.
- ***Masimo v. Tyco Health Care.*** Secured a winning verdict from a federal jury in Los Angeles for Masimo Corporation against Tyco Health Care Group, LP and its affiliate, Mallinckrodt, Inc. Masimo brought claims under the federal antitrust laws alleging that Tyco’s anticompetitive practices prevented Masimo from selling its competing pulse oximetry products to hospitals in the United States. After the trial court vacated the damages award and certain liability findings in its ruling on Tyco’s post-trial motions, the issue of damages was re-tried in a bench trial, and the trial court entered a judgment in Masimo’s favor for \$43.5 million, plus attorneys’ fees and costs. The Court’s judgment was affirmed on appeal to the US Court of Appeals for the Ninth Circuit, and Tyco paid the judgment.
- ***White v. NCAA.*** Secured a landmark settlement and agreement as co-lead counsel in an antitrust class action on behalf of a class of current and former football and basketball players at Division I schools. The case challenged an NCAA rule limiting the amount of athletics-based financial aid member schools may provide as a violation of Section I of the Sherman Act. The NCAA agreed to make \$218 million (\$209.4 million net of fees and expenses) available over five years for schools to provide additional benefits to student athletes, create a \$10 million fund to provide educational and professional benefits to former student athletes, and modify its rules.
- ***Spanish Broadcasting Corporation v. Clear Channel Communications.*** Defended Clear Channel Communications, Inc. in a suit brought by Spanish Broadcasting Corporation, Inc. (SBS) alleging \$1.5 billion in damages from supposed anticompetitive conduct by Clear

Channel and another defendant. Susman Godfrey filed a motion to dismiss the complaint in its entirety, which the Court granted with prejudice. SBS appealed to the Eleventh Circuit, which affirmed the dismissal in favor of Clear Channel.

- **Novell v. Microsoft.** Negotiated a \$536 settlement, including \$88 million in attorneys' fees, on behalf of Novell from Microsoft without filing a single lawsuit. The case involved antitrust claims related to Novell's NetWare products. Novell's General Counsel Joseph A. LaSala, Jr. stated, "This is a significant settlement, particularly since we were able to achieve our objectives without filing expensive litigation."
- **Caldera v. Microsoft.** Represented Caldera Inc. in a suit to recover hundreds of millions of dollars from Microsoft for monopolizing the market for personal computer operating systems. Our massive discovery efforts included taking the depositions of top Microsoft executives Bill Gates and Steve Ballmer. We defeated Microsoft's repeated summary judgment motions and settled the case two weeks before trial for a confidential amount that was reported by the *Wall Street Journal* as \$285 million.

Price Fixing and Other Conspiracy Claims

- **In re Libor-based Financial Instruments Antitrust Litigation.** Secured, to date, \$780 million in settlements for plaintiffs who allege several banks were involved in setting LIBOR and manipulating it to their advantage. These settlements are each combined with breakthrough agreements with the defendant banks to cooperate with plaintiffs in the ongoing litigation.
- **In re Automotive Parts Antitrust Litigation.** Secured, to date, over \$1.2 billion in settlements as co-lead counsel for a class of end payor plaintiffs in this complex series of antitrust cases brought against dozens of automobile suppliers who engaged in price-fixing and bid-rigging in the multi-billion-dollar automotive parts industry. This massive multi-district litigation is related to a criminal investigation which the US Department of Justice described as the largest price-fixing investigation in history. The litigation continues against the non-settling defendants. [Read more.](#)
- **In re Animators Antitrust Litigation.** Secured more than \$168 million in settlements (\$147.3 million after fees and expenses) for a class of animation industry employees in this antitrust action against the largest animation companies, including Disney, Pixar, Lucas Films, DreamWorks, and Sony, based on restrictions on their ability to compete against one another for talent.
- **In re Packaged Seafood Products Antitrust Litigation.** Represented Walmart in antitrust claims against the packaged tuna industry (Bumble Bee, Starkist, Chicken of the Sea) for conspiring to fix the prices of canned tuna products in the US. Walmart settled with all three major defendants for confidential amounts.
- **Walmart v. Pilgrim's Pride.** Lead counsel to Walmart in a high-profile antitrust matter against more than a dozen chicken producers, alleging

that the producers conspired to control the supply and prices of broiler chicken products in the United States in violation of the Sherman Act.

- ***In re Online DVD Rental Antitrust Litigation.*** Defended Walmart in a major multi-district antitrust class action brought by subscribers of online DVD rental services who asserted claims for market allocation and monopolization of the home entertainment market.
- ***In re Vitamin C Antitrust Litigation.*** Secured a \$54.1 million jury verdict in an antitrust price-fixing class action brought on behalf of direct purchasers of vitamin C against two Chinese vitamin C manufacturers in the first-ever case in which mainland Chinese companies were successfully sued under US antitrust laws. The verdict was tripled as required by law and, after adjusting for \$32.5 million in settlements with other defendants (\$19.5 million net of fees and expenses), a final judgment of \$147 million was entered against the defendants. This antitrust price-fixing class action was later reviewed by the United States Supreme Court, which issued a unanimous 9-0 decision in favor of the plaintiffs. In its ruling, the Supreme Court provided clarification as to how much deference federal courts must show statements made by foreign governments regarding the application of their domestic laws.