



Melissa H Maxman
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Practice Areas

White Collar Defense and Regulation, Regulatory Enforcement, Internal Investigations, FCPA/Anti-Corruption, Regulatory Compliance, Litigation and Arbitration, Commercial Litigation, Class Action Defense, Appellate Practice, Aviation Litigation, Products Liability, Mass Torts and Consumer Class Actions, Professional Liability, Antitrust and Competition Litigation, Corporate

Education

University of Michigan Law School (J.D., *cum laude*, 1988); George Washington University (B.A. 1983)

Bar Admissions

District of Columbia; State of Maryland; Commonwealth of Pennsylvania; Commonwealth of Virginia; Superior Court of Pennsylvania; U.S. District Court for the District of Columbia; U.S. District

Melissa H Maxman is the Managing Partner of the firm's Washington, D.C. office. She has decades of litigation experience at both the trial and appellate levels, primarily in the areas of antitrust, RICO, environmental law, complex commercial disputes, and white collar defense. She has extensive experience advising domestic and foreign corporations on global antitrust issues. She has represented clients in complex civil and criminal matters before the Federal Trade Commission, the Antitrust Division of the Department of Justice, and in private civil matters. Melissa has been recognized in *The Legal 500's* U.S. guide in the commercial litigation, corporate investigations, white collar defense, general commercial disputes, and antitrust categories, where she is described as a "brilliant thinker and lawyer" with a "deep knowledge in antitrust" who is "a passionate defender of her clients in litigation." She has also been recognized by *Chambers USA* in the antitrust litigation specialists category, in which she was described as "strong knowledgeable counsel with strong litigation, policy, and legislative skills and experience." She has also been named one of Washington, D.C.'s *Super Lawyers* each year since 2011. Melissa has also been recognized by *Lawdragon* as one of 2022's 500 Leading Litigators in America.

Prior to joining Cohen & Gresser, Melissa was the Chair of the Antitrust and Trade Regulation Practice Group in the Washington, D.C. offices of two large national law firms. She served as an Assistant United States Attorney in the Eastern District of Pennsylvania and was a law clerk for the Honorable Harry T Edwards of the United States Court of Appeals for the District of Columbia. Melissa is a *cum laude* graduate of the University of Michigan Law School, where she was editor-in-chief of the Michigan Law Review.

Melissa has been a member of the American Law Institute since 2003. She is also an Advisory Board member for the Institute for Consumer Antitrust Studies and is Co-Chair of the ABA National Institute on Class Actions. She is the immediate past chair of the Dean's National Advisory Council for the Columbian College of Arts and Sciences at the George Washington University. She serves as Co-Chair of the Exemptions and Immunities Committee of the ABA Antitrust Section.

Representative Civil and Criminal Antitrust Matters

Representing a company in a highly concentrated sector of the entertainment industry in seeking DOJ and state AG review of the anticompetitive effects of a decade-old merger. The merger involved two companies that held dominant positions in their respective, adjacent markets, and was resolved by a consent decree between the DOJ, several state AGs, and the merging parties.

Serving as primary antitrust counsel to Roku in its capacity as a third party in various civil investigations and litigation brought by the FTC and certain U.S. state attorneys general in which Roku's interests are impacted by the actions of the largest Big Tech Companies (Amazon, Google, Facebook, and Apple).

Representing DuckDuckGo as a third party in a landmark antitrust lawsuit brought against Google LLC ("Google") by the United States and 14 state attorneys general, as well as a related antitrust lawsuit brought against Google by the attorneys general of 38 states and U.S. territories. The lawsuits, which have been consolidated for pretrial purposes in the U.S. District Court for the District of Columbia, allege that Google has violated Section 2 of the

Courts for the Eastern and Middle Districts of Pennsylvania; U.S. District Court for the District of Maryland; U.S. District Court for the Eastern District of Michigan; U.S. District Courts for the Eastern and Western Districts of Virginia; U.S. District Court for the Eastern District of Wisconsin; U.S. Court of Appeals for the District of Columbia; U.S. Courts of Appeals for the First, Third, Fourth, and Tenth Circuits

Sherman Antitrust Act by unlawfully monopolizing markets that include general search services, general search advertising, and general search text advertising.

Representation of a gasoline and diesel sales and distribution company defending allegations of monopolistic behavior brought in private litigation.

In the Generics antitrust case pending via MDL in the Eastern District of Philadelphia representing confidential witness, the president of the company's diversified portfolio, overseeing all Generic drugs. She is the company's acknowledged most important defense witness. The witness was deposed in the case in 2022 but the transcript is sealed.

Conducted numerous internal investigations into allegations of violations of the Sherman Antitrust Act, including leading investigations into allegations of cartel activity for clients from both the government and private parties.

Regularly draft and implement antitrust compliance programs and provide antitrust compliance training for dozens of U.S. companies, including advice on communications with competitors, distributor and resale pricing, price discrimination, bundled and discounted pricing, potential mergers and joint ventures, and other issues with antitrust implications.

Defending a Norwegian ocean shipping company in private civil antitrust class action alleging cartel activity among shipping companies.

Represent a recreational vehicle manufacturer serving as class representative in pursuing claims of cartel activity against parts suppliers to manufacturers of recreational vehicles.

Served as lead counsel in *parens patriae* antitrust suit brought in the Commonwealth of Pennsylvania by then-Governor Thomas W. Corbett, Jr., on behalf of Pennsylvania citizens for injunctive relief against the National Collegiate Athletic Association (NCAA) to prevent the NCAA from imposing sanctions against Penn State on the basis that sanctions imposed antitrust injury on Pennsylvania and its citizens.

Represent class of NCAA Division I male basketball and football players in a civil antitrust lawsuit against the NCAA to eliminate its rule prohibiting players from obtaining compensation while in college.

Conducted an internal investigation into allegations of cartel activity by a major pharmaceutical manufacturer and successfully persuaded the DOJ Antitrust Division not to prosecute.

Defended one of the country's largest manufacturers of disposable cups and plastic cutlery against allegations of criminal and civil cartel activity in the industry; no criminal charges were brought and obtained dismissal of civil case.

Represented a road salt manufacturer in a criminal antitrust investigation by the DOJ Antitrust Division and various state attorneys general, avoiding any charges against the client.

Represented a telecommunications company in antitrust disputes with competitors, consumer groups, and regulatory disputes with state and local administrative agencies.

Defended the world's largest manufacturer of artificial teeth in civil antitrust litigation regarding monopolization claims relating to distribution contracts.

Represented an electronics manufacturer in pursuing antitrust litigation opting out of multidistrict class action litigation relating to DRAM and SRAM claims.

Represented a major beverage company in a dispute with a competitor over access to a group of Pennsylvania colleges.

Represented a variety of companies challenging competitors' allegedly anticompetitive practice before the FTC. Represented GTE in the merger with Bell Atlantic before the Pennsylvania Public Utility Corporation to create Verizon Communication.

Represent a game and fantasy production and publishing studio on structuring distribution contracts to avoid "free rider" problems, and negotiating directly with distributors and their counsel to avoid litigation.

Co-lead plaintiffs' class counsel in MDL antitrust litigation relating to electrical carbon products.

Co-chair of Foreign Plaintiffs Committee representing Swiss and English companies as the only foreign national plaintiffs in antitrust monopolization action against Microsoft.

Represented a Canadian energy company in ongoing antitrust advice relating to its joint venture with another international energy company, including drafting its antitrust compliance manual, assisting in the preparation of videos and other training materials, and assisting in the maintenance of appropriate records confirming that all relevant employees have been fully trained.

Representative False Claims Act/Qui Tam Matters

Representation of a company defending allegations of improper labeling brought by the Federal Trade Commission.

Represented manufacturer of dental and medical OTC products in U.S. Attorney's Office investigation into Defense Department fraud relating to sales of medical products to soldiers.

Obtained non-prosecution agreement with the DOJ following defense of international manufacturer of transit buses in a DOJ investigation into suspected criminal False Claims Act violations in connection with allegedly falsified customs records.

Obtained dismissal of civil False Claims Act suit relating to allegations of falsified customs records on behalf of an international manufacturer of transit buses as well as represented client in related breach of contract and employment disputes.

Conducted internal investigation into possible Medicare fraud and improper record keeping for large doctor-owned orthopedics practice and drafted follow-up compliance program.

Other Representative Civil Litigation Matters

Represented a group of automotive dealers in litigating civil RICO and antitrust claims against a car manufacturer, its parent company, and other defendants.

Defended a non-profit corporation in a lawsuit under the Colorado RICO and other state statutes regarding ownership and valuation of a golf resort.

Represented well-known professional athlete in contract litigation over the terms of a shoe endorsement deal.

Defended one of the largest manufacturers of disposable cups against claim before the Better Business Bureau regarding adequacy of company's advertising language with respect to environmental issues.

Represented family planning organization in the first civil Freedom of Access of Clinic Entrances Act case litigated in the Third Circuit; winning summary judgment for enforcement of the Act.

Represented international airline in series of civil lawsuits resulting from passenger's improper transport of agricultural products.

Represented a food manufacturer in successfully obtaining injunctive relief in a dispute relating to the importation of organic sugar.

Represented a defense contractor in intellectual property litigation regarding the ownership of complex code.

Represented an accounting firm in a professional liability suit brought by a former client.

Other Representative White Collar Defense & Regulation Matters

Representation of key witnesses in government investigations and lawsuits brought by the United States DOJ, the Federal Trade Commission, and various state Attorneys General.

Representation of witnesses subpoenaed to testify before Congress.

Represented the audit committee of a transportation company in a major FCPA internal investigation arising out of its bus sales in Angola.

Defended a power authority against Clean Air Act and Clean Water Act criminal environmental claims brought by the DOJ Environmental Crimes Section; and in follow-up private civil suits with the power authority's supplier regarding indemnification claims and with community groups suing for environmental injury.

Represented former Congresswoman in a grand jury investigation into then-spouse's financial fraud.

Represented a former state-wide elected official in guilty plea to corruption charges.

Activities and Affiliations

Fellow, American Bar Foundation

Fellow, Litigation Counsel of America

Advisory Board Member, Institute of Consumer Antitrust Studies

Member, American Law Institute

Former Chair and Advisory Board Member, The George Washington University Columbian College of Arts and Sciences Dean's National Council

Former Member, William B. Bryant Inn of Court

Former Vice Chair, Global Private Litigation Committee of the ABA Antitrust Section

Co-Chair, Exemptions and Immunities Committee of the ABA Antitrust Section

Co-Chair, ABA National Institute on Class Actions

Former Advisory Board Member, Civil RICO Report

Member, International Women's Forum of Washington, DC

Former Board Member, Sewall-Belmont House and Museum / National Women's Party

Former Trustee, Philadelphia Prison System

Member, Women's White Collar Defense Association