



Helene D. Jaffe

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Helene D. Jaffe has more than four decades of experience as an antitrust counselor and litigator. She focuses her practice on the transactional, counseling and litigation aspects of antitrust law with an emphasis on mergers and acquisitions, joint ventures, single firm conduct and distribution matters as well as on a company's pricing, promotional, marketing and advertising practices. She has been involved in many of the major antitrust and advertising cases and transactions that have shaped the law and defined the parameters of doing business in the United States for a host of industries, including chemicals, consumer products, airlines, cosmetics, electronics, health

care, media, pharmaceuticals, professional sports, publishing and telecommunications. She has handled Lanham Act advertising, trademark and trade dress cases, encompassing injunctions, bench and jury trials. Helene is frequently ranked among the nation's top antitrust attorneys, including being listed as a National Litigation Star for 2018 in *Benchmark Litigation: Guide to America's Leading Litigation Firms and Attorneys*. She is active in the community, serving on the Leadership Council for the International Women's Health Coalition, the Board of Literacy Inc., and American Friends Musee d'Orsay. She is also active in Barnard Alumnae affairs. A former Adjunct Professor at New York University School of Law, Helene is a frequent speaker and author on antitrust, merger, advertising and marketing issues, and serves on the Editorial Board of CTFN which provides in-depth news on mergers, event-driven situations, and major corporate developments with the detail, analysis, and accuracy commensurate with a professional investor's perspective.

Prior to founding Law Offices of Helene D. Jaffe LLC, Helene was co-chair of Fox Rothschild's Antitrust Practice Group. She was also co-chair of the Antitrust Group at Weil Gotshal & Manges and later headed the Antitrust Group at Proskauer Rose.

Honors & Awards

- *Benchmark Litigation: Guide to America's Leading Litigation Firms and Attorneys*
 - Listed as a National Litigation Star (2018)
 - Selected as a Local Litigation Star in New York Antitrust (2014-2015, 2018)
 - Listed in the "Top 250 Women in Litigation" (2016-2017)
 - Selected as a US Litigation Star (2014-2015)
- Named as one of the leading Antitrust attorneys in New York by *Chambers USA* (2015-2016)
- Named in *Chambers Global*
- Named in US Legal 500
- Named in Global Competition's "Top 100 Women in Antitrust"
- Named in The International Who's Who of Competition Lawyers and Economists
- Named in the Euromoney's Experts Guide
- Named by her peers among The Best Lawyers in America® in Advertising and Antitrust Law
- Named in the Guide to the World's Leading Competition and Antitrust Lawyers
- Named in a list of New York "Super Lawyers" (2006-2018)



2018

Bar Admissions

- New York

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of New York

Education

- Columbia Law School (J.D., 1976)
 - Harlan Fiske Stone Scholar
- Barnard College (A.B., *magna cum laude*, 1976)

Memberships

- Bloomberg Antitrust and Trade Regulation Report, Advisory Board
- American Bar Association
- ABA Section of Antitrust Law, Council
- ABA Consumer Protection Committee, Chair
- ABA Clayton Act Committee, Vice-Chair
- Committee on Trade Regulation of the New York County Lawyer's Association, Chair
- Trade Regulation Committee of the Association of the Bar of the City of New York, Member
- International Women's Health Coalition, Leadership Council
- American Friends Musée d'Orsay
- Golden Seeds, Managing Director

Board of Directors

- Literacy Inc.

Antitrust and FTC Proceedings

Helene's antitrust litigation and Federal Trade Commission matters include:

- ***Garber, et al. v. The Office of the Commissioner of Baseball, et al.***
Representing MLB in consumer antitrust class action challenging the video distribution of baseball games.
- ***Zenith Electronics LLC, et al. v. ViewSonic Corp.***
Represented Plaintiffs and MPEG-LA defending against ViewSonics' antitrust counterclaim and third-party claim alleging that plaintiffs, holders of standard essential patents for the ATSC digital television standard, and MPEG-LA, the patent pool administrator for the ATSC standard, failed to provide FRAND licenses for their patents. Case was settled after plaintiffs and MPEG LA filed their motion to dismiss
- ***United States v. Apple, Inc., et al.; In re: Electronic Books Antitrust Litigation***
Representing Simon & Schuster in 29 purported class actions consolidated in S.D.N.Y. challenging certain publishers' sale of e-books pursuant to agency distribution arrangements between each of the publishers and electronic book retailers. Successfully negotiated a settlement with DOJ and a parens patriae settlement with 54 U.S. states and territories, subject to final court approval.
- ***Sanofi-Aventis U.S. LLC, et al. v. Sandoz***
Represented Sanofi and the patent holder in defense of antitrust counterclaims asserted by generic drug manufacturer in patent infringement litigation involving Eloxatin. Obtained bifurcation and stay of discovery pending resolution of the underlying patent case.
- ***Sanofi-Aventis U.S. LLC / Synthron Holding B.V.***
Successfully convinced FTC to close its investigation of alleged violations of the Medicare Modernization Act regarding certain patent agreements involving Ambien CR without any enforcement action.
- ***Superior Offshore International, et al. v. Bristow Group Inc., et al.***
Represented SEACOR Holdings, Inc. obtaining summary judgment, affirmed on appeal, dismissing a putative Section 1 class action accusing SEACOR, Bristow Group, PHI Inc., and others of conspiring to fix prices for helicopter flights to oil rigs in the Gulf of Mexico in its entirety.
- ***The American Medical Association, et al. v. United Healthcare Corporation, et al.***
Represented United Healthcare in national class action lawsuits by members of various employer health care plans, individual doctors and several medical associations, involving antitrust and other claims relating to databases providing information on physician billed charges.
- ***Hi-Tech Pharmacal Co., Inc. v. Jame Fine Chemicals, Inc. and MedPointe Inc.***
Represented MedPointe Pharmaceuticals winning summary judgment dismissing Section 1 antitrust claims brought by a generic competitor.
- ***Finnegan v. Campeau Corp.***
Represented R.H. Macy & Co. securing dismissal of Section 1 antitrust claims, affirmed on appeal, in connection with competing tender offer bids.
- ***Dahl, et al. v. Bain Capital LLC, et al.***
Represented Thomas H. Lee Partners, L.P. in a putative treble damage class action lawsuit against private equity firms and investment banks on behalf of a class of shareholders in certain leveraged buyouts alleging antitrust violations.



- ***AMR Corp. v. UAL Corp.***
Represented American Airlines as co-lead counsel challenging United's acquisition of Air Wisconsin. After substantial completion of trial before Judge Kimba Wood, the case was mediated, resulting in a favorable settlement for American.
- ***US Airways Group, Inc. v. British Airways PLC, et al.***
Represented American Airlines as lead counsel in USAir's antitrust challenge to a proposed BA-American alliance. Obtained dismissal of all charges against American Airlines.
- ***Amadeus IT Group S.A. v. American Airlines***
Represented American Airlines as lead counsel defeating a motion for a preliminary injunction filed by Amadeus that threatened to shut down a major new program American planned to launch within weeks of the injunction hearing.
- ***Meredith Corporation, et al. v. Sesac, LLC, et al.***
Represented local television stations suing the SESAC performance rights organization challenging its licensing practices under the federal antitrust laws. Successfully defeated Defendants' motion to dismiss the case.
- ***In the Matter of Evanston Northwestern Healthcare Corp. and ENH Medical Group***
Represented a key third party witness resulting in FTC prevailing in its post-closing Section 7 challenge to a hospital merger and successfully obtaining prospective remedial relief regarding, among other things, payor negotiations.
- ***In the Matter of Piedmont Health Alliance, Inc.***
Represented a key third party witness resulting in FTC obtaining a consent order prohibiting, among other things, collective negotiations with payors.
- ***In the Matter of North Texas Specialty Physicians***
Represented a key third party witness resulting in FTC successfully prevailing in its Section 5 horizontal price-fixing claims against respondents and obtaining a consent order prohibiting, among other things, collective negotiations with payors.
- Defended a major off-shore helicopter services company in a multi-year U.S. investigation of price-fixing. The matter was closed without charges.

M&A and Joint Ventures

Helene's experience in mergers and acquisitions and joint ventures includes:

- **Datalogic IPTECH, s.r.l.**, in the \$600 million acquisition of Intermec by Honeywell, both manufacturers of 2D scan engines, resulting in a consent order requiring Honeywell and Intermec to license their 2D scan engine patents to Datalogic, as well as a worldwide covenant not to sue for 12 years.
- **Annie's, Inc.**, a natural and organic food company with a widely recognized brand, before the FTC in its \$820 million sale to General Mills, Inc. to join General Mills' U.S. natural and organic products portfolio.
- **Bowlmor AMF**, the largest operator of bowling centers in the world, in its acquisition of Brunswick Corporation's bowling center business, including 85 centers in the U.S. and Canada, for \$270 million.
- **Continuum Health Partners** before the FTC in its merger with Mt. Sinai Medical Center, creating the largest health care system in New York City, and one of the largest not-for-profit health systems in the country.
- **Sanofi**, through its U.S. Consumer Healthcare Division Chattem, in securing antitrust clearance of the acquisition of an exclusive license from UCB Biopharma SPRL under the Xyzal (the Rx brand of levocetirizine dihydrochloride) trademark, and other relevant intellectual property rights for the commercialization of products in the over-the-counter field in the United States and its territories and possessions, as well as a non-exclusive license to all UCB intellectual property to manufacture products outside of the Territory for exploitation of the products in the OTC field in the United States.
 - and through its U.S. Consumer Healthcare Division Chattem, in securing antitrust clearance for the acquisition of the worldwide rights to the Roloids brand from McNeil Consumer Healthcare.
 - in securing antitrust clearance for its \$20.1 billion acquisition of Genzyme.
 - in securing antitrust clearance for its \$1.9 billion acquisition of Chattem Inc.
 - in securing antitrust clearance for its \$4 billion purchase of Merck & Co's 50% stake in its Animal Health joint venture.
- **Tyman Plc**, a London-based building product supplier, before the Federal Trade Commission in its \$200 million acquisition of Truth Hardware Corp. of Minnesota, from its parent company Melrose Industries PLC, a London investment firm.
- **Bed Bath & Beyond Inc.** in securing antitrust clearance for its \$554 million acquisition of Cost Plus, Inc.
- **Fifth Street Finance Corp.**, in securing antitrust clearance for its acquisition of Healthcare Finance Group, LLC, a specialty lender providing asset-based lending and term loan products to the healthcare industry.
- **Hexpol A.B.**, the world's largest rubber compounder, in securing antitrust clearance for its \$89.2 million acquisition of Robbins Holdings Inc., one of its biggest rivals.
- **Accor S.A.** in securing antitrust clearance for its \$1.9 billion sale of its United States Economy Hotels Division (including Motel 6 and Studio 6) to Blackstone Real Estate Partners VII.
- **CBS** in securing antitrust clearance for its joint venture with Warner Bros Entertainment to form the CW Network.
 - and in securing antitrust clearance for its \$1.525 billion sale of its Power Generation business to Siemens AG.
 - in securing antitrust clearance for its \$6.5 billion purchase of Outdoor Systems Inc. Obtained antitrust clearance after negotiating a favorable settlement with DOJ.

- **Simmons Company**, a portfolio company of THL Partners, in securing antitrust clearance for its \$758 million sale to Ares Management and Ontario Teachers' Pension Plan.
 - and in securing antitrust clearance for its \$115 million acquisition of Simmons Canada Inc., from SCI Income Trust.
 - in securing antitrust clearance for its sale of Sleep Country USA (retail sales unit of Simmons Company) to The Sleep Train, Inc.
- **MHI** in securing antitrust clearance for its 'next generation' nuclear power stations joint venture with Areva.
- **GAF** in securing antitrust clearance for its joint venture with Johns Manville.
- **Dresser Industries** in securing antitrust clearance for its \$7.7 billion sale to Halliburton Co.
- **American Airlines** in securing antitrust clearance for its \$6 billion acquisition of TWA without any divestiture or other remedy.
 - and in securing antitrust clearance for its purchase of TWA's Heathrow routes/slots.
- **General Electric Co.** in securing antitrust clearance for the formation of its \$8 billion global finance joint venture with Mubadala Development Co.
- **UnitedHealth Group** in securing antitrust clearance for its approximately \$8.1 billion merger with PacifiCare Health Systems, Inc. Obtained antitrust clearance after negotiating a favorable settlement with DOJ.
 - and in securing antitrust clearance for its \$2.95 billion acquisition of Mid Atlantic Medical Services.
- **SF Holdings Group, Inc./Sweetheart Cup** in securing antitrust clearance for its sale to Solo Cup Co.
- **Millennium Chemicals Inc.** in securing antitrust clearance for its \$2.3 billion sale to Lyondell Chemical Company.
- **Genmar Holdings Inc.** in securing antitrust clearance for its sales of certain lines to Brunswick Corporation.
- **Education Media Publishing Group**, parent of leading textbook publisher Houghton Mifflin, in securing antitrust clearance for its \$4 billion acquisition of a direct competitor, the Harcourt Education, Harcourt Trade, and Greenwood-Heinemann divisions of Reed Elsevier. Obtained early termination from DOJ without divestitures only four months after notification of the transaction.
- **L'Oreal S.A.** in securing antitrust clearance for its \$743 million acquisition of Maybelline, as well as its acquisition of Bristol-Myers Squibb's Matrix division and Carson, Inc.
- **DIRECTV Group Inc.** in securing antitrust clearance for its \$938 million acquisition of the direct broadcast satellite business of Pegasus Satellite Television, Inc.
- **Six Flags Entertainment Corp.** in securing antitrust clearance for its \$145 million sale of its Cedar Point amusement park to Cedar Fair Entertainment Company.
- **Westinghouse Electric Corporation** in securing antitrust clearance for its \$5 billion acquisition of CBS Corporation.
 - and in securing antitrust clearance for sale of its Electronic Systems group to Northrop Grumman Corp., its sale of portions of its Electrical Systems Division to Sundstrand, its sale of its Distribution and Control Business to Eaton Corp., and its purchase of Norden Division of UT.
- **Jenny Craig Inc.** in securing antitrust clearance for its \$600 million sale to Nestle S.A. (owner of Lean Cuisine brand).
- **Willis Group Holdings Limited** in securing antitrust clearance for its \$2.1 billion acquisition of Hilb Rogal & Hobbs Company.

Advertising and Consumer Class Actions

Helene's experience in advertising matters and consumer class actions includes:

- ***In re: SmithKline Beecham Consumer Health Care***
Represented SmithKline in investigations by more than 20 State Attorneys General into its advertising practices for its OTC smoking cessation products. Obtained favorable settlements.
- ***SmithKline Beecham Consumer Healthcare v. Watson Pharmaceuticals***
Represented SmithKline as lead counsel preliminarily enjoining generic competitor's use of its copyrighted label on competing OTC nicotine gum. Obtained a favorable settlement.
- ***GlaxoSmithKline Consumer Healthcare v. Pharmacia Corp.***
Represented GSK as lead counsel in false advertising litigations involving OTC smoking cessation products. Obtained favorable preliminary injunction rulings.
- ***Johnson & Johnson * Merck v. SmithKline Beecham***
Represented SmithKline as lead counsel defeating a preliminary injunction motion filed by Mylanta alleging that Tums' "calcium rich, aluminum-free" ads were false and misleading. After a five day bench trial, the court dismissed all claims against SmithKline, a result that was affirmed on appeal.
- ***FTC v. Airborne Health, Inc.; Wilson v. Airborne Health Inc.; In re: Airborne Health Inc.***
Represented Airborne, maker of the popular dietary health supplement, in an FTC investigation, a multi-state Attorney General investigation, and a nationwide consumer class action. The investigations and class action plaintiffs alleged, inter alia, false advertising and violations of federal, California and other state consumer protection laws based upon asserted claims that Airborne falsely claimed that it cured or lessened the severity of cold symptoms. Achieved creative settlement of the class action and FTC investigation that involved monetary relief; settlement was also reached with the State Attorneys General.
- ***Perdue v. Bristol-Myers Squibb; Barnard v. Bristol-Myers Squibb***
Represented Bristol-Myers Squibb in state consumer fraud class action litigations brought under Illinois Consumer Fraud Act alleging that its advertising of a nasal decongestant and hand lotion was deceptive. One action dismissed with prejudice; ultimate result was a joint settlement of both cases on terms extremely favorable to the client.
- ***Sanderson Farms, Inc., et al. v. Tyson Foods, Inc.***
Won a major court victory for Tyson, as lead counsel, over several poultry industry competitors by defeating a request for a temporary restraining order regarding its labeling and advertising.
- Representing Gillette in various advertising challenges to its razor products by competitors.

Most Recent Publications

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