

# Identifying **12** Leading Antitrust Lawyers

**F**or mergers, acquisitions, and joint ventures that can make or break the business, a major corporation doesn't take a step without antitrust counsel. Good advice is worth millions, and sometimes billions. The best lawyers fight for their clients through the thicket of regulations, around the antitrust enforcers, and past the threat of private litigation.

Among the best are the 12 attorneys identified in this *Legal Times* report, part of a series on the D.C. area's top private practitioners. Plenty of skilled lawyers didn't make our short list. But when the subject turns to alleged anti-competitive practices, these dozen names get mentioned most often.

They don't come cheap. They typically charge between \$650 and \$950 an hour (and tend to carry books of business in the \$10-million-to-\$20-million range). But time and again, they have proved their worth.

How were they chosen? *Legal Times* started with our newsroom's knowledge of local legal practice. Then we solicited readers' suggestions. Finally, freelance reporter Jenna Greene



(formerly a *Legal Times* editor) interviewed dozens of experts. Profiles of the chosen few appear inside.

More details about upcoming special features on D.C.'s Leading Lawyers (including how to nominate candidates for consideration) are available at [www.legaltimes.com](http://www.legaltimes.com). Future sections this year will cover top attorneys in the areas of energy, tax, and food and drug law.

# Leading LAWYERS

## Twelve of the D.C. Area's Top Antitrust Attorneys

### William Baer

Arnold & Porter LLP

Just a few months before William Baer left Arnold & Porter in 1995 to head the Federal Trade Commission's Bureau of Competition, he helped hand the government one of its most embarrassing defeats ever in an antitrust trial.

"GE Crushes the Trustbusters," read the headline on the cover story of *The American Lawyer* (a sister publication of *Legal Times*).

Two and a half years later, Baer's handiwork was back on the cover of *The American Lawyer*. But this time, he was on the government's side, delivering a surprise victory in the case against the Staples Inc./Office Depot Inc. merger.

"It was the first in a series of successful merger challenges by the FTC," says Baer, 54. "It showed that the FTC could mount against a talented array of lawyers and economists a credible and effective merger prosecution."

Baer began his career at the FTC. After graduating from Stanford Law School in 1975, he joined the consumer protection side of the agency, determined, as he puts it, "to go after scam artists and make a difference."

Two years later, he became the assistant to Chairman Michael Pertschuk and began to take on more antitrust work. Baer was then named assistant general counsel for legislation, working under General Counsel Michael Sohn (now chairman of Arnold & Porter).

In 1980, Baer left the FTC to join Arnold & Porter as an associate, enticed in large part by Sohn. Baer made partner at the D.C. firm in 1983.

"It was an easy transition to private practice," he says. "A key part of antitrust advocacy and representation is understanding the legitimate enforcement obligations of the FTC and DOJ. . . . It's helpful to be able to tell clients why the FTC might look at a merger in a certain way."

Along with merger clearance and private litigation, Baer's practice today includes a significant amount of criminal work. His most notable effort in that area was a headline-worthy defense of GE against criminal price-fixing charges brought by the Department of Justice. The government alleged that the General Electric Co. and South Africa's De Beers conspired to fix worldwide prices for industrial diamonds.

The case went to trial in Columbus, Ohio, in 1994. Seven weeks into the proceedings, U.S. District Judge George Smith granted the defense's motion for a judgment of acquittal. "He threw the case out for lack of evidentiary basis. He didn't even let it go to the jury," recounts Baer, whose co-counsel was Winston & Strawn's Dan Webb. "It was a great opportunity and a great success."

GE remains a major client. "Bill is a highly valued adviser who brings clients an extraordinary breadth of experience, ranging from major mergers to high-stakes private civil actions to the defense of cartel investigations," says Ron Stern, GE's vice president and senior counsel, antitrust. "His judgment and advice reflect not only his knowledge of the law but also practical insights from his real-world experiences as a senior government enforcer and as a hands-on trial lawyer."

In 1995, Robert Pitofsky, who had been of counsel at Arnold & Porter, was confirmed as chairman of the FTC. He promptly invited Baer to serve as director of the Bureau of Competition.

Baer held the job for five years—longer than anyone else in FTC history. "I loved the challenge," he says. "There was so much going on."

Indeed, it was a period of extraordinary merger activity as well as courtroom success for the agency. In addition to the 1997 Staples/Office Depot case, which was argued by Baer's deputy, George Cary, the agency blocked the mergers of four drug wholesalers. FTC lawyers also went after Toys "R" Us Inc. for its exclusionary practices and won disgorgement of unlawful profits for antitrust violations from Mylan Laboratories Inc.

Baer rejoined Arnold & Porter in 2000. Recently, he has represented Micron Technology Inc. in private civil litigation related to the Justice Department's ongoing computer memory chip price-fixing case. Baer also helped the company get amnesty from criminal charges in return for its cooperation with Justice. In 2003, he represented Pfizer Inc. in its \$60 billion acquisition of the Pharmacia Corp.

For the last 18 months, Baer has been spending about a week every month in Brussels, helping establish Arnold & Porter's new office and its European antitrust practice. "United Airlines," he jokes, "has now named a plane after me."



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