

axinn

# Antitrust Litigation Powerhouse





# Antitrust strength and numbers

## Representing clients in

### Civil

- Class actions
- Competitor disputes
- Merger trials
- Government investigations
- Arbitrations

### Criminal

- Criminal defense
- Government investigations
- Leniency applications

Antitrust litigation can present bet-the-company legal and reputational risk. With joint and several liability, automatic treble damages, and the potential for criminal prosecutions, every antitrust case requires top-flight representation.

As one of the largest and most experienced antitrust litigation teams in the country, we bring unmatched ability to help you defend or pursue any case, from massive class actions to disputes with a rival or the government.

### Unmatched bench strength

With 70+ full-time competition lawyers, Axinn has the size and depth of experience to out-litigate any type of adversary. Named “Firm of the Year” three times in recent years by Global Competition Review, we also are one of the most respected antitrust firms in the world, with a long track record of success for major companies across key industries.

### Unrivaled experience

Our team includes heavy hitters who have made antitrust litigation their career, such as

first-chair trial attorneys, trained economists, and a long list of Department of Justice and Federal Trade Commission veterans. With our in-depth knowledge and decades of experience, we quickly pinpoint the key strategic considerations that can make the difference between protracted litigation and successful resolution.

### True trial lawyers on your side

Axinn crafts its case strategies with the client’s desired end in mind, but prepares from the outset to take the case to trial if necessary. We are known for our abilities to aggressively defend and creatively resolve even the most complex matters, and we are especially adept at bringing sophisticated legal and economic arguments to life for judges and juries.

## Industries

Agribusiness

Manufacturing

Consumer Products

Medical Devices

Financial Services

Pharmaceuticals

Healthcare

Private Equity

Insurance

Technology

~50 years of FTC and DOJ experience

70+ full-time antitrust lawyers

# Experience to match any adversary

Civil and criminal antitrust litigation risk is at an all-time high. As aggressive government enforcers intensify their focus on competition and more businesses use litigation as a strategic tool and profit center, having a deep bench of experienced antitrust litigators is more critical than ever.

## **Confronting an aggressive plaintiff's bar**

Experienced and well-funded plaintiffs' lawyers are bringing antitrust cases in both federal and state courts, often on behalf of multiple classes of plaintiffs. Axinn has defended dozens of these highly complex matters, with leading roles that reflect the confidence our clients and peers place in our capabilities.

## **When the government comes knocking**

Criminal antitrust investigations require a deep understanding of the criminal legal process and its implications for civil damages litigation. With a large team of civil and criminal antitrust litigators under one roof, we are ideally suited to represent companies in parallel and follow-on proceedings. From compliance programs

and internal investigations to leniency applications and prosecutions, Axinn can help you minimize your risk and maximize your options for defense.

## **Facing off against rivals and business partners**

More than ever before, companies are using antitrust litigation for business leverage. Competitor and supplier antitrust cases are proliferating in tandem with government and plaintiffs'-side cases. Axinn has brought and defended antitrust cases spanning the full range of monopolization and collusion allegations as well as conspiracy and monopolization claims.

## **Experience**

- Section 1 price-fixing, bid-rigging, market allocation, group boycott, and supply reduction claims
- Section 2 monopolization and other unilateral conduct disputes
- Merger trials
- Criminal defense
- Third-party subpoena defense
- Internal investigations
- Leniency applications
- Antitrust compliance
- Government investigations

**“The biggest antitrust boutique in the U.S.... It boasts one of the most experienced antitrust teams in the GCR 100.”**

—*Global Competition Review*

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**\$500b** in potential antitrust damages defended in past year

# What sets us apart

Axinn is known for its experience, creativity, and tenacity. No matter the type of case or resources required, we move quickly and efficiently.

## **No one-size-fits-all approach**

Axinn does not litigate passively or reflexively apply cookie-cutter strategies. Every antitrust case is different and requires a bespoke strategy aimed at achieving our clients' business objectives.

## **Plan for trial from day one**

Most antitrust cases don't go to trial. But Axinn's opponents know that we are willing and able to take complex cases all the way—and win. That's why we can set agendas and drive outcomes that wouldn't otherwise be possible.

## **Strategic and nimble**

As circumstances change over the life of a case, Axinn assesses and adjusts its strategies. When we see an opportunity to create an advantage, we're not afraid to call an audible and keep opposing counsel on their toes.

## **Focused on your objectives**

The best litigation strategy is the one developed before a claim is even filed. We work closely with our clients to present proactive, reasonable solutions to business problems that can prevent or mitigate the impact of litigation.

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## **Recent Honors**

### ***Global Competition Review***

- Firm of the Year (x3)
- Matter of the Year
- Behavioral Matter of the Year
- Lawyer of the Year

### ***Chambers and Partners***

- Shortlisted for Antitrust Firm of the Year
- Global, Nationwide, DC, New York, California, and Connecticut rankings
- Litigation: General Commercial (Connecticut)

### ***Benchmark Litigation***

- Dispute Resolution (Recommended Firm)
- Ranked as a Multi-State Firm
- Recognized Nationwide, Connecticut, DC, and New York

### ***Legal 500***

- Nationwide Antitrust Civil Litigation/Class Actions: Defense



# Axinn in action

## **Agribusiness: Tyson Foods**

Axinn represents Tyson Foods in the defense of multiple litigations claiming industry-wide conspiracies to raise the prices of broiler chickens, pork, and turkey, as well as to depress broiler grower pay. The *Broiler Chicken* litigation alone is historic in its size and scope, involving three classes, well over 100 direct action plaintiffs, follow-on State AG litigations, and concurrent regulatory investigations. After three years of strategic litigation and positioning by Axinn's team, Tyson secured an advantageous resolution of all the *Broiler* class claims in late 2020. Axinn then negotiated cost-of-litigation class settlements in both the *Turkey* and *Growers* litigations in the first half of 2021. Axinn continues to litigate against direct action plaintiffs in the *Broilers* and *Turkey* litigation, and against all plaintiffs in the *Pork* litigation.

## **Technology: Google**

Axinn defends Google in antitrust cases brought by a Texas-led group of State AGs and private plaintiffs challenging Google's ad tech business under the Sherman Act and various state antitrust, consumer protection, and deceptive trade practices statutes. Axinn's team brings deep subject matter experience to the cases and has a key role in all phases of the litigation, including recently securing dismissal of several parts of the State AG complaint (including a Section 1 Sherman Act claim).

The Texas-led case was named *Global Competition Review's* 2022 Behavioural Matter of the Year – Americas.

## **Pharma: Momenta**

Axinn served as lead counsel for Momenta in two antitrust cases alleging that Momenta and its co-defendant, Sandoz Inc., excluded a generic maker of Sanofi's blockbuster anticoagulant drug, Lovenox®. This litigation, a follow-on suit from a patent litigation brought by Momenta and Sandoz, raised cutting-edge, complex antitrust issues regarding the bounds of antitrust liability for the alleged deception of a standard-setting organization. Axinn successfully resolved the claims against Momenta for a small fraction of the damages sought.

## **Consumer Products: Stanley Black & Decker**

When SawStop alleged that our client and other saw manufacturers had conspired to boycott proprietary safety technology, Axinn found an efficient avenue to thwart the claim. According to SawStop, the alleged boycott was carried out through an industry group joint venture. But the DOJ had published notice of this joint venture in 2003 — 11 years before the suit was filed. The district court agreed with our argument that the claim was time-barred by a four-year statute of limitations and summarily dismissed it, a ruling that the US Court of Appeals for the Fourth Circuit unanimously affirmed.

### **Healthcare: University of Pittsburgh Medical Center**

Axinn served as lead counsel for our client, one of the largest integrated hospital and health plans in the United States, in its defense of antitrust claims by a former vendor regarding one of the client's subsidiaries. The district court granted our motion for summary judgment on all six antitrust counts, including allegations of conspiracy, group boycott, monopolization, attempted monopolization, and exclusive dealing. The Third Circuit affirmed the summary judgment win the following year.

### **Life Sciences: RelayHealth (a wholly owned subsidiary of McKesson Corp.)**

Axinn served as lead counsel for RelayHealth in a treble-damages class action litigation that followed an FTC investigation and civil action alleging monopolization by the healthcare technology company Surescripts. While navigating the ongoing FTC litigation and an order of early production of FTC investigation documents, the Axinn team successfully positioned RelayHealth to secure an early resolution for an amount not material to the company's financial results. The court granted final approval of the settlement agreement on February 24, 2022, and declined to dismiss the case against the remaining defendants.

### **Nonprofit: Alliance for Safe Online Pharmacies**

Axinn secured early summary judgment in favor of its client Alliance for Safe Online Pharmacies (ASOP), dismissing it from an antitrust suit alleging that ASOP and other organizations engaged in a conspiracy to prevent PharmacyChecker.com (PCC) from accessing internet platforms to promote the importation of pharmaceuticals from outside the United States. ASOP is a nonprofit organization that seeks to protect patients from counterfeit drugs by ensuring access to legal and legitimate online pharmacies. Axinn's team was instrumental in winning early and exclusive discovery into the legality of PCC's organization, which led to the court's conclusion that because PCC's enterprise is "completely or almost completely geared towards facilitating illegality," PCC had no standing to bring its Sherman Act claim. The case is an important affirmation of the ability of organizations such as ASOP to educate consumers about the dangers posed by illegitimate online pharmaceutical vendors and facilitators.

### **Healthcare: Independence Blue Cross**

Axinn serves as lead counsel for Independence Blue Cross in multidistrict litigations and several opt-out proceedings in the United States District Court for the Northern District of Alabama. The plaintiffs include putative classes of certain Blue Cross and Blue Shield subscribers and medical providers as well as numerous fully-insured and self-funded plan opt-outs. Defendants, including Independence Blue Cross, settled with the downstream subscriber class for \$2.67 billion, while litigation with the putative provider class is still ongoing. In one of the opt-out proceedings, Independence Blue Cross was one of the Blue Plans that succeeded in challenging the jurisdiction of the California state court to exercise specific jurisdiction over it, and won a dismissal of those claims in 2022.



# Locations



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## Hartford

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**“Axinn proves to have not just the necessary knowledge and skill to handle complex and sophisticated matters, but the depth of experience to anticipate unforeseen hurdles.”**

—Chambers USA