



**Eric Grannon**

Partner, Washington, DC

T +

+1 202 626 3600

E egrannon@whitecase.com

**Bars and Courts**

US Supreme Court

US Court of Appeals for the District of Columbia Circuit

US Court of Appeals for the Second Circuit

US Court of Appeals for the Fourth Circuit

US Court of Appeals for the Eleventh Circuit

US District Court for the District of Columbia

US District Court for the District of Maryland

District of Columbia Bar

Maryland Bar

**Education**

JD, Howard University, *cum laude*, Howard Law Journal, 1998

BA, Brooklyn College, *magna cum laude*, Phi Beta Kappa, 1995

**Languages**

English

**Citizenship**

United States

**Practice Experience**

Mr. Grannon helps clients with antitrust matters, including civil and criminal defense as well as counseling for mergers and acquisitions and settlements of pharmaceutical patent litigation. Since 2001, he also has helped clients with concerns under the Foreign Corrupt Practices Act (FCPA) and other anti-corruption issues. Mr. Grannon began at the firm as a summer associate in 1997 and has been a partner since 2007.

A former prosecutor, Mr. Grannon returned to White & Case after serving as Counsel to the Assistant Attorney General in charge of the Antitrust Division of the United States Department of Justice (DOJ), where he helped formulate US antitrust enforcement policy and manage the civil and criminal investigations and court cases brought by the Antitrust Division. He ended his DOJ service with a detail as a Special Assistant US Attorney in the District of Columbia, trying twenty bench and jury trials as lead counsel.

The global competition group at White & Case consistently ranks among the top in the world. Recent public recognition of Mr. Grannon's work includes:

- Ranked in *Chambers USA - Antitrust*, which described Mr. Grannon as "an up-and-coming practitioner at the firm," emphasizing his experience in "appellate antitrust work," including as lead counsel for two pharmaceutical companies in the US Supreme Court's *FTC v. Actavis* decision on "reverse payment" settlements (2014)
- Named by *Legal 500* in the profiles of the firm in *M&A: Antitrust and Healthcare: Life Sciences* (2014)
- Listed in *Euromoney's Guide to the World's Leading Competition and Antitrust Lawyers/Economists* (2014)
- Named as a "Highly Recommended" Washington, D.C. antitrust practitioner by the *Global Competition Review* (2013)
- Ranked a "Super Lawyer" in the antitrust litigation category by the Washington, D.C. *Super Lawyers* magazine (since 2013)
- Awarded the 2013 Burton Award for Distinguished Legal Writing for the article, "Are Antitrust Violations Crimes Involving Moral Turpitude?," *The Champion* magazine, published by the National Association of Criminal Defense Lawyers (April 2012 issue) ([See article here](#))
- Named an antitrust "MVP" for 2012 by *Law360*, one of eight honorees in the United States. As part of that recognition, the CEO of one client said: "In my position as an executive, it's a very unnerving process to go through depositions while having a

business to run . . . . But Grannon was very collected and focused, and had a very calming approach." ([See profile here](#))

- Named a "Litigator of the Week" by the *Am Law Litigation Daily* for successfully arguing an antitrust appeal against the Federal Trade Commission (FTC) (2012)
- Ranked one of the top ten antitrust attorneys in the United States then under the age of 40 by *Competition Law360* (2010). That ranking observed: "Eric Grannon has a reputation for taking on the U.S. government in high-profile antitrust cases . . . ." ([See profile here](#))

Representative results for clients include:

- Lead counsel for two pharmaceutical companies defending against antitrust claims by:
  - (i) serving as counsel of record for two respondents opposing the FTC on the merits, and previously opposing the FTC's petition for a writ of certiorari, in *FTC v. Actavis, Inc.*, 133 S. Ct. 2223 (2013) (5-3 decision reversing and remanding *FTC v. Watson Pharm., Inc.*, 677 F.3d 1298 (11th Cir. 2012)); ([Merits brief available here](#)) ([Brief in opposition available here](#));
  - (ii) successfully arguing a motion for summary judgment against the sham-litigation claims of putative class-action plaintiffs in *In re AndroGel Antitrust Litigation*, 888 F. Supp. 2d 1336 (N.D. Ga. 2012);
  - (iii) successfully arguing in the US Court of Appeals for the Eleventh Circuit against the FTC's appeal in *FTC v. Watson Pharm., Inc.*, 677 F.3d 1298 (11th Cir. 2012);
  - (iv) successfully arguing a motion to dismiss against the FTC's "pay for delay" lawsuit, *In re AndroGel Antitrust Litigation*, 687 F. Supp. 2d 1371 (N.D. Ga. 2010);
  - (v) winning a contested motion for centralization under 28 U.S.C. § 1407, before the Judicial Panel on Multidistrict Litigation, to the clients' preferred venue in *In re AndroGel Antitrust Litigation*, MDL No. 2084 (J.P.M.L. 2009);
  - (vi) winning a contested transfer motion under 28 U.S.C. § 1404 to transfer both the government and private antitrust actions to the original patent judge to defeat FTC and private-plaintiff forum shopping, *FTC v. Watson Pharm., Inc.*, 611 F. Supp. 2d 1081 (C.D. Cal. 2009); and
  - (vii) defending clients and their executives in the underlying two-year

FTC investigation, including at six investigational hearings.

- Mr. Grannon also has counseled more than two dozen pharmaceutical patent settlements that have avoided challenge by the FTC and class-action bar.
- Co-lead counsel for petitioners in the defense win in *Stolt-Nielsen, S.A. v. AnimalFeeds Int'l Corp.*, 130 S. Ct. 1758 (2010), which changed US law by making it more difficult for plaintiffs to assert class-action claims in arbitration. This win won the Litigation Category in the *Financial Times US Innovative Lawyers Report*. *Competition Law360* featured this win in naming White & Case one of the top five class-action defense firms in 2010. Mr. Grannon has worked on eight matters before the US Supreme Court in private practice.
- Lead counsel for a Taiwanese semiconductor manufacturer in both the DOJ's SRAM antitrust grand jury investigation (which concluded in no indictment despite the cooperation of the amnesty applicant) and the parallel class-action litigations
- Lead merger counsel obtaining early termination of the Hart-Scott-Rodino waiting period for review of Iron Mountain Inc.'s acquisition of Archives One, Inc.; anticipated and resolved DOJ's market share concerns within two days.
- In addition to his wins against the FTC in *AndroGel*, Mr. Grannon's experience includes several other headline victories against the federal antitrust agencies, including: *US v. Stolt-Nielsen*, 524 F. Supp. 2d 609 (E.D. Pa. 2007) (successfully enforcing amnesty agreement against DOJ's attempted revocation); *FTC v. Schering-Plough*, 402 F.3d 1056 (11th Cir. 2005) (defeating FTC's first "pay for delay" suit); and *US v. Sungard Data Systems*, 172 F. Supp. 2d 172 (D.D.C. 2001) (defeating DOJ's merger challenge).

Mr. Grannon is a member of the Legal Policy Board of the Washington Legal Foundation.

He served as Vice-Chair of the Health Care and Pharmaceuticals Committee of the American Bar Association Section of Antitrust Law, and prior to that as Vice-Chair of the Compliance and Ethics Committee.

Mr. Grannon is an adjunct faculty member at the Howard University School of Law, where he teaches a seminar on advanced antitrust law.

Further detail on Mr. Grannon's practice experience includes:

### *Civil Antitrust*

- Co-lead counsel for respondents in *Mississippi ex rel. Jim Hood v.*

*AU Optronics Corp.*, 134 S. Ct. 736 (2014), which concerns the removability of state attorney general actions to federal court under the Class Action Fairness Act of 2005 (CAFA)

- Lead counsel for the Chamber of Commerce of the United States of America as *amicus curiae* in *Jock v. Sterling Jewelers Inc.*, 646 F.3d 113 (2d Cir. 2011), a class-arbitration case turning on the application of *Stolt-Nielsen, S.A. v. AnimalFeeds Int'l Corp.*, 130 S. Ct. 1758 (2010)
- Co-lead author of successful motion to dismiss a predatory pricing case in *In re Parcel Tanker Shipping Servs. Antitrust Litig.*, 541 F. Supp. 2d 487 (D. Conn. 2008), which is one of the first decisions obtaining dismissal under the Supreme Court's decisions in *Twombly* and *Weyerhaeuser*
- Part of the team defending respondents in a putative class-action arbitration involving claims of international price fixing and customer allocation in the shipping industry; co-lead author of successful petition to vacate class-arbitration award in *Stolt-Nielsen, S.A. v. AnimalFeeds Int'l Corp.*, 435 F. Supp. 2d 382 (S.D.N.Y. 2006).
- Co-lead counsel successfully defending Malaysian producers of extruded rubber thread against claims of price fixing in *Dee-K Enterprises, Inc. v. Heveafil Sdn. Bhd.*, including: (i) verdict for defendants after a jury trial in federal district court; (ii) unanimous affirmance on appeal to Fourth Circuit, 299 F.3d 281 (4th Cir. 2002); and (iii) lead author of brief in opposition to certiorari, Supreme Court docket No. 02-649, cert. denied June 27, 2003 (garnering the *amicus* support of the United States). *Dee-K v. Heveafil* is the leading precedent on the extraterritorial application of the Sherman Act under the "substantial effects" test from the Supreme Court's decision in *Hartford Fire Ins. Co. v. California*, 509 U.S. 764 (1993).

### *Criminal Antitrust*

- Co-lead author of petition for a writ of certiorari in *White & Case LLP v. United States*, challenging Ninth Circuit's reversal of district court order quashing DOJ grand jury subpoenas that sought all discovery in parallel, follow-on class actions alleging cartel in thin-film transistor, liquid crystal display panels (TFT-LCD), and lead counsel coordinating support of eight amici curiae for same, Supreme Court docket No. 10-1147, cert. denied June 27, 2011
- Co-lead counsel defending a non-US executive in the DOJ's cartel investigation of the dynamic random access memory (DRAM) industry. Lead author of successful motion for a bill of particulars forcing the Antitrust Division to supplement its barebones, formulaic indictment with detailed factual allegations. *United States v. Kim*, No.

06-0692, (N.D. Cal. Mar. 1, 2007).

- Part of the team defeating the DOJ's attempt to revoke a grant of corporate amnesty for antitrust offenses. *United States v. Stolt-Nielsen, S.A.*, 524 F. Supp. 2d 609 (E.D. Pa. 2007). This precedent-setting victory is the only litigated case on the DOJ's Corporate Leniency Program for antitrust offenses. The *National Law Journal* selected this win as one of the top trial victories that year.
- Lead author of petition for a writ of certiorari in the above-referenced *Stolt-Nielsen, S.A. v. United States* amnesty litigation, and lead counsel coordinating support of nine *amici curiae* for same, Supreme Court docket No. 06-97, cert. denied Oct. 30, 2006
- Part of the team successfully defending against former co-conspirators' attempt to reverse the grant of leniency from the European Commission to Stolt-Nielsen, S.A.

#### *Mergers & Acquisitions*

- Lead counsel for regional wireless service provider as third-party witness concerning a multi-billion dollar telecommunications acquisition; worked with DOJ to achieve divestiture of significant asset of target as sought by client.
- Co-lead counsel obtaining early termination of the HSR waiting period for the acquisition of Kos Pharmaceuticals, Inc. by Abbott Laboratories
- Part of the team defeating the DOJ in a merger challenge in *United States v. Sungard Data Systems*, 172 F. Supp. 2d 172 (D.D.C. 2001)
- Part of the team litigating the first merger efficiencies defense under the then newly revised horizontal merger guidelines in *FTC v. Staples, Inc.*, 970 F. Supp. 1066 (D.D.C. 1997)

#### *Settlements of Pharmaceutical Patent Litigation*

- Lead counsel for two pharmaceutical companies defending an ongoing FTC "pay for delay," antitrust enforcement action and copycat multi-district, putative class actions, *In re AndroGel Antitrust Litigation*, No. 09-MD-2084 (N.D. Ga.), a.k.a. *FTC v. Actavis*
- Lead or co-lead counsel for the pre-settlement antitrust counseling and negotiation, MMA filings, and representation at the FTC for more than two dozen Paragraph IV settlements (only one of which received protracted scrutiny: *AndroGel* a.k.a. *FTC v. Actavis*)

---

## WHITE & CASE

- Co-lead author of brief in opposition to certiorari in the then-leading case on settlement of pharmaceutical patent litigation: *FTC v. Schering-Plough Corp. and Upsher-Smith Laboratories, Inc.*, Supreme Court docket No. 05-273, cert. denied June 26, 2006 (defeating the FTC's certiorari petition and garnering the *amicus* support of the United States in opposition to the FTC)

### *Foreign Corrupt Practices Act (FCPA)*

- Lead counsel advising a Fortune 200 company on the due diligence, contractual, and operational compliance issues implicated in the creation of a long-term contract manufacturing relationship with a partner in China
- Lead counsel representing a UK consulting firm on pre-acquisition due diligence and transaction structuring for an acquisition in Moscow, Russia; led interviews of target's personnel and on-the-ground investigation for same.
- Lead counsel advising board of directors of a Canadian company on FCPA consequences of listing on a US stock exchange; revised corporate compliance program as a result of listing.
- Lead counsel representing a Fortune 10 company by handling the FCPA and other compliance negotiations for the company's formation of a joint-venture, real-estate investment vehicle with the investment arm of a leading Middle Eastern government; designed compliance program and employee manual for the j.v. entity.
- Lead counsel representing a Fortune 100 company by conducting the due-diligence investigation and negotiations concerning the FCPA and Mexican-law implications of a proposed acquisition; handled the self report to US enforcement authorities.
- Representing a Fortune 100 company by running more than one dozen compliance investigations on four continents for issues under the FCPA, and managing the investigation self reports to US enforcement authorities; drafted compliance policies and procedures following conglomerate-wide risk assessment.
- Designing a corporate compliance manual for a multinational construction concern for non-US anti-bribery laws enacted pursuant to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

### *Foreign Sovereign Immunities Act (FSIA)*

- Co-lead counsel defending various foreign sovereigns and their agencies and instrumentalities in motion and appellate practice in

four different litigations under the FSIA and act-of-state doctrine

- Lead author of petition for a writ of certiorari in one of the main precedents on attachment and execution under the FSIA: *Ministry of Finance of the Republic of Indonesia v. Karaha Bodas Co.*, Supreme Court docket No. 05-1571, cert. denied Oct. 2, 2006

### *General Representation*

- Serve as outside general counsel to the leading corporate advocacy association in the United States

### *Thought Leadership*

- Panelist, "Hot Topics in the Appellate Courts," at the 2014 Fall Forum of the Antitrust Section of the American Bar Association (November 6, 2014)
- Panelist, "The Rule of Reason – Innovative Application Today?" sponsored by the Horizontal Restraints Committee of the New York State Bar Association Antitrust Section (October 8, 2014)
- Moderator, "The U.S. Supreme Court: Previewing the October 2014 Term," a media briefing hosted by the Washington Legal Foundation (October 1, 2014)
- Presenter, "Antitrust Implications for Cross-licensing," at the annual meeting of the American Bar Association, Section of Intellectual Property Law *IP Central* conference (August 8, 2014)
- Panelist, "A Discussion with the Director of the Bureau of Competition of the Federal Trade Commission on the Supreme Court's *Actavis* Decision," at the 2014 Bates White Life Sciences Symposium (June 12, 2014)
- Panelist, "*Actavis*: One Year Later," sponsored by the Intellectual Property and Health Care & Pharmaceuticals Committees of the Antitrust Section of the American Bar Association (June 11, 2014)
- Presenter, "Counseling Pharmaceutical Patent Settlements After *Actavis*" at the Antitrust in Healthcare Conference sponsored by the American Bar Association's Antitrust and Health Law Sections and the American Health Lawyers Association (May 13, 2014)
- Defense counsel in the mock trial program on "reverse payment" settlements of pharmaceutical patent litigation under the Supreme Court's new standard announced in *FTC v. Actavis*, 62nd Annual Antitrust Law Spring Meeting of the American Bar Association

(March 27, 2014)

- Presenter, "Liability Risks for Globally Active Companies: Anti-bribery/FCPA and Competition/Antitrust" at the Seventh Annual Transatlantic Business Conference sponsored by the American Chamber of Commerce in Germany e.V. (November 14, 2013)
- Panelist, "Waking the Sleeping Giant: Competition Issues in the Pharmaceutical Industry" at the Annual Competition Law Fall Conference of the Canadian Bar Association (October 3, 2013)
- Panelist, "Working with the DOJ and FTC: How the Agencies Differ at the Investigation Stage," sponsored by the Federal Civil Enforcement Committee of the Antitrust Section of the American Bar Association (July 30, 2013)
- Panelist, "Reverse Payments Update: Key Strategies to Bring to the Settlement Table" at the American Conference Institute's Legal and Regulatory Summit on Generic Drugs (July 17, 2013)
- Presenter at the media briefing, "The U.S. Supreme Court: Reviewing the October 2012 Term," hosted by the Washington Legal Foundation (June 25, 2013)
- Panelist, "Reverse Payment Patent Settlements: The Supreme Court Has Spoken," sponsored by the Health Care and Pharmaceuticals Committee of the Antitrust Section of the American Bar Association (June 18, 2013)
- Panelist, "Reverse Settlements" at the 2013 Bates White Healthcare & Life Sciences Symposium (June 10, 2013)
- Panelist, "Representing Foreign National Defendants Before the Antitrust Division of DOJ," sponsored by the Antitrust Subcommittee of the White Collar Crime Committee of the Criminal Justice Section of the American Bar Association (June 5, 2013)
- Presenter, "*Federal Trade Commission v. Actavis, Inc., et al.*: Supreme Court Showdown on 'Reverse Payment' Settlements," at the 2013 Patent Litigation Seminar sponsored by the New Jersey Intellectual Property Law Association (March 13, 2013)
- Panelist, "The Dispute Over 'Reverse Payment' Settlements in Pharmaceutical Cases: Will the Supreme Court Have a Cure?" at the Annual Meeting of the Antitrust Law Section of the New York State Bar Association (January 24, 2013)
- Board Member, *Law360's* 2014, 2013, 2012, 2011 Competition



### Editorial Advisory Boards

- Instructor, Antitrust Law & Economics Institute for Judges, sponsored by the American Bar Association Section of Antitrust Law and the George Mason University School of Law Judicial Education Program (October 10, 2012)
- Featured in the *Global Competition Review* article, "The DOJ's immigration waiver: a 'good carrot?'" (August 13, 2012)
- Panelist, "*FTC v. Watson (a.k.a. AndroGel): The Latest Word on Reverse Payment Pharmaceutical Patent Settlements*," sponsored by the Health Care and Pharmaceuticals Committee of the American Bar Association Section of Antitrust Law (July 23, 2012)
- Panelist, "Pharma: Hot Topics in Antitrust," at the Antitrust in Healthcare Conference sponsored by the American Bar Association Sections of Antitrust and Health Law and the American Health Lawyers Association (May 4, 2012)
- Author, "Are Antitrust Violations Crimes Involving Moral Turpitude?," *The Champion* magazine, published by the National Association of Criminal Defense Lawyers (April 2012 issue) (with Nicolle Kownacki)
- Panelist, "Criminal Antitrust – Government Perspective," at the Conference on International Business and Crime: FCPA – Criminal Antitrust, sponsored by the Institute of Continuing Legal Education in Georgia (April 25, 2012)
- Moderator, "Are 'Reverse Payments' Dead? Current Industry Practices in Pharmaceutical Patent Litigation Settlements," sponsored by the Health Care and Pharmaceuticals Committee of the Antitrust Section of the American Bar Association (November 10, 2011)
- Quoted in *Financial Times* article, "US accused of unfair antitrust pressure: Foreigners driven to offer guilty plea: Fear of restrictions on travel play role" (September 21, 2011) (Finalist for the 2012 *Global Competition Review* "Article of the Year")
- Panelist, "Nowhere to Run, Nowhere to Hide: Antitrust Defense in the Age of Amnesty Agreements & Corporate Self-Reporting," at the National Association of Criminal Defense Lawyer's First Annual West Coast White Collar Conference (June 17, 2011)
- Presenter, "Drug Patent Suit Settlements Under Fire: How Developments in the Courts and Agencies Shape the Future of 'Reverse Payments,'" Washington Legal Foundation Web Seminar

(June 8, 2011)

- Interviewed on *Bloomberg Radio* on the "Shot Show" FCPA trial, *United States v. Goncalves*, No. 09-CR-335, U.S. District Court for the District of Columbia (aired May 21, 2011)
- Featured in front-page article in the *LegalTimes* section of *The National Law Journal*, "Crossing the boundaries: Appeal tests grand juries' power to ignore protective orders" (March 7, 2011)
- Panelist, "Reverse Payment Update," sponsored by the Health Care and Pharmaceuticals Committee of the Antitrust Section of the American Bar Association (February 18, 2011)
- Author, "FTC's Conduct in Patent Settlement Inquiry Raises Issue on Subpoena Power," Legal Opinion Letter published by the Washington Legal Foundation (October 1, 2010)
- Panelist, "Without Intent: How Congress Is Eroding the Criminal Intent Requirement in Federal Law," sponsored by the Heritage Foundation and the National Association of Criminal Defense Lawyers (May 24, 2010)
- Author, "DOJ Leverages Immigration Laws in Antitrust Criminal Cases," Counsel's Advisory published by the Washington Legal Foundation (May 21, 2010)
- Featured in front-page article in *The National Law Journal*, "DOJ presses law firms in LCD probe" (May 10, 2010)
- Panelist, "The DOJ's and FTC's New Antitrust Policies and Their Impact on Enforcement Trends," at the Ninth Annual Minority Corporate Counsel Association CLE Expo (March 18, 2010)
- Featured presenter at the media briefing, "Free Enterprise & Criminal Law: Is Today's Brand of Federal Enforcement Compromising Business Civil Liberties?," hosted by the Washington Legal Foundation (March 17, 2010); featured editor of accompanying 150-page *Special Report: Federal Erosion of Business Civil Liberties* (published March 2010).
- Delivered keynote address at the American Conference Institute's "Paragraph IV Disputes" Conference: "News from the Front Lines: Late-Breaking Developments in the FTC's Most Recent Case Against a Paragraph IV Settlement" (April 27, 2009 with J. Mark Gidley)
- Session Chair and Moderator, "Ethics: How to Satisfy Auditors and the SEC and Still Comply with Ethics Rules," at the 57th Annual

Antitrust Law Spring Meeting of the American Bar Association  
(March 25, 2009)

- Panelist, "Ethical Conundrums — When Speaking Up Means You Are Forced to Walk Out," at the Eighth Annual Minority Corporate Counsel Association CLE Expo (March 20, 2009)
- Featured in front-page article in *The National Law Journal*, "Foreign Execs Feel Antitrust Crackdown: Looming threat of 'moral turpitude'" (October 29, 2007)
- Panelist, "Creating and Implementing an Effective Antitrust Compliance Program," sponsored by American Bar Association Section of Antitrust Law (September 26, 2007)
- Editorial Board Member of the 2007 update of the *Antitrust Law Developments* treatise
- Chair of the Antitrust Committee of the American Bar Association's Young Lawyers Division (2007-08 term)

### **Public Service**

Counsel to the Assistant Attorney General, Antitrust Division, US  
Department of Justice, 2003-04

Law Clerk, Honorable Walter K. Stapleton, US Court of Appeals for the  
Third Circuit, 1999-2000

Law Clerk, Honorable Federico A. Moreno, US District Court for the  
Southern District of Florida, 1998-99