



Jack E. Pace III

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Bars and Courts

New York State Bar

US District Court for the Eastern District of New York

US District Court for the Southern District of New York

US Court of Appeals for the First Circuit

US Court of Appeals for the Second Circuit

US Court of Appeals for the Third Circuit

US Court of Appeals for the Fifth Circuit

US Court of Appeals for the Eighth Circuit

US Court of Appeals for the Ninth Circuit

US Supreme Court

Education

JD, Fordham University School of Law, cum laude, Stein Scholar, Order of the Coif, 1998

BA, Fordham University, summa cum laude, Phi Beta Kappa, 1995

Awards and Recognition

Chambers USA (individually ranked), Antitrust, 2021

Legal 500 US, Leading Lawyer in Antitrust Civil Litigation/Class Actions Category, 2020-2021

Practice Experience

Jack Pace is a core member of White & Case's leading global antitrust litigation practice, which is ranked by *Chambers USA* in Band 1 and *Legal 500* in Tier 1 for cartel matters and has won the Competition Group of the Year award from *Law360* more than any other firm has, an unprecedented seven times. The Firm's antitrust practice has been named as one of the *Global Competition Review's* "Global Elite" and is ranked in the top 5 of that publication's "GCR 100" rankings.

Jack is Head of the Competition Section for the Firm's Americas Region.

Drawing upon energy and creativity well known to the Firm's clients, Jack has achieved major victories in many complex litigation matters, including jury verdicts (in antitrust, unfair competition, and RICO actions), appellate victories (Asacol antitrust litigation, Doryx antitrust litigation, GM seeds antitrust litigation), dismissals of antitrust claims on the pleadings and at summary judgment (numerous "reverse payment" and "product hopping" cases, *Black v. JP Morgan Chase*, VantageScore antitrust litigation), and groundbreaking defeats of class certification (Asacol antitrust litigation, GM seeds antitrust litigation, court reporting unfair competition litigation).

Jack successfully has represented clients in numerous trials and other litigation settings against private parties, federal prosecutors, and state attorneys general. He also has represented many leading global companies in class action litigation matters at the cutting edge of antitrust and intellectual property law.

Jack has been recognized as a leading litigator and antitrust lawyer by several publications. Jack is ranked in *Chambers* (where clients reported "he is responsive, strategic and sees the big picture") and as a Leading Lawyer by *Legal 500 US* in the Civil Litigation/Class Actions category. Jack is also a two-time "MVP" in *Law360*, winning the award in the Life Sciences category 2015 and in the Competition category in 2011. Jack also was named a "Rising Star under age 40" among US competition lawyers by *Law360* in 2013 and a "Rising Star" among all lawyers in New York City by the *New York Law Journal* in 2013.

Jack works with clients across a broad spectrum of industries, including technology, pharmaceuticals, financial services, fintech, agriculture, energy, and insurance.

He has done extensive work on behalf of the Firm's pro bono clients, in cases involving domestic violence, criminal appeals, and special education. He is also the Chair of the Board of Reach Out and Read of Greater New York, a not-for-profit organization focused on school readiness and early literacy.

Jack is an associate editor of *Antitrust Magazine* and regularly publishes articles on antitrust law, class certification, and other subjects.

MVP, Life Sciences, *Law360*, 2015

Co-MVP, Antitrust Litigation – Competition, *Law 360*, 2011

Appointed as Fellow to American Bar Foundation, 2017

Benchmark Litigation, "Litigation Star" 2017-2020

New York State Bar Association Class Action and Private Litigation Committee, 2020-2021

New York State Bar Association Monopolization and Big Tech Committee, 2021

New York City Bar's Antitrust & Trade Regulation Committee, 2014-2020

Rising Star, US Competition Lawyers aged 40 and under, *Law 360*, 2013

Rising Star aged 40 and under, *New York Law Journal*, 2013

Jack Pace was named a "Litigator of the Week" by *Global Competition Review* for securing reversal of class certification in the Asacol® product-hopping litigation.

Languages

English

Citizenship

United States

Representative cases include the following:

□ **Antitrust and innovation**

Successfully defended Allergan in nationwide antitrust class action litigation regarding the company's leading Botox® Cosmetic product. The plaintiffs sought to prevent competition by blocking an exclusive license agreement that would create new competition in the sale of injectable neurotoxins in the United States.

Successfully defended several leading pharmaceutical and medical device manufacturers against antitrust challenges to the prosecution and enforcement of intellectual property rights.

Successfully defended several leading pharmaceutical manufacturers against antitrust challenges to the launch of new products.

In a noteworthy example, represented Allergan/Warner Chilcott in litigation brought by competitor Mylan, challenging Warner Chilcott's transition to new versions of its Doryx acne treatment. Jack and the White & Case team obtained dismissal of all of Plaintiff's claims on summary judgment, representing the first-ever victory for a defendant on a full evidentiary record in a so-called pharmaceutical "product hopping" litigation. The Third Circuit Court Appeals affirmed the client's victory, creating the only appellate precedent in favor of a defendant in a "product hopping" case.

□ **Fintech**

Representing Apex Clearing Corporation in antitrust and securities law challenges relating to so-called "short squeeze" efforts by traders of meme stocks.

Advising various fintech and financial services companies on antitrust compliance, joint ventures, and new service offerings.

□ **Class action defense**

Successfully represented defendants from a variety of industries facing class actions and achieved precedent-setting victories in defeating class certification, including in the Asacol Antitrust Litigation (1st Circuit), the GM Seeds Antitrust Litigation (8th Circuit), and the Loestrin Indirect Purchaser Antitrust Litigation (1st Circuit).

□ **Antitrust challenges to pharmaceutical settlement agreements and IP enforcement**

National trial counsel for several leading pharmaceutical manufacturers (including AbbVie, Boehringer Ingelheim, Boston Scientific, Hikma, and Pfizer) in antitrust challenges to settlement agreements and efforts to enforce intellectual

property rights. Among other things, Jack is playing a leading role in the class certification and economic analyses involved in these cases.

□ **Consolidated price-fixing class actions**

Successfully defended a leading global potash supplier in consolidated class action litigation involving claims under antitrust and unfair competition laws.

Successfully defended clients in a variety of sectors, including information services, health care, commodities, and automotive manufacturing in antitrust lawsuits challenging joint conduct under the antitrust laws.

□ **FDA regulatory approval of innovative pharmaceutical products**

Successfully defended a leading global pharmaceutical manufacturer in preliminary injunction proceedings that challenged Food and Drug Administration (FDA) approval of a biosimilar drug.

□ **Experian Information Solutions, Inc.**

Representing Experian, Jack and his colleagues obtained a jury verdict on all claims brought by Fair Isaac Corporation in an action concerning allegations of unfair competition and trademark infringement in the sale of credit risk scoring services. The jury also found in favor of Experian on its counterclaim that the plaintiff had committed fraud on the US Patent and Trademark Office in obtaining its registration for the trademark-in-suit. Jack and his colleagues also obtained dismissal of all antitrust and false advertising claims on summary judgment. The trial victory and summary judgment victory were upheld by the 8th Circuit Court of Appeals.

In a separate case brought by a proposed nationwide class of purchasers, Jack and his colleagues obtained dismissal of all claims asserting antitrust violations against Experian and various leading financial institutions.

□ **Antitrust / intellectual property litigation**

Successfully represented several major pharmaceutical manufacturers in monopolization litigation involving allegations of fraud on the United States Patent and Trademark Office.

□ **Defense against deceptive and unfair trade practice claims**

Represented a legal services support company in class action litigation asserting claims under state deceptive and unfair trade practice laws. Jack and his colleagues obtained denial of the class certification motion and dismissal of all claims against our client.

- **Employment class action litigation**
Represented a leading pharmaceutical company in putative class actions involving claims under Title VII and the wage and hour laws, respectively. Obtained the dismissal of all claims against our clients in both matters on grounds of corporate separateness and plaintiffs' failure to justify piercing the corporate veil.
- **RICO litigation**
Represented a coalition of insurance companies in a 10-week jury trial involving RICO and fraud claims. Obtained the first verdict against the tobacco industry by a third-party payer.

Publications

"A Moment of Clarity in the IBOR Transition: DOJ Antitrust Division Issues Business Review Letter Approving ISDA's Proposed Protocol for Derivatives," *Alert* (Oct. 6, 2020)

"Understanding and Un-Tying Product Hopping Litigation, Part II: A Reply to Carrier and Shadowen," *Antitrust*, Vol. 33, No. 2, Spring 2019 (co-author)

"Doryx, Namenda, and Coercion: Understanding and Un-Tying Product-Hopping Litigation," *Antitrust*, Vol. 32, No. 3, Summer 2018 (co-author)

"Looking for Sunlight in *Shady Grove*: The Fate of State Law in Federal Diversity Cases Remains Unclear," *Antitrust*, Volume 30, No. 2, Spring 2016 (co-author)

"Third Circuit Holds, 'Give Peace a Chance': The De Beers Litigation and the Potential Power of Settlement," *Antitrust*, Volume 27, No. 2, Spring 2013 (co-author)

"E-discovery 'Worst Practices,'" 4 *The Senior Lawyer* 56, Spring 2012 (co-author)

Antitrust Law Developments (Seventh), 2012 (contributor to chapter on equitable and class action tolling)

The Monopolization and Dominance Handbook, American Bar Association, Antitrust Section, July 2011 (contributing editor)

"From Shady to Dark: One Year Later, Shady Grove's Meaning Remains Unclear," *Antitrust*, Volume 25, No. 2, Spring 2011 (co-author)

"E-discovery 'Worst Practices': Ten Sure-Fire Ways to Mismanage Document Review and Production," 14 *N.Y. Bus. L.J.* 62, Winter 2010 (co-author)

"E-discovery 'Worst Practices,'" 2 *The Senior Lawyer* 33, Fall 2010 (co-author)

"E-discovery 'Worst Practices': Ten Sure-Fire Ways to Mismanage a Litigation Hold," 13 N.Y. Bus. L.J. 48, Fall 2009 (co-author)

Annual Review of Antitrust Law Developments, 2008 (contributor to chapter on vertical non-price restraints)

"The Recent Wave, or Ripple, of Antitrust Class Certification Denials," *Antitrust Practitioner*, Volume 5, December 2006 (co-author)

"Testing the Security Blanket: An Analysis of Recent Challenges to Stipulated Blanket Protective Orders," *Antitrust*, Volume 19, No. 3, Summer 2005

"Conspiratologists at the Gate: The Scope of Expert Testimony on the Subject of Conspiracy in a Sherman Act Case," *Antitrust*, Volume 17, No. 2, Spring 2003, (co-author)

"Automatic Stays and Governmental Operations: How New York State Protects the Government from the Poor," 24 *Fordham Urban Law Journal*, Page 137, 1996

Professional Associations

American Bar Association, Litigation and Antitrust Sections
Antitrust Magazine, Editor
New York City Bar Association, Antitrust & Trade Regulation Committee

Panels/Speeches

"Class Actions: An Emerging Global Divergence?," 48th Annual Conference on International Antitrust Law & Policy, Fordham Competition Law Institute, Oct. 1, 2021

"The Future of Antitrust Case Law: What the Courts Could Say About the New Trends," 9th Bill Kovacic Antitrust Salon, Concurrences and George Washington University Law School, Sept. 28, 2021

"The Supreme Court's NCAA Decision and Its Implications for Antitrust Law," Video, www.whitecase.com, Sept. 2, 2021

"Product Hopping in the COVID-19 Era," The Road to "Business As Usual" in America's Pharmaceutical Industry, Webinar, June 25, 2020

Guest Lecturer, "Antitrust Law," Fordham University School of Law, 2009, 2010, 2012, and 2020

"Is Antitrust the Miracle Cure for Drug Prices?," The 38th NERA Antitrust and Trade Regulation Seminar, July 5, 2019

"Pricing Issues In Pharma: Pay-For-Delay, Product Hopping," The Global Antitrust Economics Conference, Concurrences/NYU Stern School of Business, May 31, 2019

"The Interplay of IP and Antitrust: What You Should Know in 2019,"
Webinar, April 3, 2019

American Lawyer Podcast, "The Modern Law Office: Can You Handle
It?," January 11, 2019

"Global Antitrust Pharma Webinar: Transatlantic Perspectives on Market
Definition," May 23, 2018

"Global Antitrust Pharma Webinar: A Transatlantic Perspective on
Product Hopping and Excessive Pricing," Nov. 30, 2017

"Recent Antitrust Developments: June, July and August 2013", ABA
Section of Antitrust Law, Health Care and Pharmaceuticals Committee,
September 13, 2013

"Class Actions in Federal Court after Shady Grove", sponsored by
Strafford Publications Inc., July 14, 2011

"U.S. Supreme Court's Decision in AT&T Mobility, LLC v. Concepcion,"
Bloomberg Radio, April 28, 2011

Keynote speaker, Volunteer Lawyers for Justice (on private law firm
support for public interest legal work), April 8, 2009

"Hot Topics in E-Discovery: Attorney-Client Privilege, New FRE 502,
and Spoliation Sanctions," Bloomberg Litigation Seminar, June 5, 2008

"Managing Second Requests: Electronic Discovery," Antitrust Practicum
Brown Bag Series, ABA Section of Antitrust Law and Young Lawyers
Division Antitrust Committee, February 27, 2008

"Global Cartel Investigations and Recent Antitrust Law Developments:
Japan, the EU, the US, and China," Japan Machinery Center for Trade
and Investment, September 13, 2007

"Global Cartel Investigations and Recent Antitrust Law Developments:
Japan, the EU, the US, and China," White & Case Tokyo Special
Invitation Seminar, September 12, 2007