

Thomas A. Donovan

Senior Of Counsel

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OVERVIEW

Thomas Donovan practices primarily in the areas of antitrust and commercial litigation, as well as antitrust counseling. He represents companies in merger clearance proceedings, as well as in civil antitrust litigation and criminal antitrust investigations. His experience includes both the defense and prosecution of private treble damage actions alleging monopolization, contracts and conspiracies in restraint of trade, price discrimination, denial of access to transportation and other essential facilities and other antitrust violations, as well as the evaluation and defense of mergers and acquisitions under the antitrust laws. He has also defended against criminal prosecutions alleging antitrust, environmental, fraud and other white collar offenses. Thomas also provides antitrust counseling on a wide range of issues including pricing, joint ventures, market foreclosure issues and compliance programs.

In addition to his work on antitrust issues, Thomas represents clients in other commercial litigation and provides advice in product distribution relationships.

PROFESSIONAL BACKGROUND

Thomas has been with K&L Gates since 1975. Prior to joining the firm, he served as law clerk to the Honorable Arlin M. Adams of the United States Court of Appeals for the Third Circuit.

EDUCATION

- J.D., University of Pennsylvania Law School, 1974 *(Order of the Coif, Law Review; magna cum laude)*
- B.A., Wesleyan University, 1971 *(Phi Beta Kappa; magna cum laude)*

ADMISSIONS

- Bar of Pennsylvania

THOUGHT LEADERSHIP *POWERED BY HUB*

- 26 January 2023 , Hart-Scott-Rodino Notification Thresholds to Increase and Filing Fees to Change
- 5 January 2023, Hart-Scott-Rodino Filing Fees to Dramatically Increase for Larger Deals
- 2 February 2022, Hart-Scott-Rodino Notification Thresholds to Increase
- 4 October 2021, FTC Increases Risk For Acquirers By Extending Time For Review Beyond the Hart-Scott Waiting Period
- 13 May 2021, Supreme Court Holds the FTC Act Gives No Authority to Bypass Administrative Cease-And-Desist Orders
- 4 March 2021, The 4th Circuit Affirms Groundbreaking Divestiture Order in Private Clayton Act Suit Challenging Completed Merger
- 25 September 2020, Ninth Circuit Overturns FTC-Requested Injunction Against Refusal To License Standard Essential Patents
- 27 May 2019, Follow The Money: The Supreme Court Defines the “First Purchaser” to Whom Illinois Brick Limits Antitrust Damage Claims as a Person With a Direct Contractual Relationship With the Alleged Violator
- 6 September 2018, How Often Will the FTC Use Its Recently Reaffirmed Authority to Compel Disgorgement?
- 9 July 2018, DOJ's Challenge to Vertical AT&T/Time Warner Merger Experiences Failure to Launch
- 20 April 2018, FTC Offers Advice on Avoiding Violations in Pre-Merger Negotiations and Due Diligence
- 30 July 2015, Third Circuit Says *Actavis* Not Limited to Cash

OTHER PUBLICATIONS

- "Extension Of The HSR Waiting Period Increases Acquirer Risk," *Law360*, 15 October 2021
- Antitrust Resurrected - With a Fury, Antitrust & Trade Regulation Update, July 1999
- Getting a Green Light: Navigating the Federal Antitrust Laws on Mergers and Acquisitions, published by Kirkpatrick & Lockhart LLP, 22 April 1998

NEWS & EVENTS

- 12 November 2020, K&L Gates Advises Sinch AB on Acquisition of SAP Digital Interconnect

AREAS OF FOCUS

- Antitrust and Competition
- Commercial Disputes

REPRESENTATIVE EXPERIENCE

- Advised major direct mail advertiser on antitrust issues associated with formation and operation of joint ventures with competing advertisers.
- Successful defense of Federal Trade Commission investigations of acquisitions by a leading cancer genetics laboratory of competing laboratories.
- Prosecution of monopolization claims based upon patent holder's alleged procurement of the patent through fraud on the US Patent Office and through pursuit of involved patent claims.
- Defended nuclear power plant designer from claims by a competitor for alleged Lanham Act violations and monopolization of a market for ancillary equipment
- Successfully defended manufacturer of heating equipment against sales representative's action to preliminarily and permanently enjoin termination of the sales representative's relationship with the manufacturer
- Represented regional healthcare system in connection with Federal Trade Commission's investigation of a competing regional healthcare system's acquisition of a competing local hospital.
- On behalf of a major metals producer, supervised the defense before the European Commission and South Korean competition authorities of a metals manufacturing joint venture between a U.S. producer and a foreign producer
- Successful Defense of federal grand jury investigation into alleged collusion among advanced metals producers
- Advised waste recycling company on antitrust issues in joint ventures and other transactions with competitor
- Defense of federal grand jury proceeding and follow on civil class action alleging price fixing in the purchase of crude oil.
- For manufacturer of robotic equipment, obtained summary judgment dismissing sales representative's damage claim challenging manufacturer's right to terminate under Fair Dealership Act
- Advised community hospitals in antitrust issues related to acquisition by regional healthcare systems.
- Successfully defended Jameson Memorial Hospital in an action by the Pennsylvania Attorney General's Office to enjoin its merger with a large regional health system.
- Defense of beer wholesaler against class action alleging unlawful price discrimination and fraud
- Successful pursuit on behalf of metals producers of damages claims challenging price-fixing among electrodes suppliers
- Led defense of Ashland Oil, Inc. in connection with spill of an alleged 750,000 gallons of diesel fuel into the Monongahela River, affecting public water systems in Pennsylvania, West Virginia, Ohio and Indiana.

Proceedings included federal criminal environmental charges, 23 private damage class actions and federal and state clean up and natural resources claims.

- Advised regional healthcare systems on antitrust issues related to mergers with competing hospitals.
- Advised savings bank regarding antitrust aspects of merger with neighboring bank
- Advised leading wood treatment chemicals manufacturer on acquisition of competitor.
- Advised major international chemical producer on plan to acquire competing non-U.S. producers of chemicals
- On behalf of a major advanced metals producer, coordinated successfully obtaining approval by US, China, Korean, and Indian competition authorities for joint venture between competitors in the manufacture of advanced powdered metals.
- Defended distributor of specialized electrical distribution equipment against monopolization and contract claims asserted by customer
- On behalf of a specialized chemical company that sold one of its operations, defended post-consummation FTC challenge to the transaction
- Advised leading regional bank on antitrust issues associated with bank mergers