



THE STATE BAR OF CALIFORNIA
ANTITRUST AND UNFAIR COMPETITION
LAW SECTION PRESENTS

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24th Annual
Golden State Antitrust and Unfair
Competition Law Institute & Antitrust Lawyer
of the Year Reception and Dinner
Honoring Phillip H. Warren

OCTOBER 16, 2014
The Julia Morgan Ballroom
Merchant Exchange Bldg.,
15th Floor
465 California Street
San Francisco, CA

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<http://antitrust.calbar.ca.gov>

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PROGRAM SCHEDULE

7:00 a.m. – 8:15 a.m.

Registration and Continental Breakfast
generously sponsored by **Gilardi & Co.**

8:15 a.m. – 8:30 a.m.

Welcoming Remarks

Paul J. Riehle

*Section Vice Chair, Golden State Institute,
Sedgwick LLP – San Francisco, CA*

SESSION #1: LEGAL UPDATE

8:30 a.m. – 10:00 a.m.

Recent Developments in Antitrust and Unfair Competition Law

This popular panel returns once again this year. Our dynamic speakers will provide an overview of recent California and federal developments in antitrust and unfair competition law.

Panelists:

Thomas A. Papageorge

Professor, University of San Diego School of Law; Special Prosecutor, San Diego County District Attorney's Office – San Diego, CA

Thomas Greene

Special Litigation Counsel, Bureau of Competition of the Federal Trade Commission San Francisco, CA

Thomas N. Dahdouh

Regional Director, Western Region, Federal Trade Commission – San Francisco/Los Angeles, CA

10:00 a.m. – 10:15 a.m.

Morning Break – Breaks generously sponsored
by **Barkley Court Reporters and OSKR LLC**

SESSION #2: TRIALS

10:15 a.m. – 12:30 p.m.

"Big Stakes" Antitrust Trials

For the third year in a row, we are very fortunate to have some of the country's leading antitrust trial lawyers tell us about their recent trial experiences and, importantly, lessons they learned that will benefit litigators on both sides of a case as well as the in-house lawyers and clients involved in antitrust litigation. The trials on our agenda for this year are:

St. Alphonsus Medical Center-Nampa and FTC v. St. Luke's Health System Ltd.

An Idaho federal judge found that St. Luke's Health System Ltd.'s acquisition of the region's largest independent physician association violated the Clayton Act. The court entered a permanent injunction and ordered St. Luke's to fully divest itself of the IPA's assets. A key issue was the definition of the geographic market, as the combined resulting share in the market accepted by the court was just shy of 80%. The defense claimed that the merger would result in integration of health care delivery, promotion of best medical practices, tough quality control and electronic record keeping, all goals of the Affordable Care Act.

Panelists:

Thomas Greene

Special Litigation Counsel, Bureau of Competition of the Federal Trade Commission San Francisco, CA

Jack R. Bierig

Lead Defense Counsel for St. Luke's Health System Ltd., Sidley Austin LLP – Chicago, IL

Paul J. Riehle, Moderator

Sedgwick LLP – San Francisco, CA

United States v. Bazaarvoice

In an unusual enforcement action, the U.S. Department of Justice filed a complaint against Bazaarvoice after it had consummated its acquisition of PowerReviews. After a three week bench trial, U.S. District Judge William H. Orrick, III sided with the government in January 2014 and found that Bazaarvoice's purchase of PowerReviews was a merger to monopoly likely to substantially reduce competition in the market for online ratings and reviews. Pursuant to a post-trial settlement, Bazaarvoice agreed to divest PowerReviews and take steps to ensure that the new company remained competitive. The trial was closely watched and addressed several unique and important merger issues that arise in high-technology markets.

Panelists:

Arthur J. Burke

Davis Polk & Wardwell, LLP – Menlo Park, CA and New York, NY

Scott A. Sher

Co-Lead Defense Counsel for Bazaarvoice, Wilson Sonsini Goodrich & Rosati PC – Washington, D.C.

Peter K. Huston

DOJ Lead Trial Counsel, U.S. Department of Justice – San Francisco, CA

Karen Silverman, Moderator

Latham & Watkins LLP – San Francisco, CA

GOLDEN STATE INSTITUTE LUNCHEON

12:30 p.m. – 2:00 p.m.

Welcoming Remarks by **Dr. Alan Cox**,

Senior Vice President, NERA Economic Consulting, our generous luncheon sponsor.

Luncheon Guest: Hon. Kathryn Mickle Werdegar,

Associate Justice of the California Supreme Court – San Francisco, CA

Presenting: "A Conversation with Justice Werdegar"

Panelists:

Cheryl Lee Johnson

Deputy Attorney General, Antitrust Law Section, Office of the Attorney General; Former California State Bar Antitrust and UCL Section Chair – Los Angeles, CA

Kathleen J. Tuttle

Deputy-in-charge, Antitrust Section, Los Angeles District Attorney's Office; Former California State Bar Antitrust and UCL Section Chair – Los Angeles, CA

SESSION #3: ANTITRUST

2:15 p.m. – 2:45 p.m.

Major League Baseball Antitrust Litigation

U.S. District Judge Ronald M. Whyte dismissed the City of San Jose's federal and state antitrust claims, finding that the judicially created exemption to federal antitrust laws for "the business of baseball" applied to the city's allegation that MLB had interfered with the A's relocation to San Jose. The antitrust ruling is on appeal and the tortious interference claims are moving forward. In what will surely be a lively discussion, a past recipient of our Antitrust Lawyer of the Year award will answer questions and forecast the future of baseball's antitrust exemption.

Panelists:

Joseph W. Cotchett

Lead Counsel for Plaintiff City of San Jose, Cotchett, Pitre & McCarthy LLP – Burlingame, CA

Paul R. Griffin, Inquisitor

Winston & Strawn LLP – San Francisco, CA

SESSION #4: PRIVACY

2:45 p.m. – 3:45 p.m.

Nowhere to Run, Nowhere to Hide: In the Age of Big Data Is Data Security Possible and Can the Enforcement Agencies and Private Litigation Ensure Your Online Information Remains Safe and Private?

The last year saw a steady stream of high-profile data breaches by major U.S. businesses placing millions of consumers' personal and financial data at risk. In response, the FTC and has increased public enforcement and a wave of new state laws have been instituted regulating a full range of privacy-related concerns. The risk of private litigation is increasing. Our distinguished panel will address the current legal landscape on data security, efforts to increase enforcement and predictions for the future of privacy law in this rapidly changing area of the law and technology.

Panelists:

Laura Berger

Senior Attorney, Division of Privacy and Identity Protection Federal Trade Commission San Francisco, CA

Adam Miller

Supervising Deputy Attorney General, Privacy Enforcement and Protection Unit, Office of the California Attorney General San Francisco, CA

James G. Snell

Perkins Coie LLP – Palo Alto, CA

Ara Jabaghourian

Plaintiffs' counsel in the Google and Yahoo privacy cases, Cotchett, Pitre & McCarthy LLP Burlingame, CA

Niall E. Lynch, Moderator

Latham & Watkins LLP – San Francisco, CA

3:45 p.m. – 4:00 p.m.

Afternoon Break – Breaks generously sponsored by Barkley Court Reporters and OSKR LLC

SESSION #5: JUDGES PANEL

4:00 p.m. – 5:15 p.m.

Managing Antitrust and Complex Business Trials

A distinguished group of federal judges will discuss trial proceedings in antitrust litigation and complex commercial litigation. The focus will be their "real world" experiences and practice pointers. This is a unique opportunity to learn directly from these highly experienced federal judges who adjudicate major antitrust and complex business cases.

Panelists:

Hon. Phyllis J. Hamilton

U.S. District Court Judge for the Northern District of California – Oakland, CA

Hon. Susan Illston

U.S. District Court Judge for the Northern District of California – San Francisco, CA

Hon. William H. Orrick, III

U.S. District Court Judge for the Northern District of California – San Francisco, CA

Aton Arbisser, Moderator

Kaye Scholer LLP – Los Angeles, CA

RECEPTION

5:30 p.m. – 7:00 p.m.

Hosted Reception for The Antitrust Lawyer of the Year. Sponsored by



DINNER

7:00 p.m. – 9:30 p.m.

Antitrust Lawyer of the Year Award Dinner and Program – Wine generously provided by St. Francis Winery and Vineyards.

We honor **Phillip H. Warren**, Former Chief of the San Francisco Office, Antitrust Division, U.S. Department of Justice 2002–2014, now with Covington & Burling LLP.



California Antitrust and Unfair Competition Law Treatise, 2014 Edition

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2014 ANTITRUST LAWYER OF THE YEAR — PHILLIP H. WARREN



Phillip H. Warren, a partner in Covington & Burling's San Francisco office, focuses his practice on international cartel matters. He has more than 30 years of antitrust enforcement experience and has led or supervised more than 50 international cartel investigations.

Prior to joining Covington, Mr. Warren served as Chief of the San Francisco Office, Antitrust Division, U.S. Department of Justice from 2002-2014. In his role as Chief, Mr. Warren oversaw all aspects of grand jury investigations and plea negotiations in international cartel matters in more than a dozen industries, including commodity chemicals and five different high-technology products: DRAM, LCD panels, cathode ray tubes, optical disk drives, and lithium ion battery cells. He also closely supervised all aspects of several major criminal antitrust trials. He oversaw some of the largest and most successful prosecutions in the Antitrust Division's history and under his leadership the San Francisco office obtained more than \$2.5 billion in fines.

He worked with Deputy Assistant Attorneys General for Criminal Enforcement on developing all aspects of international cartel enforcement policy, including applications of the Division's Leniency Policy, policies for negotiating plea terms with corporations and executives, and practices for coordinating investigations with foreign enforcement authorities.

In addition to Mr. Warren's significant cartel experience, he also has an extensive background in civil antitrust enforcement. He reviewed and approved all staff analyses of premerger filings involving California-based high-technology firms, and oversaw all aspects of preliminary inquiries and Second Requests of proposed transactions that raised potential competitive issues.

Prior to his position as Chief, Mr. Warren was a trial attorney and then served as the Assistant Chief in the office from 1997 to 2002. In these positions, he led many significant Division prosecutions, including *U.S. v. Archer Daniels Midland Co.* (citric acid), *U.S. v. Sprint/France Telecom/Deutsche Telekom*, and *U.S. v. All Star Industries*.

While at the Department of Justice, Mr. Warren was an integral part of the international cartel enforcement community. He took part in coordinating investigations of international cartels with enforcement agencies worldwide, including Canada, the European Commission, Japan, Korea, Mexico, and Singapore. In addition, he led or participated in training sessions for enforcement officials in many jurisdictions.

Mr. Warren joined the U.S. Justice Department's Antitrust Division in Washington, D.C. in 1980. In 1984, he moved to the Division's San Francisco Office, the only office in the country with major responsibility for criminal and civil antitrust enforcement. There he was Assistant Chief from 1997 to 2002 and Chief from 2002 to January 2014.

Mr. Warren is the recipient of numerous awards, including the Attorney General Award for Distinguished Service (2012) (for successful prosecution of *U.S. v. AU Optronics*), the Presidential Rank Award of Distinguished Executive (2009) (highest award given to career federal government Senior Executive Service members), the Department of Justice John Marshall Award for Participation in Litigation (1998), and the Antitrust Division Hugh P. Morrison Award for Exceptional Accomplishment as an Antitrust Litigator (1994).

Before joining the Justice Department, Mr. Warren was a Visiting Fellow at the Center for Law in the Public Interest in Los Angeles (1979-80) and a Peace Corps volunteer in Guatemala (1973-75). He graduated from the UCLA School of Law and Santa Clara University.

REGISTRATION INFORMATION

REGISTRATION ONLINE: <http://antitrust.calbar.ca.gov>

PRE-REGISTRATION BY MAIL: Your pre-registration must be received no later than October 9, 2014. Please send your completed registration form and check payable to The State Bar of California to:

**Program Registrations
The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639**

PRE-REGISTRATION BY FAX: Please fax your pre-registration to Program Registrations at 415-538-2368 no later than October 9, 2014. Credit card information is mandatory. Do not mail originals.

ON-SITE REGISTRATIONS: On-site registration opens at 7:00 a.m. and is subject to space availability.

CANCELLATIONS/REFUND POLICY: Cancellations and requests for refunds must be received in writing no later than October 9, 2014. Substitute registrants are allowed, but must register in their own name. Cancellations and refunds are subject to a \$25.00 service charge.

SPECIAL ASSISTANCE: Please call 415-538-2554.

QUESTIONS: For registration information, please call 415-538-2508. For program content/Section information, please call 415-538-2554.

REGISTRATION FORM

Golden Gate Antitrust and Unfair Competition Law Institute and Antitrust Lawyer of the Year Award Dinner

October 16, 2014 | San Francisco, CA

Note: One registrant per form. Photocopies may be used.

Bar Number: _____

Name: _____

Firm: _____

Firm Address: _____

City, State, Zip Code: _____

Phone Number: _____ Fax Number: _____

Email Address: _____

(Required for email confirmation)

Your name and email address may be disclosed to other 2014 GSI attendees and exhibitors/vendors.

Check Here if you do not want your information released.

REGISTRATION FEES (by October 9, 2014, late registrations subject to space availability)

Full Day Institute & Dinner - Member - \$445

Full Day Institute & Dinner - Non-Member - \$530

Institute ONLY

Antitrust Section Member - \$350

Non-Member - \$425 (2014-2015 Section Membership included for Non-Members)

Government/Academic - \$85

Non-Attorney Law Student - \$75

Sponsorship Opportunities

GOLD (Includes table for eight at dinner, 5 institute registrants, program attribution) - \$3,000

SILVER (Includes table for eight at dinner, 2 institute registrants, program attribution) - \$2,250

BRONZE (Program attribution ONLY, no dinner or registration in program) - \$500

Your sponsorship includes a full congratulatory slide in our dinner program presentation.

Please send an electronic, 8.5"x11" slide, color or b/w pdf in landscape orientation to mitch.wood@calbar.ca.gov by Thursday, October 9, 2014 to be included.

Lawyer of the Year Dinner and Cocktail Reception ONLY

Per Person - \$225

__ Additional Dinners - \$225

Government/Academic - \$110

Table for Eight - \$1800

Program Materials

Program materials will be provided on-site in electronic format on a flash drive. Please bring your laptops, as we will have ample power sources and Wifi services during our program.

CREDIT CARD INFORMATION (VISA/MasterCard Only)

I authorize The State Bar of California to charge my program registration to my VISA/MasterCard account. (No other credit card will be accepted.)

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(Visa or MasterCard only)

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Deadline: In order to pre-register, your form and check, payable to The State Bar of California, or credit card information, must be received by October 9, 2014.

Mail To: Program Registrations, The State Bar of California, 180 Howard Street, San Francisco, CA 94105.

Fax To: Program Registration at 415-538-2368. In order to fax your registration, credit card information is MANDATORY. **(Photocopies of checks will NOT be accepted.)**

The State Bar of California and the Antitrust and Unfair Competition Law Section are approved State Bar of California MCLE providers.

Register Online <http://antitrust.calbar.ca.gov>



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The Antitrust and Unfair
Competition Law Section
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San Francisco, California 94105

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