

Seth C. Silber

PARTNER

Antitrust and
Competition
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FOCUS AREAS

Antitrust Civil Enforcement
Antitrust Compliance and
Business Strategy
Antitrust Litigation
Antitrust Merger Clearance
Antitrust and Competition
Antitrust and Intellectual
Property
Data, Privacy, and
Cybersecurity
Global Generics
Third-Party Merger and
Non-Merger Antitrust
Representation

HIGHLIGHTS

- Specialized Antitrust Expertise**
Seth focuses on advising clients in the pharmaceutical and healthcare markets, including issues concerning pharmaceutical patent settlements, mergers and acquisitions, and anticompetitive conduct.
- Deep Antitrust Expertise**
Prior to joining Wilson Sonsini, Seth served for six years at the FTC.
- Leadership Roles**
Seth is active in the ABA's Antitrust Section and served as chair of the Health Care and Pharmaceuticals Committee.

EXPERIENCE

Seth Silber is a partner in the firm's Washington, D.C., office, where he focuses on advising clients in the pharmaceutical and healthcare markets, including issues concerning pharmaceutical patent settlements, mergers and acquisitions, and anticompetitive conduct. He regularly represents clients before both the Federal Trade Commission and U.S. Department of Justice.

Seth joined Wilson Sonsini Goodrich & Rosati in September 2006 after serving for six years at the Federal Trade Commission (FTC). During his tenure at the FTC, Seth obtained unique experience and insights into the commission's antitrust activities and enforcement practices, having served at all levels of the commission.

From 2004 to 2006, Seth served as an advisor to former FTC Chairman Jon Leibowitz, advising him on enforcement issues relating to both anticompetitive conduct and mergers affecting various industries, including healthcare, medical devices, media, and oil and gas. He also served as an Assistant to the Bureau Director in the Bureau of Competition. In that role, he reviewed recommendations from the bureau staff on both merger and non-merger matters, with a particular emphasis on pharmaceutical matters.

During his first three years at the FTC, Seth was a staff attorney in the bureau's Health Care Division. He was a lead attorney in *FTC v. Schering-Plough* and was involved in many of the commission's investigations involving pharmaceutical patent settlements and Orange Book listings. While in the Health Care Division, he also conducted several merger investigations and served as the division's liaison to the Food and Drug Administration.

In his current practice at Wilson Sonsini, Seth regularly counsels clients regarding the antitrust risks posed by pharmaceutical patent settlements and has represented clients in FTC investigations of such

settlements. He has also served as lead counsel for several cutting-edge pharmaceutical litigations including litigation concerning pharmaceutical product hopping, REMS systems, and standard setting in the pharmaceutical industry.

Seth is active in the American Bar Association's Antitrust Section. He served as chair of the Health Care and Pharmaceuticals Committee, a position he also held from 2009 to 2012, and from 2016 to 2019. He was appointed in 2012 to serve on the section's governing council and is the lead editor of the first-ever treatise on pharmaceutical antitrust, the *Pharmaceutical Industry Antitrust Handbook*, which was published by the ABA in 2009.

Prior to joining the FTC, Seth was in private practice at Paul Hastings in Washington, D.C. He also is a part-owner and treasurer of the Fredericksburg Nationals, the Class-A minor league baseball affiliate of the Washington Nationals. Additionally, Seth currently served as the board chair for One World Education, a Washington, D.C.-based nonprofit from 2014 to 2018.

CREDENTIALS

Education

- J.D., The George Washington University Law School, 1997
Cum Laude
- M.A., Johns Hopkins School of Advanced International Studies (SAIS), 1993
- B.A., Emory University, 1991
Cum Laude

Associations and Memberships

- Chair, Health Care and Pharmaceuticals Committee, Section of Antitrust Law, American Bar Association, 2009-2012, 2016-2019
- Member, Governing Council, Section of Antitrust Law, American Bar Association (appointed for 2013-2016 term)

Honors

- Selected for inclusion in the 2016 and 2017 editions of *Washington DC Super Lawyers*

Admissions

- Bar of the District of Columbia

INSIGHTS

Select Publications

- Co-author, "Navigating Pharmaceutical Patent Settlements and Reverse Payments: Key Takeaways from the FTC's Latest MMA Reports," Wilson Sonsini Alert, January 22, 2025
- Co-author, "AAM v. Robert Bonta: An End to California Pharmaceutical Legislative Reform?" 32(1) *Antitrust and Unfair Competition Law*, California Lawyers Association, Spring 2022
- Co-author with J. Bank, B. Coffman, R. Gray, and N. Mendelsohn, "Fifth Circuit Upholds Federal Trade Commission Ruling in Impax Laboratories, Inc. v. Federal Trade Commission and Grants Substantial Deference to the FTC," Wilson Sonsini Alert, April 20, 2021
- Co-author with J. Bank and B. Coffman, "A Return to Republican Antitrust Policies for Pharma," *Law360*, January 24, 2017
- Co-author with J. Bank, B. Coffman, and K. Kemp, "Where We Stand On Pharmaceutical Patent Settlements," *Law360*, October 23, 2015
- Co-author with V. Norviel, D. Hoffmeister, E. Yin, and C. Andres, "A Look at the Legality Behind Daraprim's Price Spike," *Law360*, September 30, 2015
- Co-author with M. Rosman, "DOJ Investigation Into Generic Pharma: You Could Be Next," *Law360*, March 30, 2015
- Co-author with J. Lutinski and R. Maddock, "'Good Luck' Post-Actavis: Current State of Play on 'Pay-for-Delay' Settlements," *CPI Antitrust Chronicle*, November 2014
- Co-author with V. Rucker and R. Comerford, "Following Up on Follow-On Biologics," *Law360*, December 2, 2013
- Co-author with J. Lutinski and C. Armour, "Third Circuit Breathes New Life into FTC Efforts to Block Pharmaceutical Patent Settlements," *New Pharma Thinkers*, July 27, 2012
- Co-author with J. Lutinski and R. Tylon, "Abuse of the FDA Citizen Petition Process: Ripe for Antitrust Challenge?" *Antitrust Health Care Chronicle*, Health Care and Pharmaceuticals Committee, ABA Section of Antitrust Law, Vol. 25, No. 2, January 2012
- Co-author with K. Kuritz, "Product Switching in the Pharmaceutical Industry: Ripe for Antitrust Scrutiny?" *Journal of Generic Medicines*, January 12, 2010

- Lead Editor, *Pharmaceutical Antitrust Industry Handbook*, ABA Section of Antitrust Law, July 2009
- Co-author with Susan Creighton, "EC's Preliminary Pharmaceutical Sector Report: An Aggressive Review of Industry Conduct," *Global Competition Policy*, February 2009
- "Settlements with Payments to Generics Increase: FTC," *Competition Law360*, March 28, 2007
- "FTC Review of Generic Drug Mergers," *Journal of Generic Medicines*, February 13, 2007

Select Speaking Engagements

Seth speaks frequently on antitrust issues. His prior speaking engagements have focused on FTC enforcement in the pharmaceutical area, authorized generics, pharmacy benefits managers (PBMs), and merger enforcement. Select recent speaking engagements include:

- "Hot Topics in Antitrust IP: Update on Pay-for-Delay Patent Settlements," American Bar Association Intellectual Property Committee Panel, March 2013
- "Everything You Need to Know About Pharmaceutical 'Pay-for-Delay' Settlements," American Health Lawyers Association Webinar, December 2011
- Moderator for Post-Conference Workshop on "Responding to an FTC Patent Settlement Investigation," ACI Sixth Annual In-House Counsel Forum on Pharmaceutical Antitrust, May 2011
- "Clearing the Way for Biosimilars: New Complexities Around Competition and Consumer Harm," American Bar Association Antitrust Section Teleseminar, February 2011
- Conference Co-chair, Fifth Annual In-House Counsel Forum on Pharmaceutical Antitrust, February 17-18, 2010
- "Setting the Framework: Antitrust Review of Reverse-Payment Patent Settlements," Bates White Healthcare Law and Economics Workshop, October 29, 2009
- "Pharmaceutical Antitrust Initiatives and Developments in the U.S. and Abroad," American Conference Institute, July 29, 2009
- "Mitigating Antitrust Concerns When Settling Paragraph IV Disputes," American Conference Institute's Conference on Paragraph IV Litigation, April 29, 2009
- Conference Co-chair, Fourth Annual In-House Counsel Forum on Pharmaceutical Antitrust, May 20-21, 2008
- "Merger Review and the Pharmaceutical Industry," Law Seminars International Conference on Pharmaceutical Antitrust, April 24, 2008
- "Pharmaceutical Antitrust Issues in the United States," European Pharmaceutical Law Forum, October 2007
- "Antitrust Issues Relating to Generic Competition," ABA/AHLA Conference on Antitrust in Health Care, September 18, 2007
- Conference Co-chair (and Panelist on Authorized Generics), Third Annual In-House Counsel Forum on Pharmaceutical Antitrust, May 15-16, 2007
- "Biotech Mergers: FTC Review and Guidance," Biotechnology 2007 Conference, January 29, 2007
- "Authorized Generics: Their Role in the Marketplace, and the FTC Study," ABA Health Care Committee Panel, September 2006
- Keynote Address, "FTC Initiatives to Promote Pharmaceutical Competition," American Conference Institute's Conference on Maximizing Pharmaceutical Patent Life Cycles, June 14, 2006
- Panel Participant on Authorized Generics, Second Annual In-House Counsel's Forum on Pharmaceutical Antitrust, April 24, 2006
- Presentation on Authorized Generics, In-House Counsel's Forum on Pharmaceutical Antitrust, May 24, 2005
- "FTC's Actions Affecting Generic Drug Markets," Generic Pharmaceutical Association, 2005 Legal Symposium, May 18, 2005
- "Update on FTC's Views and Findings on the PBM Market," Second Annual Forum on Minimizing Legal Risk in Pharmaceutical Benefit Management, April 18, 2005
- "FTC Enforcement Priorities," 4th Annual Generic Drug Forum, November 17, 2004
- "FTC's PBM Activities," Forum on Minimizing Legal Risk in Pharmaceutical Benefit Management, March 22, 2003