



Jason S. Dubner

partner

For more than 20 years, Jason has represented companies in a variety of complex commercial litigations and arbitrations, with an emphasis on reinsurance, insurance, healthcare and antitrust disputes. He also counsels clients in these areas, including advising in connection with claims on transactional insurance products as well as in franchise and distribution matters. More recently, Jason has been appointed to adjudicate commercial disputes as a panelist on the American Arbitration Association National Roster of Arbitrators. Regardless of the substance of the matter, Jason seeks to fully understand his clients' objectives and maintains frequent communication to assure those objectives are obtained.

As a former economic analyst with the Antitrust Division of the U.S. Department of Justice, Jason brings the combined perspectives of an economist and a regulator to his practice.

Antitrust

Jason brings over 20 years of experience advising and representing corporate clients in litigation to remedy the economic damages they have incurred as a result of antitrust conspiracies in the market for key inputs into their own business operations. Jason has also represented organizations defending against class action allegations that their companies have been part of an antitrust conspiracy either to fix prices or reduce output in a variety of industries. His experience also includes successfully defending clients against related allegations of RICO, fraud, conspiracy and breach of contract. In addition, Jason regularly advises clients on changes to their existing product distribution networks. He also has experience counseling clients on antitrust matters before state and federal regulators, including in response to third-party subpoenas and civil investigative demands.

CONTACT

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SOCIAL MEDIA

Blogs

antitrustlawsource.com

EDUCATION

University of Chicago Law School,
J.D., 1998

Swarthmore College, B.A., 1992

SERVICES

Reinsurance Litigation & Arbitration

Litigation

- Antitrust litigation
- Class actions, mass torts and MDLs
- Commercial litigation
- Health care litigation
- Non-competition and trade secrets litigation
- Arbitration and mediation
- Insurance litigation

Business Competition, Advice & Litigation

- Antitrust advice and litigation

Reinsurance/Insurance Disputes

Jason has first-chaired and second-chaired a number of significant reinsurance arbitrations, representing cedents and reinsurers. Among those arbitrations, Jason has dealt with multiple disputes involving automobile dealer/producer-owned reinsurance companies and cedents over the termination of their reinsurance agreements, having served as counsel as well as umpire and party-appointed arbitrator on ADR panels faced with related issues. With the increasing reliance on representations and warranties insurance to facilitate M&A transactions, Jason has also developed an understanding of the nature of claims made under those policies in order to best serve as an advisor for companies involved in that claim resolution process.

REPRESENTATIVE MATTERS

Litigation

- Represented leading supplier of private label food and beverage products seeking to recover damages caused by its supplier's delivery and subsequent recall of potentially contaminated sunflower kernels.
- Represented health insurer in dispute with federal government over its failure to make risk corridors payments under Section 1342 of the Affordable Care Act.
- Defend satellite dish installer in putative class action by service technicians against claims alleging violations of the Illinois Wage Payment and Collection Act and the Illinois Minimum Wage Law.
- Represented insight-driven marketing company in dispute with former employee and new employer regarding inevitable misappropriation of trade secrets and breach of employee agreement/tortious interference with contract.
- Represented insurer seeking declaration that no coverage exists with regard to multi-million dollar settlements of certain underlying managed care disputes and that the insured has an obligation to reimburse the insurer for previously advanced defense costs.
- Represented writer of workers' compensation insurance in \$1 billion dispute against industry leader regarding its fraudulent underreporting of premium.
- Represented issuer of credit insurance policies in dispute with insured bank over the absence of coverage for claims submitted regarding defaults on home equity loans.
- Represented purchasers of substantial quantities of corrugated products in an action for treble damages as opt-outs from class action antitrust litigation.
- Represented real estate investment trust in litigation involving the interpretation of its commercial lease. Obtained summary judgment against the defendants' corporate entity followed by a favorable negotiated settlement with the individual defendants.
- Represented international manufacturer and distributor of computer software in defense of action by disgruntled end-user alleging fraud, breach of contract/warranty, and negligent misrepresentation.

SERVICES (CONTINUED)

Business Competition, Advice & Litigation

- Non-compete, non-solicitation, non-recruitment and non-disclosure agreements

Antitrust & Consumer Protection

Health Care

- Litigation

Corporate & Internal Investigations

- Defended designer and distributor of advanced software applications in action brought by a former competitor for breach of contract in connection with assumption of competitor's operation. Conducted full hearing on the merits followed by a favorable negotiated settlement.

Reinsurance Arbitrations

- Represented reinsurer of variable annuity death and income benefits in dispute with cedent regarding contract interpretation issues.
- Represented reinsurer in dispute over ceding company's failure to disclose asbestos exposures at the time of placement.
- Represented reinsurer of variable annuity death benefits in three-week arbitration hearing with cedent life insurer, including presentation of statistical and industry expert testimony.
- Represented cedent at hearing and obtained \$45 million award for losses and loss adjustment expense arising out of surety business produced by a general agent.
- Represented reinsurer at hearing to enforce its right to receive unearned premium on a run-off basis following termination of the reinsurance agreement by the cedent.
- Represented cedent at hearing to timely recover limits on an Aggregate Excess of Loss contract.

Counseling

- Advise MGA in response to claims presented by insureds on transactional insurance products, including with regard to representations and warranties insurance policies.
- Assist non-party recipient of CIDs/subpoenas in connection with ongoing merger investigation by the Federal Trade Commission.
- Assist non-party recipient with response to CIDs/subpoenas issued by the City of Chicago.
- Represent pro bono client seeking political asylum in proceedings before USCIS.
- Counseled global leader in fluid-handling technologies for pump products, dispensing equipment and other industrial products regarding changes to nationwide distribution network.

BAR ADMISSIONS

- Illinois
- U.S. District Court for the Northern District of Illinois
- U.S. Court of Federal Claims

PUBLICATIONS

- "NY merger ruling offers costly lesson on vague R&W terms," *Law360*, Feb. 1, 2021
- "Early neutral evaluation can diffuse reps and warranty disputes," *Law360*, June 14, 2018
- "What DOJ investigation means for generic drug plaintiffs," *Law360*, June 16, 2017
- "7th Circuit may clarify rep and warranty insurer duties," *Law360*, May 16, 2017
- "ACA risk corridor funding falls short, litigation ensues," *Law360*, June 9, 2016
- "Emerging disputes over risk sharing under the ACA," *Law360*, April 18, 2016
- "District Court holds antitrust opt-outs not allowed back in the class," *Corporate Counsel*, October 2014

PROFESSIONAL ASSOCIATIONS

- American Arbitration Association, National Roster of Arbitrators, Panelist
- American Bar Association, Section of Antitrust Law, Member; Health Care and Pharmaceuticals Committee, Vice-Chair; Insurance and Financial Services Committee, former Vice-Chair; The Exchange (IFS Committee Newsletter), former Editor; Compliance and Ethics Committee, former

Vice-Chair; Distribution and Franchising Committee, former Vice-Chair; The Franchise and Dealership Termination Handbook (2d ed.), former Co-Project Chair

- ARIAS-U.S., Member
- Illinois State Bar Association, Section Council on Antitrust & Unfair Competition Law, former Member; Antitrust and Unfair Competition Law newsletter, former Co-Editor
- Chicago Bar Association, Antitrust Committee, former Chairman and Vice Chairman

HONORS | AWARDS

- *The Legal 500 United States*, Insurance (Recommended Attorney)