



Kevin J. O'Connor

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Practice Areas

Health Care

Admissions

Wisconsin

Education

Juris Doctor, Harvard Law School

Doctor of Philosophy,
University of Wisconsin-
Madison, Economics



Kevin O'Connor is chair of the Antitrust and Trade Regulation Practice Group and has offices in both Madison and Milwaukee. He has more than twenty years of experience in antitrust, trade regulation, and consumer litigation and counseling.

Before joining the firm, he served as the Assistant Attorney General in charge of antitrust enforcement and head of the Office of Consumer Protection and Antitrust in the Wisconsin Department of Justice. During his tenure in government, Kevin chaired the National Association of Attorneys General's (NAAG) Multistate Antitrust Task Force. He led multistate working groups litigating cases involving resale price maintenance, insurance boycotts, mergers, price-fixing, complex indirect purchaser litigation and exclusionary practices. He was also lead state counsel in the case brought by 19 states and the US-DOJ against Microsoft. He has also litigated criminal bid-rigging cases in state court. His experience encompasses industries as diverse as health care, high technology and intellectual property, vitamins, electric utilities, cattle dealers, retail distribution, telecommunications and many others. Kevin also prosecuted white collar crime cases involving securities fraud, tax fraud and antitrust violations as an Assistant Attorney General. His extensive experience has proven to be a valuable asset to the firm's White Collar Defense & Investigations team.

Applying his extensive experience and doctorate in economics, Kevin co-authored the Horizontal Merger Guidelines (1993) (Ant. Trade Reg. Rep. (CCH) ¶ 13,406) and the Vertical Restraints Guidelines (1994) (id. at ¶ 13,400) of the National Association of Attorneys General. In addition, for over a decade, he has worked closely with his counterparts in the federal antitrust enforcement agencies on both merger and non-merger matters. In particular, he developed the Protocol for Coordination in Merger Investigations Between the Federal Enforcement Agencies and State Attorneys General, adopted by the States, the FTC and US-DOJ in 1998 (id. at ¶ 13,420) which governs federal and state investigations of mergers and acquisitions.

Kevin has handled a number of merger matters with the federal agencies and with the other state attorney general offices. His experience complements the extensive mergers and acquisition practice for which Godfrey & Kahn is well known.

Kevin has been particularly active in product distribution and marketing issues concerning a wide array of industries. He has litigated numerous cases involving resale price maintenance, minimum advertised price arrangements and other matters raising vertical issues. These cases concerned a wide variety of industries including, for example, consumer electronics, toys, farm chemicals, cable television, computers and computer software, compact disks, and shoes. He has represented both plaintiffs and defendants in these matters. His authorship of the only existing set of vertical restraint guidelines (id. at ¶ 13,400) provides him with unique insights on distribution and marketing issues. He is a frequent speaker on these topics.

Kevin is also well known in the healthcare industry in Wisconsin and nationally. He has successfully litigated several significant health care antitrust matters in Wisconsin and has been a national spokesperson on health care antitrust enforcement issues. Just a few examples include his successful resolution of a hospital merger case in southeastern Wisconsin, a multispecialty physician practice merger between Marshfield Clinic and Wausau Medical Center, and a non-merger conduct matter involving the Wisconsin Chiropractic Association. He has also litigated generic drug damage claims against various drug companies involving the intellectual property/antitrust interface on behalf of state agencies and end-users. Kevin has worked with his counterparts in the federal agencies on these and other matters. He has also extensive health care antitrust counseling experience with various state agencies. He has also served as a national spokesperson regarding health care antitrust and trade regulation issues.

Kevin has also been involved in antitrust issues and consumer issues involving a number of other industries too numerous to mention here. In cases as diverse as Microsoft and the generic drug litigation, he has successfully litigated issues concerning the interface between intellectual property rights and the antitrust laws. He has developed an acute awareness of the antitrust risks inherent in IP licensing practices and the settlement of IP litigation. This expertise complements the extensive IP litigation and counseling practice at the firm.

Kevin was also a leader in the seminal *Hartford Fire Ins. Co. v. Cal.*, 509 U.S. 764 (1993) concerning claims that U.S. and international reinsurers boycotted certain lines of property and casualty business insurance. He has also worked closely with the Wisconsin Office of the Commissioner of Insurance and has served as the Attorney General's representative on the Wisconsin Insurance Security Fund Board. He has also authored amicus briefs such as the brief filed on behalf of 36 states in the U.S. Supreme Court in the *FTC v. Ticor Title Insur. Co.*, case resulting in a holding that state regulators did not regulate title insurance actively enough to give the insurers immunity from the antitrust laws. His experience complements the firm's extensive insurance litigation and regulatory practice.

Kevin has spoken and written extensively on various areas of antitrust law. He has commented extensively on merger guidelines promulgated by the federal agencies, written chapters of books and articles for various ABA section publications, and is a regular speaker at national antitrust seminars.

Court Admissions

United States Supreme Court

Professional Association Memberships

Center for State Antitrust and Consumer Enforcement

Activities

American Bar Association – Finance Officer, Section of Antitrust Law
Center for State Antitrust and Consumer Enforcement – Board Chair

Honors

Recognized as a *Wisconsin Super Lawyer* (2005 - 2012)

Listed in *Best Lawyers in America* (Antitrust Law, Litigation - Antitrust, 2005 - present; Lawyer of the Year, Litigation - Antitrust, 2013, 2018, 2023)

AV Preeminent® Peer Review Rated by Martindale-Hubbell®

Recognized by *Benchmark Litigation* as a Local Litigation Star (Antitrust and White Collar Crime, 2015 - 2016)