David Ettinger has led Honigman’s Antitrust and Trade Regulation practice for more than 35 years. He has litigated antitrust cases and represented clients in antitrust matters in a wide variety of industries in more than 30 states.

David is to our knowledge the only antitrust lawyer in America to have both successfully challenged and defended mergers on antitrust grounds. (U.S. v. Mercy, Saint Alphonsus v. St. Luke’s.)

David has an especially deep involvement in health care antitrust matters, on behalf of hospitals, physician groups and payors. His recent work has included serving as successful lead counsel in the landmark Saint Alphonsus v. St. Luke’s decision (the first litigated antitrust case challenging the acquisition of a physician group). David has also extensively practiced before the FTC, both in defending investigations of health care transactions and advocacy of FTC action against anticompetitive transactions on behalf of our clients. David serves as antitrust counsel for a number of significant hospital systems, including, among others, Trinity Health.

Most recently, David has been extremely active in bringing private antitrust actions in the health care field, typically challenging dominant hospitals and payors on behalf of smaller hospitals and managed care plans who are threatened by anticompetitive actions. Six private actions in health care have been brought by Honigman in the last eight years. These cases have resulted in preliminary injunctive relief and favorable settlements, among other remedies.

This experience allows David, and our antitrust practice group, to provide our health care clients with the most cost effective assistance. For example, while defending many investigations of hospital mergers, we have avoided the need for any of our clients to respond to an expensive “second request” for more than 15 years. Given David’s graduate school training in economics, we are also often able to reduce the need for the use of expensive economic experts.

Our work in Saint Alphonsus and other cases also allows us to provide a cutting edge analysis of competitive issues in health care. Our representation of both plaintiffs and defendants allows us to better understand the arguments that could be made against our clients considering transactions, as well as the
defenses that could be offered against our clients seeking to challenge anticompetitive conduct.

Our work is designed to address real world (not theoretical) risks. We design our strategies to reflect our health care clients’ overall business needs and the complexities of health care markets and regulations.

We understand that antitrust issues are only one potential obstacle to our clients’ objectives in completing transactions, and only one potential tool to solve our clients’ competitive issues. Because of our experience in health care, we are able to provide our advice in a larger context that considers a range of business and legal issues.

Our clients are very satisfied with David’s work. Stephanie Westermeier, General Counsel of Saint Alphonsus Health System in Boise, Idaho, provided the following comments: “David is an incredibly skilled lawyer who is exceedingly competent in antitrust law. I know I can always rely on David for antitrust advice that is clear, concise, pragmatic and timely. David was a trusted partner with me for several years as outside counsel in complex antitrust litigation in which we prevailed at trial and on appeal. I was extremely pleased with his excellent representation of our health system in every aspect of the case.”

Steve Skrivanos, Chair of University Health in Shreveport, Louisiana, says: “In my many years of dealing with professionals across numerous disciplines, David is the hardest working and most diligent person I have ever encountered. He has the ability to immediately understand and digest myriad facts and nuances of complicated situations, and then elegantly reduce those to allow the layman to immediately comprehend their significance. In the several instances where he has appeared in court on our behalf, he has far outclassed his opposition.”

A more detailed explanation of David’s, and the Antitrust Practice Group’s, experience is set forth at the practice group description on this website.

**Representative Matters**

**Representative cases:**


- *BRFHH Shreveport v. Willis-Knighton* (W.D. La.). Challenge to threatened agreements between hospital and medical school practice.
• **United States v. Mercy Health Services** (N. D. Ia.). Successful defense of a hospital merger against a Justice Department challenge.


• **Chi v. Sisters of Mercy Health Corp.** (N.D. Ia.). Defense of preliminary injunction against exclusive physician contract.

• **Patel v Verde Valley Medical Center** (D. Ariz.). Defense of claims that hospital system attempted to monopolize cardiology services.

• **Heartland Surgical Specialty Hospital, LLC v. Midwest Division, Inc.** (D. Kan.). Defense of claim of boycott of physician-owned specialty hospital.

• **Lundsford v. Callaway Golf Co.** (D. Tenn.). Defense of purported class action alleging resale price maintenance in the sale of golf clubs.

• **Compuware v. IBM** (E.D. Mich.). Challenge to tying of mainframe software products.

• **Easton Sports, Inc., v. NCAA** (D. Kan.). Claim of antitrust violations by National Collegiate Athletic Association through restrictions on the use of bats in NCAA competition.

• **In re Motorsports Merchandise Antitrust Litigation** (N.D. Ga.). Defense of class action alleging price fixing in the sale of merchandise at NASCAR races.

• **Kerasotes Michigan Theatres, Inc. v. National Amusements, Inc.** (6th Cir.). Challenge to conspiracy to boycott in motion picture industry.

• **Defended government investigations of mergers and joint ventures in the automobile parts, food products, home products, hospital, mainframe computer software, design computer software, supermarket, oil field servicing, specialty physician practice, and home hardware industries.**

**Awards**

• **The Best Lawyers in America**, 2005-2022
  - Recognized in practice areas of:
    - Antitrust Law
    - Franchise Law
    - Litigation - Antitrust
  - Detroit Antitrust Law "Lawyer of the Year," 2013, 2016, 2018 and 2021
  - Detroit Litigation - Antitrust "Lawyer of the Year," 2017, 2019 and 2021
  - Honored by BTI Consulting Group as a 2021 M&A Client Service All-Star


• **Michigan Super Lawyers**, 2006-2021
Professional & Community Involvement

State Bar of Michigan

- Antitrust Law Section, former Chairman

News & Resources

Publications

  Co-author
  *BNA's Health Law and Business Series (regularly updated)*

  Co-author
  *BNA's Health Law Reporter*

- Strategic Perspectives: Hospitals have new tool to address loss of physician referrals from acquisitions (March 4, 2015)
  *Wolters Kluwer Antitrust Law Daily*

- Planning for Antitrust Reviews of Practice Acquisitions and Mergers (2012)
  *Group Practice Journal, a publication of the American Medical Group Association*

- Unique Issues in Physician Mergers, Acquisitions and ACO Participation (November 2011)
  *American Health Lawyers Association New Member Briefing*

- The Dirty Words of Antitrust (Spring 1992)
  *The Medical Staff Counselor*

Seminars & Events

- Cutting Edge Antitrust Issues in Health Care Transactions
  December 4, 2015

- Emerging Issues in Health Care Law, ABA Health Law Section, Lake Buena Vista, FL
  March 6, 2015, Co-presenter

- Network Conduct: Avoiding The Antitrust Pitfalls

- Competition, Acquisitions and Healthcare Reform: Lessons Learned, Roundtable Founding Group, The Leadership Institute, Dana Point, CA
  August 13, 2014, Co-presenter

  June 26, 2014

- Health Care Antitrust Update
  June 19, 2014
  June 18, 2014, Co-presenter

• Transactions and Antitrust: News from the Front Lines
  June 12, 2014

• Competition, Acquisitions and Healthcare Reform: Lessons Learned, Roundtable Horizon Group, The Leadership Institute, Washington, D.C.
  May 1, 2014, Co-presenter

• Consolidation in a Rapidly Changing Industry: Navigating Options, Antitrust and Other Obstacles, American Health Lawyers Association
  2013