



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.

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

## Practice Areas

### Business

Health Care

### Litigation

Antitrust

Mergers and Acquisitions

Antitrust Litigation

Intellectual Property

Health Care Antitrust

National State Attorneys  
General Practice

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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.

Kevin earned his law degree from Harvard Law School and a Ph.D. in Economics from the University of Wisconsin.

#### **Education**

Juris Doctor, Harvard Law School

Doctor of Philosophy, University of Wisconsin-Madison, Economics

#### **Honors**

Wisconsin Super Lawyers - 2005, 2006, 2007, 2008, 2009

The Best Lawyers in America - 2009,2010

## **News & Publications**

#### **Publications**

The Significance of the *Cuomo v. Clearing House* Decision  
November 01, 2009

Supreme Court Changes Antitrust Analysis  
August 21, 2007

Risks of Sharing Wage Information with Competitors  
Summer 2007 | Volume 2, Issue 2

Current Antitrust Risks and Opportunities  
September 28, 2006

Three Significant Supreme Court Antitrust Rulings Require Careful Interpretation  
March 15, 2006

Ruling on Federal Sentencing Guidelines Unlikely to Change Need for Corporate Compliance Programs  
April 26, 2005

- A Primer on Vertical Restraint Law Applied to Intellectual Property  
March 17, 2005
- The Economics of Distribution  
March 17, 2005
- FTC and DOJ Release Joint Report on Health Care Competition  
August 2004
- Clinical Integration: How Far Has MedSouth Really Advanced the Ball?  
The Seventh Annual Competition in Health Care Forum  
November 7, 2002
- Protocol for Communication in Merger Investigations between the Federal Enforcement  
Agencies and State Attorneys General  
Ant. Trade Reg. Rep. (CCH) par. 13,420  
1998
- Federalist Lessons for Concurrent Enforcement  
16 Antitrust  
November 2002
- IP Antitrust Issues in the Microsoft Case  
June 19-20, 2002
- Antitrust Enforcement Regarding Vertical Restraints by State Attorneys General  
March 7-9, 2002
- Is the Illinois Brick Wall Crumbling?  
15 Antitrust 34  
Summer 2001
- Federal and State Merger Review Process  
June 10-11, 1999
- Interview with State Antitrust Enforcer, Kevin J. O'Connor, Wisconsin Department of Justice  
13 Antitrust 35  
Spring 1999
- Antitrust Enforcement in Imperfect Health Care Markets: A State Perspective  
February 19, 1998
- The Role of State Prosecutors in Competitor Disputes  
1998
- Decentralization of Enforcement of [European] Community Law  
R. Schuman Centre Annual on European Competition Law 1996 147-85  
1997
- State Attorneys General and Hospital Mergers  
Health Care Section Newsletter, ABA  
1997
- Roundtable Conference With Enforcement Officials  
64 Ant. L. J.749, 759  
1996
- Efficiencies: Should Current Antitrust Policy be Changed?  
November 07, 1995
- National Association of Attorneys General Vertical Restraints Guidelines and Related Resolutions  
March 26-28, 1995
- National Association of Attorneys General Vertical Restraints Guidelines  
Ant. Trade Reg. Rep (CCH) par. 13,400  
1995

National Association of Attorneys General Horizontal Merger Guidelines  
Ant. Trade Reg. Rep. (CCH) par. 13,406  
1993

Legal Issues Concerning Unilateral Pricing Decisions  
The Pricing Decision: A Strategic Planner for Marketing Professionals, Probus Pub.  
1989

Law and Economics: Synergy or Collision, The Case of Predation, Issues After a Century of  
Federal Competition Policy  
Lexington Books  
1987

The Divestiture Remedy in Sherman Act, Section 2 Cases  
13 Harv. J. Legis. 687  
1976

### **In the News**

Dan Flaherty, Kevin O'Connor, Sean Bosack, Eric Wilson, Hamilton Arendsen and Nelson  
Phillips were mentioned in "Godfrey & Kahn Forms White-Collar Defense Group"  
(Law360.com)  
August 12, 2008

Kevin O'Connor was quoted in "Madison bars that banned drink specials win price-fixing case"  
(Wisconsin State Journal)  
May 07, 2008

### **Seminars & Events**

ABA 2009 Fall Forum  
November 12, 2009

National Conference of Insurance Guaranty Funds  
July 16, 2009

WHA Annual Convention: Current Antitrust Risks and Opportunities  
September 27, 2006

Trade and Professional Associations: A legal update for association executives  
LaFollette Godfrey & Kahn Spring Seminar Series  
April 14, 2004

## **Admissions & Activities**

### **Admitted to Practice**

Wisconsin - 1976

### **Professional Association Memberships**

State Bar of Wisconsin  
American Bar Association

### **Court Admission**

United States Supreme Court