



Denise L. Plunkett

Partner

New York

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PRACTICE AREAS

Antitrust

Litigation

EDUCATION

JD, cum laude – Boston University
School of Law (1994)

BA – University of Maryland (1991)

ADMISSIONS

New York

Massachusetts

U.S. District Courts Southern and
Eastern Districts of New York

U.S. District Court District of
Massachusetts

U.S. Court of Appeals for the First
Circuit

U.S. Court of Appeals for the Second
Circuit

U.S. Court of Appeals for the Third
Circuit

PROFILE

Denise Plunkett, Chair of Axinn's Litigation practice, is a trial lawyer with more than 25 years of experience handling an impressive array of high-stakes commercial disputes and high-profile antitrust cases. Denise has served as lead trial counsel in well over a dozen jury trials of varying types. She has successfully represented MasterCard in some of its most significant antitrust cases, including challenges to its currency conversion and chargeback practices, and recently won a federal jury trial concerning the termination of a Mastercard membership. Her diverse litigation and counseling practice includes trials and appearances in numerous federal and state courts, international and AAA arbitrations, advocacy before the FTC Bureau of Competition, and appellate and other post-judgment representations.

Denise has significant experience and longstanding relationships with leading companies in the payments, financial services, and pharmaceutical industries. She is a trusted advisor to her clients, aggressively representing them in litigation, providing antitrust and regulatory guidance, and helping them to navigate issues related to legal and conduct risk.

Denise Co-Chairs the New York State Bar Association's Health Care and Pharmaceuticals Committee and previously served as Co-Chair of the Unilateral Conduct Committee. She is also a member of the New York City Bar Antitrust Committee. She is recognized for her antitrust work by *The Legal 500*, and regularly speaks and writes in a wide variety of areas, including antitrust developments, litigation practice, gender diversity in the profession, and ethics.

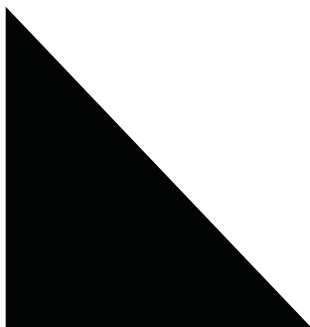
PROFESSIONAL ACTIVITIES

- Co-Chair, New York State Bar Association Antitrust Section's Unilateral Conduct Committee (2019-present)
- Member, New York City Bar Antitrust Committee (2014-present)

EXPERIENCE

Payments

- *International Cards Co. v. Mastercard International Incorporated* (S. D.N.Y. 2017) (2d 2018). Successfully represented Mastercard in jury trial of claims and counterclaims arising out of Mastercard's termination of plaintiff's Mastercard membership. Successfully defended Second Circuit appeal of judgment in favor of Mastercard. Plaintiff sought over \$90 million in damages.
- *In re Currency Conversion Fee Antitrust Litigation*, 265 F. Supp. 2d 385 (S.D.N.Y. 2003); *In re Currency Conversion Fee Antitrust Litigation*, 361 F. Supp. 2d 237 (S.D.N.Y. 2005). Obtained Rule 12(b) (6) dismissal of Truth-in-Lending Act claim against payment card network; also obtained district court decision enforcing arbitration provisions in cardholder agreements as to payment card network on grounds of equitable estoppel.
- *Schwartz v. Visa Int'l Service Assoc., et al.*, 2005 WL 237015 (Cal. App. 1 Dist.) (Sept. 28, 2005). Represented MasterCard in six month bench trial under California's Unfair Competition Law (§ 17200) concerning payment card currency conversion practices. Prevailed on appeal.
- *Paycom Billing Services, Inc. v. MasterCard International, Inc.*, 467 F.3d 283 (2d Cir. October 27, 2006). Successfully moved to dismiss antitrust claims relating to payment card "chargebacks;" Second Circuit affirmed district court decision dismissing the case.
- *PSW, Inc. v. Visa USA, Inc.*, No. C.A. 04-347T, 2006 WL 519670 (D. R.I. Feb. 28, 2006). Obtained Rule 12(b)(6) dismissal of antitrust claims relating to, inter alia, chargeback rules and policies.
- *Garner v. Capitol One Bank and MasterCard International, Inc.*, No. CV-01-BU-0712-S (N.D. Ala. 2001). Obtained Rule 12(b)(6) dismissal of Truth-in-Lending Act and civil conspiracy claims against payment card network relating to alleged unsolicited issuance of cards.



Chemicals

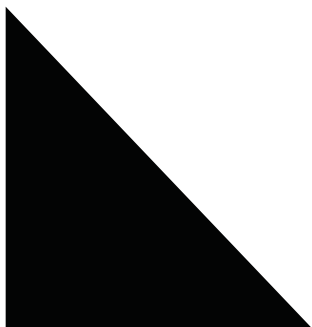
- *In re Liquid Aluminum Sulfate Antitrust Litig.* (D.N.J). Representing multiple municipalities and water utilities as plaintiffs in actions claiming that defendants engaged in anticompetitive conduct, including price fixing and bid rigging, in connection with the sale of water treatment chemicals.

Pharmaceuticals

- *Eisai v. sanofi-aventis US LLC, et al.*, 821 F. 3d 394 (3d Cir. 2016). Represented on appeal plaintiff Eisai Inc. in pharmaceutical antitrust case challenging alleged monopolistic conduct in the sale of anticoagulant after District Court granted summary judgment against its claims.
- *Sucampo Pharmaceuticals, Inc. v. Takeda* (ICC 2012). Co-lead counsel for U.S. pharmaceutical company and related entities in an International Chamber of Commerce arbitration involving claims for, inter alia, breach of contract based on licensee's alleged failures to use "best efforts" in commercializing claimants' FDA-approved product.

Financial Services

- *Zandman v. Citibank, N.A., et al.* (S.D.N.Y. 2018). Obtained counterclaim judgment, including attorney's fees award, in AAA arbitration after prevailing on motion to compel arbitration in Fair Credit Billing Act case.
- *Castle Placement v. Freedom Mortgage, et al.* (New York Supreme 2018). Defeated breach of contract and common law claims against mortgage business in "finder's fee" dispute following acquisition.
- *Van Deventer, et al. v. CS SCF Management, Ltd., et al.* (New York Supreme 2010). Represented Credit Suisse entities in a case asserting claims and counterclaims arising out of the termination of investment funds and related agreements. Led negotiation of favorable post-trial settlement.
- *Steele v. WMC Mortgage* (N.D. Cal. 2008). Successfully moved for order requiring joinder of third-party mortgage brokers in Equal Credit Opportunity Act and Fair Housing Act putative class action against mortgage lenders alleging discriminatory pricing policies.



- *Klutho v. GE Money Bank* (E.D. Mo. 2006). Successfully moved to dismiss claim that a prescreened offer for an open-end line was not a “firm offer of credit” under the Fair Credit Reporting Act.
- Successfully defended dozens of consumer class and individual actions asserting claims under the Fair Credit Reporting Act, Fair Debt Collection Practices Act, and Fair Credit Billing Act against major payment card issuers and third-party debt collection agencies.

* Includes matters handled prior to joining Axinn

HONORS

- *Benchmark Litigation* – NY Litigation Star: Competition/Antitrust (2024)
- *The Legal 500*, Antitrust - Civil Litigation/Class Actions: Defense (2022 – 2023); Civil Litigation/Class Action: Plaintiff (2020)
- Featured in *Am Law* Litigation Leaders Series
- Recognized in *Am Law* "Litigator of the Week" column for representation of chess grandmaster Magnus Carlsen
- *Corporate Counsel* Women, Influence & Power in Law Honoree – Law Firm Innovative Leadership (2023)
- *Profiles in Diversity Journal* Women Worth Watching in Leadership Award Winner (2023)
- *Super Lawyers*, *Top Women Attorneys* (2021– 2023)

