

Rick Dagen Named to NLJ's List of M&A and Antitrust Trailblazers

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ATTORNEYS

Dagen, Richard

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Axinn partner Rick Dagen was named to *The National Law Journal's* 2015 list of M&A and Antitrust Trailblazers. Rick was recognized as a professional who has impacted the Antitrust and M&A landscape through new types of strategies and innovative court cases. The complete list of 50 "trailblazers" is featured in a special supplement published in *The National Law Journal*.

Dagen's impressive 20+ years in key roles at the FTC defined him as an innovative leader in antitrust. As FTC Chairwoman Ramirez wrote in Rick Dagen's Award for Distinguished Service in 2014, Dagen "played major roles in a multitude of landmark FTC and federal court decisions." As an antitrust partner who joined Axinn's Washington, DC office in 2014, Dagen applies that experience and perspective in private practice.

The precedent-setting matters that Dagen handled shape antitrust and M&A law. For example, Dagen acted as lead counsel in North Carolina State Board of Dental Examiners, a case exploring the reach of the state action doctrine. According to many observers, the Supreme Court's April 2015 decision is likely to revolutionize state handling of regulatory boards dominated by market participants.

Dagen served as lead counsel in the Commission's successful challenge to the proposed Heinz-Beechnut baby food merger. The DC Circuit's analytical framework is regularly relied upon by courts analyzing mergers.

He also served as the lead attorney in the infant formula cases establishing the FTC's authority to gain restitution in antitrust matters. This decision paved the way for the billion dollar settlement in Cephalon in May 2015.

Dagen also led the FTC's successful litigation against Toys "R" Us. The Seventh Circuit affirmed the Commission's decision, which analyzed important issues relating to hub-and-spoke conspiracies, free riding and market power, and has been cited prominently in numerous cases,

including the recent district court and Second Circuit decisions involving Apple e-books.

Dagen also played major roles in other famous FTC conduct cases, in particular relating to the intersection of IP and antitrust, such as in a number of cases involving standard setting (Dell, Rambus, Unocal, N-Data), as well important monopolization (Intel) and joint venture (Three Tenors) cases. In addition to Heinz, he also played key roles in other precedent-setting merger cases (Whole Foods, MSC Software, Wright Medical). His insights into pay-for-delay issues and the proper application of Section 5 continue to influence FTC enforcement efforts. Dagen received the Outstanding Litigator Award at the FTC in 2000.

