



David C. Gustman

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Areas of Practice

Real Estate Law | Litigation/Trial Practice | Antitrust and Trade Regulation | Appellate Practice | Class Action Litigation | Insurance Coverage Litigation | Insurance and Reinsurance

David C. Gustman is a Partner Emeritus in the Litigation Practice of Smith, Gambrell & Russell, LLP. Mr. Gustman was a Partner at Freeborn & Peters, which combined with SGR in 2023.

For over 35 years Mr. Gustman has handled and served as lead trial counsel on a variety of complex business litigation matters involving antitrust, accounting, banking, bankruptcy, construction, finance, insurance coverage and broker disputes, real estate and securities. He is a "go to" lawyer for the Firm's most challenging and difficult cases, and is often called upon by clients to take over cases that have been previously handled by other counsel.

Mr. Gustman provides antitrust counsel to joint ventures, trade associations, research consortiums and companies involved in mergers and acquisitions, as well as those facing antitrust claims. He has also successfully defended clients in connection with criminal antitrust investigations by the U.S. Department of Justice.

Mr. Gustman is a frequent speaker and author on various legal topics, including antitrust, class actions and mergers. He has spoken several times at the PLI's Annual Antitrust Law Institute. He also co-authored a paper entitled Joint Ventures and Other Competitor Collaborations, published by the PLI Law Institute.

While at Freeborn (now SGR), he served as Co-head of the Firm's Antitrust Practice Group and a member and former Chairman of the Firm's Executive Committee.

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Mr. Gustman earned his J.D. from the George Washington University Law School and served as Editor of the George Washington International Law Review. He earned his B.A. from the University of Michigan graduating with distinction in Economics.

Representative Experience

- Obtained a defense verdict in favor of our clients in a nationwide antitrust class action, in which plaintiffs sought \$500 million in damages. Also successfully argued and defended the judgment before the Seventh Circuit Court of Appeals. *In re Sulfuric Acid Antitrust Litigation*, 703 F.3d 1004 (7th Cir. 2012).
- Obtained a \$36.4 million judgment against a governmental entity that wrongfully interfered with our client's easement rights, delaying construction of The Ritz-Carlton Residences, Chicago, Magnificent Mile.
- Tried claims worth over \$100 million to a federal jury arising out of defendant's breach of a technology licensing agreement. The case settled before closing arguments, resulting in a recovery for our client of multiple millions of dollars (exact amount is confidential at the request of the defendant.)
- Successfully arbitrated claims requiring a landowner to turn over title to a real estate development, allowing closings of new, high-end, condominium units.
- Successfully defended class action antitrust claims seeking over \$100 million in damages. *In re Potash Antitrust Litigation*, 954 F. Supp. 1334 (D. Minn. 1997); affirmed *Blomkest Fertilizer, Inc. v. Potash Corporation of Saskatchewan, Inc.*, 203 F.3d 1028 (8th Cir. 2000).
- Represented defendant Chairman of the Board in a securities class action matter brought on behalf of purchasers of common stock that sought remedies under the Securities and Exchange Act of 1934 and Rule 10b-5, resulting in a successful settlement.
- Following a two-week jury trial on behalf of a private equity fund client, obtained a multimillion dollar jury verdict against the seller of a business for misrepresentations and omissions in connection with the sale of the business to our client.
- Obtained approval from the U.S. Department of Justice for the merger of a large international mining company after a second request for This resulted in one of the largest mergers in Canadian history.
- Summary judgment for client dealership group on an action by a vehicle manufacturer for specific performance of a contractual right in the United States District Court for the Middle District of Pennsylvania.

Admissions

- Illinois
- United States Supreme Court
- United States Court of Appeals for the Sixth, Seventh, Eighth and Federal Circuits

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- United States District Court for the Northern District of Illinois (including Trial Bar), Central and Southern Districts of Illinois
- United States District Court for the Eastern and Western Districts of Wisconsin
- United States District Court for the District of Colorado
- United States District Court for the District of Minnesota

Memberships

- Fellow, Litigation Counsel of America
- Board of Advisors of the BNA Antitrust and Trade Regulation Report in Washington, C. (a group of nationally recognized antitrust law practitioners, which meets quarterly in Washington, D.C.)
- The Trial Law Institute
- Chairman of the Illinois Finance Authority (2004-2007)

Recognitions

- *Illinois Super Lawyers* - Business Litigation, Antitrust Litigation, Securities Litigation - 2021 (cited in multiple years)
- *Leading Lawyers* - Antitrust Law, Commercial Litigation, and Corporation Law
- *Chambers-USA Guide to America's Leading Lawyers for Business* - General Litigation Recognized Practitioner - 2019 (cited in multiple years)
- *The Best Lawyers in America®* - Antitrust Law and Commercial Litigation - 2022 (cited in multiple years)
- *The Legal 500* - Leading Individual - Antitrust – Midwest for his work with Mergers, Acquisitions and Buyouts
- *Who's Who Legal International*, the Official Research Partner of the International Bar Association - One of the top 12 Illinois lawyers practicing Antitrust and Competition Law
- *Martindale-Hubbell* legal ability/ethical standards rating ("A-V") - Highest possible rating - 2019 (cited in multiple years)
- *Illinois Leading Lawyers* - 2020 (cited in multiple years)
- America's Top 100 High Stakes Litigators®