

Susannah Torpey Discusses What Employers Should Know About Antitrust Law

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Winston & Strawn Antitrust Partner Susannah Torpey was quoted in Law360's article "[3 Things Employers Should Know About Antitrust Law](#)." The article discusses the developing areas where competition law intersects with the workplace, a heightened concern for employers following the DOJ and the FTC's threat to bring criminal antitrust charges against businesses who violate no-poach agreements.

Susannah, whose practice includes guiding businesses through antitrust probes into no-poach and other agreements, explains that literally hundreds of agreements with various entities exceed the boundaries of what's permissible under federal policy. Some larger, more sophisticated companies have been "wonderfully proactive" in finding and reworking potentially problematic contracts. But others have been slow to adjust.

"Some of the smaller corporations that don't have antitrust counsel—or frankly even a general counsel sometimes—startups and midsize companies, they still haven't gotten adequate advice," she said.

There are a few steps employers can take to avoid becoming the feds' first target, most notably training their workers on this evolving area of law. While employers have long made sure sales executives who interact with their counterparts at other companies don't fix prices, they must similarly train recruiters not to fix wages. They also need to be wary of their CEOs and top-level executives striking deals with their counterparts.

Larger employers should also audit their subsidiaries and affiliates for problem contracts, and those that restrict worker movement as part of joint ventures need to make those restrictions as narrow as possible, she added.

Susannah has experience representing major U.S. and multinational corporations in litigation and government investigations involving a wide array of federal and state antitrust issues, including monopolization, price-fixing, wage-fixing, no-poach agreements, group boycotts, exclusive dealing, tying, price discrimination, unfair competition, anti-competitive product redesign, and mixed issues of antitrust and intellectual property law relating to Fair, Reasonable, and Non-Discriminatory (FRAND) obligations, standard-setting, patent licensing, patent misuse, and fraud on the PTO.

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