

## ANTITRUST



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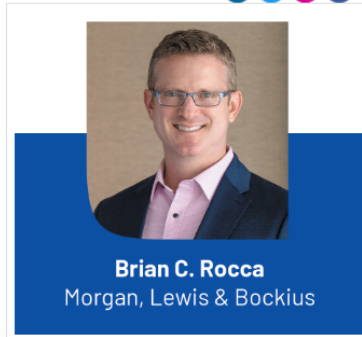
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Dec. 4, 2024

### Brian C. Rocca

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Brian Rocca said he has been dedicated to antitrust law since writing his first memo on "monopoly power" as a summer associate in 2001. He said his field constantly evolves with the dynamic nature of products and industries, leading to marketplace disruptions and novel legal questions.

"It certainly helps that I'm an antitrust lawyer in the Bay Area, the global epicenter of entrepreneurship and innovation," Rocca said. "I've been fortunate to have a front row seat to revolutionary innovations in chip technology, computers and mobile devices, as well as

the rapid and transformative evolution of the internet, app economy and sharing economy. Now, we find ourselves on the doorstep of yet another transformative technological revolution with AI technologies developed here in the Bay Area."

Rocca serves as co-lead counsel for Google in the high-profile Google Play Store Antitrust Litigation, a multi-district litigation involving app distribution. *Google Play Store Antitrust Litigation*, 21-MD-02981-JD (N.D. Cal., filed Feb. 5, 2021).

He played a pivotal role in the five separate lawsuits that comprise the MDL, including acting as co-lead negotiator in a \$90 million settlement approved in January 2024. Additionally, he was instrumental in obtaining the decertification of a putative class of 21 million consumers.

Beyond litigation, Rocca is deeply involved in business counseling, which has gained importance as technology continues to outpace case law. He said unlike two decades ago, when antitrust lawyers primarily engaged with sales and marketing teams, Rocca now often collaborates with engineering teams and data scientists who drive technological innovation. He said this shift is crucial as companies increasingly rely on data for sophisticated decision-making.

One significant challenge Rocca addresses is the recent withdrawal of longstanding "safe harbor" guidelines for information exchanges by antitrust agencies. These guidelines previously allowed companies to access industry data to inform business decisions while avoiding antitrust scrutiny, Rocca said. The withdrawal has created uncertainty, prompting a flood of questions from clients across various industries about the appropriate use of data.

"Can we still participate in industry surveys?" Rocca said. "Can we use algorithms to help make our business decisions and, if so, what data can we use? What protocols should we implement to ensure we use data appropriately? Do we need to conduct antitrust training for our software engineers? Can we sell data analytics services to other participants in the industry? There's not a lot of guidance in this space, except for some stern policy statements by regulators and a handful of cases making their way through the courts."

Rocca said the biggest challenge as an antitrust counselor is to advise clients of potential issues that we spot and raise red flags when necessary.

"In my experience, clients appreciate it when we don't just flag a risk -- rather, we place that risk in context by explaining why the antitrust law cares about the issue and propose mitigation strategies so the client can make the best decisions," he said.

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