

Pharma Antitrust 2019

Danielle Joy Healey
Senior Principal, Fish & Richardson
healey@fr.com



1

But first a word from the General Counsel!

- These slides and other materials, as well as the presentation, are to promote thought, discussion and development of the law.
- The thoughts and positions expressed are not to be taken as legal advice or comment on the correct outcome on any set of facts and circumstances.
- The thoughts and positions are not opinions of Fish & Richardson P.C., or any of its clients, or me.



2

Pharma – Hard facts cause tough problems

- Regardless of cause or reason, the fact that drug prices in the U.S. are generally higher than in other countries, and higher than in the past, are causing scrutiny of the pharma industry.
- In July 2019, it was reported a typical vial of insulin that will last a diabetic about 10 days costs about \$300 without insurance in the United States. In Canada, the exact same type of insulin can be purchased for just \$30.
- This has added to impetus for increased antitrust scrutiny and new reporting requirements for pharma patent transactions.
- It has also contributed toward proposed legislation to promote generic development.



Hot Topics

- Reverse payment settlements evaluated based on consideration that changes hands, not just cash.
- Scrutiny of product hopping: When a drug maker discontinues a drug where patent is expiring and moves market to a new formulation of the drug that still has patent protection.
- Pricing practices.
- Contracting practices: E.g., exclusive dealing, bundling.



Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Case Law and Regulatory Antitrust Developments Post-Actavis

Also available as part of the eCourse

[2019 Advanced Patent Law \(Austin\) eConference](#)

First appeared as part of the conference materials for the
24th Annual Advanced Patent Law Institute session

"Case Law and Regulatory Antitrust Developments Post-*Actavis*"