

ELECTRONIC PAYMENTS PRACTICE

The firm has achieved massive successes in the area of antitrust e-payments issues.

We secured the largest antitrust settlement in U.S. history in *In Re Visa Check/MasterMoney Antitrust Litigation*, a case brought by clients Wal-Mart Stores, Inc., Sears Roebuck & Co., The Limited, Inc., Circuit City Stores, Inc. and Safeway, Inc. on behalf of a certified class of approximately four million retailers that were forced to accept Visa/MasterCard signature debit transactions at supra-competitive prices. The case resulted in a monetary settlement of \$3.4 billion and injunctive relief of \$25 billion (conservatively estimated) – after the plaintiffs class was awarded summary judgment on a number of issues and after a jury was selected.

The firm also secured the third largest antitrust settlement on behalf of its client, Discover Financial Services, Inc. Discover sued Visa and MasterCard under Sherman Act § 1 for issuing and enforcing rules that precluded their bank members from issuing Discover-branded cards. The case resulted in a monetary settlement of \$2.75 billion on the eve of trial.

The firm continues to be at the forefront of payments antitrust litigation. We now represent a number of large merchants – including, among others, Wal-Mart, Costco, Best Buy, The Gap, IKEA, Starbucks and Lowe's, among others, – and several trade associations who object to the proposed class settlement in *In Re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* – a settlement that violates absent class member due process rights.

The firm also represents payments players before governmental antitrust enforcers and regulators. We have represented a number of parties before the Department of Justice and state Attorneys General. We also represented the Retail Industries Leadership Association and the Merchant Payments Coalition before the Federal Reserve in connection with regulations adopted

per the Dodd-Frank Wall Street Reform and Consumer Protection Act: these regulations concerned debit card transactions and debit card interchange fees.

The firm also counsels Electronic Fund Transfer Networks, Merchants, and Trade Associations on antitrust and regulatory issues raised by e-payments.

Finally, the firm often speaks and/or writes on these issues. Following are articles and presentations that the firm has authored relevant to E-Payments.

Visa, Returning to Old Ways, Squelches Competition in Debit
American Banker (June 26, 2012)

<http://www.americanbanker.com/bankthink/Visa-Fixed-Acquirer-Network-Fee-antitrust-1050440-1.html>

Feedback: Interchange Amendments is Pro-, Not Anti-Consumer
American Banker (May 24, 2010)

Hospitality Merchants at Legal Crossroads
Lodging Hospitality (May 10, 2010)

Let's End the Debit Card Fee-for-All - The Fed needs to start exercising oversight over debit-card fees, BusinessWeek, October 15, 2009

[view the article](#)

VIEWPOINT: Interchange Facing an Unsteady Future
American Banker (April 2009)

Class Potential for Interchange Lawsuit
American Banker (July 20, 2007)

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The Visa Check/MasterMoney Antitrust Litigation: an Early Report on the Comparative Efficacy of Antitrust and Federal Reserve Intervention to Repair the Failed United States' Debit Card Market

N.Y.U.J.L. & BUS. (FALL 2005)

The Great Canadian Debit Debate, Credit Card Management
(May 2004)

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Wal-Mart Decision Illustrates Merchants' New Debit Power
American Banker (February 6, 2004) pg 6.

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E-Payment Network Directors Risk Antitrust Scrutiny
American Banker, September 7, 2001, at 6.

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