



The Federalist Society

for Law and Public Policy Studies

**The Federalist Society's Corporations, Securities, and Antitrust Practice
Group and Georgetown University Law Center Student Chapter
Present:**

The FTC's Part 3 Administrative Litigation Process: Efficient Adjudication or Disparate Treatment?

The Federal Trade Commission ("FTC") has dramatically increased its use of the so-called "Part 3" administrative litigation process - an alternative to litigating in federal district court. Under the Part 3 rules, the five FTC Commissioners vote to approve a complaint, which FTC staff then litigate before an Administrative Law Judge ("ALJ"). Either party can appeal the ALJ's ruling to the full Commission (i.e., the same five Commissioners that voted to approve filing the complaint in the first instance). At the end of this process, a defendant can petition for review by a federal Court of Appeals. Supporters of the Part 3 process argue that FTC ALJs have substantial expertise and experience in this area of law, and that it allows for more equal treatment of cases. Critics argue that the Part 3 rules raise significant Equal Protection and Due Process concerns. They assert that a defendant sued by the FTC, which can resort to the Part 3 process, faces substantial procedural hurdles that are not confronted by a defendant sued by the Department of Justice, which must litigate in federal court. Such concerns have even triggered a constitutional challenge (*FTC v. Whole Foods*). Is the Part 3 process serving its intended purpose? Have recent amendments improved or worsened the process's claimed shortcomings? Are defendants' Equal Protection and Due Process concerns an issue of agency "best practices" or a genuine constitutional controversy? Join our panel of experts for a discussion of these and related issues.

Featuring:

- **Mr. John Delacourt**, Plasma Protein Therapeutics Association and former Chief Antitrust Counsel of the FTC's Office of Policy Planning
- **Hon. William Kovacic**, FTC Commissioner and Professor at the George Washington University Law School
- **Mr. Bilal Sayyed**, O'Melveny & Myers and former Attorney Advisor to FTC Chairman Timothy Muris
- **Mr. Todd Anderson**, Constantine Cannon LLP and former Counsel to the Antitrust Modernization Commission
- **Moderator: Ms. Robin Moore**, Dewey & LeBoeuf LLP and former Attorney Advisor to FTC Commissioner Orson Swindle

**Monday, April 5, 2010
12:00 noon – 1:30 pm
Georgetown University Law Center
Gerwirz Center, 12th Floor
Washington, DC**

***Lunch will be served.
There is no charge for this event.***