



## Jennifer Dowdell Armstrong

Member

Cleveland

P: 216.348.5809

### Practice Focus

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- Government compliance, investigations, and white collar defense
- Business litigation
- Antitrust and competition
- Foreign Corrupt Practices Act
- Appeals
- Class action defense
- Securities litigation
- Data privacy and cybersecurity
- Litigation finance

Jennifer is a member in the Litigation practice group and chair of the firm's Women's Council. She focuses her practice on governmental investigations and white collar criminal defense, federal complex commercial litigation, internal investigations, and antitrust and Foreign Corrupt Practices Act compliance counseling.

Jennifer is experienced in all aspects of corporate criminal defense and enforcement-related litigation, from investigation through trial. She has aggressively defended clients in investigations and enforcement actions brought by the Department of Justice, Securities and Exchange Commission, Drug Enforcement Administration, Federal Trade Commission and other regulators involving allegations of violations of the antitrust laws, Foreign Corrupt Practices Act, False Claims Act, Controlled Substances Act, healthcare fraud, tax fraud, bank fraud, identity fraud, public corruption, insider trading and other securities violations, bribery, money laundering and criminal conspiracy. Because she has achieved victory in some cases by convincing prosecutors not to pursue charges against her clients, these successes have never become public.

Jennifer has achieved a record of success by resolving a variety of business and commercial disputes involving multi-party actions, parallel civil and criminal proceedings, and class actions in federal and state trial and appellate courts, including the United States Supreme Court. On behalf of plaintiffs and defendants, she represents clients across a wide range of industries, including financial services, healthcare and life sciences, insurance, retail, and transportation. Likewise, her experience covers a broad range of substantive areas of law, including antitrust and unfair trade practices, data privacy and cybersecurity, securities, contracts, False Claims Act and business torts. Her clients include private and public companies, corporate directors, officers and shareholders, and individuals.

Jennifer also counsels clients on a wide range of antitrust and FCPA compliance issues. In this context, she develops and implements effective antitrust and FCPA compliance programs, works with her clients to

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formulate strategies to mitigate antitrust and FCPA risks, and regularly provides counsel on potential antitrust and FCPA issues. Jennifer has also conducted corporate internal investigations involving allegations of potential antitrust and FCPA violations.

Prior to joining McDonald Hopkins, Jennifer served as a judicial law clerk for Chief Judge Solomon Oliver, Jr. in the U.S. District Court for the Northern District of Ohio and an associate in a national law firm's Antitrust, Competition, and White Collar Crime practice group. During law school, Jennifer worked as a judicial extern for Judge Karen Nelson Moore in the U.S. Court of Appeals for the Sixth Circuit. Prior to attending law school, Jennifer also previously worked for the American Red Cross in major gift fundraising.

Jennifer earned a J.D., summa cum laude, from Cleveland-Marshall College of Law, where she served as executive editor of the *Cleveland State Law Review*. Jennifer received a Master's in Nonprofit Organizations (MNO) from Case Western Reserve University's Weatherhead School of Management. She has a B.A. from Miami University.

### Representative Cases/Matters

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#### WHITE COLLAR CRIME/INTERNAL INVESTIGATIONS

- Represented a businessman charged with one count of violation of theft or bribery concerning programs receiving federal funds and four counts of attempted tax evasions. Obtained a sentence of probation.
- Represented an business owner charged with two counts of attempted income tax evasion. Obtained a sentence of probation.
- Represented a company in an SEC investigation focused on violations of SEC Rule 10b5 and Section 5. Convinced SEC not to pursue Rule 10b5 charges and negotiated highly favorable settlement on Section 5 count.
- Defended public corruption case at six-week federal trial of four healthcare professionals on charges of: RICO; conspiracy to commit Hobbs Act bribery; conspiracy to commit honest services and money and property mail and wire fraud; money and property mail fraud; conspiracy to solicit, receive, offer and pay health care kickbacks; receipt of kickbacks in connection with a federal health care program; conspiracy to obstruct justice and tamper with witnesses; and false statements on tax returns.
- Represented a pharmaceutical distributor in Drug Enforcement Administration administrative proceedings and a U.S. Attorney investigation alleging violations of the Controlled Substances Act. Prevailed on subpoena enforcement proceedings in federal district; the court ordered the DEA to produce documents to the pharmaceutical distributor pursuant to an administrative subpoena over the DEA's objections.
- Represented a business executive in a federal criminal public corruption investigation. No charges or actions were filed.
- Defended a Grammy Award-winning musician against indictment for a felony weapons violation and assault and battery. After filing a constitutional challenge to the indictment, the case resolved with a misdemeanor plea and the imposition of a \$250 fine.
- Defended an executive in a federal criminal investigation and at trial for alleged healthcare fraud allegations. Obtained a sentence that was 24 months below the United States Sentencing Guidelines range.
- Represented a chief executive officer of a manufacturing company in a federal criminal indictment for tax fraud. Obtained a sentence of six months of imprisonment and six months of home detention, approximately 20 months below the United States Sentencing Guidelines range.

- Defended a government contractor against a federal criminal indictment alleging multiple counts of wire fraud, money laundering, and false statement.
- Represented the Board of Directors of a national manufacturing company in connection with an internal investigation of potential FCPA violations.
- Represented the Board of Executives of a national healthcare corporation in connection with internal investigation of potential antitrust violations.
- Represented a high-level executive in the financial services industry in a Securities and Exchange Commission investigation.
- Represented an individual in federal court charged with criminal bank fraud, access device fraud, and operating an unlicensed Bitcoin Money Transmitting Business. Negotiated dismissal of mandatory minimum identity fraud count and received a below-Guidelines sentence.

### **BUSINESS/COMPLEX COMMERCIAL LITIGATION**

- Won dismissal of a \$700 million False Claims Act action against a nonprofit conservancy district that was affirmed on appeal in the U.S. Court of Appeals for the Sixth Circuit. Defeated relator's petition for certiorari to the U.S. Supreme Court.
- Won dismissal of all claims against two large technology companies in a 23-count class action complaint alleging federal antitrust violations and tort and consumer-protection claims under the laws of five different states.
- Represented local governmental agency and defeated relator's petition for certiorari to the U.S. Supreme Court.
- Represented two publicly-traded corporations in ongoing multidistrict civil antitrust litigation against alleged global cartels. Negotiated a highly favorable settlement.
- Represented a worldwide distributor of mechanical power transmission parts in a civil antitrust resale price maintenance case.
- Won dismissal of data privacy/ransomware class action lawsuit filed against a political subdivision.
- Won dismissal of all federal civil antitrust claims against a leading food corporation.
- Won dismissal of a class action complaint alleging violations of federal securities laws against a global financial institution.
- Defended a multinational freight transportation company in a class action complaint alleging violations of the Fair Credit Reporting Act and obtained favorable settlement.
- Represented 10 high-net-worth individuals that invested over \$19 million in a failed corporation against the business' inside Board of Directors, alleging violations of state securities laws, fraud, and numerous business torts. Obtained a highly favorable settlement.
- Defended a construction company in a multi-party civil action alleging violations of Illinois antitrust laws.
- Won federal dismissal of all claims against a boutique investment banking and management advisory firm in a 10-count multi-defendant complaint, including breach of contract, fraud, and tortious interference claims.
- Won dismissal of all claims against a local hospital in a 15-count multi-defendant complaint brought by five city residents seeking to prevent the hospital's closure.
- Represented national automotive corporation in federal Telephone Consumer Protection Act class action litigation. Negotiated highly favorable settlement at case management conference.
- Won dismissal of breach of fiduciary duty lawsuit against former member of Board of Directors of

technology company.

### **ANTITRUST/FCPA COMPLIANCE COUNSELING**

- Counseled trade associations on antitrust compliance, including communications with competitors, information exchanges, membership decisions, non-member access to association events and services, codes of ethics and advertising rules, standard setting, and Noerr-Pennington immunity and exceptions.
- Counseled numerous clients in health care, construction, and manufacturing industries regarding compliance with Sherman and Robinson-Patman Acts, pricing, vertical relationships, and trade association activities.
- Counseled worldwide manufacturer and distributor regarding antitrust implications of participation in industry standard formulation.
- Counseled worldwide corporation regarding potential antitrust implications of acquisition of its competitor.
- Counseled ophthalmology group regarding potential tying and exclusive dealing antitrust claims against competitor.
- Counseled numerous clients with international business operations and interests regarding Foreign Corrupt Practices Act compliance.
- Provided antitrust and Foreign Corrupt Practices Act compliance training to Board of Directors, senior executives, sales staff, and other high-risk employees.

### **Admissions - Court**

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- U.S. Court of Appeals for the 6th Circuit
- U.S. District Court for the Eastern District of Michigan
- U.S. District Court for the Northern District of Illinois
- U.S. District Court for the Northern District of Ohio
- U.S. District Court for the Southern District of Ohio
- U.S. Supreme Court
- US District Court for the Western District of Pennsylvania

### **Admissions - State**

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- Ohio

### **Education**

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- Cleveland-Marshall College of Law
- Case Western Reserve University Weatherhead School of Management
- Miami University

### **Honors and Awards**

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- Chambers USA, Recognized Leader in Litigation: White-Collar Crime & Government Investigations (2021)

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- Selected for inclusion in Best Lawyers of America (2020-2022)
- Selected for inclusion in *Ohio Super Lawyers* (2018-2021)
- Selected for Crain's Cleveland *Notable Women in Law* (2018)
- Selected for inclusion in *Ohio Rising Stars* (2014-2016)

### Professional Membership

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- Women's White Collar Criminal Defense Association: Co-Chair, Ohio Chapter
- Chair, Merit Selection Committee for the Northern District of Ohio Federal Public Defender
- Delegate, 2015 Sixth Circuit Judicial Conference
- Member, Reappointment and Evaluation Committee of Federal Public Defender for the Northern District of Ohio (2015)
- Member, American Bar Association, Antitrust Section
- Member, American Bar Association, White Collar Crime Section
- Federal Bar Association, Northern District of Ohio, Board of Directors (2011-2017); Coach, Trial Academy (2021)

### Public Service and Volunteerism

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- Great Lakes Theater Company, Board of Directors – 2017 to present
- Partners in Justice, Legal Aid Society of Cleveland, 2013 to 2018
- 3Rs Program (Cleveland Metropolitan Schools/Cleveland Metropolitan Bar Association), Team Member, 2009-2010
- Women's Philanthropic Union Foundation, Trustee, 2002-2004
- Cogswell Hall, President, 1999-2004

### Alerts

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- New DOJ Antitrust Division policy incentivizes robust corporate antitrust compliance programs
- FTC wins two key hospital merger challenges in federal courts
- Sweeping ruling expands reach of the False Claims Act
- The DOJ's 3-step plan to increase FCPA enforcement

### Blog Posts

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- For the first time ever, DOJ criminally indicts business for agreeing not to solicit another's employees
- Business borrowers beware: Potential civil and criminal exposure for PPP loans
- Blockchain technology: Antitrust risks and safeguards
- Restaurant franchisors with no-poach agreements face government enforcement and class action lawsuits
- Safeguards to ensure antitrust compliance at trade association meetings
- No poach agreements between employers play a starring role in recent federal multi-district litigation class action lawsuits
- Why Are Trade Associations Targeted by Government Antitrust Enforcers? Part One
- The DOJ Antitrust Division Has Been Busy This Year

- Solo practitioner wins unanimous Supreme Court decision regarding consolidated cases
- Supreme Court rules plaintiffs can bring class action lawsuits in state court
- Drafting franchise agreements to avoid antitrust “lock-in” tying lawsuits
- Federal antitrust enforcers issue guidance for HR professionals
- Supreme Court to rule in landmark insider trading case
- Federal Appeals Court affirms dismissal of \$3 Billion antitrust predatory-pricing claim
- SEC cracks down on severance agreements
- Ninth Circuit affirms Major League Baseball's antitrust exemption
- Lessons learned from the largest DOJ FCPA enforcement action of all-time

### News

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- 50 McDonald Hopkins attorneys recognized in The Best Lawyers
- McDonald Hopkins recognized in Chambers USA 2021 Rankings
- 15 McDonald Hopkins attorneys selected to 2021 Ohio Super Lawyers and Rising Stars list
- Lawyer of the Year honorees Riley and Welin among 42 McDonald Hopkins attorneys recognized as 2021 Best Lawyers
- 41 attorneys from McDonald Hopkins recognized as 2020 Best Lawyers®
- McDonald Hopkins attorneys successfully defeat petition for certiorari in FCA case before US Supreme Court
- Seventeen attorneys at McDonald Hopkins named 2019 Ohio Super Lawyers and Rising Stars
- MH Business Exchange Episode 11 helps businesses avoid the hidden dangers of antitrust violations
- Key Statistical Issues In Eye Doc Fraud Sentencing
- Hidden dangers: U.S. Department of Justice criminal antitrust enforcement priorities for 2018
- 22 attorneys at McDonald Hopkins named 2018 Ohio Super Lawyers and Rising Stars
- McDonald Hopkins hosts discussion on how antitrust laws affect businesses of all sizes
- McDonald Hopkins to host discussion on how antitrust laws affect all businesses
- Colleges say they could lower tuition — if only they could talk to each other about it
- 24 attorneys at McDonald Hopkins named Ohio Super Lawyers and Rising Stars

### Podcasts

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- Episode 11: Beware: Avoiding hidden antitrust dangers

### External Publications

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- Quoted, "High Court Won't Hear FCA Dispute Over Watershed Use," Law360, January 7, 2019
- Co-Author, "Key Statistical Issues In Eye Doc Fraud Sentencing," Law360, March 15, 2018
- Author, "Hidden dangers: U.S. Department of Justice criminal antitrust enforcement priorities for 2018," Crain's Cleveland Business, March 9, 2018
- Quoted, "*Colleges Say They Could Lower Tuition – If Only They Could Talk to Each Other About It,*" Washington Post, August 1, 2017
- Co-Author, "The DOJ's FCPA Pilot Program: A New Era or Business as Usual?," Stout, Risius Ross Journal, April, 2017

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- e-Discovery Spotlight: Featuring Jennifer Dowdell-Armstrong, Avalon Document Services, October 18, 2016
- Quoted, "White House Ramps Up Corruption Fight Worldwide," *Voice of America*, November 10, 2014
- *Per Se Analysis vs. The Rule of Reason: When and How Courts Apply These Antitrust Rules, And Why It Matters*, American Bar Association, Antitrust Law Committee, Young Lawyers Division

### Events

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- White Collar Government Enforcement Trends -POSTPONED | Tuesday, November 2, 2021
- IP Innovation Webinar Series, Session 5 | Thursday, May 27, 2021
- 2018 Year-end Accounting and Tax Update | Wednesday, November 28, 2018
- Why Antitrust? | Tuesday, October 30, 2018
- Federal Bar Association Northern District of Ohio Chapter | Friday, December 1, 2017
- Corporate Compliance in the New Economy | Thursday, November 9, 2017
- Everyday Antitrust Issues: Protecting Your Business From Criminal and Civil Liability | Thursday, November 2, 2017
- Do I Need An(other) Attorney? Criminal Issues for Civil Practitioners | Monday, October 2, 2017
- Corporate Compliance in the New Economy | Thursday, November 10, 2016
- Doing Business in India: Opportunities and Compliance Risks | Thursday, October 13, 2016

### Speaking Engagements

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- Federal Bar Association, Panelist, "Networking for Law Students," November 22, 2021
- FCPA: Recent Developments, Red Flags, and Compliance Program Design, Association of Certified Fraud Examiners, Washington, D.C. Metropolitan Chapter, November 20, 2014
- Five Things You Should Know About The FCPA, Organization of Women in International Trade, Northeast Ohio Chapter, November 13, 2014