# 2009 Antitrust Spring Meeting: Breakfast with FTC Bureau Directors

David P.

# Very Active Year

- Mergers
  - Record number of filed challenges

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- <u>Blocked</u>
  - Inova/Prince William
  - CCS/Newpark
  - Oldcastle/Pavestone
  - CCC/Mitchell
- Pending

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- Polypore/Microporous
- Ovation

### Very Active Year

- Whole Foods
  - Successful appeal 13(b)
  - Remand/plenary trial
  - Settlement

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- Chicago Bridge & Iron
- Sixteen consent agreements
- Several abandoned transactions
- Amendments to rules of practice

# Very Active Year

# • Conduct

- Pay-For-Delay Cases
  - Cephalon (Provigil)
  - Solvay (AndroGel)
- Real Estate Cases
- Physician Cases
- Standard Setting
- Non-Compete/Market Division
- Facilitating Practices
- Petroleum Market Manipulation Rulemaking

#### Future – What To Expect

More Activity From FTC.....

"Frankly, I don't see how the FTC could possibly be *more* aggressive . . . ."

• Commission Priorities?

- Healthcare
  - Exclusion payment cases
  - Mergers
- Energy
  - Market manipulation rulemaking

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- Conduct
- Conduct

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- Standard setting
- Resale price maintenance
- Monopolization

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- Section 5 Deluge?
  - No "Zombies from the Crypt"
  - Guiding principles/limitations
  - Usual suspects
    - Invitations to collude/MAP
  - Exploring the "penumbra"
    - Standard setting?
    - Pharma cases?
  - Section 5 Workshop



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- Less Merger Work?
  - HSR filings down
  - But, pipeline full
  - Continued strategic deals

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Consummated deals

• Closer Relationship with DOJ?

- Section 2
- Exclusion payment cases
- Merger Guidelines
- Clearance

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# **Enforcement Actions Database**

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