

# Robert A. Milne

Partner

New York

## Practice Experience



Robert Milne's principal areas of practice include complex commercial litigation and litigation and counseling in the areas of antitrust (civil and criminal) and trade regulation. Mr. Milne also handles matters in the areas of bankruptcy, insurance, environmental and product liability. He has represented clients in a variety of industries, including pharmaceutical, agricultural, chemical, electric generating, cable, telecommunications, and leisure. Mr. Milne has litigated jury and non-jury cases before federal and state courts throughout the United States, including matters before the US Federal Trade Commission and other state and federal government agencies. He has also handled complex arbitration matters.

Mr. Milne was selected by the *National Law Journal*, in its July 29, 2002 issue, for inclusion on its "Forty Under Forty" list of the top young litigators in the country.

Some of Mr. Milne's recent work in the area of antitrust includes:

- Serving as lead trial counsel for Sandoz Pharmaceuticals Corp. in *Kaiser Foundation Health Plan v. Abbott Laboratories, et al.* In that case, Kaiser alleged that an interim settlement between Abbott and Sandoz in connection with a patent dispute had the effect of delaying the entry of lower cost generic competition for one of Abbott's major branded drug products. After a two week trial in Federal District Court in Los Angeles, the jury found that the settlement did *not* delay the onset of generic competition, thus giving defendants a complete victory;
- Securing a victory for Novartis Pharmaceuticals Corporation in *Drug Mart Pharmacy v. American Home Products Corp., et al.*, barring plaintiff retail drug stores from pursuing conspiracy claims under the Robinson Patman Act against the defendant pharmaceutical manufacturers;
- Serving as lead counsel for Syngenta Seeds, Inc. and Syngenta Crop Protection, Inc. in a putative nationwide class action alleging price fixing among the major producers of genetically modified seeds and herbicide products. After a mini-trial on the issues relevant to class certification, the district court denied

### Bars and Courts

New York United States District Court  
Eastern and Southern District of  
New York  
United States Court of Appeals,  
Fifth Circuit  
United States Court of Appeals,  
Eighth Circuit  
United States Court of Appeals,  
Seventh Circuit  
United States Supreme Court

### Education

J.D., University of Buffalo, *cum laude*,  
Executive Editor, Buffalo Law Review,  
1989  
B.S., University of Rochester, *Omega  
Chi Epsilon* National Chemical  
Engineering Honor Society, 1986

### Professional Associations

American Bar Association  
Association of the Bar of the City of  
New York

### Panels

ABA National Seminar,  
"Limiting Antitrust Risks in Settling  
Intellectual Property Litigation,"  
June 22, 2004, Panelist

### Languages

English

### Citizenship

United States

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plaintiffs' motion to certify the case for class action status. The Eighth Circuit Court of Appeals affirmed the District Court;

- Representing Novartis Pharmaceuticals Corporation in continuing opt-out proceedings in *In re Brand Name Prescription Drugs Antitrust Litigation*. Mr. Milne has represented Novartis Pharmaceuticals (and predecessor entities) in the *Brand Name* litigation since its inception in 1993, including serving as trial counsel in the Company's victory, after a ten week jury trial, in the nationwide class action portion of the case;
- Representing Sandoz Pharmaceuticals Corp. in a variety of antitrust matters, including both private litigation and issues involving the federal antitrust agencies. For example, Mr. Milne represents Sandoz in the *In re Terazosin Hydrochloride Antitrust Litigation*, which involves cutting-edge issues in antitrust and intellectual property law. Like the *Brand Name* litigation, this case is a complex, multi-fora proceeding involving multiple groups of private plaintiffs, the Federal Trade Commission and numerous state attorney generals;
- Representing Lek Pharmaceuticals in a major monopolization case;
- Representing a consortium of major US and European telecommunications companies in connection with various contemplated business arrangements.

Prior to joining private practice, Mr. Milne served as a trial attorney with the Antitrust Division of the US Department of Justice, where he participated in civil and criminal investigations and trials in jurisdictions around the country.

Mr. Milne is active in several other areas:

- Bankruptcy: Mr. Milne is serving as lead trial counsel in two major intercreditor disputes set to be tried in the bankruptcy proceeding of Adelphia Communication Corporation. In the Chapter 11 proceeding of Mirant Corporation -- a major energy company -- Mr. Milne helped represent various Debtor entities in connection with a multi-billion dollar dispute involving a major utility and the Federal Energy Regulatory Commission;

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- Apartheid litigation: Mr. Milne participated, on behalf of one of the defendants, in litigation accusing numerous corporations of responsibility/complicity in the actions of the apartheid regime in South Africa;
- Utilities: Mr. Milne participated in a large arbitration involving complex technical and legal issues arising out of a long-term power purchase agreement on behalf of American Bituminous Power Partners. The proceeding involved extensive "fast track" fact and expert discovery, and was conducted pursuant to the Federal Rules of Civil Procedure and Evidence; and
- Insurance/environmental: Mr. Milne helped represent Ciba-Geigy Corporation (now Ciba Specialty Chemicals) in a complex environmental insurance coverage case pending in New Jersey Superior Court. The case involved numerous cleanup sites around the country, and presented complex scientific, factual and legal issues. As he holds a bachelor's degree in chemical engineering, Mr. Milne was well suited to deal with the difficult technical issues often presented in such cases.

## Publications

Co-author, "Recent Activity on the Brand-Generic Drug Patent Settlement Front," *Antitrust*, Volume 18, No. 2, Spring 2004 (with Michael Gallagher)

Co-author, "Conspiratologists at the Gate: The Scope of Expert testimony on the Subject of Conspiracy in a Sherman Act Case," *Antitrust*, Volume 17, No. 2, Spring 2003 (with Jack E. Pace III)