



The American Bar Association

**Joint Conduct Committee,
Communications & Digital Technology Committee, and
Civil Practice and Procedure Committee**

**OMG! Has *Twombly* Been Over-Turned?:
The 7th Circuit's *Text Messaging* Case**

September 7, 2011
12:00 pm - 1:30 pm EDT

Ever since the Supreme Court dispensed with the *Conley* “no set of facts” standard in its 2007 *Twombly* decision, replacing it with a new rule of “plausibility,” courts have struggled to describe where the line between “conceivable” and “plausible” should be drawn. With his *Text Messaging* decision, Judge Posner – long considered an opinion leader on matters of antitrust law – has clarified that a plaintiff alleging an antitrust conspiracy need merely establish a “non-negligible probability” that the claim is valid. Is the *Text Messaging* opinion consistent with other post-*Twombly* case law or does it suggest a growing divergence that may require the Supreme Court to re-visit the issue?

Panelists

Ken Glazer
K&L Gates LLP
(former Deputy Director,
FTC Bureau of Competition)

Anant Raut
Pepper Hamilton LLP
(former Counsel,
House Judiciary Committee)

Rex Heinke
Akin Gump Strauss Hauer & Feld LLP

Prof. Chris Sagers
Cleveland-Marshall College of Law

Moderator

John Delacourt
Plasma Protein Therapeutics Association
(former Chief Antitrust Counsel,
FTC Office of Policy Planning)

*The ABA is not seeking CLE credit for this program.
You will not receive CLE credit for attending/viewing/listening.*



To register for the conference. You will receive the dial in number in your confirmation.

Recordings of this program will be posted on the Section website, and downloadable in an MPEG-3 format. Please visit our [Committee Program Audio page](#) after the program to listen to/download the audio.

[Join the ABA](#) • [Join the Section of Antitrust Law](#)