



**The American Bar Association**  
**Section of Antitrust Law**  
Health Care and Pharmaceuticals Committee  
Intellectual Property Committee

**Present**

**Are “Reverse Payments” Dead?**  
*Current Industry Practices in Pharmaceutical Patent Litigation Settlements*

Thursday, November 10, 2011  
Noon-1:30 p.m. EST

The FTC describes “pay for delay” patent-litigation settlements between innovator and generic pharmaceutical companies as one of the agency’s top priorities, reporting that such settlements cost consumers and taxpayers \$3.5 billion annually in higher drug costs and that more than a quarter of the settlements in 2010 were “pay for delay.” President Obama has proposed prohibiting such settlements in his plan currently submitted to Congress’s “Super Committee” on the national budget crisis. Meanwhile, courts have treated such settlements more favorably, and FTC and private suits appealing district court losses in “pay for delay” challenges are pending in at least two federal circuits. Despite favorable case law, some of the country’s leading pharmaceutical companies appear to be avoiding settlements with contemporaneous business transactions, and it appears that the FTC has not challenged a settlement that has occurred since 2006. Does the current debate reflect current industry practice?

Our panelists have been involved in these settlements on all sides. Please join us for a lively discussion on current industry practices and whether “reverse payments” are dead.

**Panelists**

**Bradley S. Albert**, Deputy Assistant Director, Health Care Division, Federal Trade Commission

**Scott E. Perwin**, Partner, Kenny Nachwalter, P.A.

**William H. Rooney**, Partner, Willkie Farr & Gallagher LLP

**Jerome A. Swindell**, Assistant General Counsel, Johnson & Johnson

**Moderator**


**Eric Grannon**, Partner, White & Case LLP

**Location**

**White & Case LLP**  
**701 Thirteenth Street, N.W., 11th Floor**  
**Washington, DC 20005**

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