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Antitrust Newsletter

Sept. 20, 2022, 7:08 AM Eastern Daylight Time

Leading the News

Meta Suffers Setback in EU Attack of German Antitrust Order (1)

Meta Platforms Inc.'s Facebook suffered a setback in its European Union court challenge of a German antitrust decision that ordered an overhaul of the social media giant's business model.

TF1, M6 Would Have Represented 70% of TV Ad Market: Coeure

Combination of French broadcasters TF1 and M6 would have represented more than 70% of country's TV ad market, competition authority Chairman Benoit Coeuretells BFM Business in interview on Monday.

Uniphar Buys McCauley Pharmacy Group; No Price Disclosed

The acquisition adds 37 retail pharmacies, according to a statement. The deal is subject to approval by the Irish Competition and Consumer Protection Commission.

In the Courts

Today's Highlights

Insights

Career Advice for First-Year Law Associates

Skadden, Arps, Slate, Meagher & Flom partner Allen Lanstra explains three keys to becoming a great attorney for new associates. Lanstra, who leads training and development for litigators, encourages them to excel at lawyering, build and nurture relationships inside and outside the firm, and be mentally and physically present and engaged in their work.

UnitedHealth Wins Court Approval for Change Healthcare Deal

UnitedHealth Group Inc. won court approval for its \$7.8 billion acquisition of Change Healthcare Inc., defeating a Justice Department lawsuit that sought to block the deal.

Data Privacy Concerns: UnitedHealth plans to merge Change—which operates a network used by doctors, hospitals, dentists and pharmacies to exchange health insurance claims for reimbursement—with its Optum Insight data and consulting business. The insurance giant had argued that prosecutors didn't offer enough evidence that it would misuse sensitive data about its rivals, given the federal health privacy restrictions and the company's pledge to operate a tight firewall against internal data-sharing.

Judge Carl Nichols of the US District Court for the District of Columbia ruled in favor of the merger and directed the companies to divest ClaimsXten to TPG Capital, as proposed. The decision is a blow to President Joe Biden's antitrust agenda, as the case was the first major challenge to a health-care deal to go to trial during his administration.

UnitedHealth Wins Court Approval for Change Healthcare Deal (2)

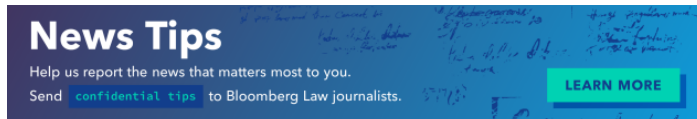
Sept. 20, 2022, 8:32 AM Eastern Daylight Time

By Leah Nylen

UnitedHealth Group Inc. won court approval for its \$7.8 billion acquisition of Change Healthcare Inc., defeating a Justice Department lawsuit that sought to block the deal.

The decision by a Washington federal judge Monday is a win for UnitedHealth Group, which has sought to diversify its business beyond insurance. The company plans to merge Change -- which operates a network used by doctors, hospitals, dentists and pharmacies to exchange health insurance claims for reimbursement -- with its Optum Insight data and consulting business.

In a one-page order, US District Judge Carl Nichols ruled in favor of the merger and ...



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Meta Antitrust Suit Should Be Reinstated on Appeal, States Argue

An antitrust suit that dozens of states brought against Meta Platforms Inc. should be reinstated on appeal, New York and the Justice Department told the D.C. Circuit, arguing the lower court was wrong to find they waited too long to sue.

No Added Harm: New York Solicitor General Barbara D. Underwood told a three-judge panel of the US Court of Appeals for the DC Circuit that Facebook-parent Meta doesn't face any additional harm from the suit brought by the states, because it faces parallel litigation from the Federal Trade Commission. She argued the delay wasn't unreasonable because the "anticompetitive character of the acquisitions was not immediately apparent" at the time.

Instagram, WhatsApp Deals: Attorneys general from 48 US states and territories, led by New York, sued Meta in December 2020, alleging the company monopolized the social networking market through a scheme to "buy or bury" its rivals. The FTC filed a nearly identical suit at the same time.

Both cases alleged that Meta acquired photo-sharing app Instagram in 2012 and messaging platform WhatsApp in 2014 to keep them from growing into competitors and that the company selectively enforced its policies to cut off rivals' access to user data. The states' case was dismissed in 2021. Leah Nylen has more.

Meta Antitrust Suit Should Be Reinstated on Appeal, States Argue

Sept. 19, 2022, 12:15 PM Eastern Daylight Time

By Leah Nylen

1. 48 states, territories sued over Instagram, WhatsApp deals
2. Judge dismissed suit last year finding states waited too long

New York and the Justice Department urged a federal appeals court to reinstate an antitrust suit that dozens of states brought against Meta Platforms Inc., saying a lower court was wrong to find they waited too long to sue.

New York Solicitor General Barbara D. Underwood said Facebook-parent Meta doesn't face any additional harm from the suit brought by state attorneys general since it faces a parallel one brought by the Federal Trade Commission.

"There was no harm to Facebook from the states suing in 2020 rather than a few years earlier," Underwood told a three-judge panel on ...

Leading the News

Meta Suffers Setback in EU Attack of German Antitrust Order (1)

Sept. 20, 2022, 5:14 AM Eastern Daylight Time

By Stephanie Bodoni

1. Meta said German antitrust watchdog overstepped its powers
2. EU court non-binding opinions often give hints of final ruling

Meta Platforms Inc.'s Facebook suffered a setback in its European Union court challenge of a German antitrust decision that ordered an overhaul of the social media giant's business model.

Competition authorities probing a company over alleged abuses of a dominant position are justified to also consider other rules, such as the EU's General Data Protection Regulation in the course of an investigation, an adviser to the bloc's top court said on Tuesday in a non-binding opinion. Such a ruling would hit at the heart of Meta's appeal.

When interpreting other rules such as data protection law, competition watchdogs are "bound ...

TF1, M6 Would Have Represented 70% of TV Ad Market: Coeure

Sept. 19, 2022, 2:56 AM Eastern Daylight Time

By Angelina Rascoet

Combination of French broadcasters TF1 and M6 would have represented more than 70% of country's TV ad market, competition authority Chairman Benoit Coeuretells BFM Business in interview on Monday.

1. "There was no solution, when you have such market power, the only solution is to be smaller," Coeure says, adding that the sale of TMC and W9 wouldn't have been sufficient remedies

2. Approving this deal as presented by both groups would have created an "ultra dominant" player in TV ad market: Coeure
3. TV ad market is a "mass media" market that reaches millions of viewers in France and is very ...

Uniphar Buys McCauley Pharmacy Group; No Price Disclosed

Sept. 19, 2022, 2:12 AM Eastern Daylight Time

By Leonard Kehnscherper

Acquisition adds 37 retail pharmacies, according to a statement.

1. Deal is subject to approval by the Irish Competition and Consumer Protection Commission
 1. Deal will be earnings accretive from completion
 2. Deal expected to deliver a return on capital employed in line with Uniphar's target rate of 12%-15% within three years

To view the source of this information, click [here](#)

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In the Courts

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Report and Member Firm List**

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Today's Highlights

Insights

Career Advice for First-Year Law Associates

Sept. 20, 2022, 4:00 AM Eastern Daylight Time

By Allen Lanstra

Skadden, Arps, Slate, Meagher & Flom partner Allen Lanstra explains three keys to becoming a great attorney for new associates. Lanstra, who leads training and development for litigators, encourages them to excel at lawyering, build and nurture relationships inside and outside the firm, and be mentally and physically present and engaged in their work.

For new attorneys joining the practice of law this fall, the long journey of a professional career begins. And like most adventures, how you start significantly influences later stages. So how can early-career attorneys get the beginning of their careers right?

First, recognize that most truly impressive pre-career achievements happened in the classroom and were guided by syllabi, checklists, and other roadmaps. The legal profession supplies none of that.

This uncertainty can unnerve those who have excelled for years at executing academic recipes that demanded sacrifice, but were calculable—do 1, 2, and 3, and get X. But the lack of a prescription liberates those who embrace it. A fulfilling and rewarding career can be achieved in many different ways that are unique to the person.

As first-year associates, now is the time to establish the foundation for this journey. It does not require a crystal ball, but it does require reflection.

Yes, ambitions like partnership or the bench can motivate us. But regardless where the journey leads, achieving goals and long-term fulfillment in our profession is satisfied by something more fundamental: being a great attorney.

Simply put, legal careers are governed by the quality of our lawyering—and it's not something we can fake.

Excel at Lawyering

Therefore, in my book, the first pledge that a new attorney should make at the outset is to become a great attorney.

But how is that first pledge pursued? Learn, learn, and never stop learning. Being a great lawyer is not a title or station, but an active process. Enter with an apprenticeship mindset and never abandon it.

At every stage of a legal career, there will be attorneys around us who we can learn from. Some will be down the hall, others across the table. But pay attention to them.

And don't accept firm-assigned mentors as the only mentors. Rather, assign your own mentors. Then don't wait for them, as if it's their job or something your firm owes you (although it does). Instead, take the reins and engage your mentors with purpose.

Ask them questions—why an approach was employed, why an alternative strategy wasn't, and what to do in different situations. Offer your thoughts on a subject. Never sit silent, afraid of displaying lack of knowledge when you, in fact, lack that knowledge.

Equally important, teach yourself. Take seminars and read books about excellent writing. If you've never participated in a deposition, or have not done so recently, review practice guides. If you've never worked on an initial public offering, read a treatise about it.

Perhaps most important, create experience if you aren't getting it. While I had many writing opportunities as an associate through firm clients, I developed my argument skills through teaching law and pro bono appeals.

Build Relationships

The second pledge a new lawyer should make is to build and nurture relationships. The richness of practicing law is in the relationships we get to develop and experience.

We grow close with colleagues and clients because we find ourselves shoulder-to-shoulder with them in foxholes. Treat them like teammates—be genuine, supportive, and interested.

The intrinsic value and opportunities that come from meaningful professional relationships define careers. Don't miss out on them by being self-consumed and self-concerned.

For those who aren't extroverts, have no fear: building professional relationships is just like building friendships. You simply show genuine interest in others.

And connect with attorneys at other firms or clients that are at your seniority level, not three rings above you on the ladder. Finally, be mindful that our professional reputation must be protected by our actions.

Treat everyone with respect, act with courtesy and civility, and be ethical. Lawyers collectively do not easily pardon dishonorable conduct that stains our fundamental role in society—protecting the rule of law. We're also built to remember bad actors.

Be Present

The first two pledges are fed and made reachable by the third pledge: being present, in both the cognitive and physical sense.

When seeking a work-life balance, appreciate what a rewarding legal practice entails—collaboration, teamwork, and lawyering. Passive or robotic participation is not lawyering, so be an active listener and contributor in all meetings and conference calls.

Research, memoranda, and diligence may seem like “work orders.” But lawyers don't make widgets. Engage in the work and give full attention to it, and reject the narratives of multi-tasking or unimportant assignments.

Viewing legal tasks as widget-making disregards the nuance, creativity, attention to detail, and foresight that are part and parcel of great lawyering.

My best litigation teams are the ones with the best junior attorneys. Associates who doggedly investigate the facts, learn the case deep enough to spot issues, and search for the best authority to support a position are invaluable.

Indeed, they are the attorneys who earn the opportunity to attend key depositions or attend trial—and not as a reward, but because they are necessary to success.

Finally, being present also means being in attendance. Physical togetherness enriches our experiences. Indeed, that's why Thanksgiving and 30th birthday parties aren't remote.

Yes, the world and industry have changed significantly in recent years. But great lawyers build relationships that they enlist to tackle challenging problems, and they team up to consider approaches and solutions.

Effective collaboration occurs more often and produces more learning and relationship-building when we are cognitively and physically present.

This article does not necessarily reflect the opinion of The Bureau of National Affairs, Inc., the publisher of Bloomberg Law and Bloomberg Tax, or its owners.

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Author Information

Allen Lanstra is a litigation partner at Skadden focusing on complex, high-stakes litigation. He leads training and development for litigators in Skadden's Los Angeles and Houston offices and is responsible for the training and mentoring of associates, including development of litigation and trial skills, efficient management, and client services delivery.

