



MARK J. HOROSCHAK

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PROFESSIONAL EXPERIENCE

Member

November 1995 - Present

**Womble Carlyle Sandridge & Rice, PLLC
Charlotte, North Carolina**

A nationally recognized antitrust expert, Mr. Horoschak has established a broad-based practice, representing health care systems and other businesses in transactional counseling, governmental investigations, and litigation. Recent engagements include:

- Acquisition of the Heart Hospital of New Mexico in Albuquerque, NM by Ardent Health Services (July 2011).
- Acquisition of the Heart Hospital of Austin by St. David's Healthcare Partnership, an Austin, Texas-based joint venture of HCA, Inc. (November 2010).
- *Wood, et al. v. Archbold Medical Center, Inc., et al.*, Case No. 6:05-cv-53 (M.D. Georgia) (summary judgment granted September 13, 2010).
- Acquisition of West Suburban Medical Center and Westlake Hospital in Chicago, IL by Vanguard Health Systems, Inc. (June 2010).
- Affiliation of Rockwood Clinic with CHS Washington Holdings, LLC, a subsidiary of Community Health Systems, in Spokane WA (January 2010).
- Affiliation of Haywood Regional Medical Center in Clyde, NC and WestCare Health System in Sylva, NC (December 2009).
- *Cohlma v. Ardent Health Services, LLC et al.*, Case No. 05-CV-00384-JHP-PJC (N.D. Oklahoma) (summary judgment granted August 3, 2009).
- Proposed Sale of West Florida Healthcare to Baptist Health Care Corp., in Pensacola, FL (FTC clearance granted) (September 2008).

- *Doe, et al. v. Arizona Hospital and Healthcare Association, et al.*, Case No. CV 07-1292 (D. Arizona complaint filed July 2, 2007) (class certification denied in part).
- Acquisition of NorthEast Medical Center in Concord, NC by Carolinas HealthCare System (July 2007).
- Acquisition of majority interest in Inmar, Inc., by New Mountain Capital, LLC (April 2007).
- Affiliation of Summa Health System in Akron, Ohio, and Robinson Memorial Hospital in Ravenna, Ohio (January 2007).
- Affiliation of St. Cloud Regional Medical Center in St. Cloud, Florida, and Orlando Regional HealthCare System (November 2006).
- Acquisition of Tennessee Christian Medical Center in Madison, Tennessee, by HCA Inc. (February 2006).
- Affiliation of Triad Hospitals, Inc. and Seton Health System to establish a hospital in Cedar Park, Texas (February 2006).
- Affiliation of Summit Hospital and Ochsner Clinic Foundation in Baton Rouge, Louisiana (January 2005).
- Acquisition of assets of Cimarron Health Plan by Lovelace Sandia Health System (June 2004).
- Sale of Alice Regional Hospital in Alice, Texas, to Christus Spohn Health System (June 2004).
- Partnership of Triad Hospitals, Inc., and Texas Health Resources to establish Presbyterian Hospital of Denton in Denton, Texas (May 2004).
- *Biddulph et al. v. HCA Inc., et al.*, Case No. CV-04-1219 (Seventh Judicial District Court of Bonneville County, Idaho, complaint filed March 3, 2004) - Dismissal as per settlement.
- *Rocky Mountain Medical Center, Inc. v. Northern Utah Healthcare Corporation, d/b/a St. Mark's Hospital*, Civil Action No. 000906627 (Third Judicial District Court of Salt Lake County, Utah, order granting summary judgment filed January 27, 2004) - Successful defense of client hospital's managed care contracting practices.
- Acquisition of St. Joseph Health System and Lovelace Health Systems in Albuquerque, New Mexico, by Ardent Health Services, LLC (January 2003).

- Sale of Middle Georgia Hospital in Macon, Georgia, to Medical Center of Central Georgia (October 2002).
- Sale of CCN Managed Care, Inc., to First Health Corporation (August 2001).
- Acquisition of Healthsouth Medical Center in Richmond, Virginia, by HCA Inc. (March 2001).
- Sale of Installation Products Division of Armstrong World Industries to Ardex America, L.P. (July 2000).
- Sale of Winter Park Memorial Hospital in Winter Park, Florida, to Adventist Health System (April 2000).
- Sale of Atlantic Medical Center facilities in Daytona Beach and Ormond Beach, Florida, to Halifax Medical Center and Memorial Health System (November 1999).
- Affiliation of Grace Memorial Hospital and Valdese General Hospital in Burke County, North Carolina, to establish Blue Ridge Healthcare System (August 1999).
- Transfer of Leasehold Interest and Assets of Highsmith-Rainey Memorial Hospital in Fayetteville, North Carolina, to Cumberland County Hospital System (April 1999).
- Acquisition of Alexian Brothers Hospital in San Jose, California, by Columbia/HCA Healthcare Corporation (December 1998).
- Affiliation of Vicksburg Medical Center and Parkview Hospital in Vicksburg, Mississippi (August 1998) .
- Affiliation of Roper Hospital, Roper Hospital North, St. Francis Hospital in Charleston, South Carolina, and Carolinas HealthCare System to establish Roper CareAlliance, LLC (July 1998).
- Acquisition of Heritage Hospital in Tarboro, North Carolina, by Pitt County Memorial Hospital (June 1998).
- Merger of Sentara Health System and Tidewater Healthcare, Inc. in southeastern Virginia (June 1998).
- Affiliation of Coliseum Medical Centers, Coliseum Psychiatric Center, Macon Northside Hospital and Middle Georgia Hospital to establish Macon Healthcare, LLC in Macon, Georgia (April 1998).
- *In re Mesa County Physicians IPA, Inc.*, FTC Dkt. No. 9284 (February 1998) - FTC litigation against client physician organization settled on favorable terms.

- *Aluko et al. v. Charlotte Mecklenburg Hospital Authority et al.*, 959 F. Supp. 729 (W.D.N.C. 1997) - Dismissal of complaint challenging exclusive contracting and medical staff policies of client hospital system.
- Merger of Tenet Healthcare Corporation and OrNda Healthcare Corporation (January 1997).

**Assistant Director
Bureau of Competition
Federal Trade Commission**

September 1989 - October 1995

Mr. Horoschak was responsible for developing and implementing the FTC's antitrust enforcement program governing the health care industry during a period of unprecedented change in that industry. Major accomplishments included:

- Successful litigation of *FTC v. University Health, Inc.*, 938 F.2d 1206 (11th Cir. 1991), and *FTC v. Columbia Hospital Corp.*, No. 93-30-FTM-CIV-23D (M.D. Fla., preliminary injunction issued May 21, 1993), in which proposed hospital mergers were enjoined.
- Development and expansion of the Statements of Enforcement Policy and Analytical Principles Relating to Health Care and Antitrust which were jointly issued by the U.S. Department of Justice and Federal Trade Commission.
- Issuance of 24 advisory opinions on provider joint ventures and networks, business coalition activities, and professional self-regulation.

Prior to taking charge of the health care program, Mr. Horoschak held a variety of positions with the FTC between 1984 and 1989, including Assistant General Counsel for the Commission and Acting Executive Assistant (Chief of Staff) and Attorney-Advisor for the Chairman of the Commission.

**Associate
Hunton & Williams
Richmond, Virginia**

February 1980 - October 1984

Mr. Horoschak participated in a broad range of antitrust litigation and counseling matters, as well as in administrative litigation before the Nuclear Regulatory Commission and before state procurement agencies.

**Attorney
General Motors Corporation
Detroit, Michigan**

June 1976 - January 1980

At the time of departure, Mr. Horoschak had supervisory responsibility for reviewing all corporate advertising, and had actively participated in all phases of the successful litigation of *In re General Motors Corporation*, 99 F.T.C. 464 (1982), resulting in the dismissal of a complaint that General Motors had unreasonably restrained competition in the sale and distribution of automotive body “crash” parts in violation of the Federal Trade Commission Act.

BAR MEMBERSHIPS

American Bar Association

Editor, *Antitrust Law Developments* Supplement (2003-2004)

Vice Chair, Health Care Committee, Antitrust Section (1995-96; 2000-2003)

Program Director, Health Care Committee, Antitrust Section (1997-1999)

North Carolina Bar Association

Chair, Antitrust and Trade Regulation Section (2001-2002)

North Carolina State Bar

South Carolina Bar

PROFESSIONAL RECOGNITION

Best Lawyers in America (2005-2011)

Chambers USA: America's Leading Lawyers for Business (2006-2011) - Awarded highest rank in both Antitrust and Litigation: Healthcare categories.

Legal Elite of North Carolina - named the best antitrust lawyer in North Carolina and to the Legal Elite Hall of Fame.

North Carolina Super Lawyers (2006-2011)

GLG Leader, Legal and Regulatory Council of Advisors, Gerson Lehrman Group (consults on antitrust enforcement policy in pharmaceutical industry).

FIRM MANAGEMENT

Practice Group Leader - Health Care

PUBLICATIONS

US Antitrust Enforcement Agencies Issue Revised Horizontal Merger Guidelines, FINANCIER WORLDWIDE (January 2011) (Co-Author).

US Antitrust Policy Enters A New Phase, FINANCIER WORLDWIDE (November 2009) (Co-Author).

Economic Credentialing and Exclusionary Conduct Under the Sherman Act, 19 ABA ANTITRUST HEALTH CARE CHRON. 3 (October 2005).

2003 Annual Review of Antitrust Law Developments, ABA Antitrust Section (Editorial Vice-Chair).

You've Got [Investigative] Mail: Respond to a Government Inquiry, NC BAR ASSOCIATION ANTITRUST NEWS, vol. 13, no. 1 (Winter 2003) (Co-Author).

Antitrust and Rural Health Care Networks, 13 ABA ANTITRUST HEALTH CARE CHRON. 2 (1999).

Antitrust Guidance for Health Care Providers Enters a New Phase, ANTITRUST (Fall 1996) at 28.

New Market for Hospital Mergers, LEGAL TIMES, March 4, 1996, at S25.

Antitrust Developments in Evolving Health Care Markets, ABA Section of Antitrust Law (1996) (contributing author).

Antitrust Perspectives on Joint Ventures Among Health Care Providers, 6 ANTITRUST HEALTH CARE CHRON. 2 (1992).

Medical Staff Privileges and the Antitrust Laws: A View from the Federal Trade Commission, 6 MEDICAL STAFF COUNSELOR 17 (1992).

Advertising Regulation and the Antitrust Laws, 77 FED. BULL. 238 (1990).

An Update on the FTC Health Care Antitrust Program, 4 ANTITRUST HEALTH CARE CHRON. 2 (1990).

EDUCATION

College of William & Mary Juris Doctor, 1976

Academic Honors: Articles Editor, *William & Mary Law Review*
 Tazewell Taylor Scholarship
 W.A.R. Goodwin Memorial Scholarship

American University Bachelor of Arts in Political Science, Cum Laude, 1973

Academic Honors: Phi Kappa Phi
 Pi Sigma Alpha