

LITIGATOR OF THE YEAR

WINNER

DAVID MARRIOTT

CRAVATH, SWAINE &
MOORE

By ALM Staff



Cravath swaine & Moore's David Marriott led DNA sequencing innovator Illumina to a rare trial win against the FTC before the commission's own administrative law judge. The ALJ rejected the agency's high-

profile challenge to Illumina's \$8 billion acquisition of GRAIL. The first vertical merger challenge litigated by the FTC in over 40 years, the action was closely watched as a test case for the FTC's

approach under the Biden administration. As of the time of this writing, Illumina was still fighting to keep the deal alive, appealing an FTC reversal of the ALJ's ruling as well as filing an appeal of the European Commission's ruling that Illumina divest GRAIL.

The case was the first merger challenge in which a defendant prevailed before the FTC's ALJ and is a rare, if not unprecedented, instance of antitrust litigation involving primarily pre-commercial products. Marriott continues to represent Illumina on appeal to the Fifth Circuit.

During the same time period, Marriott also argued and won a complete summary judgment victory for Viatrix, defeating a securities class action related to the marketing, pricing and classification of EpiPen and alleged conduct concerning generic drug price fixing and market allocation. The decision

represents one of the few resolutions of a federal securities fraud litigation at summary judgment entirely in favor of defendants.

Marriott also helped secure a trial victory for Louis Dreyfus Company in September 2022, defeating the DOJ's attempt to block the company's sale of Imperial Sugar to U.S. Sugar—the first merger challenge brought under the Antitrust Division's new chief and a rare agency loss in a horizontal merger case. In January 2022, Marriott represented five trusts created by the late Washington Post owner Katharine Graham in successful petitions challenging the constitutionality of a D.C. tax statute; secured a favorable settlement for Alcon in a seven-year dispute involving more than 50 putative class actions; and resolved litigation for Unilever challenging the sale of Ben & Jerry's Israeli business interests.

CRAVATH, SWAINE & MOORE LLP