

Daily Journal

November 17, 2021

Top Antitrust Lawyers 2021

A Gibson, Dunn & Crutcher LLP partner, Brass is making her mark on the antitrust space by representing quick-serve restaurant brands in “no-poach” lawsuits nationwide.

Among her recent triumphs: Brass represented McDonald’s Corp. and McDonald’s USA LLC against claims that the restaurant chain orchestrated a conspiracy among its franchisees to suppress employee wages dating back to 1955. Plaintiffs argued that a no-hire provision in McDonalds’ franchise agreement restricted workers’ ability to advance. *Deslandes v. McDonald’s USA LLC et al.*, 1:17-cv-04857 (N.D. Ill. Filed June 28, 2017).

In July, Judge Jorge L. Alonso denied certification of a putative class of over two million current and former McDonald’s employees.

Brass said the *McDonald’s* case was a “lawyer-driven” attempt to pursue no-poach class actions against franchise concepts.

“What is alleged is an invention of litigation and not a reflection of the reality on the ground,” she said.

Likewise, Brass defended Jimmy John’s Franchise LLC against similar litigation brought by the same attorneys. *Butler v. Jimmy John’s Franchise LLC et al.*, 3:18-cv-00133 (N.D. Ill. Filed Jan. 24, 2018) U.S. District Judge Nancy J. Rosenstengel also rejected the class certification of 615,000 current and former Jimmy John’s employees,

just two days after the *McDonald’s* decision.

“I’ve had the good fortune of working on very complex antitrust cases my whole career,” said Brass, who co-chairs her firm’s antitrust and competition practice group. “What we’re seeing across antitrust and competition law is the old way of thinking just doesn’t work in today’s litigation environment. Things we used to look at in isolation have converged. The landscape of regulation is evolving.”

Brass talks about the ever-shifting global economy in the international competition law class she’s taught at UC Berkeley School of Law each spring for the last five years. She describes the practice area as “an incredibly dynamic space.”

“It’s extremely dangerous to think ‘x’ is how it is and will forever be,” she said, adding that the law students help keep her skills sharp. “It’s a wonderful way to challenge your thinking and assumptions.”

Brass is president of the Northern California chapter of the Association of Business Trial Lawyers and serves on the board of Kids in Need of Defense, or KIND. KIND provides legal counsel to unaccompanied and separated minors navigating the U.S. immigration system.

Immigration is a cause close to Brass’ heart: her father and grandparents were refugees from Poland.

“I wanted to find a way to give back



RACHEL S. BRASS

GIBSON, DUNN &
CRUTCHER LLP

SAN FRANCISCO

LITIGATION

that was personal,” she said. “We’re impassioned believers in our immigration system and the way we open our doors to people fleeing conflicts around the globe.”

— Jennifer McEntee