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Top Antitrust Lawyers 2021

In September, Swanson, a veteran antitrust litigator who co-led the Gibson Dunn team in Apple Inc.'s defense of its App Store against Epic Games Inc.'s unlawful monopoly claims, was in Florence, Italy, chairing an International Bar Association event. The three-week trial had concluded months earlier in May.

Swanson looked at his phone and saw that U.S. District Judge Yvonne Gonzalez Rogers of Oakland had issued her summary judgment order for the defense. Epic failed to prove that Apple is a monopolist and Epic owed Apple commissions as back payment. "Every single antitrust claim was rejected by our judge," Swanson said. "I was with a European crowd and I didn't want to inject myself into the scene, but I smiled radiantly for most of the night."

There was a state law competition claim that went Epic's way and both sides have filed appeals. "But this was a great outcome for Apple," Swanson said. News outlets that covered the trial noted his "withering" and "pugnacious" cross-examination of Epic's expert witnesses. *Epic Games Inc. v. Apple Inc.*, 4:20-cv-05640 (N.D. Cal., filed Aug. 13, 2020).

At one point Swanson challenged the resume and antitrust credentials of an Epic economist Michael Cragg, disproving his claim to have qualified as an antitrust expert by a federal

court. "I defanged him," said Swanson, who has a Harvard economics degree as well as a JD *magna cum laude*. Gonzalez Rogers agreed, writing in her order, "Apple demonstrated on cross-examination that Mr. Cragg was willing to stretch the truth in support of desired outcome for his client."

Swanson said the trial itself was an ordeal. By the time it took place, participants had been vaccinated, but masks, social distancing and plastic face shields were mandatory. "I felt like an arc welder," he added. After closing arguments, there was an ugly scene on an Oakland street Swanson saw through the window of the apartment he rented for the trial. A gunman blazed away with an AK-47, killing the occupant of a car. "It didn't sound like fireworks," Swanson said. "It was a horrific punctuation to the trial."

Meanwhile, following a years-long antitrust case for a cigarillo maker defendant that ended with Swanson reversing a \$44 million verdict for the plaintiff, he won \$10.46 million in attorney fees and costs. The case took a twist in his client's favor when the plaintiff's founder and CEO was indicted for tax evasion—an event that led to the reversal. The matter is on appeal. *s.*, 8:14-cv-01664 (C.D. Cal., filed Oct. 14, 2014).

Swanson, who joined Gibson Dunn



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LOS ANGELES

LITIGATION

as a summer associate in 1982, said, "I've been practicing for decades, but this was the hardest year yet."

— John Roemer