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Rachel S. Brass is a partner at Gibson, Dunn & Crutcher LLP and co-chair of the antitrust and competition practice group.

One of her notable involvements was representing LIV Golf and professional golfers in antitrust claims against the PGA Tour. This high-profile case, centered on the PGA Tour's actions that allegedly harmed LIV Golf, the golfers

and the market for elite professional golf, led to an investigation by the Department of Justice's Antitrust Division. The case, which garnered worldwide attention, was among the most significant antitrust cases in sports, ultimately resulting in a dismissal following an agreement between LIV Golf and the PGA Tour.

In another matter, Brass is defending a merger that is one of a growing trend of private actions challenging mergers years after they have fully integrated. It stands out due to its unique nature—it was brought by customers of the merging parties' competitors—not customers of the merger parties.

She highlights the potential implications of such cases on the landscape of M&A transactions, noting the risks of changing the dynamics of business certainty and creating incentives for competitors to manipulate market conditions.

"I am litigating one of these cases where the plaintiffs are not my client's customers, but those of its larger competitors," Brass said. "This makes it a first-of-kind merger challenge. Those plaintiffs claim they were injured because our client's competitors raised prices after the merger, a period in which our client invested millions of dollars integrating the two businesses and increasing competition by building a better product. This lawsuit threatens to change the landscape for companies doing M&A transactions by increasing risk and decreasing the incentives to improve competition through investment in quality and service."

First, she noted this trend generally risks eliminating the business certainty afforded by long-completed mergers.

"Second, these kinds of claims risk creating perverse incentives for the competitors of merging parties," Brass said. "If the plaintiffs' central theory is accepted, competitors who otherwise lack standing to challenge a merger under the antitrust laws will be incentivized to increase their own prices when their competitors engage in M&A activity to provide their customers standing to try to undo the merger."

Throughout her career, Brass has faced and overcome numerous challenges.

She is also working on another matter representing the world's 27th largest ocean shipping company in a section 2 case brought by subsidiaries of the world's third largest ocean shipping company.

Brass said her client, the defendant, sought and obtained a demanding discovery schedule, which ultimately involved completing all discovery in less than 10 months, culminating in over 30 depositions in 55 days, including a dozen depositions in 10 days in Guam.

"That schedule—and a client who not only allows but demands standup opportunities for associates and new partners—reinforced the importance of a nimble team of extraordinary associate colleagues," Brass said. "Our associates argued the lion's share of discovery motions, largely running the table. Similarly, the associates took or defended depositions at least half of the depositions, including critical witnesses. It's a great reminder that we can't and shouldn't do it all—and that building relationships at all levels of the inside and outside counsel team is critical to success and trust."