

# Pharma Antitrust 2019

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## But first a word from the General Counsel!

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## Pharma – Hard facts cause tough problems

- Regardless of cause or reason, the fact that drug prices in the U.S. are generally higher than in other countries, and higher than in the past, are causing scrutiny of the pharma industry.
- In July 2019, it was reported a typical vial of insulin that will last a diabetic about 10 days costs about \$300 without insurance in the United States. In Canada, the exact same type of insulin can be purchased for just \$30.
- This has added to impetus for increased antitrust scrutiny and new reporting requirements for pharma patent transactions.
- It has also contributed toward proposed legislation to promote generic development.



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## Hot Topics

- Reverse payment settlements evaluated based on consideration that changes hands, not just cash.
- Scrutiny of product hopping: When a drug maker discontinues a drug where patent is expiring and moves market to a new formulation of the drug that still has patent protection.
- Pricing practices.
- Contracting practices: E.g., exclusive dealing, bundling.



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