

## Important Antitrust Decision: California Court of Appeal Affirms Availability of Antitrust Pass-On Defense in Clayworth - Argument for Pharmaceutical Industry Defendants Handled by Davis Polk

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On July 25, 2008, the California Court of Appeal issued its decision in *Clayworth v. Pfizer*, No. A116798, answering a previously open question of California antitrust law: “whether the pass-on defense is available to defendants accused of price-fixing.” A unanimous panel of the First Appellate District, Division Two, in San Francisco held that it is, and affirmed summary judgment for 17 major pharmaceutical companies and PhRMA, the pharmaceutical industry trade association. Davis Polk & Wardwell represented defendant AstraZeneca LP, with principal responsibility for defense briefing on the pass-on legal issues in the trial court and on appeal.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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[08.01.08.clayworth.htm](#)