Emily Westridge Black, Carrington Giammittorio in Texas Bar Journal: 2019 Year in Review: Antitrust and Business Litigation

By Carrington M. Giammittorio | January 3, 2020

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The year brought significant developments to the legal profession and caselaw. *The Texas Bar Journal* Board of Editors has assembled a series of articles highlighting these issues. The topics featured are not exhaustive, and the opinions reflect only the views of the authors.

Antitrust and Business Litigation

This year, the U.S. Supreme Court issued opinions addressing the limits of the Illinois Brick indirect purchaser rule and the availability of class action arbitration.

The Scope of Illinois Brick

The Supreme Court issued a much-anticipated opinion in *Apple, Inc. v. Pepper 1* addressing the scope of the Illinois Brick 2 doctrine, which limits antitrust standing to direct purchasers. The primary purpose of the doctrine is to protect defendants from multiple liability for the same conduct by barring indirect purchasers from recovering for damage inflicted on direct purchasers.

In Apple, consumers alleged Apple monopolized the market for iPhone apps. The district court dismissed, holding consumers do not have standing under Illinois Brick because they purchase from developers, who use the App Store as a virtual marketplace, rather than from Apple directly. The 9th Circuit reversed.

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