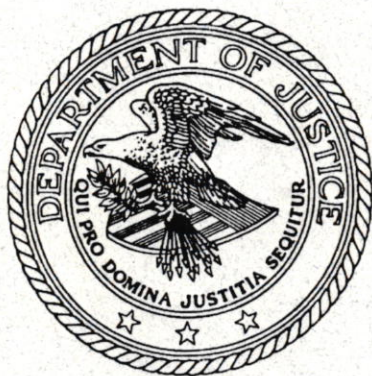


**THE HISTORICAL SOCIETY OF  
THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT  
OF PENNSYLVANIA**

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**A Celebration of 50 Years of  
Antitrust Enforcement  
(Philadelphia Field Office, established: 1948)**



The Sherman Antitrust Act was passed in 1890, but it was not until Assistant Attorney General Thurmond Arnold established the Antitrust Division's Field Office that criminal antitrust prosecutions took root. The Philadelphia Field Office, established in 1948, has set many precedents in the criminal enforcement of the antitrust law from the historic electrical equipment cases of the early 1960's to the recent record \$110 million fine in the worldwide graphite electrodes case.

**TUESDAY, NOVEMBER 3, 1998  
UNITED STATES COURTHOUSE  
PHILADELPHIA, PENNSYLVANIA**

## **THE PHILADELPHIA FIELD OFFICE**

### ***“1948-1998: A Half Century of Antitrust Enforcement”***

The Philadelphia Field Office opened in 1948 under Assistant Attorney General Thurmond Arnold, its mission to ferret out collusion in the building trades which had led to an inflated cost of living in post WWII America. Originally located in the Jefferson Building at 1015 Chestnut Street with a staff of 14 attorneys, the office has filed approximately 300 criminal and civil cases. The first, against shoe finders, resulted in fines totaling \$11,000; the most recent, against graphite electrode manufacturers, have resulted so far in fines totaling \$142.5 million.

In the early 1960's, the Philadelphia Field Office handled one of history's most noteworthy criminal antitrust investigations, the electrical equipment cases, obtaining criminal convictions against some of the largest manufacturing companies in the United States. Those convictions paved the way for another significant antitrust development, the class action suit, and forever altered the antitrust landscape. The Philadelphia Office has always strived to be at the cutting edge of criminal antitrust enforcement with such innovations as extensive partnership with federal agents, use of search warrants and consensual monitors, and multi-count indictments charging appropriate frauds, false statements, and other related offenses. The office, however, long under the guidance of John J. Hughes, is best known for the integrity of its attorneys.

With such a legacy, the next 50 years of antitrust enforcement promise to be as exciting, challenging, and important to the American consumer as the past 50 years.

## **PROGRAM**

**4:00 p.m., Ceremonial Courtroom**

### **Opening Remarks**

Joel I. Klein - Assistant Attorney General,  
Antitrust Division, USDOJ

### **"Milestones in the History of the Philadelphia Field Office"**

John J. Hughes - former Chief (1956-1994)  
Walter Devany - former Assistant Chief (1948-1986)

### **"The View from the Private Bar"**

John G. Harkins, Jr. - Harkins Cunningham  
Joseph A. Tate - Dechert, Price & Rhoads

### **"The View from the Bench"**

Honorable Louis C. Bechtle - Judge,  
U.S. District Court (E.D. Pa.)  
Honorable Joseph L. McGlynn, Jr. - Judge,  
U.S. District Court (E.D. Pa.)

### **"Looking Ahead"**

Wendy Bostwick Norman - Trial Attorney,  
Philadelphia Field Office  
Robert E. Connolly - Chief, Philadelphia  
Field Office

### **Concluding Remarks**

Honorable James T. Giles - Judge,  
U.S. District Court (E.D. Pa.)  
Seymour Kurland - President, Historical Society  
of the U.S. District Court (E.D. Pa.)

## **SPEAKERS**

### **John J. Hughes**

After graduating from Georgetown University (1950), John J. Hughes spent two years in the U.S. Army during the Korean War (1950-1952). Upon his return from service, he entered Georgetown Law School and graduated in 1955. He joined the Antitrust Division's Philadelphia Office in October 1956 as a trial attorney. He became Assistant Chief of the office in 1965 and was named Chief of the office in October 1971. He served as Chief of the office until he retired in April 1994. During his tenure as Chief he received the Attorney General's Meritorious Award and received the Distinguished Executive Award from President Reagan. In 1995 he was retained by the Antitrust Division to act as a consultant/trial advisor and he continues to serve in that capacity today.

### **Walter L. Devany**

After graduating from the College of William and Mary (1942), Walter L. Devany spent three and half years in the Army during World War II (1942-1945). Upon his return from service, he entered the University of Virginia Law School and graduated in 1948. Mr. Devany joined the Antitrust Division's Philadelphia Office in 1948 as a trial attorney and became Assistant Chief in 1983. Mr. Devany retired in May 1986.

## **SPEAKERS**

### **Joel I. Klein**

Joel I. Klein was confirmed by the Senate on July 17, 1997 to be the Assistant Attorney General in charge of the Antitrust Division at the Department of Justice. Mr. Klein was appointed Acting Assistant Attorney General on October 18, 1996 and previously served as the Antitrust Division's Principal Deputy (1995-96). Before that, he was Deputy Counsel to President Clinton (1993-95).

Before joining the Clinton Administration, Mr. Klein practiced law in Washington, D.C. for twenty years. He began as a law clerk, first to Chief Judge David Bazelon on the U.S. Court of Appeals for the D.C. Circuit (1973-74), and then to Justice Lewis Powell on the United States Supreme Court. Mr. Klein next worked at a public interest law firm, the Mental Health Law Project in 1975-76. For the following five years, he was an associate and partner at Rogovin, Stern & Huger, a litigation boutique (1976-81).

In 1981, Mr. Klein joined two colleagues to start their own law firm, Onek, Klein & Farr. The firm specialized in complex litigation, both trial and appellate.

In addition to practicing law, Mr. Klein has also served as a visiting and an adjunct professor at the Georgetown University Law Center, where he taught Civil Procedure, Federal Jurisdiction, and a seminar on complex constitutional litigation. He has lectured widely and has published several articles in both scholarly and popular journals.

Mr. Klein was born in New York City on October 25, 1946. He was graduated from Columbia College (1967) and Harvard Law School (1971), both magna cum laude.



## **SPEAKERS**

### **John G. Harkins, Jr.**

A graduate of the University of Pennsylvania and its law school, Mr. Harkins is founding partner of the Philadelphia firm of Harkins Cunningham. He is a nationally renowned litigator, with experience in antitrust, mass tort litigation, unfair competition, intellectual property, securities class actions, professional liability, and commercial disputes. His clients represent a broad range of industries, including financial, biotechnology, telecommunications, chemical, and health care. He is a fellow of the American College of Trial Lawyers and has lectured in law at the University of Pennsylvania.

### **Joseph A. Tate**

A partner in the Philadelphia law firm of Dechert Price & Rhoads, Joseph A. Tate is one of the country's premier litigators. Following graduation from Villanova Law School, he served for four years as a trial attorney in the Antitrust Division of the United States Department of Justice in Washington, DC. After leaving the Antitrust Division for private practice, Mr. Tate quickly distinguished himself with his astute handling of complex civil and criminal litigation; he has defended Fortune 500 companies and their executives in industries such as pharmaceuticals, chemicals, the airline industry, and the steel industry. Mr. Tate is Co-Chair of the Criminal Practice and Procedure Committee of the American Bar Association's Antitrust Section.

## **SPEAKERS**

### **Honorable Louis C. Bechtle**

Judge Bechtle has been a judge of the United States District Court for the Eastern District of Pennsylvania since 1972; he served as Chief Judge from 1990 to 1993, when he assumed senior status. He received his Bachelor's and Law degrees from Temple University. He was an Assistant U.S. Attorney in this district from 1956 to 1959, followed by ten years in private practice with the firm of Wisler, Pearlstine, Talone & Gerber. From 1969 to 1972, he was United States Attorney for the Eastern District of Pennsylvania. In December 1994, he was appointed by Chief Justice Rehnquist to be one of the seven members of the Judicial Panel on Multidistrict Litigation.

### **Honorable Joseph L. McGlynn, Jr.**

A native Philadelphian, Judge McGlynn attended Mount St. Mary's College following military service in World War II. He received his law degree from the University of Pennsylvania in 1951, and was an Assistant United States Attorney in the Eastern District of Pennsylvania from 1953 to 1960. He was a judge of the County Court of Philadelphia from 1965 to 1968 and a judge of the Philadelphia Court of Common Pleas from 1968 to 1974. He was appointed to the bench of the Eastern District of Pennsylvania in 1974. He served on the Judicial Conference Advisory Committee on Bankruptcy Rules from 1987 to 1993. He assumed senior status in 1990.

## **SPEAKERS**

### **Wendy Bostwick Norman**

Wendy Bostwick Norman joined the United States Department of Justice, Antitrust Division in 1992 after graduating from the Villanova University School of Law. She is currently a staff attorney in the Division's Philadelphia Field Office. Between October 1993 and May 1994, she was a Special Assistant United States Attorney in the Eastern District of Pennsylvania. Ms. Norman is currently serving as lead attorney in the prosecution in the graphite electrodes industry investigation, including United States v. Showa Denko Carbon, Inc. and United States v. UCAR International Inc.

### **Robert E. Connolly**

Mr. Connolly graduated from Cortland State University in 1977 and received his law degree from Rutgers-Camden Law School in 1980. He joined the Antitrust Division's Philadelphia Office that same year. He became Assistant Chief of the office in 1986. Mr. Connolly was awarded the Victor Kramer Fellowship at Yale University for 1989-90. In 1994 he was appointed Chief of the Philadelphia Office, his current position.



## **SPEAKERS**

### **Honorable James T. Giles**

A graduate of Amherst College and Yale Law School, Judge Giles worked for the National Labor Relations Board in Philadelphia before joining the Philadelphia law firm of Pepper, Hamilton & Scheetz in 1968. He worked at the Pepper firm from 1968 to 1979; during his eleven years at the Pepper firm, Judge Giles specialized in labor relations.

He was nominated to the United States District Court for the Eastern District of Pennsylvania by President Jimmy Carter in 1979. He serves as liaison judge to the Probation Department and Pretrial Services; he is also a former board member of the Federal Judges Association and a board member of the Berean Institute.

### **Seymour Kurland**

A graduate of Temple University and The University of Pennsylvania Law School, Seymour Kurland is presently a Senior Partner with the law firm of Dechert Price & Rhoads. In 1987, Mr. Kurland served as Chancellor of the Philadelphia Bar Association, and in 1988, he was appointed City Solicitor for the City of Philadelphia where he served until 1990. He has served as Adjunct Professor at The University of Pennsylvania Law School and was co-founder of The University of Pennsylvania Law School American Inn of Court, its first president, and its present Chairman. Mr. Kurland is the current President of The Historical Society of the United States District Court for the Eastern District of Pennsylvania.

THE HISTORICAL SOCIETY OF  
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THE HISTORICAL SOCIETY OF  
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The Historical Society of the United States District Court for the Eastern District of Pennsylvania was created as a non-profit organization designed to heighten public awareness of the court's history by interpreting to the interested public the court's many contributions to American history. Toward this lofty end, the Society will endeavor to provide an opportunity for scholarly research into court documents and records; to publish articles and books and present educational exhibits on court history to the public; and to acquire, preserve, and maintain all artifacts of historical significance to the court, including documents, records, photographs, portraits, and other historical objects and memorabilia. The Society also publishes a newsletter - A COURT'S HERITAGE - distributed periodically to members in order to keep them better informed of Society projects and events.

The Historical Society holds a special place in the hearts and minds of the judges and staff of the Eastern District court as it acts as a living bridge between the court's illustrious past and the large metropolitan court it has become at the edge of a new millennium. The Society has sponsored a number of highly informative symposiums, on areas as modern as today's headlines, such as the proposed Constitutional amendment to ban flag burning and the charitable efforts of our judges. The Society has also sponsored symposiums on persons of import in the court's growth, from Eighteenth and Nineteenth Century judges and lawyers, to the Honorable James P. McGranery, a judge of this court who later served as United States Attorney General at a crucial juncture in this nation's history. The Society has saluted distinguished patriots such as William Penn, Albert Maris, William Brennan, and Francis Hopkinson, the first judge of this court and the designer of the American flag.

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The Society has also focused on areas such as patent law, admiralty law, the Bill of Rights, criminal law in this court, and bankruptcy. Perhaps the most moving symposium was convened in 1995, when judges of this court celebrated the fiftieth anniversary of the end of World War II by sharing their recollections of military service.

The Society also provides an invaluable opportunity for the judicial officers to get to know the members of the bar and public on a more personal level. In the spring, the Society gathers socially to enjoy the friendship of those who share their interests in court history with the Society's Annual Meeting and Dinner. The Society's calendar Committee is responsible for the court's annual calendar, which is an informative source of court history and a beautiful, artistic example of the Society at its best. The Society also has dedicated numerous portraits to the court of notable judges; the annual Alfred L. Luongo Lectureship serves to anchor the winter schedule.

The Society was formally incorporated on April 12, 1984, in commemoration of the 194<sup>th</sup> anniversary of the court's earliest recorded attorney admission ceremony, held in 1790 in the State House in Philadelphia - now known as Independence Hall - where the court originally sat. Its active membership is open to everyone within the jurisdiction of the Eastern District of Pennsylvania and elsewhere who wishes to foster an informed understanding of the court's role in American History.

## Exhibits on Display

Through the gracious efforts of the Philadelphia Branch of the National Archives and its Director, Dr. Robert Plowman, the Society is displaying exhibits related to the following noteworthy cases as we celebrate the fiftieth anniversary of the Philadelphia Field Office of the Antitrust Division.

### *U.S. v. Leather and Shoe Finders Association of Philadelphia* (1948)

The first office indictment. This prosecution charged one trade association, two corporations and ten individuals with price-fixing and group boycott. After dismissing case against one company and one individual, the remaining defendants pled nolo contendere and were fined \$1,000 each.

### *U.S. v. Philadelphia Gas Works* (1949)

The office's first jury trial. This indictment alleged price-fixing of gas refrigerators.

### *U.S. v. Gimbel Brothers, Inc.* (1950)

Price-fixing case, charging five Philadelphia department stores and nine individuals with agreeing to sell all merchandise for prices ending in 98 cents, an increase from 95 cents. This prosecution resulted in nolo pleas from the corporate defendants; the individuals were dismissed.

### *U.S. v. Krasnov* (1950)

First office prosecution for criminal monopolization. This prosecution charged that there was monopolization of slip cover business through patent licensing agreements and threats of infringement suits.

## “REFLECTIONS”

*Criminal prosecutions and civil proceedings brought by the Philadelphia Field Office have involved many of Philadelphia's outstanding legal minds at both the prosecution and the defense tables. David Berger, Ralph W. Brenner, Edward W. Mullinix, Patrick T. Ryan, and Seymour I. Toll represented defendants in a number of the most significant cases involving the Philadelphia Field Office; Francis P. Newell has experience from both the prosecutor's and defense lawyer's viewpoint. Michael R. Stiles, United States Attorney has ample experience with the professional accomplishments of many excellent litigators involved in antitrust cases in the Eastern District.*

*What follows are their "Reflections," proud recollections of the role of the litigator in assuring the just and speedy administration of justice. The Historical Society is honored to count these distinguished lawyers among the contributors to this program.*



**David Berger**  
**BERGER & MONTAGUE PC**

*Although neither I nor Laddie Montague, Jr. are able to attend this evening's symposium honoring the 50th anniversary of the establishment of the Philadelphia Field Office, Antitrust Division, Department of Justice, I would like to contribute the following remarks to the proceedings.*

*The long and distinguished history of the Philadelphia Field Office is well known. The Philadelphia Office obviously dates to the very beginning of the post-war period, an era of new, intensified antitrust enforcement by the Department of Justice. While undoubtedly the office was active prior to 1959, my first familiarity with its activities was in connection with the celebrated Electrical Equipment cases. The Electrical Equipment cases were the first, possibly the largest and certainly the most important government antitrust enforcement effort in the entire post-war period. They probably were the largest antitrust-related grand jury proceedings in the post-war era. There was also a long, important criminal trial in Philadelphia. The Philadelphia Office was right in the middle of both and did outstanding work and accomplished an outstanding result.*

*The criminal enforcement proceedings in the Electrical Equipment cases were also important because they ushered in a new era of private antitrust litigation which I am proud to have been a part of, both with regard to the Electrical Equipment cases themselves and generally. A number of private practitioners -- including John Harkins and Harold Kohn -- also deserve recognition as counselors who were and are similarly situated. Moreover, the cooperation between the criminal and civil proceedings pioneered in the Electrical Equipment cases provided both enhanced antitrust enforcement in the electrical equipment industry and functioned as a model for future cases.*

*The experience of the Electrical Equipment cases -- and the Field Office's activities -- has been repeated in numerous other enforcement efforts spearheaded by the Field Office including regarding aluminum wire and cable, plumbing fixtures, brass tubing, water heaters and, as a current example, graphite electrodes.*

*The office has done outstanding work in these and other matters and its personnel and leadership deserve recognition and praise.*



**Ralph W. Brenner**  
MONTGOMERY MCCrackEN WALKER & RHOADS LLP

*I am most pleased to offer my reflections on the operation and administration of the Philadelphia Field Office of the United States Department of Justice's Antitrust Division.*

*I am fortunate to have been involved in many antitrust matters involving the Philadelphia Field Office, starting in 1953 when I was admitted to the bar and joined the firm of Montgomery, McCracken, Walker & Rhoads, LLP. At that time, I was immediately assigned by my preceptor, C. Brewster Rhoads, to my first antitrust case, which was Socony Vacuum Oil Co. v. Houdry Process Corp., a matter involving the catalytic cracking process. My next antitrust matter was Noerr Motor Freight v. Eastern Railroad Presidents Conference, followed by its companion case, Riss & Co. v. Association of American Railroads, which began in Philadelphia, but was transferred to Washington, D.C. for an 11 month jury trial presided over by Judge Sirica, later of Watergate fame.*

*My continuing involvement with the Philadelphia Field Office was next reflected in the representation of McGraw Edison in the trial of the first electrical equipment case brought by the Philadelphia Electric Co. This was one of approximately two thousand cases in the industry. Thereafter, I tried two criminal cases brought by the Philadelphia Field Office. In those cases, I represented St. Regis Paper Co. in the consumer bag and glassine actions. These were cases brought against defendants in the paper industry, and St. Regis was the only corporate defendant to be acquitted in each case. I was also involved in a 14 year private action, a titanic struggle known as Bogosian v. Gulf Oil Co., in which I represented Phillips Petroleum Co. The Philadelphia Field Office conducted an investigation in this case but did not bring any action. Indeed, it seems as though I have been involved in virtually every antitrust investigation or trial conducted by the Philadelphia Field Office over the course of the last 40 years, including fine paper, water heaters, toilet seats, cement, road building, auction houses, etc. During that period, I have had the pleasure of working with almost every member of the Philadelphia Field Office spanning that period and feel very fortunate to have had the excellent professional and personal experience of having done so.*

**Edward W. Mullinix**  
SCHNADER HARRISON SEGAL & LEWIS LLP

*My dealings with the Philadelphia Field Office for Schnader Harrison clients go back almost to the inception of that office. They began soon after I came to work for the firm—in the summer of 1949—and involved my junior role in the firm's efforts to rehabilitate the Philadelphia Association of Linen Suppliers and its members after their first Sherman 1 indictment earlier that year. Those efforts took the form of negotiations with the Philadelphia office seeking some sort of blessing for a restructuring of the association's operations. I believe the negotiations failed. I know our rehabilitation efforts eventually failed—because there was another indictment 10 years later, with a companion civil case terminated by a consent judgment that required the association to dissolve.*

*I am almost certain that Bill Maher—then the Assistant Chief—was involved in those early linen-supply negotiations. Those negotiations were among the origins of what became a long professional relationship that Schnader Harrison has had with Bill, his successors, and their staffs. It has been a relationship of mutual respect, fair dealing, and—most important—mutual trust. Bill set a tone that his successors have followed with equal distinction. Bill, Don Balthis, and John Hughes—the ones with whom I had personal experience—were tough, effective prosecutors, but they were fair. The same thing was true of John Sarbaugh and John Weedon, both of whom moved from Assistant Chief in Philadelphia to head other offices—Chicago and Cleveland—where Schnader Harrison had occasion to deal with them.*

## Edward W. Mullinix

SCHNADER HARRISON SEGAL & LEWIS LLP

*The mutual trust between Schnader Harrison and the Philadelphia office was good for both the firm's clients and the government. In an investigation that led to a series of indictments and to jail terms for a number of high-level executives, the firm made a deal for its corporate client that gave the Antitrust Division the evidence it needed to make one of its cases and saved the corporation's executives from jail terms. We struck that deal at the assistant-attorney-general level—but the mutual trust that had developed over the years in our dealings with the Philadelphia office was what made it possible. That same mutual trust explains the less-dramatic fact that problems our clients encountered in complying with a Philadelphia office demand for documents were always resolved by agreement.*

*I have fond memories of a long personal friendship with Bill Maher. They start with lunches at the old Arthur's Steak House—when it was still at 3<sup>rd</sup> and Chancellor. They continue through dinners Bill and I enjoyed together near the airport when I was between planes at O'Hare on my way home after a day in Milwaukee and Bill was working in Chicago following his 1961 retirement from the federal government. My wife and I last saw Bill and Pegg, his wife, when we visited with them in February 1985 in Marco Island, where they settled after Bill's second retirement and where he later died.*



## Francis P. Newell

MONTGOMERY MCCrackEN WALKER & RHOADS LLP

*I would like to offer my reflections on the operation and administration of the Philadelphia Field Office of the United States Department of Justice's Antitrust Division from three perspectives: first, as a law student; second, as a lawyer with the Antitrust Division in Washington; and third, as a lawyer in private practice representing clients in antitrust matters involving the Field Office.*

*My involvement with the Field Office commences from a time when I was twenty-three years old. At that time I had the good fortune of being hired into the Honors Internship Program of the Justice Department's Antitrust Division to work as a summer associate in the Philadelphia Field Office between my second and third years of law school. The program was an excellent one, modeled after the summer programs of the large law firms, and designed to involve one in all facets of antitrust enforcement. During that period I was exposed to the full range of antitrust matters and the people in the Field Office who worked on them, from criminal price-fixing prosecutions to civil merger challenges. Happily, my performance was sufficiently satisfactory that I was asked to continue working in the office part time during my final year of law school.*

*Upon graduation in 1975, I was hired into the Honors Program of the United States Department of Justice's Antitrust Division and commenced work as a lawyer in the Division's Washington, D.C. offices where I joined the Special Trial Section. While there, one of my matters involved the development of the "signaling" theory in a case concerning General Electric and Westinghouse's large steam turbine generator*

## Francis P. Newell

MONTGOMERY MCCrackEN WALKER & RHOADS LLP

*operations, which ultimately led to a modification of the consent decree on record in the United States District Court for the Eastern District of Pennsylvania. I worked with the lawyers in the Field Office on procedural issues before the Court incident to the decree modification.*

*In 1978, I joined the firm of Montgomery, McCracken, Walker & Rhoads, LLP, and have been involved in numerous investigations and actions brought by the Philadelphia Field Office from that date to the present. Thus, my involvement with the office has been continuous for over twenty-five years. During that time, I have had the great pleasure of knowing, and working with, virtually all of the individuals there.*

*Given the various contexts in which I have interfaced with the office, my reflections, of course, are many. The office has garnered great achievements and I am sure others today will chronicle those. My principal reflections, however, are on the decency of the individuals who have served in the office. All, in his or her own way, have endeavored to honor the highest and best principles of the Justice Department's long history, and they, and we, should be justifiably proud of that legacy.*





**Patrick T. Ryan**  
**DRINKER BIDDLE & REATH LLP**

*In 1960, federal grand juries sitting in Philadelphia returned a series of antitrust indictments against certain manufacturers of electrical equipment, charging violations of the Sherman Act in conspiring to fix prices and allocate business in twenty separate product lines of heavy electrical equipment. Most of the defendants entered pleas of guilty or nolo contendere, and nearly all of the prosecutions were terminated with convictions in February of 1961. Who will ever forget Judge Clary's remark: "Gentlemen, if your clients lay down with dogs they will get fleas!"*

*Our firm represented General Electric and a number of its key executives. A number of executives went to jail albeit for a short period of time.*

*The electrical equipment antitrust cases spawned Rule 23 of the Federal Rules of Civil Procedure, the Judicial Panel on Multidistrict Litigation, and the Manual For Complex Litigation, published in 1969. It also spawned a number of criminal antitrust prosecutions and companion civil cases: to wit, the Gas Meter cases, the Fine Paper cases, the Plumbing Fixture cases, the Brass Mill Tube and Pipe cases, and the Hot Water Heater cases.*

*It also gave rise to a plaintiffs' bar of civil treble damage cases led by Harold Kohn, David Berger and their respective firms. Defense counsel knew that plaintiffs' counsel monitored the Justice Department activities and even in some instances started civil actions before criminal proceedings were completed. Our dealings with the Philadelphia Antitrust Division and particularly with John J. Hughes and his team deserve comment. All the lawyers in the division were always professional, civil, fair and friendly. There was and is an extremely high regard between the lawyers for the Division and lawyers for both plaintiff and defense bar. A number of the Division lawyers are on today's program and if time allowed, more of them would have been.*

*It's a pleasure for me on behalf of our firm and the antitrust bar generally to congratulate the Philadelphia Office on its 50<sup>th</sup> Anniversary.*



**Michael R. Stiles**  
**UNITED STATES ATTORNEY**  
**EASTERN DISTRICT OF PENNSYLVANIA**

*Thank you for the opportunity to contribute to this program honoring fifty years of important work by the Philadelphia Field Office of the Justice Department's Antitrust Division. The Field Office has a very impressive history of protecting the interests of our nation's consumers in a highly specialized and complex area of the law. The members of the office have developed an extraordinary expertise in the statutes, regulations, caselaw and doctrines which govern antitrust work. They have also amassed an in-depth knowledge of the businesses which they have investigated, and of the economic forces which drive those markets. As an institution, the Field Office has used these strengths to achieve the case successes outlined in the materials from this symposium.*

*The men and women of the Philadelphia Field Office have earned this recognition for their many professional accomplishments. They also deserve commendation for their long-term commitment to public service. It is not difficult to understand the attractions of private practice or other pursuits for lawyers possessed of the special skills and knowledge the Field Office attorneys have. Yet, as a whole, the staff of the Field Office has remained, serving the interests of consumer protection and business fairness, and fostering long-term respect for their investigations and prosecutions. The Field Office enjoys a reputation for excellence which brings great credit to the Justice Department, and economic justice to our citizens.*



# Seymour I. Toll

## TOLL EBBY LANGER & MARVIN

*Now that we're in cyberspace, my memory is as obsolete as my portable manual typewriter. And me. At my request, a computer nerd I know just "brought up" the Philadelphia Field Office file. When he hit "Open" the entire screen filled with virtual John J. Hughes.*

*In what was once the real world of the 1970's and 1980's, John was the beloved Chief of the Philadelphia Field Office when I represented a number of defendants in criminal price-fixing cases. Even years later, to speak the names of their indicted products is to sense a touch of the poet: paper bags, hot water heaters, copper tubing, glassine.*

*Although the tiny screen gives virtual John the dimensions of a leprechaun, he's actually about the size of our upright home freezer. His personal and professional spirit have always had the same measurements. As an adversary, he was patient, informed, firm but fair, and always good-humored. Thus, despite my repeated efforts to do so, I could never get mad at him. My fellow defense counsel had the same experience with John. I have a theory (based on unassailable facts) as to why we all found him so easy to deal with during those years: after office hours and on weekends John blew out all his rage coaching little kids football.*

*The real John's influence on his young and able staff was as large as the shadow he cast. The quality of their relationships and practice reflected that. In my years, among John's young lions whom I recall with special respect and affection were Jim Backstrom, Bob Connolly, Roger Currier, Walter Devany, Scott Griffith, Ed Panek, Ed Robreno, and Rich Rosenberg.*

*John and his colleagues stood for all that makes distinguished public service a priceless asset in our society.*

*Although I intended no alliteration, that's the way this one happily comes out:*

A FANFARE FOR THE FIFTIETH ANNIVERSARY OF THE  
PHILADELPHIA FIELD OFFICE !



## **Appendix A**

### **Chiefs and Assistant Chiefs**

#### **Chief**

Stanley E. Disney (1948-49)

George Jansen (1949-52)

William Maher (1952-61)

Donald Balthis (1961-71)

John J. Hughes (1971-94)

Robert E. Connolly  
(1994-present)

#### **Assistant Chief**

William Maher (1948-52)

Donald Balthis (1952-61)

John Sarbaugh (1961-65)  
John Hughes (1965-71)

John Weedon (1972-73)  
Ray Cauley (1973-83)  
Walter Devany (1983-86)  
Robert Connolly (1986-94)

Willard Smith (1995-97)  
Joseph Muoio (1997- present)

## Appendix B

### A Brief History of the Philadelphia Field Office

- 7/2/1890 Sherman Act enacted. Violation a misdemeanor punishable by fine to \$5,000 and imprisonment to one year.
- 7/1948 Office opened to investigate commerce affecting the cost of living.
- 11/8/1948 First office indictment is U.S. v. Leather and Shoe Finders Association of Phila., charging one trade association, two corporations, and ten individuals with price fixing and group boycott. After dismissing case against one company and one individual, all other defendants pled nolo and were fined \$1,000 each.
- 11/15/1949 Office's first jury trial is U.S. v. The Philadelphia Gas Works, charging price fixing of gas refrigerators. Defendants acquitted.
- 1/9/1950 Five Philadelphia department stores and nine individuals indicted for agreeing to sell all merchandise for prices ending in 98 cents, an increase from 95 cents. Companies pled nolo; individuals were dismissed. (U.S. v. Gimbel Brothers, Inc.)
- 6/2/1950 First office prosecution for criminal monopolization, charging one company and three individuals with monopolization of slip cover business through patent licensing agreements and threats of infringement suits. After dismissal of one individual due to death, others pled nolo and were fined a total of \$11,000. (U.S. v. Krasnov)

## Appendix B (con't.)

- 4/20/1953 Office's first criminal contempt case, charging four companies, one association, and three individuals with price fixing sand and gravel in violation of a 1940 consent decree. All pled nolo and were fined a total of \$102,500, far exceeding the \$5,000 maximum fine for price fixing. (U.S. v. Western Pa. Sand and Gravel Assn.)
- 7/7/1955 Maximum Sherman Act fine increased to \$50,000.
- 6/15/1957 First guilty verdicts in jury trial. Two associations, one corporation, and six individuals convicted of price fixing the retail sale of beer. Fines totaled \$19,250. (U.S. v. Erie County Malt Beverage Distributors Assn.)
- 2/16/1960 First of 20 indictments in the Electrical Cases, U.S. v. Westinghouse Electric, U.S. v. General Electric, and U.S. v. I-T-E Circuit Breaker. Several individuals sentenced to 30 day jail terms.
- 6/27/1962 Indictment of six companies and seven individuals includes Division's first female defendant, charged with price fixing low priced bread. She pled nolo and was fined \$500. (U.S. v. Ward Baking)
- 10/30/1963 In U.S. v. Pennsylvania Refuse Removal Assoc., Office established principal of the flow of commerce when court concluded intrastate trash collection is "in commerce" when trash is hauled out of state.



## Appendix B (con't.)

- 10/4/1965 Office's first merger case involved manufacturers of class rings. Settled in consent judgment. (U.S. v. Herff Jones Co. and John Roberts Mfg. Co.)
- 5/7/1973 Office's first successful motion for preliminary injunction in a merger case challenged the merger of artificial Christmas tree manufacturer. (U.S. v. American Technical Industries)
- 2/21/1974 Office's first successful challenge to a merger in a trial on the merits, quashing the merger of two frozen dessert pie manufacturers. (U.S. v. Mrs. Smith's Pie)
- 12/21/1974 Misdemeanor changed to felony. Maximum corporate fine increased to \$1 million; maximum individual sentence increased to \$100,000 fine and three years imprisonment.
- 10/29/1976 Office's first felony indictments charged  
11/4/1976 five companies and 10 individuals with price fixing the sale of consumer bags. One company was fined \$750,000, the largest antitrust fine to date. Two individuals each were sentenced to four months incarceration, the first office jail sentences since the electrical cases and the longest to date in Division history. (U.S. v. Continental Group)
- 6/2/1977 In U.S. v. Gillen, the office set the precedent that a corporate official is responsible for antitrust violations of a subordinate if he is aware of, but does not stop, the violation. Gillen was convicted at trial.

## Appendix B (con't.)

- 12/14/1979 Office's first use of a plea agreement, in U.S. v. Berger Industries.
- 3/24/1982 First of office's 46 roads case, resulted in jury convictions of two companies and four individuals. (U.S. v. H & M, Inc.)
- 6/29/1984 Office's first prosecution based on consensual monitoring. (U.S. v. S.M. McMinn, Inc.)
- 9/10/1987 Largest indictment in office history charged 19 corporations and 17 individuals with bid rigging and conspiracy to defraud the government at a bankruptcy sale of used commercial equipment. Following the voluntary dismissal of one individual, all other defendants were convicted or pled guilty.
- 11/1/1987 Sentencing Guidelines take effect, increasing likelihood of incarceration of individuals. 18 U.S.C. § 3571 also takes effect which, with its provision for fines of double the defendant's gain or the victim's loss, permits imposition of Guideline fines substantially exceeding Sherman Act maximums.
- 1/27/1988 Office's first broad use of search warrants during investigation. (U.S. v. Primavera Oil Co.)
- 3/24/1988 Two individuals sentenced to pick up trash one day per week for five years (in addition to fines of \$350,000 each) for rigging bids to collect trash at military bases. (U.S. v. Atlantic Disposal Service, Inc.)
- 7/15/1988 Office's first tax case. (U.S. v. Larsen)

## Appendix B (con't.)

- 12/7/1988 Five year jail term for rigging bids for sale of military bandages is longest in office history. Office's first conviction for aiding and abetting. (U.S. v. Fraass Survival Systems)
- 7/24/1990 U.S. v. Critical Industries helped establish principal that an unsuccessful attempt to solicit a competitor to fix prices may be a scheme to defraud.
- 11/16/90 Sherman Act fines increased to \$10 million for corporations and \$350,000 for individuals.
- 3/19/1991 Office's first appeal of a sentence under the Sentencing Guidelines. (U.S. v. Ocean Crest Seafoods)
- 9/15/1993 Office's first 5K1.1 Substantial Assistance motion led to a government official's bribery conviction. (U.S. v. Chew Fence, Inc.)
- 9/27/1995 Office's first qui tam case resulted in the first of five corporate convictions for bid rigging of military insignia. (U.S. v. Action Embroidery Corp.)
- 5/30/1996 Office's first prosecution of an international conspiracy, to fix prices of Tampico fibers. (U.S. v. A&L Mayer Associates)
- 4/24/1998 Fine of \$110 million is the largest in an antitrust case to date. (U.S. v. UCAR International) (international cartel to fix price of graphite electrodes)