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TOP ANTITRUST LAWYERS 2024



NICHOLAS GOLDBERG

KEKER, VAN NEST & PETERS
SAN FRANCISCO

Nicholas Goldberg comes from a family of lawyers and said he was inspired by his parents to pursue a career in law. His mother, Cathy Goldberg, is a real estate lawyer in New Mexico and his father, Joe Goldberg, is a seasoned trial lawyer with more than 30 years of experience in complex antitrust cases.

In 2023, Goldberg was part of the Kecker team that secured a significant victory for the PGA Tour in a high-profile antitrust case brought by LIV Golf and 11 of its players.

The team successfully defeated LIV Golf's attempt to obtain a temporary restraining order that would have undermined the PGA TOUR's procompetitive rules and regulations. *Jones v. PGA Tour*, 5:22-cv-04486, (N.D. Cal., filed Aug. 3, 2022).

Goldberg said the victory was a testament to exceptional teamwork with notable contributions from name partner Elliot Peters.

The dismissal of all individual LIV golfers' claims and the ultimate dismissal of LIV Golf's case with prejudice marked a substantial win for the PGA Tour.

"It was a high-profile and high-stakes case, and we had to assemble our team and defense in just four days. Our team worked around the clock — literally — to prepare a devastating opposition brief, factual declarations, exhibits and an expert declaration in record time, Goldberg said. "We were very gratified when, at the TRO hearing, Judge Beth Labson Freeman said that although she had initially thought plaintiffs made an 'appealing argument,' our opposition papers 'identified and pinpointed key weaknesses' that prevented plaintiffs from prevailing."

Goldberg also played a key role in representing CREXi against industry giant CoStar in a competitor case involving commercial real estate platforms. *CoStar Group Inc. et al. v. Commercial Real Estate Exchange Inc.*, 23-55662 (9th Circ., filed July 27, 2023) and *CoStar Group Inc. et al v. Commercial Real Estate Exchange Inc.*, 20-CV-08819 (C.D. Cal., filed Sept. 25, 2020).

After CoStar sued CREXi for alleged copyright infringement, Goldberg and his team asserted antitrust counterclaims against CoStar for unlawful monopolization and exclusive dealing. Despite the trial court's dismissal of their antitrust claims, they appealed to the Ninth Circuit, where Goldberg argued the appeal in October.

"We still don't have a ruling, but we're cautiously optimistic that the court will reverse and that we will have the opportunity to prove our claims at trial and hold CoStar to account for its anticompetitive practices," Goldberg said.

Additionally, he said he is closely following the evolving landscape of college athletics, particularly the significant changes in athletes' name, image and likeness rights and the potential for direct compensation from schools to athletes. Goldberg said he is keenly aware of the ongoing antitrust challenges to various NCAA rules in the wake of the Supreme Court's 2021 decision in *Alston*.

"And, of course, conference realignment has presented important antitrust and competition issues, like the poaching penalty at issue in our case for the Pac-12 against the Mountain West Conference, which we filed in September," he said. "As these cases continue to shake out over the next few years, I expect that we will continue to see significant changes in the structure and operation of college athletics."