

Morrison & Foerster hires Lisa Phelan

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Lisa Phelan, Morrison & Foerster

Lisa Phelan, who was the first woman to lead a criminal section at the national level of the Department of Justice's antitrust division, has joined Morrison & Foerster as a partner in the firm's office in Washington, DC.

Phelan, 56, has been the chief of the criminal I section since 2002. She is moving to the private sector after 32 years at the DOJ, having joined the honours programme after law school.

During her time in various roles at the Antitrust Division, Phelan saw the growth of international cartel enforcement, which is far more robust – with close coordination between agencies in different jurisdictions and leniency programmes throughout the world – than it was three decades ago.

Phelan has worked on investigations with enforcers throughout the world, including the European Union, Japan, Mexico, Korea, the United Kingdom, Australia, New Zealand, Chile, Brazil and others.

Speaking to *GCR*, Phelan said that she got to be one of the major drivers in the development of international cartel enforcement, noting that she was involved in one of the first major cases against 12 paper companies involved in a price-fixing conspiracy. That case saw the first ever indictment of a Japanese national.

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Phelan also played a role in the Antitrust Division's prosecution of its major international cases, including the *Auto Parts* and *Air Cargo* investigations; and she expressed gratitude for having the opportunity to work with a "phenomenal group of career attorneys" at the Antitrust Division.

Despite spending her entire career working for the government, Phelan said she expects a "seamless transition" into private practice.

She said she was ready for a change, having observed a bit of a gap in the defence bar in terms of lawyers sufficiently representing corporations on the nuances of investigations before the Antitrust Division. There have been defendants that did not really understand the opportunities and risks of taking early steps in an investigation, Phelan added.

Phelan said there is no one that knows the weaknesses of a criminal probe better than her, having worked on every major case – including taking many of them to trial – and having a strong understanding of the reasons behind certain conduct, the complexities of various industries and what can be proven in court.

She said she took her time and talked to several law firms before reaching a decision, but she was impressed with Morrison & Foerster's platform around the world and the number of ex-enforcers it employs, including in Brussels, London and Tokyo. Morrison & Foerster also has a strong group of ex-enforcers in other areas of white-collar crime, Phelan noted.

Phelan also discussed how important it has been for her to support the career progression of women in criminal antitrust, noting that she "made it a mission... to build up the core of women who were experienced" during her time at the Antitrust Division. She also has started a women in cartels networking organisation.

Morrison & Foerster "walks the talk" when it comes to diversity especially in terms of gender, Phelan said, which played a role in choosing the firm.

Jeff Jaeckel, who co-chairs Morrison & Foerster's global antitrust practice, said Phelan is one of the leading authorities on criminal antitrust in the world. Her addition will be transformational for the practice and is consistent with the firm's strategy of hiring lawyers with a lot of government enforcement experience, he said.

"We are just incredibly excited that Lisa is going to be joining the MoFo team," Jaeckel told GCR. "We've never had somebody quite like Lisa."

Cravath Swaine & Moore partner Christine Varney, who is a former assistant attorney general at the Antitrust Division, noted that she promoted Phelan while she was at the DOJ. Phelan is a "terrific" lawyer and leader who understands the entire investigative process, she said.

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“As a woman in the field, [Phelan] shattered a lot of glass ceilings,” Varney added.

John Terzaken, a former senior cartel enforcer at the Antitrust Division and now a partner at Simpson Thacher & Bartlett, echoed the praise for Phelan’s work.

“Lisa’s been an integral part of the success of the Division’s cartel programme over the last 30 years, bringing and presiding over many of the Division’s most significant and influential cartel enforcement cases,” Terzaken said. “Everything from the ground-breaking international investigation into fax paper to the boundless auto parts prosecutions, have Lisa’s fingerprints all over them.”

A spokesperson at the DOJ’s antitrust division said: “We greatly appreciate Lisa’s tremendous contributions to the Antitrust Division’s criminal enforcement programme over her distinguished career.”

“A tireless fighter for American consumers, she brought landmark international cartel cases as a trial attorney... We thank her for her unwavering dedication to our mission of protecting the free markets – and we wish her great success and happiness for the future.”

After Phelan’s addition, Morrison & Foerster has nine partners in Washington, DC, and 25 globally.