

Jeffrey Shuren, MD, JD

Director of the FDA's Center for Devices and Radiological Health

Clear Conflict of Interest

Conflict of Interest: Jeffrey Shuren's wife Allison Shuren is a Partner with the Law Firm Arnold & Porter:

<https://www.arnoldporter.com/en/people/s/shuren-allison-w>

This is important because a former FCC Chairman Paul A. Porter cofounded Arnold & Porter.

https://en.wikipedia.org/wiki/Arnold_%26_Porter

According to their website, Arnold & Porter has represented AT&T & all its predecessor companies in mergers totaling more than 200 billion dollars.

<https://www.arnoldporter.com/en/services/capabilities/practices/telecommunications-internet-and-media/transactionsmergers--acquisitionsbankruptcy>

November 23, 2017 in an antitrust case against AT&T-Time Warner Merger a judge was suspected to be switched out with another judge because his wife worked for Arnold & Porter, which would have represented a conflict of interest for the case. Similarly having Director Shuren's wife working for Arnold & Porter making statements defending the business of AT&T should be regarded as a conflict of interest.

<https://www.competitionpolicyinternational.com/us-meet-the-judge-in-antitrust-case-against-att-time-warner/>

Here are some of Arnold & Porter's activities for AT&T and predecessor companies since 1996. Arnold & Porter have secured more than \$200 billion in mergers for AT&T and this is only from what is reported in these articles (from their website).

<https://www.arnoldporter.com/en/services/capabilities/practices/telecommunications-internet-and-media/transactionsmergers--acquisitionsbankruptcy>

SBC Communications (1996 – 1997)

Our attorneys represented SBC in its acquisition of Pacific Telesis Group (the Regional Bell Operating Company serving California and Nevada). This transaction was the first RBOC merger following the Telecommunications Act of 1996 and began the consolidation that has transformed the telecommunications industry over the past decade. This merger also was the first of the series that had led to the new AT&T Inc.

SBC Communications (1998 – 1998)

Our attorneys represented SBC in its acquisition of Southern New England Telecommunications Corporation (the telephone company serving most of Connecticut). We obtained prompt approval from the Federal Communications Commission and clearance from the Department of Justice under the Hart-Scott-Rodino statute.

SBC Communications (1998 – 1999)

Our attorneys represented SBC in Ameritech Corporation (the Regional Bell Operating Company serving Illinois, Indiana, Michigan, Ohio, and Wisconsin). In this landmark transaction, SBC substantially expanded its wireline and wireless service areas. After hotly contested proceedings, we obtained approval from the Federal Communications Commission and clearance from the Department of Justice under the Hart-Scott-Rodino statute.

AT&T Inc. Our attorneys represent AT&T Inc. on spectrum transactions including the divestiture of BellSouth's 2.5 GHz assets to Clearwire.

AT&T Inc. Our attorneys have counseled AT&T and other clients on the FCC's spectrum leasing rules. In addition, we have negotiated spectrum leases and management agreements to enable parties to use spectrum licensed to other parties consistent with the FCC's rules on unauthorized transfers of control.

SBC Communications (2000 – 2000)

Our attorneys represented SBC in the joint venture of SBC's wireless business with BellSouth Corporation's wireless business to form Cingular Wireless LLC (now AT&T Mobility LLC). This transaction transformed SBC

and BellSouth's wireless business from largely regional coverage to a combined carrier with near-nationwide coverage. As a result, Cingular has been able to offer nationwide calling plans and was positioned to be one of the few largest wireless companies in the country.

Cingular Wireless (2000 – 2003)

Our attorneys helped Cingular Wireless LLC (now AT&T Mobility LLC) to structure its joint venture with Salmon PCS LLC to qualify as a "designated entity" for bidding on PCS licenses in FCC Auction #35. Auction #35 was the first auction of PCS spectrum since the Commission amended its designated entity rules to adopt the "controlling interest" standard to determine which applicants qualify as designated entities eligible for bidding credits and other auction preferences.

Cingular Wireless (2004 – 2004)

Our attorneys represented SBC Communications and Cingular Wireless in obtaining telecommunications and approval in the US for Cingular's \$41-billion acquisition of AT&T Wireless Services, Inc., the largest all-cash deal in US history. The engagement included the transfer of control, spectrum, and competition reviews in multiple countries. As a result of this transaction, Cingular became the largest US wireless carrier.

SBC Communications (2005 – 2005)

On a landmark transaction heralding a new era for the telecommunications industry, SBC Communications Inc. completed its US\$16-billion acquisition of AT&T Corp. on November 18, 2005, forming the new AT&T Inc. Our attorneys assisted SBC in this landmark transaction, as the firm has in all of SBC's previous major mergers, including its acquisitions of Pacific Telesis, Ameritech, and SNET; the combination of SBC's and BellSouth's wireless businesses to form Cingular Wireless; and Cingular's US\$41-billion acquisition of AT&T Wireless.

AT&T Inc. (2006 – 2006)

Our attorneys represented AT&T (formerly SBC) in its \$89-billion acquisition of BellSouth Corporation (the Regional Bell Operating Company serving Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee). This transaction unified the ownership of Cingular Wireless and heralded new advances in the integration of wireless and wireless communications services. Our attorneys helped AT&T obtain approval from the Federal Communications Commission and the Department of Justice, as well as approvals or clearances from competition and regulatory authorities in a number of countries. The firm also handled the national security and government contracts issues associated with the acquisition.

AT&T Inc. (2007 – 2009)

Our attorneys represented AT&T Inc. before the Department of Justice in obtaining antitrust clearance for its acquisition of Dobson Communications Corp., a US regional wireless telecommunications provider. We negotiated limited divestitures with the DOJ that allowed the transaction to close promptly.

AT&T Inc. (2008 – 2009)

Our attorneys represented AT&T Inc. before the Department of Justice in obtaining antitrust clearance for its acquisition of Centennial Communications, a US regional wireless and wireline telecommunications provider.

AT&T Inc. (2013 – 2013)

Our attorneys represented AT&T on the regulatory and antitrust review of AT&T's US \$780 million acquisition of Atlantic Tele-Network, Inc.'s US retail wireless operations (known as Allied Wireless), including licenses, network assets, retail stores, and approximately 585,000 subscribers. Atlantic Tele-Network, Inc.'s network covers approximately 4.6 million people in rural areas across six states.

AT&T Inc. (2015)

Our attorneys represented AT&T in its US\$48.5 billion merger with DIRECTV. The firm acted as lead Federal Communications Commission counsel on competition and regulatory issues and participated actively in the US Department of Justice antitrust review process. Our Washington and London offices also handled the Latin American regulatory and competition approvals for AT&T.

Numerex Corp (2017)

Our attorneys advised Numerex Corp., a publicly traded provider of enterprise solutions enabling the Internet of

Things, in its stock-for-stock merger with Sierra Wireless, Inc., a Canadian company and leading provider of fully integrated device-to-cloud solutions for the IoT.

\$85 billion Merger between AT&T and Time Warner

<https://www.compasslexecon.com/cases/compass-lexecon-clients-att-and-time-warner-prevail-in-historic-merger-case/>

IMPORTANTLY

DIRECTOR SHUREN RELEASED A STATEMENT DENYING THE FINDINGS OF THE NTP STUDY WHICH SHOWED DNA DAMAGE AND CLEAR EVIDENCE OF CARCINOGENICITY IN ANIMALS AND HE AND THE FDA CHOSE NOT TO DO A FORMAL RISK ASSESSMENT TO DETERMINE THE RISK TO HUMAN HEALTH.

In November of 2018 the National Toxicology Program released its findings of a 10-year \$30 million study that was commission by the FDA.

The Critical findings were:

- "The NTP studies found that high exposure to RFR (900 MHz) used by cell phones was associated with:
- **Clear evidence of tumors in the hearts of male rats.** The tumors were malignant schwannomas.
- **Some evidence of tumors in the brains of male rats.** The tumors were malignant gliomas.
- **Some evidence of tumors in the adrenal glands of male rats.** The tumors were benign, malignant, or complex combined pheochromocytoma." <https://ntp.niehs.nih.gov/results/areas/cellphones/index.html>

On November 1, 2018 Jeffrey Shuren M.D., J.D., Director of the FDA's Center for Devices and Radiological Health reports:

"After reviewing the study, **we disagree, however, with the conclusions of their final report regarding "clear evidence" of carcinogenic activity in rodents** exposed to radiofrequency energy....We agree that these findings should not be applied to human cell phone usage....we must remember the study was not designed to test the safety of cell phone use in humans, so we cannot draw conclusions about the risks of cell phone use from it. We also must thoroughly evaluate and take into consideration the totality of the data, and do so within the context of the complete body of evidence rather than drawing conclusions from the results of a single study.....Based on our ongoing evaluation of this issue, the totality of the available scientific evidence continues to not support adverse health effects in humans caused by exposures at or under the current radiofrequency energy exposure limits. We believe the existing safety limits for cell phones remain acceptable for protecting the public health."

<https://www.fda.gov/news-events/press-announcements/statement-jeffrey-shuren-md-jd-director-fdas-center-devices-and-radiological-health-national>

According to Ronald Melnick PhD who led the design of the NTP study, "By adopting this new position and ignoring the NTP's results, the FDA is clearly shirking its responsibility of assessing the impact on human health of radio-frequency radiation."

<https://thehill.com/opinion/healthcare/416515-theres-a-clear-cell-phone-cancer-link-but-fda-is-downplaying-it>

[https://reader.elsevier.com/reader/sd/pii/S0013935118304973?](https://reader.elsevier.com/reader/sd/pii/S0013935118304973?token=CB1F6D387FF26D871C3F02F52724131F46D0410988E4AA51FF0F00847445E2B0A1E06960743975F818D19D0D6A9864E4)

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FCC Chairman Ajit Pai quotes Shuren's statement in his proposal to maintain current FCC guidelines, which have not been updated since 1996 and do not protect against non-thermal, biological, long term, low-level exposures of radio frequency radiation. In Pai's statement he states:

"As Jeffrey Shuren, Director of the Food and Drug Administration's Center for Devices and Radiological Health, wrote to the FCC, "[t]he available scientific evidence to date does not support adverse health effects in humans due to exposures at or under the current limits...

" and "[n]o changes to the current standards are warranted at this time."" <https://docs.fcc.gov/public/attachments/DOC-358968A1.pdf>