

ABA Section of Antitrust Law, *Proof of Conspiracy Under Federal Laws* (2010).

There are two requirements for every action under Section 1 of the Sherman Act. The first is the existence of a contract, combination, or conspiracy. The second is that the contract, contract or conspiracy amount to an unreasonable restraint of trade. This helpful handbook focuses on the first of these requirements – the proof of a conspiracy (some agreement).

After a brief historical introduction to Section One as a whole, the book presents chapters on what constitutes an unlawful conspiracy, direct and circumstantial proof of a conspiracy, evidentiary issues relating to proof and participation in such agreements, and the type of intra-enterprise agreements that fall outside the scope of Section 1. Readers need to be aware that this last chapter went to press before the United States Supreme Court's decision in *American Needle*, which is the most recent word on the subject of when collaborative enterprises constitute one, or more than one, economic actor for antitrust purposes.¹

What follows is the true heart of the book. There are excellent chapters on the requirements for pleading conspiracies, summary judgment, the use of expert economic testimony, and the trial of conspiracy cases. Each chapter is remarkably detailed for their relative brevity. The section on trial benefits from the use of a hypothetical fact pattern and helpful tips for practitioners sprinkled through the chapter.

There are a handful of places where the volume loses its focus and wanders over the border between proving agreement and proving the substance of the violation in question. This is understandable given the occasional fuzzy line between these issues, but this is one area where the focus of the book can be sharpened for future versions. Similarly, there are places where the book loses a bit of its objectivity and seems to land on the defense side of several of the issues it covers. Nevertheless, this is an immensely valuable and practical book on a key and complex issue in any case under Section One of the Sherman Act.

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¹ *American Needle, Inc. v. National Football League*, 130 S. Ct. 2201 (2010).