

Liberal Judges May Lend a Hand to Justice Department in AT&T Case

By Reid Wells, J.D. Candidate 2020 | October 16, 2018

Last June, Senior District Court Judge Richard Leon delivered a blistering decision on the [AT&T-Time Warner case](#). Judge Leon concluded that the Justice Department [failed to show](#) that the merger of the two behemoths would violate antitrust law by raising prices and hurting competition.

Judge Leon specifically criticized the Department's top expert witness, U.C. Berkeley economist [Carl Shapiro](#). Judge Leon rejected Shapiro's argument that a post-merger AT&T would have leverage over rivals on the ground that such an argument was based on [thin evidence](#) at best. Judge Leon's opinion helped the merger move forward — or at least pushed the case to the D.C. Court of Appeals and possibly into the fateful hands of liberal judges.

Typically, liberals and progressives oppose mega mergers like that of AT&T-Time Warner. For example, Senators Bernie Sanders and Elizabeth Warren moved to shut down the merger prior to Judge Leon's opinion. They claimed that a massive content creator, comprised of phone, internet, and TV services, would hurt consumers. However, political lines were blurred early on when the conservative Department's division chief, [Makan Delrahim](#), opted to take on the case. Now, the merger could be in the hands of three liberal judges who have the power to aid the Department's case in the D.C. Court of Appeals.

The Department is appealing Judge Leon's lengthy decision on the ground that he, along with the district court majority, ignored the government's main argument — namely, that Time Warner would have added bargaining power over rival distributors that pay for its [programming](#). The decision will undoubtedly determine the future of mergers between media and telecommunication companies for years to come.

