
Cahill Files Amicus Brief in Supreme Court of United States in Antitrust Case

Date: 01/23/18

Cahill submitted an amicus curiae brief in the Supreme Court of the United States on behalf of Professors David S. Evans and Richard Schmalensee in *Ohio v. American Express*. In this antitrust case, the U.S. Department of Justice and several states challenged terms in American Express's non-discrimination agreements that prohibit merchants from steering their customers to other credit cards. Evans and Schmalensee are two of the world's most distinguished economists in the field of "two-sided platforms," businesses that facilitate interaction between participants (e.g., PayPal, OpenTable, credit cards). The question before the Court is whether courts should define a market to include "both sides" of a two-sided platform and consider competitive effects on merchants as well as cardholders in applying the rule of reason under Section 1 of the Sherman Act. The Second Circuit had answered that question in the affirmative and ruled in favor of American Express, reversing the district court. Cahill's brief on behalf of Evans and Schmalensee urges the Court to reject a restrictive approach that would require courts to look at only one side of a two-sided platform and asks the Court to affirm the Second Circuit's ruling, particularly in light of a lack of evidence that the non-discrimination provisions at issue reduced the output of credit card transactions consumed jointly by both sides of the platform.

Attorney

- Landis C. Best