

# Elai Katz

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## Biography

As the leader of Cahill's antitrust groups, Elai's practice focuses on a wide range of antitrust matters, including M&A, litigation, counseling and government investigations. Elai has successfully guided a broad range of transactions through antitrust and foreign investment regulatory reviews in the US and abroad, gaining a reputation for speed and efficiency. He has also played an influential role in cutting-edge investigations and litigation, including benchmark rates (e.g., *LIBOR*, *Forex*) and two-sided markets (*Ohio v. Amex*).



### ***What do clients look for in an effective competition lawyer?***

In my experience, clients value antitrust lawyers who have a comprehensive understanding of their business, including the commercial issues and legal concerns that preoccupy the company's leadership. It is a worthwhile investment to really learn your client's business and provide pragmatic, concise advice that meets their needs.

### ***What impact has the new Biden Administration had on the antitrust space? How are you helping clients to navigate the resulting changes they are facing in the United States?***

Reports of more aggressive antitrust enforcement and sweeping legislative initiatives have become routine. We have been helping our clients distinguish between issues that could have a meaningful impact on their business practices or ongoing matters and those developments that may not necessarily lead to material changes for those clients.

### ***What do you make of agreements not to bid on competitors' trademarks as keywords in search-engine advertising in light of recent developments?***

The FTC's unbending stance – arguing that agreements to settle these keyword trademark disputes are “inherently suspect” – was rejected by the federal court of appeals in New York. Agreements that restrict bidding on trademarks should be reviewed closely for antitrust risks, but they are not always unlawful, especially when ancillary to a legitimate vertical relationship or designed to resolve a genuine, good faith intellectual property dispute.

### ***Antitrust lawsuits challenging 'No-Poach' agreements have gained momentum in recent years. Why do you think this is and what do clients need to know about how to navigate them?***

Some have suggested that widening income gaps and wage stagnation may be caused by increased concentration. Regardless of whether those claims are well founded, focus on labour and employment markets has intensified. If necessary, clients could modify and enhance their compliance programs, train human resources personnel to recognise risky practices, and seek assessment by experienced counsel of agreements involving hiring or solicitation.

### ***What role do you see fintech (digital technologies used in finance and banking) having in the development of antitrust in years to come?***

Because fintech combines rapid technological innovation with the transactional collaboration essential to financial markets, making wise antitrust decisions in these markets will demand a deep understanding of several interrelated, complex businesses. I hope and expect that proper assessment of fintech matters will lead antitrust law to continue to develop towards market-driven analysis, with a focus on empirical evaluation of competitive effects.

### ***What makes your antitrust team at Cahill Gordon & Reindel stand out from its competitors in the market?***

Our team stands out for our deep knowledge of our clients' businesses and legal concerns.

We build our teams around familiarity with an industry, which sets the context for our work and provides our clients with efficient, pertinent, sensible legal advice. In addition, our antitrust team includes lawyers with broad experiences in transactions, investigations and litigation.

### ***Looking back over your career, what is the most interesting antitrust case you have been a part of?***

I hate to pick favorites, and there are several matters I cannot mention because they are confidential, but I would say it's a tie between the *US Dollar Libor* litigation – one of the more complex class actions, still ongoing, with thousands of pages of written decisions and several appellate rulings including a trip to the Supreme Court – and *Ohio v. Amex*, the landmark Supreme Court ruling on two-sided markets, holding that courts must consider customers on both sides of credit card transactions—merchants and cardholders—when evaluating antitrust claims.

### ***What advice would you give to younger practitioners hoping to one day be in your position?***

I advise young practitioners to learn as much as they can about their clients' businesses and legal concerns. This knowledge is essential to providing good antitrust advice but it is also vital to understanding the broader context in which lawyers provide legal counsel. I would also recommend getting involved in bar associations and other professional activities to expand their networks and get opportunities to write and speak.

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**Peers and clients say:** “He is highly intelligent and great to work with”  
“Elai has a very good reputation”  
“Highly regarded by all and a wonderful leader of the NY antitrust bar”