
Per Se or Rule of Reason?

Date: 04/29/19

Source: *The New York Law Journal*. Reprinted with permission.

The column discusses several recent decisions that tackled a fundamental – and sometimes hotly contested – preliminary issue in many antitrust cases: the applicable standard of review for restraints of trade. Several criminal defendants had argued, ultimately unsuccessfully, that their alleged conspiracies arose in an unusual context and did not result in substantial harm to competition. Civil suits challenging “no poach” terms in franchise agreements also engendered debates about whether to apply per se condemnation, rule-of-reason analysis, or a “quick look.”

Attorney

- Elai Katz