

Amex

Related Lawyers: **Michael D. Hausfeld, Scott Martin, Irving Scher, Jeanette Bayoumi, Kimberly Fetsick**

Related Practice Areas: **Antitrust / Competition**

Hausfeld, appointed as Lead Counsel in this multidistrict litigation, represents a class of merchant plaintiffs against American Express Company and American Express Travel Related Services Company, Inc. (collectively, "Amex") in connection with claims that Amex's Non-Discrimination Provisions (or "Anti-Steering Rules") unreasonably restrain interbrand price competition among credit and charge card networks. See *In re American Express Anti-Steering Rules Antitrust Litigation*, No. 11-MD-2221 (NGG)(RER) (E.D.N.Y.).

Plaintiffs allege that as a result of these Anti-Steering Rules and the oligopolistic nature of the credit card market, Amex has been able to raise and maintain high merchant fees, stifling price competition among credit card networks. Plaintiffs further allege that through the imposition of its Anti-Steering Rules, Amex has increased merchant fees to supracompetitive prices without corresponding offsetting credit card user economic benefits, increased the overall price of credit card transactions above competitive levels, and raised consumer retail prices throughout the economy, reducing overall output.

The case was stayed pending a decision by the Supreme Court in a similar case brought by the United States (the "government") against Amex. See *United States v. Am. Express Co.*, 88 F. Supp. 3d 143 (E.D.N.Y. 2015), *rev'd United States v. Am. Express Co.*, 838 F.3d 179 (2d Cir. 2016), *aff'd sub nom. Ohio v. Am. Express Co.*, 138 S. Ct. 2274 (2018). In the government's case, the Court affirmed the Second Circuit's ruling, holding that the relevant market and the Court's antitrust analysis needed to be based on a two-sided market for credit card transactions as a whole. *See id.*

The multidistrict litigation is currently before Judge Garaufis in the Eastern District of New York under the caption *In re American Express Anti-Steering Rules Antitrust Litigation*, MDL 2221 (E.D.N.Y.). Hausfeld, on behalf of the putative class of merchant plaintiffs, filed a Second Amended Complaint on December 17, 2018.