

Leslie Schafer, Ph.D.

Managing Director

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Dr. Leslie Schafer is a Managing Director with Econ One Research, Inc. She applies economic analysis and econometrics to liability and damages estimation for litigation matters concerning antitrust, intellectual property, false advertising, and health care reimbursement. Dr. Schafer has served as a testifying expert about competition issues, the reasonable value for out-of-network health care services, false advertising, and damages for infringement of intellectual property.

Dr. Schafer's health care-related work experience also includes calculating overcharges in class action antitrust matters due to most-favored nation clauses and other provisions in hospital-payer contracts, transactional analysis of pharmaceutical pricing for direct purchasers, statistical analysis of Medicare Advantage audits and Medicare claims in False Claims Act cases, and forecasting retiree health care benefits and workers' claims for occupational injury. Dr. Schafer has analyzed more than a billion claims filed with Medicare or commercial payers for health care services.

For patent, trademark, copyright, trade secret, and false advertising matters, Dr. Schafer has analyzed plaintiff lost profits, defendant profits, and reasonable royalties. She has worked on a wide variety of industries such as personal mobile communication devices and other consumer electronics, information technology, automobile parts, plastic bottles, pharmaceuticals, taxicab services, clothing, and medical research. Dr. Schafer has extensive experience with comparable licenses, company financials, complex bills of materials, and extremely large datasets of company transactions and retail point-of-sale data.

Dr. Schafer has testified in U.S. District Court and has been deposed in federal and state matters. She has spoken at conferences, on webinars, and for continuing education about patent and trademark damages and about working with experts in class action matters for the ABA, the State Bar of California, the LA County Bar Association, the Beverly Hills Bar Association, NITA, Bridgeport Continuing Education, and the Daily Journal's Patent Disputes Forum.

EDUCATION

- Ph.D. & M.A. Managerial Sciences and Applied Economics, University of Pennsylvania, Wharton School of Business
- M.P.P. University of Maryland
- B.A. Political Science, Tufts University, *cum laude*

PROFESSIONAL EXPERIENCE

Econ One Research, Inc.

Managing Director, January 2019 – Present

Senior Economist, October 2011 – December 2018

McDonough School of Business at Georgetown University

Adjunct Professor, 2010 – 2011

Exponent, Inc., Health Sciences

Managing Economist, January 2010 – September 2011

PricewaterhouseCoopers LLP, Advisory Services

Manager, 2006 – 2009

Senior Associate, September 2005 – 2006

The Wharton School of Business, University of Pennsylvania

Lecturer & TA, Managerial Microeconomics (Undergraduate, MBA, and WEMBA), 1999 – 2004

PROFESSIONAL EXPERIENCE, CONTINUED

United States Government Accountability Office
Senior Evaluator, 1996 – 1998
Evaluator, 1992 – 1996

REPRESENTATIVE ENGAGEMENTS

Health Care Reimbursement

Expert Reports & Testimony

Apollo MedFlight, LLC v. BlueCross BlueShield of Texas, a Division of Health Care Service Corporation

U.S. District Court for the Northern District of Texas, Amarillo Division (Cause No. 2:18-cv-00166-D)

- Expert Report (February 2020)
- Expert opinions regarding the reasonable value of certain out-of-network emergency air ambulance transportation services.

ACS Primary Care Physicians Southwest, PA, & Emergency Services of Texas, PA v. Molina Healthcare, Inc. and Molina Healthcare of Texas, Inc.

District Court of Harris County, Texas (Cause No. 2017-77084)

- Expert Report (October 2019)
- Rebuttal Expert Report (December 2019)
- Deposition (January 2020)
- Amended Expert Report (March 2020)
- Expert opinions regarding the reasonable value of certain out-of-network medical services.

Emergency Services of Oklahoma, PC, Oklahoma Emergency Services, PC, and South Central Emergency Services, PC v. GlobalHealth, Inc.

District Court of Cleveland County, Oklahoma (Case No. CJ-2017-641-V)

- Expert Report (June 2019)
- Supplemental Expert Report (August 2019)
- Expert opinions regarding the reasonable value of certain out-of-network medical services.

Southeastern Emergency Physicians, LLC and ACS Emergency Services of Mississippi Professional Association v. Ambetter of Magnolia, Inc.

Circuit Court of the First Judicial District of Hinds County, Mississippi (CASE 17-465)

- Expert Report (May 2019)
- Rebuttal Expert Report (January 2020)
- Deposition (January 2020)
- Expert opinions regarding the reasonable value of certain out-of-network medical services.

Southeastern Emergency Physicians, LLC v. Arkansas Health & Wellness Health Plan, Inc., and Celtic Insurance Company d/b/a Arkansas Health & Wellness Insurance Company

U.S. District Court for the Eastern District of Arkansas (CASE NO. 4:17-cv-492-KGB)

- Expert Report (March 2019)
- First Supplemental Expert Report (March 2019)
- Rebuttal Expert Report (May 2019)
- Deposition (May 2020)
- Second Supplemental Expert Report (July 2020)
- Expert opinions regarding the reasonable value of certain out-of-network medical services.

Sanjiv Goel, MD v. Aetna Life Insurance Company, Inc.

U.S. District Court for the Central District of California (Case No. 2:14-cv-2406 MWF (FFmX))

- Expert Report (February 2015)
- Expert opinions regarding the reasonable value of certain out-of-network medical services.

Sanjiv Goel, MD v. Aetna Life Insurance Company, Inc.

Superior Court of California, County of Los Angeles (No. BC521197)

- Declaration (February 2015)
- Expert opinions regarding the reasonable value of certain out-of-network medical services.

Sanjiv Goel, MD v. Coalition America, Inc.; Multiplan, Inc.; Interplan Health Group, Inc.; Cigna Healthcare of California; Health Net Life Insurance Company; Health Net of California, Inc.; TC3 Health, Inc.

U.S. District Court for the Central District of California (No. CV11-02349 GAF (Ex))

- Expert Report (January 2013)
- Expert opinions regarding the reasonable value of out-of-network medical services.

Health Care Engagements

- Presently engaged as an expert in matters regarding the reasonable value of certain out-of-network medical services.
- Presently engaged as an expert in a class action matter regarding pharmaceutical-related hospital costs.
- Retained as an expert in support of multiple health insurers in a series of disputes with a cardiology practice in Federal and CA courts to opine on the reasonable value of certain out-of-network medical services provided by the plaintiff. Performed consulting work for certain matters in addition to expert reports and declaration noted above.
- Performed economic and econometric analysis for a class of direct purchasers of hospital health care services. Analysis established that a hospital system's contract terms with payers artificially inflated class members' payments. (UFCW et al. v. Sutter Health, Superior Court of the State of California for the City and County of San Francisco, Case No. CGC-14-538451 consolidated with Case No. CGC-18-565398)

- Performed economic and econometric analysis for a class of direct purchasers of hospital health care services. Analysis established that a payer's most-favored nation clauses in contracts with hospitals artificially inflated class members' payments. (The Shane Group, et al. v. Blue Cross Blue Shield of Michigan, E.D. Mich., Southern Division, No. 2:10-cv-14360-DPH-MKM)
- Performed statistical benchmarking analysis of usual, customary, and reasonable ("UCR") billed charges in out-of-network health care claims for a defendant health insurance carrier involved in a class action antitrust matter. (In Re: Aetna UCR Litigation, D.N.J, MDL NO. 2020, (No. 2:07-CV-3541)
- Estimated damages in a False Claims Act matter involving Medicare reimbursements for health care services.
- Performed statistical analysis of enrollees sampled in government audits of a health insurance provider with Medicare Advantage contracts. Examined appropriateness of statistical sampling methods selected and whether the sample selected was representative of the population of claims.
- Forecasted retiree health care benefits and workers' claims for occupational injury for an energy company. Designed economic models using publicly available data and extensive analysis of employees' claim records to present a distribution of potential liability outcomes.

Competition & Antitrust Matters

Expert Reports & Testimony

Hannah's Boutique, Inc. v. Barbara Ann Surdej, Roy Surdej, and Jeffrey Surdej, D/B/A Peaches Boutique

U.S. District Court for the Northern District of Illinois, Eastern Division (Case No.: 13-cv-2564)

- Expert Report (January 2015)
- Deposition (February 2015)
- Hearing Testimony (May 2015)
- Expert opinions regarding assessments of market power in the retail apparel industry.

Antitrust Litigation Engagements

- Performed economic analysis for a class of direct purchasers of a vaccine. Established (1) that evidence common to members of the proposed class could be used to show that all or virtually all class members were overcharged and (2) that the aggregate amount of overcharge damages incurred by the proposed class could be calculated on a class-wide, formulaic basis using a reliable methodology. (Castro et al. v. Sanofi, D.N.J, Civil Action No.1-cv-07178-JLL)

- Estimated damages related to antitrust and other commercial claims for a U.S. manufacturer of high-performance swimwear. Analyzed market pricing and unit sales to assess the market dominance of the defendant.
- Designed an econometric model for a U.S. industrial chemicals manufacturer to estimate potential damages from class action civil litigation following resolution of a price fixing dispute with the U.S. DOJ.

Monitoring and Compliance Matters

Overview of Monitoring Trustee Engagements:

- Monitored the viability and competitiveness of business divestitures of merging multinational firms as part of their compliance with structural remedies.
- Reported to government authorities about pricing, marketing plans, viability of the divestment businesses, supply chain practices, respondent technical efforts to restrict access to confidential business information in IT systems, and divestiture transition progress.
- Extensive experience analyzing retailer point-of-sale data from The Nielsen Company/Information Resources, Inc. (IRI).

Monitoring Trustee Engagements:

- For the U.S. Federal Trade Commission (FTC) and the European Commission (EC), member of monitoring team for the P&G/Gillette merger. Divestitures of the SpinBrush toothbrush business, Rembrandt (a Gillette oral care product line), Right Guard, and other Gillette deodorant brands.
- For the FTC, case manager for team monitoring the Pernod Ricard/V&S merger. Analyzed the performance of Absolut and Stolichnaya in the “super-premium” vodka market, as well as distribution agreements for other distilled spirits.
- For the FTC and EC, case manager for U.S.-based team monitoring the BASF/Ciba merger in the chemical industry.
- For the German Bundeskartellamt (Federal Cartel Office), case manager for U.S.-German team monitoring compliance with structural remedies for the Stihl/ZAMA merger in the hand-held power tools industry. Directed meetings with parent company and potential buyers in Japan and Hong Kong and assessed controls in a Chinese manufacturing facility.

Intellectual Property & False Advertising

Expert Reports & Testimony

William Edward Baker v. Alpha Consolidated Holdings, Inc. and Illinois Tool Works, Inc. d/b/a Gumout

U.S. District Court for the District of Delaware (Case No.: 18-976 (LPS)(CJB))

- Expert Report (December 2020)
- Expert opinions regarding a reasonable royalty and damages for patent infringement in the plastic bottle industry.

Byron McKnight et al., v. Uber Technologies, Inc. and Rasier, LLC

U.S. District Court for the Northern District of California (Case No.: 4:14-cv-05615-JST)

- Expert Report (March 2020)
- Rebuttal Expert Report (April 2020)
- Expert opinions regarding the value of injunctive relief and coupon value for a settlement in a class action false advertising matter.

Jacqueline Maldonado v. Caleres, Inc. et al.

U.S. District Court for the Central District of California (No. 2:17-cv-08596-SVW-PJW)

- Expert Report (May 2018)
- Expert opinions regarding a reasonable royalty for and defendants' profits from copyright infringement in the footwear industry.

Benedict Ezeokoli et al. v. Uber Technologies Inc.

Superior Court of California, County of Alameda (No. RG-14747166)

- Declaration (October 2017)
- Reply Declaration (August 2018)
- Expert opinions regarding reliable methodologies to estimate defendant's revenues and plaintiffs' aggregate actual damages from alleged false representations.

David Escamilla v. M2 TECHNOLOGY, INC.

U.S. District Court for the Eastern District of Texas, Sherman Division (No. 4:12-CV-634 RAS DDB)

- Expert Report (December 2013)
- Expert opinions regarding reasonable royalty, damages, and pre-judgment interest due to trademark infringement in the enterprise solutions and information technology industry.

IP Engagements

- Estimated reasonable royalties in multiple cases for a world-wide provider of communications technology. Assessed wide range of patents (some standard-essential) involving cellular communication, data transmission security, and hardware in mobile handsets, wearables, computers, tablets, and user applications.
- Retained as a consulting expert for a class of consumers in a false advertising matter to estimate defendants' operating profits earned from the sale of a pharmaceutical to potential class members.
- Retained as a consulting expert for a seller of auto parts in a trademark and false designation of

origin matter to review plaintiff expert's assessment of actual damages and defendant's profits.

- Estimated reasonable royalties and damages for a U.S. software development and licensing company. Assessments in multiple case involved patents for stateless packet-based processing technology in application delivery and security networking products.
- Estimated reasonable royalties and damages for a U.S. software development company. Assessments involved patents for instant search processing technology.
- Estimated reasonable royalties and damages for a Canadian pharmaceutical manufacturer in a patent infringement dispute.
- Estimated reasonable royalties and damages for a U.S. manufacturer of consumer global positioning system devices in a patent infringement dispute.
- Estimated reasonable royalties for trade secrets on behalf of a Taiwanese manufacturer of broadband networking and internet routing communication devices to determine the company's shareholder contribution to a multi-national joint venture.
- Assisted a U.S. information technology outsourcer in negotiations to grant license rights to a U.S. Government department by valuing a large portfolio of information technology-related trade secrets.
- Assisted a U.S. software developer in its IP-licensing compliance efforts with antitrust-related rulings and settlement agreements with the European Commission related to FRAND rates set by standard setting organizations.
- Retained as an expert by a U.S. property and casualty insurance carrier to estimate the value of medical research samples that were lost due to a freezer malfunction at a major university.
- Analyzed price erosion as a component of lost profits for a U.S. manufacturer of industrial chemicals involved in a patent infringement dispute and antitrust counterclaim.

Other Commercial Litigation

Expert Reports & Testimony

H. Cristina Chen-Oster and Shanna Orlich v. Goldman, Sachs, & Co. and The Goldman Sachs Group, Inc.

U.S. District Court for the Southern District of New York (Case 1:10-cv-06950-LBS -JCF)

- Expert opinions regarding duration of tenure in certain business units and frequency of cross-business unit performance reviews for potential class members involved in a gender discrimination lawsuit. (August 2014)

Zdzislaw Ptak v Black & Decker Corporation, Black & Decker (U.S.) Inc., DeWALT Industrial Tool Co., and Home Depot U.S.A., Inc.,

U.S. District Court for the Northern District of Illinois, Eastern Division (No.:08 CV 6212)

- Expert Report (June 2010)
- Deposition (August 2010)
- Expert opinions regarding consumer willingness-to-pay and cost-benefit analysis of a table saw safety feature.

Other Engagements

- Retained as a consulting expert for an asset-based lender to estimate lost profits related to the denial of an insurance claim.
- Analyzed fair market compensation for a real estate developer in an eminent domain matter. Assessed aspects of property value diminution.
- Performed a literature review of the economics of vertical and horizontal market definition to support expert's rebuttal in MTBE litigation.
- Performed statistical and econometric analysis for a food manufacturer in response to allegations of employment discrimination.

Economics and Business Analytics Consulting

- Estimated the market size and strategic opportunity for a specific business unit of a U.S. technology company.
- Assessed a sub-industry's economic impact on the U.S. economy for a consumer-packaged goods industry association. Analysis included estimate of the direct and indirect economic flows that result from supply chain purchases.
- Estimated the market size and drivers of political risk insurance premiums and market share.
- Prepared an impact assessment of the free trade agreement between the United States and another country. Assessment included identification of industries and companies with highest potential to be affected by the agreement and therefore potential trading and investment partners.

INVITED PRESENTATIONS AND PUBLICATIONS

- "Supreme Court Alters Trademark Landscape: A Discussion of Damages Post-Romag." Beverly Hills Bar Association, Webinar May 28, 2020.
- "Supreme Court to Decide Whether Willfulness is Required for Trademark Infringement." Beverly Hills Bar Association, Member Articles, January 28, 2020. <https://bhba.org/supreme-court-to-decide-whether-willfulness-is-required-for-trademark-infringement-damages/>

- “Intellectual Property in Fashion Law: Hot Topics and Recent Developments.” (Moderator) Beverly Hills Bar Association, December 5, 2019.
- “The Price of an Improperly Disclosed Social Media Ad.” *Law360*, February 8, 2019 (with Vera Golosker).
- “A Look at the Numbers - Old Biases in New Media: Discussing Disparities and How to Eliminate Bias in IP, Internet and New Media Law.” Beverly Hills Bar Association, January 10, 2019.
- “Royalty Accounting Demystified: Profit Participation & Contingent Compensation in Hollywood.” (Moderator) Beverly Hills Bar Association, August 9, 2018.
- “An In-Depth Examination of Working with Class Action Experts,” Bridgeport 2017 Class Action Litigation Conference - Los Angeles, April 7, 2017. <http://bridgeportce.com/bridgeportce/live-programs/2017-class-action-litigation-conference-los-angeles.html>
- “Trademark Infringement Damages: Fundamentals and Case Law,” ABA Young Lawyers Practical Tips Series Webinar, January 24, 2017.
- “Presenting damages at trial: How to relate your damages case to the jury,” Patent Disputes Forum North, Daily Journal Corporation, Menlo Park, CA, April 14, 2016. <http://www.callawyer.com/events/patent-disputes-forum-north/>
- Economic Expert Witness, National Institute for Trial Advocacy (NITA), Robert H. Hanley Advanced Trial Skills Program, San Francisco, CA, September 18, 2014.
- “Surveys Gaining Attention for Patent Damages,” Patent Disputes 2014, Thomson Reuters Legal Executive Institute, Costa Mesa, CA, May 6, 2014.
- “Apportionment for Patent Damages,” 2012 Patent Disputes Forum, Thomson Reuters West LegalEdCenter, Santa Clara, CA, November 14, 2012.
- “Expert Witness Cross-Exam Workshop,” The State Bar of California 85th Annual Meeting (With the Trial Advocacy Group), October 13-14, 2012.
- “Cross Examining Expert Witnesses,” LA County Bar Association (With the Trial Advocacy Group), October 8, 2012.
- “Unique Tips for Expert Witness Cross-Examination,” Women Lawyers Association of Los Angeles E-Newsletter: October 2012. <http://www.wlala.org/displaycommon.cfm?an=1&subarticlenbr=231>
- “If You Can’t Measure Income, Then Track Consumer Preferences: Did Orbitz Side Step Omitted Variable Bias with Predictive Analytics?” Econ One Twitter feed, June 28, 2012.
- “Cross Examining Expert Witnesses,” LA County Bar Association (with the Trial Advocacy Group), November 11, 2011.

- “Changes in the Patent Landscape: Legislative Bills and Judicial Decisions—How They Affect Life Sciences and Other Industries,” Health News - Exponent Health Sciences News Release, June 3, 2011 (J. Vanderhart, M. Villarraga, and K. Ong.)
- “Emerging Issues in Health Care Reimbursement,” Health News - Exponent Health Sciences News Release, August 20, 2010 (with R. Cantor, J. Schmier, and M. Mittelman).
- “Insights from an M&A monitor.” *Executive Counsel – C-level Insights for Business Leaders* 2009; 6(3):62–64 (with E. Gold and S. Andreassen-Henderson).
- “Bringing innovation to supply chain risk.” Textron ETC & OEC Joint Council Meeting, November 19, 2008.
- “Crossfire: Difficult-to-measure but important metrics.” Presented at Aviation Week Management Forums – Metrics Used by Top Performing Companies, September 16 – 17, 2008.
- Economic Expert Witness, National Institute for Trial Advocacy (NITA), Robert F. Hanley Advanced Advocacy Skills Program, Louisville, CO, June 27 – 28, 2007.
- PwC-Ropes & Gray Financial Expert Witness Training Program, Washington, DC, 2006.
- “International Privatization: Estimating the Returns to U.S. Acquirers of Foreign State-Owned Enterprises,” Ph.D. Dissertation, 2005.

PROFESSIONAL AND ACADEMIC HONORS

- PwC Chairman's Award, Washington, DC Metro - Technology Client Team, 2008
- PwC Chairman's Award, Florham Park, NJ - Grocery Manufacturers Association Team, 2007
- The Wharton School, University of Pennsylvania Doctoral Fellowship, 1998 – 2002
- GAO Special Commendation Award - Defense Acquisition Workforce Team, 1996
- The Honor Society of Phi Kappa Phi, 1992
- Excellence in Scholarship Award (For Best Graduating Student), University of Maryland School of Public Policy, 1992
- Gladys Noon Spellman Fellowship, University of Maryland School of Public Policy, 1991 – 1992
- Chessie Railroad Fellowship, University of Maryland School of Public Policy, 1990 – 1991

ACTIVE MEMBERSHIPS

- American Bar Association – Antitrust, Health Law, Intellectual Property, and Litigation Sections, *Associate Member*
- American Economic Association
- Beverly Hills Bar Association – IP, Internet & New Media Section, *Executive Board Vice Chair*; Litigation Section; Entertainment Section; Health Law Committee
- Los Angeles Intellectual Property Law Association