

AARON C. YEATER
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Mr. Yeater specializes in applying financial and economic analyses to complex business litigation. He is an expert on the evaluation of damages in antitrust matters, commercial disputes, and intellectual property (IP) claims. Mr. Yeater is particularly experienced in matters involving the intersection of IP and antitrust, including during merger reviews and litigation. He has also analyzed data to identify relevant volume of commerce for Sherman Act and state antitrust claims, and to inform analyses relevant to the Foreign Trade Antitrust Improvement Act (FTAIA). He has served as an expert witness, supported academic experts, and managed case teams in matters in a variety of industries, including media, high tech consumer products, telecommunications, pharmaceuticals, retail, and financial services.

In litigation matters, Mr. Yeater has provided assistance throughout all phases of pretrial and trial practice. This includes the development of models to analyze damages, critique of analyses produced by opposing experts, and support for preparation of expert testimony.

When advising clients, Mr. Yeater's work includes developing and critiquing analyses of competitive effects and efficiencies in high-profile mergers. He has worked closely with clients to prepare and analyze business data in a variety of circumstances, and has presented economic and financial analyses to state and federal regulators. He has also evaluated business practices for financial services firms and provided strategic support for clients in the pharmaceutical technology and agribusiness industries.

EDUCATION

M.B.A. Yale School of Management
B.A. College of Social Studies, Wesleyan University

SELECTED EXPERT CASE WORK

- *LovePop, Inc. vs. Paper Pop Cards, Inc., U.S. District Court, Massachusetts, Civil Action No. 1:17-cv-11017*
 - Testified at trial on lost profits damages due to alleged copyright and trademark infringement, and tortious interference claims, in the specialty card industry.
 - Jury found for our client (LovePop) on all claims, denying Paper Pop's claimed damages and awarding LovePop statutory damages and disgorgement of profits.
- *WQIS, et al., vs. Safe Harbor Pollution Insurance, et al., Supreme Court of the State of New York, Index No. 653001/13*
 - Submitted an expert report on lost profits damages from alleged infringement of trade secrets in the water pollution insurance industry. Case resolved favorably for clients (Safe Harbor) prior to trial.

SELECTED CONSULTING EXPERIENCE

Antitrust and Competition – Litigation

- Supported expert testifying for defendants against direct and indirect purchaser classes and direct action plaintiffs in *In re: TFT-LCD (Flat Panel) Antitrust Litigation*. Analysis included evaluation of cartel economics, examination of econometric models for evaluating impact across distribution chains, and calculation of total damages in federal and state claims.
 - Supported experts at trials for various defendants. Juries in two trials awarded damages consistent with defense expert’s testimony.
 - Supported counsel in briefing FTAIA issues considered at the US Court of Appeals for the Seventh Circuit in *Motorola Mobility LLC v. AU Optronics Corp., et al.*
- Supported expert testifying for one defendant against direct and indirect purchaser classes and direct action plaintiffs in *In re: CRT Antitrust Litigation*.
- Supported experts testifying for defendants against allegations that a branded pharmaceutical manufacturer acted to delay entry by generic pharmaceuticals. Analyses included assessments of proposed damages classes, market definition, competitive effects of alleged conduct, and estimation of claimed damages.
- Evaluated and prepared criticisms of plaintiffs’ damages models in a multibillion-dollar litigation in the semiconductor industry. Analysis included examination of sales forecasts and development of alternative forecasts. Supported counsel throughout multiyear discovery process.
- Evaluated and prepared criticisms of plaintiffs’ damages model in a multibillion-dollar litigation in the credit card industry. Analysis included examination of valuation assumptions, including discounting procedures, identification of unsubstantiated claims, and development of alternative valuation scenarios.

Antitrust and Competition – Mergers and Investigations

- Consulted to multiple leading social media platforms to address regulatory inquiries in multiple countries related to competition for advertising, media content, data, and privacy.
- Consulted to the Federal Trade Commission (FTC) on claimed merger efficiencies in a merger of shipping chemical providers. Supported expert testifying in trial; judge found for the FTC.
- Prepared analyses of competition among regional providers of industrial chemicals to respond to a FTC investigation, and presented to FTC staff. Case was resolved before administrative hearing.
- Prepared economic analyses of efficiencies for regulatory agencies in a \$60 billion merger in the oil field services industry.
- Supported party to a \$1 billion merger in the manufacture and distribution of cable infrastructure. Merger was approved by reviewing agency after second request issued.
- Supported expert preparing economic analyses of efficiencies for regulatory agencies in a \$55 billion merger in the cable industry.

Intellectual Property, Copyright, Trade Secrets, Patent Infringement, and False Advertising

- Consulted to counsel responding to plaintiffs' request for preliminary injunction to stop distribution of new digital video recorder technology (*In re: Dish Hopper*). Supported expert opinions regarding analysis of viewership data and development of experimental designs to test consumer preferences. Motions for preliminary injunction were rejected in multiple jurisdictions.
- Supported multiple experts in responding to trade dress infringement claims for consumer products including footwear, outdoor sports gear, fashion products, and automobiles in federal court and before the US International Trade Commission.
- Developed damages analysis to estimate lost sales due to alleged copyright infringement of music recording and publishing rights due to "cloud computing" technology, and evaluation of potential statutory damages.
- Supported experts in all aspects of preparation of expert reports regarding lost profits, reasonable royalties, and disgorgement damages in a number of consumer product patent infringement and trade secret matters.

Finance and Valuation

- Prepared valuation methodology for a \$100 million pharmaceutical product moving off of patent protection. Evaluated scenarios including generic entry and competitor response.
- Supported expert evaluating claims that an investment advisor failed to meet the appropriate standard of care in making fixed-income investments on behalf of a client. Reviewed industry practices in the context of a major financial crisis.
- Evaluated claimed losses related to "broker raiding" claims. Analyses included the estimation of lost future production of departed producers, historical turnover of producers and accounts, and contribution to profit (including detailed analyses of fixed and variable costs and discounting).
- Assisted leading expert in banking regulation in analyzing the investment procedures of a major American financial services conglomerate and the resulting selection of equity investments on behalf of investment trusts. Expert concluded that bank procedures were sound and resulting investments were appropriate, and the matter was settled in the client's favor prior to trial.
- Evaluated financial statements of publicly held mutual fund companies with up to \$500 billion in assets managed. Benchmarking of fund fee structures and operating costs helped clients demonstrate that fund fees were not excessive.
- Assisted expert with the evaluation of governance procedures for several large mutual funds. Developed framework to assess board structure and analyzed data to ensure the appropriateness of fee approval procedures.
- Assisted expert with preparation of expert testimony on due diligence procedures employed by a large investment bank advising clients and assessed resulting market reactions to a merger between US media conglomerates.

Media, Entertainment & Communications

- Consulted to leading social media platform to address regulatory inquiries in multiple countries related to competition for advertising, media content, data and privacy.
- Supported party to a \$1 billion merger in the manufacture and distribution of cable infrastructure. Merger was approved by reviewing agency after second request issued.
- Supported expert preparing economic analyses of efficiencies for regulatory agencies in a \$55 billion merger in the cable industry.
- Consulted to clients in several high-profile privacy-related litigations.

ARTICLES & PUBLICATIONS

The Challenges of Using Return on Capital as an Indicator of Monopoly Power, with Divya Mathur, Laurits R. Christensen and Laszlo Jakab, Analysis Group white paper (December 9, 2020)

“European Union – Two-Sided Markets, Platforms and Network Effects,” with Antoine Chapsal and Joshua White, chapter in *GCR Insights: E-Commerce Competition Enforcement Guide*, ed. Claire Jeffs (January 2019)

“The Ability to Achieve Lost Sales as a Consideration in Damages Analyses under Different Legal Frameworks,” with Rebecca Kirk Fair, *American Bar Association Section of Intellectual Property Law, Landslide*, Vol. 11 No. 2 (November/December 2018)

“The State of Pharma Class Certification After Asacol,” with Pavel Darling and Stephen Fink, *Law360* (December 18, 2018)

“Estimating Lost Sales Damages in Antitrust Cases: Can’t Count on Success,” with Rebecca Kirk Fair, *The Witness Chair*, California Society of Public Accountants, Issue 71 (Winter 2018)

“The Ability to Achieve Lost Sales as a Consideration in Damages Analyses,” with Rebecca Kirk Fair, in *Lost Profits Damages: Principles, Methods and Applications*, eds. Everett P. Harry, III and Jeffrey H. Kinrich, (2017)

“Competition Enforcement Role of the CFTC,” with Francesca Pisano, *ABA Antitrust Economics Committee Newsletter* (Fall 2016)

“Donning And Doffing Damages: Tyson Takeaways For Antitrust,” with Mark Lewis, *Law360* (May 12, 2016)

“Use and Abuse: The Myth of Divided Antitrust Economics,” with Pierre Cremieux, in *Global Antitrust Economics: Current Issues in Antitrust and Law & Economics*, eds. Douglas H. Ginsburg and Joshua D. Wright, Institute of Competition Law (March 21, 2016)

“The Fallacy Of Inferring Collusion From Countercyclical Prices,” with Dov Rothman, *ABA Antitrust Economics Committee Newsletter* (Spring 2015)

“Monday-Morning Quarterbacking and Antitrust Damages,” with Kelsey Shannon, *Law360* (January 10, 2014)

PRESENTATIONS & SPEAKING ENGAGEMENTS

Moderator, “Platforms and Advertising: Implications of Digital Advertising for Competition and Consumer Protection,” Concurrences Webinar (October 2020)

Panelist, “Digital Platforms: Innovation, Antitrust, Privacy & the Internet of Things,” UIC John Marshall Law School, Chicago, IL (March 2020)

Moderator, “Tech-Savvy and Talented: Competition in Employment Practices,” ABA Antitrust Section Webinar (May 2018)

Panelist, “International Market Power and Licensing in IP-Intensive Industries,” 2nd Annual GCR Live – California (May 2018)

Presenter, “IP Licensing and Antitrust Law: Key Issues and Considerations in 2018,” Knowledge Group Webinar (April 2018)

Panelist, “‘Best’ Practices for Working with Experts,” American Bar Association Roundtable (June 6, 2017)

Co-chair, “GCR Live 2nd Annual Cartels,” Global Competition Review, Washington, DC (March 28, 2017)

Commentator, “2017 Antitrust Trends,” Concurrences 2017 Antitrust Writing Awards Dinner, Washington DC (March 28, 2017)

Presenter, “Emerging Antitrust Issues: Non-Reportable Transactions Explored,” Knowledge Group Webinar (November 2014)