

**DAVID ARON SMITH, PH.D.**  
**Vice President**

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Dr. Smith specializes in the application of microeconomics, statistics, and econometrics in the context of litigation and business disputes. He has served as an expert and conducted economic analyses in support of academic and industry experts in complex litigation matters involving antitrust, finance, class certification, copyright, labor and employment, trade secrets, and in contractual disputes. In antitrust engagements, Dr. Smith has led teams on both civil and criminal matters that have investigated allegations of monopolization, price discrimination, exclusive dealing, price-fixing, and bid rigging. His finance experience includes matters involving securities fraud, shareholder disputes, earnings stripping, loss causation, due diligence practices, fiduciary duty, and failure to disclose material information. Dr. Smith has served as an expert witness in matters involving breach of contract, competitive restraints, price discrimination, labor disputes, and personal injury. He has worked closely with attorneys in all phases of litigation, including developing case strategy, presenting economic models, critiquing opposing experts' analyses, developing trial demonstratives, and preparing expert witnesses. Dr. Smith has worked on behalf of the US Department of Justice (DOJ) and firms across a range of industries, including financial services, automotive, technology, media, pharmaceuticals, manufacturing, health care, payment card services, private equity, and transportation. He is a contributor to the American Bar Association publication *Proving Antitrust Damages*. Prior to joining Analysis Group, he taught undergraduate economics at The University of Chicago, and worked in management consulting and investment banking. In his doctoral studies, Dr. Smith specialized in industrial organization and finance.

**EDUCATION**

2013	Ph.D., economics, The University of Chicago
2012	M.A., economics, The University of Chicago
2006	B.A., economics and philosophy, Pomona College

**PROFESSIONAL EXPERIENCE**

2013–Present	Analysis Group, Inc. <i>Vice President</i> <i>Manager</i> <i>Associate</i>
2010	L.E.K. Consulting <i>Summer Consultant</i>
2008–2009	Analysis Group, Inc. <i>Senior Analyst</i> <i>Analyst</i>
2006–2008	JPMorgan Securities, Inc., Structured Finance Group <i>Analyst</i>

## EXPERT ENGAGEMENTS

- ***Al Piemonte Ford Sales, Incl., et al. v. Ford Motor Company***  
*Illinois Motor Vehicle Review Board*  
Testified in administrative hearing on behalf of Ford responding to allegations that Ford's standards to sell electric vehicles transferred market power away from dealers and were arbitrary.
- ***DoubleLine Capital LP, et al. v. Odebrecht Finance Ltd., et al.***  
*US District Court, Southern District of New York*  
Served as testifying expert on behalf of defendants in a securities fraud litigation arising from a Brazilian government investigation referred to as "Operation Car Wash." Submitted rebuttal report addressing plaintiffs' expert's event study and damages analysis.
- **Confidential non-compete dispute**  
*Circuit Court, State of Florida*  
Served as plaintiff's consulting expert to assess lost profits resulting from a group of medical providers who had breached non-compete provisions in their employment agreements.
- **Confidential employment arbitration**  
*American Arbitration Association*  
Testified in arbitration as damages expert on behalf of injured parties alleging breach of employment agreements and harm to reputation. Submitted affirmative expert report addressing disgorgement of compensation, lost profits, and diminished quality of life due to reputational harm.
- **Automotive dealer price discrimination litigation**  
*US District Court, Eastern District of Virginia (Alexandria Division)*  
Served as testifying expert on behalf of an automobile manufacturer in litigation involving allegations of price discrimination in violation of state law. Submitted affirmative and rebuttal expert reports addressing lost profits and other damages.
- **Confidential personal injury matter**  
Served as testifying expert on behalf of injured party. Estimated loss of wages, household services, accompaniment, and enjoyment of life. Provided consulting support in mediation and settlement negotiations.
- **Chemical manufacturer dispute**  
*US District Court, District of Oregon*  
Served as consulting expert on commercial damages and lost profits resulting from the delivery and disposal of an ineffective chemical solvent. Assisted in witness preparation and settlement evaluation.

## SELECTED LITIGATION ASSIGNMENTS

### Antitrust and Competition

- ***USA v. Jayson Penn, et al.***  
*US District Court, District of Colorado*  
Over three trials, supported expert witnesses and provided consulting support to counsel on behalf of all defendants in a criminal antitrust matter involving allegations of price-fixing agreements in the broiler chicken industry. Following the third trial, a jury acquitted all defendants. The matter won *Global Competition Review's* 2023 "Behavioural matter of the year – Americas."

- ***USA v. Jason McGuire, et al.***  
*US District Court, District of Colorado*  
Supported multiple expert witnesses and provided consulting support to counsel on behalf of all defendants in a criminal antitrust matter involving allegations of price-fixing agreements in the broiler chicken industry. The DOJ ultimately dropped charges against all defendants.
- ***Preston Hollow Capital LLC v. Nuveen LLC, et al.***  
*US District Court, Southern District of New York*  
Supported damages expert in responding to alleged tortious interference and conspiracy to boycott in the high-yield municipal bond market. Analysis included an assessment of claimed damages and of the risks associated with plaintiff's investment offerings.
- ***Confidential Collusion Arbitration***  
*American Arbitration Association*  
Supported expert rebutting an analysis of the effects of an alleged conspiracy to restrict competition for data integration services on two automotive dealer data management platforms.
- ***US, et al. v. Anthem, Inc., et al.***  
*US District Court, District of Columbia*  
Supported DOJ's expert in an analysis of industry structure and competitive effects of a proposed merger between two national commercial health care insurers. The merger was enjoined.
- ***Aya Healthcare Services Inc., et al. v. AMN Healthcare Inc.***  
*US District Court, Southern District of California*  
Supported expert in an analysis of market definition and assessment of competitive effects of employee restraints, no-poach agreements, and vendor exclusivity agreements. Supported expert in calculations of antitrust damages stemming from exclusionary and retaliatory conduct.
- ***In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation***  
*US District Court, Eastern District of New York*  
Supported expert in an analysis of class certification related to an alleged conspiracy among the Visa and Mastercard networks and certain banks to fix default credit and debit interchange fees.

## **Finance and Securities**

- **Various disputes against Navient Corporation**  
Consulted to various state attorneys general by analyzing characteristics and content of customer calls in a matter alleging unfair and deceptive practices of a student loan servicing company.
- ***In re: Twitter Inc. Securities Litigation***  
*US District Court, Northern District of California*  
Supported marketing expert to evaluate the relevance of certain user metrics in assessing Twitter's platform growth and user engagement. Rebutted the analyses of an opposing marketing expert.
- **Various securities fraud matters**  
For numerous Rule 10b-5 and Section 11 securities litigation matters and US Securities and Exchange Commission (SEC) investigations, supported loss-causation, damages, and industry experts to estimate the effect of corporate disclosures on security prices and damages analyses. Supported experts in the preparation of numerous reports and testimony on loss causation and damages.
- ***SEC v. RPM International, Inc.***  
*US District Court, District of Columbia*

Supported defendant's expert to evaluate the significance and materiality to a reasonable investor of an alternative timing of a loss contingency recognition. RPM reached a favorable settlement with the SEC.

- **Confidential IRS earnings stripping matter**  
Supported expert in estimating the economic benefit of intercompany debt issuance. Developed default probability model to estimate the fair value of intercompany debt.
- **Various mortgage-backed securities matters**  
Supported loss-causation and damages experts to evaluate factors affecting loan performance and the performance of securitized products backed by residential mortgages. Supported re-underwriting experts in the analysis of due diligence and underwriting issues related to the purchase and securitization of residential mortgage loans.
- **Securities lending litigation**  
Supported multiple experts in the analysis of customs and practices with respect to securities lending programs, investment compliance and suitability, and compliance with fiduciary duties.
- ***In re: Bear Stearns Litigation***  
*Supreme Court of the State of New York*  
Supported expert testimony estimating the effect of Bear Stearns's liquidity on its stock price.
- **Commodity market price manipulation litigation**  
Supported expert testimony regarding the effects of trades on a commodity futures market to determine the existence of market manipulation.

#### **Breach of Contract**

- **Confidential wrongful discharge matter**  
*US District Court, Western District of Washington*  
Supported expert in estimating economic loss resulting from alleged wrongful discharge.
- **Transportation logistics dispute**  
*Court of Chancery, State of Delaware*  
Supported trucking and logistics expert to estimate damages due to discontinued service of certain linehaul routes.
- **Non-solicitation dispute**  
*US District Court, District of Texas (Houston Division)*  
Supported expert on damages stemming from violations of non-solicitation agreements.
- **Generic drug breach of contract wholesaler dispute**  
Supported expert in the analysis of generic drug purchases by an operator of long-term care pharmacies from a generic drug wholesaler.
- **Retail breach of contract dispute**  
*American Arbitration Association*  
Supported experts in the analysis of retail economics and brand strategy in the context of determining damages attributable to an alleged breach of contract. Analyses included the development of forecasts of sales of relevant brands and costs associated with brand management and expansion.

## Other Litigation

- **Confidential medical device patent infringement arbitration**  
*American Arbitration Association*  
Supported defendant's accounting expert to rebut an opposing expert's damages calculations in patent infringement arbitration related to medical devices.
- ***NewRiver Inc. v. Newkirk Products, Inc.***  
*US District Court, District of Massachusetts*  
Estimated lost profits and reasonable damages involving an alleged infringement of a patented technology commercialized in financial software packages. Analyzed the relevant market and estimated the economic impact of the alleged infringement through lost profits and reasonable royalty damages analyses.
- ***Robert S. Hamilton v. US***  
*US District Court, District of Colorado*  
Supported appraisal expert in refuting plaintiff's appraised values of three conservation easements.
- ***US v. Stryker Biotech, LLC, et al.***  
*US District Court, District of Massachusetts*  
Developed damages model to compute the effect of off-label marketing in investigations in the pharmaceutical industry.

## SELECTED PUBLICATIONS

- "Economic Experts in Criminal Antitrust Price Fixing Litigation: Discovery and Scope" (with Solvejg Wewel, Samuel Weglein, David Toniatti, and Chris Feige), *Antitrust Report*, Issue 3, October 2022.
- "Criminal Antitrust: The Discovery Process and the Role of Economic Experts" (with Solvejg Wewel, Samuel Weglein, and Chris Feige), *The Exchange, Newsletter of the American Bar Association Section of Antitrust Law Insurance and Financial Services Committee*, Summer 2022.
- "Algorithmic Pricing: What Every Antitrust Lawyer Needs to Know" (with Steve Tadelis), *The Price Point, Newsletter of the American Bar Association Section of Antitrust Law Pricing Conduct Committee*, Volume 22, Issue 1 (2021) (Nominated for the 2022 Concurrences Antitrust Writing Award in the category of Business Article: Economics).
- "Challenges for Empirical Research on RPM" (with Alexander MacKay), *Review of Industrial Organization* (2017), 50(2): 209–220.
- "Economic and Financial Concepts" (with Jeff Cohen and Divya Mathur), chapter in *Proving Antitrust Damages: Legal and Economic Issues*, 3rd Edition, American Bar Association (2017).
- "The Effects of Sarbanes-Oxley on Reporting Profits," *Journal of Accounting & Marketing* (2015), 4:124.
- "The Empirical Effects of Minimum Resale Price Maintenance" (with Alexander MacKay), *Kilts Booth Marketing Series* (2014), Paper No. 2-006.
- "Essays on Law & Economics," Ph.D. dissertation, The University of Chicago (2013).
- "Credit Damage: Causes, Consequences and Valuation" (with Stan V. Smith and Stephanie Uhl), *Forensic Rehabilitation & Economics* (2011), 4(1): 27–32.

“Estimating the Value of Family Household Management Services” (with Stan V. Smith and Stephanie Uhl), *Forensic Rehabilitation & Economics* (2010), 3(2): 85–94.

“Jury Verdicts in Drunken Driving Cases” (with Stan V. Smith, Eduard Zaloshnja, Ted Miller, and Rebecca Spicer), *Review of Law & Economics* (2008), 4(1): 475–498.

## PRESENTATIONS

“Is Debt to Income a Useful Predictor of Mortgage Performance?” 42nd Annual Eastern Economic Association Conference, February 27, 2016.

“Can Debt-to-Income Predict Mortgage Performance?” Illinois Economic Association 44th Annual Meetings, October 17, 2014.

“Jobs for Economists, and How to Get Them,” The University of Chicago, November 1, 2013.

“The Effects of Resale Price Maintenance on Prices and Output,” The University of Chicago, Applied Microeconomics Working Group, January 7, 2013.

“Essays on Law & Economics,” The University of Chicago, Graduate Economics Workshop, November 19, 2012.

“How Does Minimum Resale Price Maintenance Affect Prices and Output?” Illinois Economic Association 42nd Annual Meetings, October 19, 2012.

“Credit Damages: Causes, Consequences and Valuation,” Eastern Economic Association Annual Conference, February 28, 2009.

“Household Services: An Empirical Analysis of 24 SMSAs,” Eastern Economic Association Annual Conference, February 27, 2009.

## TEACHING EXPERIENCE

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| 2013 | The University of Chicago<br><i>Lecturer in the College, Elements of Economic Analysis II</i><br><br>The University of Chicago Booth School of Business<br><i>Review Session Lecturer, Business Statistics</i><br><br>The University of Chicago Law School<br><i>Review Session Lecturer, Advanced Law &amp; Economics</i> |
| 2012 | The University of Chicago<br><i>Review Session Lecturer, Introduction to Microeconomics</i>  |
| 2011 | The University of Chicago Booth School of Business<br><i>Review Session Lecturer, Business Statistics</i>  |

## PROFESSIONAL AFFILIATIONS

American Economic Association  
*Member*

American Bar Association Antitrust Law Section, Insurance & Financial Services Committee  
*Member, Young Economist Representative (2022-Present)*