

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

H&R BLOCK, INC.,
2SS HOLDINGS, INC., and
TA IX L.P.

Defendants.

Civil Action No. 1:11-cv-00948 (BAH)
Judge Beryl A. Howell

DECLARATION OF DR. CHRISTINE SIEGWARTH MEYER

United States District Court
for the District of Columbia

United States of America,

Plaintiff,

v.

H&R Block, Inc.,
2SS Holdings, Inc.,
TA IX L.P.,

Defendants.

Civil Action No. 11-00948 (BAH)
Judge Beryl A. Howell

Declaration of Dr. Christine Siegwarth Meyer

September 1, 2011

I. INTRODUCTION

A. Qualifications and Assignment

1. I am an economist and Vice President at National Economic Research Associates, Inc. (“NERA”). I have analyzed competition and the competitive impact of mergers in a wide range of industries and have consulted extensively on matters involving computer software. I have provided written and oral testimony about my analysis and have presented analyses to the Federal Trade Commission and Department of Justice. I received my Ph.D. in economics from the Massachusetts Institute of Technology. I taught economics and statistics at Bentley College and Colgate University. A complete list of my qualifications, prior testimony and publications can be found in my *curriculum vitae*, which is appended to this declaration as Exhibit 1.
2. Counsel for H&R Block, Inc. (“HRB”) and 2SS Holdings, Inc. and TA IX L.P. (collectively, “2SS”) has asked me to analyze the likely competitive effects of the proposed merger between HRB and 2SS and to review and comment on the reports of Dr. Warren-Boulton.¹

B. Rationale for the Transaction

3. On October 13, 2010, HRB agreed to purchase 2SS for \$287.5 million. The TaxACT business will provide HRB with a “fighter brand” to compete in the value segment of the digital DIY tax preparation business without diluting the premium HRB brand.² The transaction will also generate substantial synergies. A lower cost structure will allow HRB to compete aggressively against Intuit and other tax preparation methods.

II. MARKET DEFINITION

4. The appropriate relevant market for analysis of the HRB-TaxACT merger is “all tax preparation methods,” because all methods of tax preparation compete with and constrain the actions of HRB, TaxACT, and other firms that offer digital DIY tax preparation products.

¹ I understand that discovery in this matter is ongoing. I reserve the right to supplement my analyses should I receive additional information or if additional research or reflection leads me to refine my opinions.

² HRB-DOJ-00347098

A. Assisted Tax Preparation Competes with HRB, TaxACT and Other Digital DIY Tax Preparation Products

5. Assisted tax preparation was used by approximately 60% of all tax filers in 2009 and was the most popular method of tax preparation for both low and high income taxpayers at any tax return complexity level.³
6. Additionally, the pricing of assisted tax preparation overlaps with the pricing of digital DIY products.⁴ Competition sufficient to constrain pricing need not rely on all – or even most – consumers being willing to switch tax preparation methods in response to a price increase. In any industry without price discrimination (as this industry is), marginal consumers, i.e., those who would switch in response to a price increase, protect infra-marginal consumers.
7. HRB and Intuit clearly view assisted tax preparation as competition for their digital DIY products, and HRB views DIY methods as competition for its tax stores.⁵ Empirical data also substantiates the evidence from internal documents and deposition testimony that consumers would switch to assisted tax preparation methods in response to a price increase. Specifically, data from an HRB pricing simulator study – a conjoint study described in detail in my report – indicate that the second and third largest diversion ratios from H&R Block At Home (formerly know as TaxCut) are to tax stores and CPAs/accountants, at 22% and 20%, respectively.⁶ These are much higher than the diversion ratio from H&R Block At Home to

³ IRS data TY2008.

⁴ For example, according to an HRB marketing study (HRB-DOJ-00359542, pg. 38), the 25th percentile of the assisted tax preparation prices at various assisted tax preparation outlets (i.e., HRB, Jackson-Hewitt, Liberty Tax, 1-person CPA or small CPA) are all below \$100 in 2010 (TY2009), which is lower than the prices of some high-end digital DIY products in the same year. For example, the cost of filing federal plus state taxes using HRB's Best of Both was \$109.90 in 2010 (TY2009). (HRB list prices.xls)

⁵ H&R Block's 2010 Annual Report, pg. 2. **REDACTED**.

⁶ In my report, the diversion ratios were obtained from a pricing simulator presentation (HRB-DOJ-00170966). Based on the pricing simulator presentation, the diversion from H&R Block At Home to CPA and accountants is the largest, and the diversion from H&R Block At Home to HRB tax stores is the fourth largest. Both diversion ratios are significantly higher than the diversion to TaxACT. See Expert Report of Dr. Christine Siegarth Meyer, August 12, 2011 ("Meyer Report"), ¶, 44-45, 83. I did additional analysis using the pricing simulator data after my report was submitted. In particular, I ran a regression analysis using the entire pricing simulator data set to determine the diversion ratios from HRB to various tax preparation methods. The diversion ratios cited in the main text of this declaration reflect those obtained from the new regression analysis. (HRB-DOJ-00633253.xls.)

TaxACT, which is 5%.⁷ This is strong evidence that assisted tax preparation is a closer competitor to HRB than TaxACT is.

B. IRS Fillable Forms and Pen-and-Paper Compete with HRB, TaxACT, and other Digital DIY Tax Preparation Products

8. HRB and TaxACT internal documents, as well as testimony from other digital DIY competitors, indicate that pen-and-paper and fillable forms – electronic forms available on the IRS website that assist users with calculations and allow them to e-file their returns – compete with HRB, TaxACT, and other digital DIY products.⁸ In addition, data from a TaxACT survey, described in detail in my report, and the HRB price simulator study provide empirical evidence that TaxACT and HRB’s digital DIY products compete with pen-and-paper.⁹ The survey data show that pen-and-paper is a closer competitor to TaxACT than is HRB. Specifically, the overall percentage of TaxACT customers who would switch to pen-and-paper in the event they were displeased with TaxACT’s price, quality or functionality was 32 percent, far higher than the overall percentage of TaxACT customers who would switch to HRB.¹⁰ Likewise, the pricing simulator data indicate that the fourth largest diversion from H&R Block At Home, in the event of a price increase, is to pen-and-paper, which is about twice as large as the diversion to TaxACT.¹¹

C. The Hypothetical Monopolist Test

9. The merging parties’ products compete with assisted tax preparation, pen-and-paper, and other digital DIY products. Moreover, as explained above, they compete substantially more closely with assisted tax preparation or pen-and-paper or both than they compete against each

⁷ HRB-DOJ-00633253.xls.

⁸ REDACTED; 2SS-DUNLe-0010477; HRB-DOJ-00359542, pg. 9.

⁹ TaxAct Study Findings 4_29_2011_Privileged (2).docx. For a description of the TaxACT survey, please see my report (Meyer Report, ¶. 50).

¹⁰ TaxAct Study Findings 4_29_2011_Privileged (2).docx. This survey sheds light on the question at issue, namely, the likely consumer response to a price increase or similar change in non-price attributes. Clearly, this survey is closer to the concept of a diversion ratio than are data on overall switching between products.

¹¹ HRB-DOJ-00633253.xls. The diversion ratio from H&R Block At Home to pen-and-paper based on the pricing simulator presentation, which is discussed in my report, is also significantly higher than the diversion from H&R Block At Home to TaxACT. (HRB-DOJ-00170966; Meyer Report, ¶. 49, 83.)

other. If the relevant product market is defined as digital DIY tax preparation products, a hypothetical monopolist would see more substitution to products outside that purported market than to any of the products within the purported market. The Merger Guidelines specifically speak to this issue: “When applying the hypothetical monopolist test to define a market around a product offered by one of the merging firms, if the market includes a second product, the Agencies will normally also include a third product if that third product is a closer substitute for the first product than is the second product.”¹² Therefore, there is no principled basis upon which to draw arbitrary boundaries around the digital subset of tax preparation products. The relevant product market consists of all methods of tax preparation for U.S. federal and state taxes.

D. Market Shares and HHIs

10. Table 3 of my report lists the market shares and the pre-merger and post-merger HHI based on the number of returns for the market participants in the relevant market, namely of all tax preparation methods.¹³ The merging parties have low shares (15.1 percent for HRB and 5.7 percent for TaxACT) and the combined market share post-merger is only 20.8 percent.¹⁴ According to DOJ’s Merger Guidelines, the post-merger HHI indicates that this will remain an unconcentrated market after the merger and, as such, anticompetitive effects are unlikely.¹⁵ This, alone, should be sufficient to regard this merger as lawful. However, because the plaintiffs allege specific anticompetitive effects, I address these issues in the following sections of this declaration.

III. UNILATERAL EFFECTS

11. According to the theory of unilateral effects, a merger may harm competition if the products sold by the merging parties are close competitors and take substantial sales from each other.

¹² Horizontal Merger Guidelines by U.S. Department of Justice and Federal Trade Commission, August 19, 2010, (“Merger Guidelines”), Section 4.1.1.

¹³ Meyer Report, Table 3.

¹⁴ The returns filed through HRB franchise stores are counted towards HRB’s market share. This likely overestimates the true market share of HRB since HRB franchise stores are not HRB-owned.

¹⁵ The Merger Guidelines classify markets with an HHI below 1500 as an unconcentrated market. Merger Guidelines, Section 5.3.

Unilateral effects are unlikely in this case because (a) the firms' products compete with many other tax preparation methods, (b) the merging firms are not particularly close competitors, (c) the merger results in substantial cost-saving efficiencies for the merging parties, and (d) entry, expansion, or repositioning by existing or new firms would constrain any anticompetitive price increase.

12. First, as described above, the market for tax preparation will remain unconcentrated with many competitors after the merger. The pricing of HRB and TaxACT will continue to be constrained by assisted tax preparation, pen-and-paper and many other digital DIY products, including CompleteTax, TaxSlayer, TaxBrain, OnePriceTaxes, OnLine Taxes, ExpressTaxRefund.com, TaxSimple, Jackson Hewitt Online, and TaxHawk.
13. Second, H&R Block At Home and TaxACT do not compete particularly closely. Internal documents and deposition testimony from HRB and 2SS's executives, employees, and competitors reveal that that the products have different attributes, vary considerably in price, and position themselves to attract different types of customers. Specifically, H&R Block At Home is a premium brand with a goal of offering high-end software products while TaxACT is a value product focused on acquiring customers based on price.¹⁶ HRB's marketing presentations and email correspondence demonstrate that it focuses on retaining strong brand recognition.¹⁷ In contrast, the crux of TaxACT's marketing strategy is its free product offering.¹⁸
14. Furthermore, empirical evidence indicates low diversion between H&R Block At Home and TaxACT. First, the price simulator data indicate that the diversion rate from HRB to TaxACT is only 5.4 percent.¹⁹ Second, the survey of TaxACT customers indicates that only 6 percent would switch to H&R Block At Home in the event that they were dissatisfied with

¹⁶ TaxACT called itself a "Champion of free offerings to drive cost-effective customer acquisition." (2SS-DUNLe-0020105); HRB-DOJ-50046726; HRB-DOJ-50194587; HRB-DOJ-00348453

¹⁷ HRB-DOJ-50046726; HRB-DOJ-50194587

¹⁸ See, for example, <http://www.TaxACT.com/press/companyvalues.asp>, accessed on August 9, 2011; 2SS-DUNLe-0020088-89; 2SS-KINJe-0003561.

¹⁹ HRB-DOJ-00633253.xls. The diversion ratio from HRB to TaxACT based on the pricing simulator presentation discussed in my report is 1.6% (HRB-DOJ-00170966, Meyer Report, ¶. 83.)

TaxACT.²⁰ These empirical studies indicate that TaxACT and HRB are not each other's closest substitutes.²¹

15. Third, HRB has analyzed the operations and costs of both firms and determined that it is likely to realize substantial variable and fixed cost efficiencies as a result of this acquisition.²² The incremental cost efficiencies are expected to equal \$ [REDACTED] million per year when they are fully implemented in FY 2014. This represents a [REDACTED] percent reduction in incremental costs each year.²³ Incremental costs are the types of cost reductions that, as stated in the Merger Guidelines, "may reduce or reverse any increases in the merged firm's incentive to elevate price."²⁴ In addition, the fixed cost efficiencies from this transaction are estimated to be \$ [REDACTED] million per year when they are fully implemented in FY 2014. This represents a [REDACTED] percent reduction in fixed costs each year.²⁵ HRB's experience with past fixed cost reductions indicates that these cost reductions are also likely to lead to pro-competitive effects for consumers, such as lower prices or increased marketing.²⁶
16. Last, as described below, entry, expansion, and/or repositioning by existing or new firms in this case is likely to protect consumers in the event of a price increase, or to prevent a price increase from happening in the first place.

²⁰ The percentage of TaxACT customers that would switch to H&R Block At Home ranged from 4 to 10 percent, with a weighted average of only 6 percent. (TaxAct Study Findings 4_29_2011_Privileged (2).docx.)

²¹ Surveys are valuable tools and often used in merger analysis to understand diversion ratios and patterns of substitution. See, for example, Rubinfeld, Daniel, "Econometric Issues in Antitrust Analysis," *Journal of Institutional and Theoretical Economics*, 2010, vol. 166, pg. 62-77 at pg. 63.

²² HRB Second Request Response, February 11, 2011, pg. 25 – 37; Synergy update_7 20 11.xlsx; and 2SS and TA Response to First Set of Interrogatories, July 22, 2011.

²³ Meyer Report, ¶. 91. The percentage reduction in incremental costs in my report has been revised by incorporating data from additional sources. The revision is reflected in my errata sheet. See Errata Sheet for Expert Report of Dr. Christine Siegwath Meyer, ("Errata Sheet"), August 19, 2011.

²⁴ Merger Guidelines, Section 10.

²⁵ Meyer Report, ¶. 92. The percentage reduction in fixed costs in my report has also been revised in my errata sheet. (Errata Sheet).

²⁶ Interview with Jason Houseworth, August 1, 2011. This is consistent with economic theory showing that a decrease in fixed costs can lead to lower prices and/or higher quality, both of which benefit consumers. (Rubinovitz, Robert N., "New Thinking on the Role of Fixed Cost Savings in Merger Analysis," *The Antitrust Source*, April 2008.)

IV. COORDINATED EFFECTS

17. Mergers may also raise competitive concerns because of coordinated effects. Dr. Warren-Boulton contends that this merger will eliminate a “maverick” from the marketplace, thus increasing the likelihood of coordinated behavior by the remaining marketplace participants. The Merger Guidelines define a maverick as “a firm that plays a disruptive role in the market to the benefit of customers.”²⁷ TaxACT is not a maverick. All of the digital DIY firms have, at one time or another, offered free and reduced prices and developed and introduced new, innovative features.²⁸ Indeed, innovation – in pricing, features, and marketing approaches – defines competition in a dynamic, high-tech sector such as software. Thus, evidence of TaxACT’s innovative, competitive behavior merely reflects marketplace realities and does not make TaxACT a maverick.
18. Moreover, Dr. Warren-Boulton’s alleged market exhibits significant structural barriers to coordination, including (a) differentiated products, (b) non-transparent pricing, (c) non-alignment of the firms’ incentives, (d) a third party (the IRS) with an interest in promoting low-cost tax preparation – and the ability to do so, and, (e) entry, expansion or repositioning to thwart any attempted anticompetitive actions. First, products sold by the firms are differentiated, which, by itself, makes coordination more difficult than in a market with homogeneous products.²⁹ Even if coordination were possible on one element of competition – for example, price – firms could undercut that coordination by increasing innovation. Second, there are elements of pricing that are not transparent, such as promotions to select customers, which can be used to undercut any coordinated agreement, making it difficult for other firms in the industry to monitor the competition and coordinate their offerings. Third, firms in this industry have very different corporate structures and will have less symmetric product portfolios following the merger, further reducing the incentive and ability to coordinate successfully.³⁰ HRB will have a value and a premium product, in addition to its

²⁷ Merger Guidelines, Section 2.1.5.

²⁸ See Meyer Report, ¶. 95-108 for examples.

²⁹ See, for example, Scherer, F.M, and Ross, David, *Industrial Market Structure and Economic Performance 3rd Edition*. Boston: Houghton-Mifflin Company, 1990, pg. 279-285.

³⁰ For example, if Intuit believes that an increase in TurboTax’s price may affect the demand for Quicken, and/or HRB believes that an increase in H&R Block At Home’s price would affect the demand for assisted tax

storefront franchises, while Intuit's product portfolio includes a premium product along with its other financial services products. Fourth, the direct involvement of the IRS and the FFA, particularly in the free and value segments, is another structural barrier to coordination. In the past, the IRS has implemented programs to expand the use of e-filing and the availability of free and low-cost tax filing software, and it continues to examine ways to increase participation in e-filing.³¹ There is no reason to believe that this will not continue after the merger. Lastly, as will be explained below, entry, expansion or repositioning would thwart any attempted anticompetitive actions.

V. ENTRY, EXPANSION, AND REPOSITIONING

19. Entry of new firms, expansion by existing firms, and/or repositioning of products by existing firms can serve to limit or offset any potential unilateral or coordinated anticompetitive actions by the merged entity. Even Dr. Warren-Boulton's narrowly defined market includes other firms that could appeal to customer demand if it was no longer being satisfied by the merged entity. First, several robust competitors – such as Rhodes Financial Services' TaxSlayer, Tax Hawk's FreeTaxUSA and TaxHawk.com, Thomson Reuters' TaxSimple, Jackson Hewitt's online digital DIY product, and OnePriceTaxes.com – are poised to expand or enter in the event of a profit opportunity due to an anticompetitive price increase.³² Second, competitors have stated that they have excess capacity; moreover, they could expand capacity relatively quickly and would do so in response to a profit opportunity.³³ Finally, there are several ways to enter the tax preparation market. Companies such as HRB and **REDACTED** recognize that the entry of new firms into the digital DIY space is not difficult.³⁴

preparation services, then the two firms are unlikely to be able to come to a tacit agreement on the coordinated price changes for their digital tax preparation products.

³¹ INT-DOJ0014427-4674.

³² RHO-DOJ-000123; Interview with J. Rhodes, August 11, 2011; Declaration of Dane Kimber, May 5, 2011, pg. 7-8; Interview with Dane Kimber, August 11, 2011; THK-DOJ-000088; TR000016.

³³ See, for example, **REDACTED**

³⁴ **REDACTED** (HRB-DOJ-00104173, pg. 5). Deposition of Charles Petz, July 25, 2011, pg. 36-37.

Each year new firms enter, typically offering relatively simple forms at low prices. The FFA also aids new entrants.³⁵

VI. REBUTTAL OF DR. WARREN-BOULTON'S REPORT

20. Dr. Warren-Boulton's analysis suffers from numerous flaws, which lead to his erroneous conclusions. In this declaration, I identify some of the most egregious among them: (1) inappropriate use of switching data; (2) his market definition test assumes his conclusion; and (3) his merger simulation is inappropriate.³⁶
21. The fundamental flaw of Dr. Warren-Boulton's analysis – and indeed a linchpin for his entire analysis and each and every conclusion – is his inappropriate use of switching data. Data on historical switching between various tax preparation methods do not measure the degree of competition between firms. While Dr. Warren-Boulton acknowledges that switching rate is not the proper type of data to be used in antitrust analysis, he nevertheless plows ahead and continues to use it, ostensibly because it provides “evidence” for the conclusions that he would like to reach.
22. The proper measure of competition for antitrust analysis is a diversion ratio, namely, the percentage of customers who switch to a competing product *as a result of price increase*. There is absolutely no reason to believe – and indeed, Dr. Warren-Boulton provides none – that the true diversion ratio is either similar to or different from general switching between products. Indeed, the evidence regarding actual diversion is available and clearly shows that historical switching data is not indicative of diversion. Therefore, Dr. Warren-Boulton's hypothetical market test and merger simulation analysis are a classic example of “garbage in-garbage out.” A veneer of formality and rigor cannot convert irrelevant data into valid conclusions.
23. Furthermore, Dr. Warren-Boulton's application of the SSNIP market definition test is misguided because he begins by assuming a conclusion and then asking whether the SSNIP

³⁵ Deposition of Mark Ernst, August 5, 2011, pg. 43-44; Interview with J. Rhodes, August 11, 2011.

³⁶ Please refer to my report for a more complete list of flaws from which Dr. Warren-Boulton's analyses suffer.

test confirms his assumption. Specifically, he assumes that digital DIY products constitute a relevant antitrust market without first asking which tax preparation methods compete most closely with the merging products. In fact, both assisted tax preparation and pen-and-paper compete more closely with specific digital DIY products than the digital DIY products compete with each other. There is no principled reason to arbitrarily exclude some alternatives that are closer substitutes than the products that he included.

24. In addition to failing to consider merger-specific cost savings and reliance on wrong data for diversion ratios, Dr. Warren-Boulton's merger simulation model also fails to capture the dynamic nature of the tax preparation industry. His model does not account for the unique competitive interaction between free products and paid products in which the introduction of free priced products could increase sales of paid products by the same firm in the same year or in a subsequent year.³⁷ A model that fails to take into account these important competitive dynamics might well predict that a firm would increase prices post-merger without considering the detrimental effect that such a price increase would have on overall profitability both this year and into the future. As a result, Dr. Warren-Boulton's merger simulation model does not shed useful light on the competitive effects.

VII. CONCLUSION

25. The weight of the empirical evidence, documents, and testimony in this case clearly demonstrate that the merger is unlikely to lead to anticompetitive effects either in terms of a price increase or a decline in quality. This conclusion is consistent with HRB's stated rationale and strategy regarding this transaction.

Christine Siegwarth Meyer

³⁷ As explained in detail in my report, there are four ways to generate profits from customers who start with a free federal products: (1) converting a free consumer to a paying customer through "free upsell" in the same tax year; (2) selling non-federal products or services; (3) converting free customers to paid customers in subsequent years; and, (4) generating significant "word-of-mouth" advertising from free customers. (Meyer Report, ¶. 178-183.)

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CHRISTINE SIEGWARTH MEYER **VICE PRESIDENT**

Dr. Meyer conducts economic research and analysis in the areas of intellectual property economics, antitrust, commercial damages, business valuation, and labor economics. She has written expert reports and testified in deposition and at trial about her economic analysis.

In antitrust, Dr. Meyer has evaluated the competitive effects of mergers and acquisitions and analyzed antitrust claims and damages in cases involving alleged resale price maintenance, monopolization and price discrimination. Dr. Meyer has analyzed competition in a wide range of industries, including agricultural chemicals, athletic apparel, automotive parts, beer, bread, chemicals, computer software, hospitals, kitchen appliances, linen rental, mobile computing, movie theaters, pharmaceuticals, satellite ground equipment, smokeless tobacco, and yogurt. Dr. Meyer has incorporated various econometric techniques in her antitrust work to include analysis of bidding data, demand modeling, and the design and analysis of discrete choice consumer surveys. Dr. Meyer has written expert reports and testified about her analysis and has presented her analysis to the Federal Trade Commission and Department of Justice. In 2009, she was featured as one of *Global Competition Review's* Women in Antitrust.

In the areas of intellectual property, commercial damages, and business valuation, Dr. Meyer has written expert reports and testified on economic damages. She has analyzed damages arising from patent and copyright infringement, the misappropriation of trade secrets, and breaches of contract. She has worked on analysis of class certification issues and has analyzed commercial success and injunction issues in patent cases. She has also analyzed the value of several patents, licenses, and potential business acquisitions.

In labor economics, Dr. Meyer has conducted academic research and published several papers in peer-reviewed journals dealing with issues including work/family benefits, women's work, and childbearing decisions. She has testified on damages in an alleged wrongful termination matter. She has also worked on behalf of numerous families of victims of the September 11 terrorist attacks to analyze and testify about the economic losses incurred by families in connection with their claims to the Federal Victim's Compensation Fund.

Education

Massachusetts Institute of Technology

Ph.D., Economics, 1995

United States Military Academy, West Point

B.S., Economics, 1988

Professional Experience

NERA Economic Consulting

2006- Vice President

2002-2006 Senior Consultant

2000-2002 Consultant

Colgate University

1999-2000 Visiting Assistant Professor

Taught courses in Statistics and Introductory Economics.

Bentley College

1995-1999 Assistant Professor

Taught courses in Statistics, Macroeconomics, Money and Banking, and the Economics of Race and Gender for undergraduate and graduate students.

Data Resources, Inc.

1995-1999 Consultant

Wrote several industry studies for the *U.S. Industry and Trade Outlook*, a Department of Commerce publication. Consulted on local macroeconomic forecasts.

Massachusetts Institute of Technology

1993-1995 Head Teaching Assistant

Taught courses in Macroeconomics.

1992 Research Assistant

Developed Fortran programs for Professor Jerry Hausman.

United States Army

1990-1991 First Lieutenant

Assistant Battalion Operations Officer and Platoon Leader, 101st Military Police Company. Fort Campbell, Kentucky and Operation Desert Shield and Desert Storm, Saudi Arabia and Iraq.

- 1988-1990 Second Lieutenant
Platoon Leader and Executive Officer, Headquarters Company, Law Enforcement
Command, Fort Campbell, Kentucky.
- Office of Management and Budget, Personnel Policy Branch**
- 1987 Summer Intern
Analyzed military pay and recruiting.

Honors and Professional Activities

Global Competition Review's 100 "Women in Antitrust", 2009

Patricia Roberts Harris Award for Excellence in Pro Bono, Fried Frank, Harris, Shriver &
Jacobson LLP, 2004

The Legal Aid Society Pro Bono Award for Assistance to Victims of the World Trade Center
Tragedy, 2002

Rauch Faculty Enrichment Grant, Bentley College, 1997

Summer Research Grant, Bentley College, 1996 and 1997

National Science Foundation Scholarship, 1992-1994

Army Commendation Medal and Army Achievement Medal, 1990-1991

Testimony and Expert Reports

Expert report and trial testimony in *Waddington North America, Inc. v. Sabert Corporation*,
United States District Court, District of New Jersey, January 13, 2011, and March 30, April 1,
and April 4, 2011.

Expert report and deposition testimony in *MacroMavens, LLC v. Deutsche Bank Securities, Inc.*,
United States District Court, Southern District of New York, October 15, 2010, and November
10, 2010.

Declaration in *Irwin Industrial Tool Company, d/b/a Bernzomatic and Newell Operating
Company v. Worthington Cylinders Wisconsin, LLC, Worthington Cylinder Corporation, and
Worthington Industries, Inc.*, United States District Court, Western District of North Carolina,
Charlotte Division, October 1, 2009.

Expert report, rebuttal report, and deposition testimony in *Netscape Communications Corp. v.
ValueClick, Inc., Mediaplex, Inc., Fastclick, Inc., Commission Junction, Inc., Mezimedia, Inc.,
and ValueClick, L.L.C.*, United States District Court, Eastern District of Virginia, August 31,
2009, September 11, 2009, and September 18, 2009.

Expert report in *Monique Heller v. Alexion Pharmaceuticals, Inc.*, United States District Court, District of Connecticut, May 1, 2009.

Panelist, *The Evolving IP Marketplace*, Federal Trade Commission, February 12, 2009.

Expert report in *Merck & Co., Inc. v. Ranbaxy Inc. and Ranbaxy Laboratories Limited*, United States District Court, District of Delaware, February 28, 2008.

Expert report and rebuttal report in *Johnson & Johnson and Johnson & Johnson Consumer Companies, Inc., v. The American Red Cross, Learning Curve International, Inc., Magla Products, LLC, Water-Jel Technologies, Inc., and First Aid Only, Inc.*, United States District Court, Southern District of New York, November 15, 2007 and December 17, 2007.

Expert report in *CCS Financial Services, Inc. and Credit Control Services, Inc. v. Trumbull Services, L.L.C. and Hartford Fire Insurance Company*, American Arbitration Association, Commercial Arbitration Division, February 28, 2007.

Expert report in *Asch Webhosting, Inc. d/b/a "1104Net.Com" v. Adelpia Business Solutions Investment, LLC, d/b/a TelCove*, United States District Court, District of New Jersey, January 29, 2007.

Expert report and deposition testimony, in *Klickads, Inc. d/b/a BrokersNYC v. Real Estate Board of New York, Inc., et al.* in United States District Court, Southern District of New York, November 8, 2006 and December 8, 2006.

Expert report and deposition testimony in *Monsanto Company v. Delta and Pine Land Company*, American Arbitration Association, April 28, 2006 and May 19, 2006.

Expert report and testimony in *Carmit Kaspi v. Fairway Operating Corp, et al.*, Supreme Court of the State of New York, County of New York, March 17, 2006 and November 16, 2006.

Expert report in *Classen Immunotherapies, Inc. v. Biogen Idec, et al.*, United States District Court, District of Maryland, October 24, 2005.

Expert report in *Kyphon Inc. v. Disc-O-Tech Medical Technologies, Ltd.*, United States District Court, District of Delaware, April 6, 2005.

In re. Rick Thorpe, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001, May 5, 2004.

In re. Frederick Varacchi, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; April 28, 2004.

In re. Michael Arczinski, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; April 27, 2004.

In re. Frank Spinelli, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; April 22, 2004.

In re. Michael Roberts, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; April 21, 2004.

In re. Thomas Holohan, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; April 20, 2004.

In re. Vincent Halloran, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; April 15, 2004.

In re. Julian Davis, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; April 8, 2004.

In re. Carl Molinaro, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; March 29, 2004.

In re. Joseph Grzelak, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; March 24, 2004.

In re. David Huhn, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; March 17, 2004.

In re. Michael Pescherine, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; March 16, 2004.

In re. Khalid Shahid, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; February 19, 2004.

In re. Mark McGinly, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; January 21, 2004.

Expert report in *International Automated Systems, Inc. v. Optimal Robotics Corp., et.al.*, United States District Court, District of Utah, Central District, January 13, 2004.

In re. Michael Simon, claimant; United States Department of Justice September 11th Victim Compensation Fund of 2001; January 13, 2004.

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