

LONA FOWDUR

CONTACT

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EDUCATION

PhD in Economics, Cornell University, New York
MA in Economics, Cornell University, New York
BA in Economics, University of Adelaide, Australia
BA in Finance, University of Adelaide, Australia

PROFESSIONAL EXPERIENCE

2023 – Present, *Executive Vice President*, Compass Lexecon, Washington, DC
2021 – 2023, *Managing Director*, Secretariat Economists, Washington, DC
2020 – 2021, *Principal*, Secretariat Economists, Washington, DC
2018 – 2019, *Senior Vice President*, Secretariat Economists, Washington, DC
2017, *Vice President*, Secretariat Economists, Washington, DC
2009 – 2016, *Senior Economist*, Secretariat Economists, Washington, DC

PROFESSIONAL ASSOCIATIONS

2023 – Present, *Chair*, AHLA Antitrust Practice Group
2019 – 2023, *Vice Chair of Publishing*, AHLA Antitrust Practice Group
2018 – 2021, *Advisory Board Member*, ABA Antitrust Section Healthcare and Pharmaceutical Committee

REPRESENTATIVE ENGAGEMENTS

Testimony and Expert Witness Experience

- Expert reports re. out-of-network emergency services reimbursement rates in confidential arbitration matter: October 2023 (Expert Report) and December 2023 (Rebuttal Report).
- Expert report in a matter involving alleged billing mis-conduct to explain the managed-care contracting process and its disciplining role in the healthcare industry: July 2023 (Expert Report) and August 2023 (Deposition); October 2023 (Trial Testimony).
- Expert report re. out-of-network emergency services reimbursement rates for a physician group based in Texas: June 2023 (Report) and August 2023 (Rebuttal Report).
- Analysis of competitive dynamics of the PBM industry related to FTC 6(b) industry study.
- Expert report in Prasad v. Providence of Alaska re. economic and antitrust damages in a lost privileges matter: January 2023 (Report).
- Expert report in State of Washington v. Johnson & Johnson et al. re. liability and damages originating from

public nuisance claims derived from prescription opioid shipments: April 2022 (Report); May 2022 (Deposition).

- Expert reports and deposition in *Wrigley v. Providence of Alaska* re. economic and antitrust damages in a lost privileges matter: January 2022 (Report); February 2022 (Deposition).
- Expert reports and depositions re. out-of-network emergency services reimbursement rates in *HCA Hospitals v. Kaiser Foundation Health Plan*: November 2021 (Expert Report and Deposition) and December 2021 (Rebuttal Report and Deposition).
- Expert reports and depositions in confidential JAMS arbitration between healthcare provider and insurer in contract-breach matter: August 2020 (Report); September 2020 (Deposition); January 2021 (Rebuttal Report).
- Expert report and deposition on behalf of Forest Labs (Allergan) in *J.M. Smith Corporation et al. v. Actavis PLC et al.* (No. 15-cv-7488, United States District Court for the Southern District of New York) (Indirect purchaser class action); August 2020 (Report); September 2020 (Deposition).
- Expert report, deposition and arbitration testimony re. out-of-network emergency services reimbursement rates in JAMS Arbitration Hearing: July 2019 (Report and Deposition); December 2019 and January 2020 (Testimony at Arbitration Hearing).
- Expert report, deposition and trial testimony on behalf of defendants in *United States v. State of Mississippi* (No. 3:16 cv 622 CWR-FKB, U.S. District Court for the Southern District of Mississippi, Northern Division): September 2018 (Report and Deposition); June 2019 (Trial Testimony).
- Expert report for the Pennsylvania Department of Insurance re. CVS Health's acquisition of Aetna Health Insurance: October 2018.
- Expert reports on behalf of the California Department of Corrections and Rehabilitation in *Ralph Coleman et al. v. Edmund J. Brown Jr. et al.* (No. CIV S-90-0520 KJM KJN P, U.S. District Court for the Eastern District of California): August 2018; September 2019.
- Expert report on behalf of Abington Memorial Hospital (PA) for mediation hearing re. Steven Meller, M.D., v. Abington Memorial Hospital *et al.* (No. 03:08221, Court of Common Pleas of Montgomery County): April 2018.
- Expert report and deposition on behalf of Forest Labs (Allergan) in *J.M. Smith Corporation et al. v. Actavis PLC et al.* (No. 15-cv-7488, United States District Court for the Southern District of New York) (Direct purchaser class action): October 2017 (Report) and November 2017 (Deposition).
- Expert report, deposition and trial testimony on behalf of Anthem Inc. in *United States et al. v. Anthem Inc. and Cigna Corp.* (No. 1:16-cv-01493, United States District Court for the District of Columbia): October 2016 (Report); November 2016 (Deposition); December 2016 (Trial Testimony).
- Consulted for a large self-employed plan and provided economic analyses to support rate negotiations with health plans. (2017-2021).
- Expert report on behalf of AmSurg Holdings addressing issues of antitrust liability and non-compete provisions in physician contracts: April 2016.
- Consulted for the State of Connecticut Office of the Attorney General and provided economic analyses of hospital transactions and other antitrust matters in the state. (2014-2018)

OTHER SELECTED MATTERS

Healthcare

- Competition and damages analyses in *Medical Center of Elizabeth Place v. Premier Health Partners*. (2016-2017)
- Analyses on behalf of merging parties for Hart-Scott-Rodino review of transaction by the Department of Justice, Federal Trade Commission and state agencies pertaining to transactions between the following entities:
 - Henry Ford Health and Ascension Michigan, MI (2023)
 - Fairview Health and Sanford Healthcare, ND, SD, MN (2023)
 - Non-emergency medical transportation companies operating in multiple U.S. states (2022);
 - Medical device companies in operating in California and Pacific Northwest (2021);
 - Partners Healthcare and Exeter Hospital in Exeter, NH (2019);
 - Partners Healthcare and Care New England in Providence, RI (2018);
 - Penn State Hershey Medical Center and Pinnacle Health in Harrisburg area, PA (2015);
 - Penn State Hershey Medical Center and St. Joseph Regional Health Network in Hershey/Reading, PA (2015);
 - Mercy Medical Center and Siouxland Surgery Center in Sioux City, IO (2014);
 - HCA West Florida and Citrus Memorial Hospital in Citrus County, FL (2013);
 - Somerset Medical Center and Robert Wood Johnson University Hospital in New Brunswick, NJ (2013);
 - Stellaris Health Network's and Hudson Valley Hospital Center in Westchester County, NY (2011);
 - Community Health System and Moses Taylor Hospital in Scranton area, PA (2011);
 - Northeast Health, St. Peters and Seton Hospital in Albany, NY (2010);
 - PinnacleHealth and WellSpan Health in Harrisburg area, PA (2009).
- Analyses of allegations of foreclosure in *Monroe Surgical Hospital, LLC v. St. Francis Medical Center, Inc., Monroe, LA* (2015).
- Analyses of allegations of monopolization and exclusionary conduct in *32nd Street Surgery Center v. Right Choice Managed Care Inc., Joplin MO*, (2014).
- Analyses of ambulatory surgery markets and allegations of exercise of market power in *Medical Center at Elizabeth Place LLC v. MedAmerica Health Systems Corporation et al.* (2014).
- Analyses of ambulatory surgery markets and allegations of exercise of market power in *Kissing Camels Surgery Center, LLC et al. v. HCA Inc. et al.* (2014).

- Competitive assessment of horizontal and vertical issues regarding the acquisition of Saltzer Medical Group by St. Luke's Health System in Saint Alphonsus Health System, Treasure Valley Hospital and Federal Trade Commission v. St. Luke's Health System (2013).
- Economic impact analysis for major health system in northeastern US using IMPLAN modeling software (2013).
- Analyses of hospital and physician markets in northern California in dispute over health plan payment rates in Sutter Health v. Kaiser Health System (2012).
- Analysis of anticompetitive foreclosure allegations against a community hospital by a physician who lost hospital privileges, Goldsboro, NC (2009).

Energy

- Analyses on behalf of an electric utility company regarding rate recovery issues within PJM. (2017)
- Analysis on behalf of merging parties for Hart-Scott-Rodino review of transaction by the Department of Justice in the following consummated mergers:
 - Dynegy acquisition from Duke Energy and Energy Capital Partners (ECP) (2014);
 - NRG Energy acquisition of GenOn Energy (2012);
 - Exelon Corp's acquisition of Constellation Energy (2012);
 - Mirant Corporation and RRI Energy merger to create GenOn Energy (2010);
 - FirstEnergy Corp. acquisition of Allegheny Energy (2010).
- Competitive analysis of Exelon Corp's acquisition of PEPCO Holdings for review of transaction by the Maryland Public Service Commission (2015).
- Market power analyses of Seaway Crude Oil Pipeline on behalf of the Canadian Association of Petroleum Producers (2015).
- Analyses on behalf of TransCanada in various proceedings at FERC pertaining to different issues of fact:
 - Puget Sound Energy, Inc., *et al.* v. Sellers of Energy and/or Capacity at Wholesale into Electric Energy and/or Capacity Markets in the Pacific Northwest. EL01-10-085, Federal Energy Regulatory Commission (2012);
 - San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services, EL00-95-000, Federal Energy Regulatory Commission (2009);
 - People of the State of California, ex rel; Edmund G. Brown Jr. Attorney General of the State of California v. Powerex Corp., *et al.*, EL09-56-000, Federal Energy Regulatory Commission (2009);
 - People of the State of California, ex rel; Bill Lockyer, Attorney General of the State of California v. Powerex Corp., *et al.*, EL02-71-000, Federal Energy Regulatory Commission (2009).
- Analysis of allegations that a traditional vertically-integrated electric utility used its transmission system to impede rival generation companies (2012).

- Analysis for triennial update for authority for market-based rates for Public Service Electric and Gas Company *et al.*, FERC Docket No. ER97-837-014 (2010).

Other

- Analyses of Robinson-Patman price-discrimination allegations and damages in supplier/distributor dispute in St. Thomas, Virgin Islands (2017).
- Competitive analyses for Hart-Scott-Rodino review of acquisition of Horizon Lines by Pasha Group (2015).
- Analyses of allegations of exclusionary contracts and market allocation by manufacturers and distributors of bleach in North Carolina and Virginia (2013).
- Economic analyses of pricing impact and competitive effects of MFN clauses in contracts between platform operators and content sellers (2013).

SPEAKING ENGAGEMENTS AND PANEL DISCUSSIONS

- AHLA Transactions Conference 2022: New Antitrust Theories in Health Care Transactions (May 26/27, 2022).
- Concurrences 9th Bill Kovacic Antitrust Salon: The Future of Antitrust Jurisprudence: What the Courts Could Say About the New Laws (September 28, 2021).
- AHLA Webinar: Impact of Presidential Executive Order on Competition Preservation in the Health Care Industry (August 18, 2021).
- AHLA Annual Meeting In-House Counsel Program: Fair but Still Not Square: No Surprises Act Protects Patients but Reimbursement Uncertainty Remains for Payors and Providers (June 17, 2021).
- AHLA Antitrust in Healthcare Virtual Conference: Legal and Economic Considerations for Health Care Joint Ventures in the Wake of U.S. v. Geisinger Health and Evangelical Community Hospital (May 19, 2021).
- AHLA Webinar: Antitrust Enforcement Update on Hospital and Health System Mergers (February 24, 2021).
- ABA Antitrust in Healthcare Virtual Conference: Anti-Steering and Anti-Tiering Provisions in Healthcare Contracts (February 10-12, 2021).
- AHLA Webinar: The FTC/DOJ Draft Vertical Merger Guidelines and its Implications for Transactions in the Health Care Sector (April 7, 2020).
- AHLA Annual Meeting 2019 Panel: Will Your Deal Be Caught in the Maw of Antitrust Review (June 24, 2019).
- ABA Antitrust Section Economics Committee Webinar: No Crystal Ball Needed: Fundamentals of Antitrust Econometrics (May 20, 2019).
- AHLA Educational Call: Economic Tools Used to Evaluate Healthcare Provider Mergers (March 19, 2019).
- ABA/AHLA Antitrust in Healthcare Conference: Cutting Edge Economics for Future Merger Cases (May 17-18, 2018).
- AHLA Healthcare Transactions Conference: No More Flying under the Radar: Antitrust Scrutiny of Physician-Practice Acquisitions (May 9-10, 2018).

- ABA Section of Antitrust Law: 66th Antitrust Law Spring Meetings: Fundamentals – Economics (April 11-13, 2018).
- ABA Section of Antitrust Law Healthcare and Pharmaceutical Committee Educational Call: The FTC's Challenge of the Sanford Health/Mid Dakota Clinic Transaction (February 27, 2018).

PUBLICATIONS

- Comments on Draft Vertical Merger Guidelines Submitted to the DOJ and FTC, February 25, 2020, co-authored with John Morris. (Available from <https://www.ftc.gov/policy/public-comments/draft-vertical-merger-guidelines>).
- The Two-Stage Model of Competition in Hospital Merger Analysis May be Due for an Update, *Economists Ink*, Fall 2018.
- An Examination of New Theories on Price Effects of Cross-Market Hospital Mergers, *Economists Incorporated*, Fall 2016, with David Argue.
- Recent Performance of Medicare ACOs Does Not Indicate Universally Lower Costs or Improved Quality, *Economists Ink*, Fall 2015, with John Gale.
- Geographic Market Definition: Equivalence between Hypothetical Monopolist Test and Tampa Electric, *Economists Ink*, Spring 2014.
- Court Rejects Standards for Debit Card Interchange Fee Cap, *Economists Ink*, Fall 2013.
- Health Care Reform; Provider Affiliations and Health Care Risks, *Competition Policy International*, Summer 2012, Volume 7 Number 1, with John Gale.
- Racial Bias in Expert Quality Assessment: A Study of Newspaper Movie Reviews, *Journal of Economics and Behavioral Organization*, April 12, 2012, with Vrinda Kadiyali and Jeffrey Prince.
- Calibration of Upward Pricing Pressure under the New DOJ/FTC Horizontal Merger Guidelines, *Economists Ink*, Fall 2011.
- The Intel-AMD Antitrust Suits: Economic Issues and Implications, *American Bar Association Section of Antitrust Law Communications & Digital Technology Industries Newsletter: ICARUS*, Winter 2010.
- FTC and DOJ Release Draft of Revised Horizontal Merger Guidelines, *Economists Ink*, Special Issue, May 2010.
- Merger Guidelines to be Reviewed, *Economists Ink*, December 2009.