

## LOREN K. SMITH

### CONTACT

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### EDUCATION

2006, *Ph.D. in Economics*, University of Virginia  
2001, *M.A. in Economics*, University of Virginia  
1996, *B.B.A. in Marketing*, Mississippi State University, *Magna Cum Laude*

### PROFESSIONAL EXPERIENCE

June 2023 - Present, *Executive Vice President*, Compass Lexecon, Washington, DC  
April 2020 - June 2023, *Principal and Leader of Global Antitrust and Competition*, The Brattle Group, Washington, DC  
April 2016 - March 2020, *Executive Vice President*, Compass Lexecon, Washington, DC  
April 2014 - March 2016, *Senior Vice President*, Compass Lexecon, Washington, DC  
April 2013 - March 2014, *Vice President*, Compass Lexecon, Washington, DC  
September 2005 - March 2013, *Staff Economist*, U.S. Federal Trade Commission, Washington, DC  
June 2002 - May 2005, *Instructor*, University of Virginia, Charlottesville, VA  
Courses: Intermediate Microeconomics  
September 1999 - May 2001, *Teaching Assistant*, University of Virginia, Charlottesville, VA  
Courses: Principles of Microeconomics, Principles of Macroeconomics, Graduate Math-Economics, Graduate Econometrics, Intermediate Microeconomics  
*Research Assistant*, University of Virginia, Charlottesville, VA  
Edgar Olsen, Charles Holt

### FIELDS OF SPECIALIZATION

Antitrust and Competition Economics  
Applied Microeconomics  
Industrial Organization  
Applied Econometrics

## TESTIMONY

Testimony as Economic Expert on behalf of Endure Industries, In Re: *Endure Industries, Inc. v. Vizient, Inc. et al.*, in the United States District Court for the Northern District of Texas Dallas Division, Civil Action No. 3:20-cv-3190-X, Deposition: December 5, 2023.

Testimony as Economic Expert on behalf of Intuitive Surgical, In Re: *Surgical Instrument Service Company, Inc. v. Intuitive Surgical, Inc.*, in the United States District Court Northern District of California, Case No. 3:21-cv-03496-VC, Deposition: March 22, 2023.

Testimony as Economic Expert on behalf of Plaintiffs, In Re: *United States of America, ex. rel. Sarah Behnke v. CVS Caremark Corporation et al.*, in the United States District Court Eastern District of Pennsylvania, Civil Action No. 2:14-cv-00824-MSG, Deposition: March 9, 2023.

Testimony as Economic Expert on behalf of Intuitive Surgical, In Re: *Da Vinci Surgical Robots Antitrust Litigation*, in the United States District Court Northern District of California, Case No. 3:21-cv-03825, Deposition: February 22, 2023.

Testimony as Economic Expert on behalf of Intuitive Surgical, In Re: *Rebotix Repair LLC v. Intuitive Surgical, Inc.*, in the United States District Court Middle District of Florida Tampa Division, Case No. 8:20-cv-02274, Deposition: November 3, 2021.

Testimony as Economic Expert on behalf of Intuitive Surgical, In Re: *Restore Robotics LLC, Restore Robotics Repairs LLC, and Clif Parker Robotics LLC v. Intuitive Surgical, Inc.*, in the United States District Court Northern District of Florida Panama City Division, Case No. 5:19-cv-55, Deposition: October 21, 2021.

Testimony as Economic Expert on behalf of the Federal Trade Commission, In Re: *Federal Trade Commission and Commonwealth of Pennsylvania v. Thomas Jefferson University and Albert Einstein Healthcare Network*, in the Eastern District Court of Pennsylvania, Case No. 2:20-cv-01113-GJP, Deposition: August 26, 2020; Trial: September 15 and 16, and October 1, 2020.

## REPORTS

Expert Report of Loren K. Smith, In Re: *Ricardo Vasquez v. Indiana University Health, Inc., et al.*, in the United States District Court for the Southern District of Indiana Indianapolis Division, Case No. 21-cv-1693, Rebuttal Antitrust: November 23, 2023

Expert Report of Loren K. Smith, In Re: *Endure Industries, Inc. v. Vizient, Inc. et al.*, in the United States District Court for the Northern District of Texas Dallas Division, Civil Action No. 3:20-cv-3190-X, Antitrust: November 3, 2023

Expert Report of Loren K. Smith, In Re: *Da Vinci Surgical Robots Antitrust Litigation*, in the United States District Court Northern District of California, Case No. 3:21-cv-03825, Rebuttal Antitrust: January 20, 2023.

Expert Reports of Loren K. Smith, In Re: *United States of America, ex. rel. Sarah Behnke v. CVS Caremark Corporation et al.*, in the United States District Court Eastern District of Pennsylvania, Civil Action No. 2:14-cv-00824-MSG, Damages: December 9, 2022, Reply Damages: February 10, 2023.

Expert Reports of Loren K. Smith, In Re: *Surgical Instrument Service Company, Inc. v. Intuitive Surgical, Inc.*, in the United States District Court Northern District of California, Case No. 3:21-cv-03496-VC, Counterclaims Damages: December 2, 2022, Rebuttal Antitrust Merits and Rebuttal Damages: January 18, 2023.

Expert Reports of Loren K. Smith, In Re: *Restore Robotics LLC, Restore Robotics Repairs LLC, and Clif Parker Robotics LLC v. Intuitive Surgical, Inc.*, in the United States District Court Northern District of Florida Panama City Division, Case No. 5:19-cv-55, Counterclaims Damages: August 20, 2021, Rebuttal Antitrust: September 27, 2021, Supplemental Rebuttal Report Antitrust Damages: December 23, 2022.

Expert Reports of Loren K. Smith, In Re: *Rebotix Repair LLC v. Intuitive Surgical, Inc.*, in the United States District Court Middle District of Florida Tampa Division, Case No. 8:20-cv-02274, Counterclaims Damages: July 26, 2021, Rebuttal Antitrust Merits and Rebuttal Antitrust Damages: August 30, 2021.

“Brief of Antitrust Economists as Amici Curiae in Support of Defendants-Appellants Urging Reversal,” In the United States Court of Appeals for the Sixth Circuit; *St. Luke’s Hospital et al., v. ProMedica Health System, Inc. et al.*, On Appeal from the United States District Court for the Northern District of Ohio; No. 3:20-cv-02533; March 1, 2021.

Expert Reports of Loren K. Smith, In Re: *Federal Trade Commission and Commonwealth of Pennsylvania v. Thomas Jefferson University and Albert Einstein Healthcare Network*, In the Eastern District Court of Pennsylvania, Case No. 2:20-cv-01113-GJP, Report: July 23, 2020, Rebuttal Report: August 20, 2020.

Expert Report of Loren K. Smith, In Re: *United States of America and the State of North Carolina v. The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas Healthcare System*, In the District Court of North Carolina, Case No. 3:16-cv-00311-RJC-DCK, October 5, 2018.

Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003, (with Beth Freeborn and Peter Vander Nat), December 2012.

## **SELECTED CONSULTING WORK RELATED TO ANTITRUST INVESTIGATIONS**

Submitted a co-authored paper to the U.S. Department of Justice on the competitive implications of a vertical acquisition in the productivity software space (2022).

Submitted a co-authored paper to the U.S. Federal Trade Commission on the competitive implications of a merger in the specialty pharmacy services industry (2022).

Presented to the U.S. Department of Justice on the economic implications of a consumer products merger (2021).

Provided written and oral presentations to the U.S. Federal Trade Commission related to a proposed acquisition of a pipeline prescription pharmaceutical product (2020).

Presented and provided multiple written submissions to the U.S. Federal Trade Commission related to a proposed merger of two major hospital systems (2020).

Presented and provided multiple written submissions to the U.S. Federal Trade Commission related to a proposed merger of polyurethane foam manufacturers (2019).

Presented to the U.S. Federal Trade Commission related to a merger that, in part, proposed to combine existing and pipeline branded drugs with similar indications (2019).

Presented and provided a written submission to the U.S. Federal Trade Commission related to the proposed merger of branded pharmaceutical manufacturers (2019).

Presented to the U.S. Federal Trade Commission related to a proposed hospital merger (2018).

Submitted a white paper and gave a presentation to the U.S. Federal Trade Commission related to a proposed merger of factory-built home manufacturers (2018).

Presented to the U.S. Federal Trade Commission related to a proposed merger of food manufacturers (2017).

Presented to the U.S. Federal Trade Commission related to a proposed merger of personal and home cleaning manufacturers (2017).

Presented to the U.S. Department of Justice related to accusations of anticompetitive exclusionary conduct against a hospital system (2017).

Provided economic and econometric analysis of alleged damages, the results of which were used in a mediation that reached a favorable settlement (2016–2017).

Submitted a coauthored white paper and participated in presentations to the U.S. Federal Trade Commission related to accusations of anticompetitive exclusionary conduct against a manufacturer of medical device inputs (2015-2016).

Gave multiple presentations to the U.S. Federal Trade Commission related to a proposed merger of retail chains (2014).

Provided economic analysis related to the proposed acquisition of two community hospitals. The results were submitted to the U.S. Federal Trade Commission (2014).

Developed empirical analyses that demonstrated a lack of competitive interaction with a proposed merger partner. The results were submitted to the U.S. Federal Trade Commission (2014).

Coauthored two white papers that were submitted to the U.S. Department of Justice related to a proposed hospital acquisition (2013).

Coauthored three white papers that were submitted to the U.S. Federal Trade Commission related to a proposed acquisition in the supermarket industry (2013).

Coauthored a white paper that was submitted to the U.S. Federal Trade Commission related to a proposed acquisition in the retail auto parts industry (2013).

As economic expert for the U.S. Federal Trade Commission, evaluated the likely competitive effects of a merger of data service providers (2011).

## **PUBLICATIONS AND OTHER PUBLICLY AVAILABLE PAPERS**

“Economics in the 2023 Merger Guidelines: Three Areas of Concern” (with Jeremy Sandford and Nathan Wilson), *The 2023 U.S. Merger Guidelines: A Review*, to be published by Concurrences, April 2024.

“Looking Behind the Mask: Economic Analyses of Physician Group Transactions,” (with Josephine Duh, Daniel Fanaras, and Bogdan Genchev), 2022, American Health Law Association, available at <https://www.americanhealthlaw.org/content-library/publications/briefings/f5e6c787-59d0-4aea-92c0-946ee4de1399/Looking-Behind-the-Mask-Economic-Analyses-of-Physi>.

“Trends in Consumer Shopping Behavior and their Implications for Retail Grocery Merger Reviews,” (with Dimitri Dimitropoulos and Renée Duplantis), 2021, *Competition Policy International*.

“4 Economic Takeaways From 6th Circ. ProMedica Decision,” (with Josephine Duh), 2021, *Law360*, available at <https://www.law360.com/articles/1438179/4-economic-takeaways-from-6th-circ-promedica-decision>.

“The Other Side of the Coin: Complementarity in Mergers of Multiproduct Firms,” (with Craig Minerva and Peter Herrick), 2021, American Bar Association’s *Antitrust Magazine*, available at [https://www.americanbar.org/groups/antitrust\\_law/publications/antitrust-magazine-online/2021/october/the-other-side-of-the-coin/](https://www.americanbar.org/groups/antitrust_law/publications/antitrust-magazine-online/2021/october/the-other-side-of-the-coin/).

“The Competitive Implications of Private Label Mergers,” (with Matt Schmitt), 2021, American Bar Association’s *Antitrust Law Journal*, available at [https://www.americanbar.org/digital-asset-abstract.html/content/dam/aba/publishing/antitrust\\_law\\_journal/alj-833/schmitt-smith.pdf](https://www.americanbar.org/digital-asset-abstract.html/content/dam/aba/publishing/antitrust_law_journal/alj-833/schmitt-smith.pdf).

“Understanding the Econometric Tools of Antitrust – With No Math!” (with Michael Cragg and Charles Gibbons), 2021, American Bar Association’s *Antitrust*, available at [https://www.americanbar.org/groups/antitrust\\_law/publications/antitrust\\_magazine/2021/atmag-spring2021-vol35-no2/](https://www.americanbar.org/groups/antitrust_law/publications/antitrust_magazine/2021/atmag-spring2021-vol35-no2/). (Concurrences and the George Washington University Law School’s Competition Law Center 2021 Antitrust Writing Awards Winner – Best Business Articles: Economics)

“Clarifying Bundle Markets and Distinguishing Them from Cluster Markets,” (with Kevin Hahm), 2021, American Bar Association’s *The Antitrust Source*, available at [https://www.americanbar.org/content/dam/aba/publishing/antitrust\\_source/2021/feb-2021/atsource-feb2021-full.pdf](https://www.americanbar.org/content/dam/aba/publishing/antitrust_source/2021/feb-2021/atsource-feb2021-full.pdf).

“The Use of Econometrics in Merger Reviews,” (with Christopher R. Rybak), 2020, American Bar Association’s *Economics Committee Spring Newsletter*, available at [https://www.americanbar.org/digital-asset-abstract.html/content/dam/aba/administrative/antitrust\\_law/aba-economics-committee-newsletter-spring2020.pdf](https://www.americanbar.org/digital-asset-abstract.html/content/dam/aba/administrative/antitrust_law/aba-economics-committee-newsletter-spring2020.pdf).

“Platforms, Entry, and Innovation,” (with Bryan Keating), 2019, Comment to Federal Trade Commission Hearings Announcement (Docket ID FTC-2019-0032), available at <https://www.regulations.gov/document?D=FTC-2019-0032-0016>.

“Unilateral Effect Analysis of Health Care Markets,” *Economics of Health Care Mergers & the Pharmaceutical Industry* (an ALHA Antitrust Practice Group Toolkit), 2019, available at <https://www.healthlawyers.org/Members/PracticeGroups/Antitrust/Pages/default.aspx>.

“Do Retail Mergers Affect Competition? Evidence from Grocery Retailing,” (with Dan Hosken and Luke M. Olsen), *Journal of Economics and Management Strategy*, Vol. 27, Iss. 1, pp. 3-22, Spring 2018.

“Toward a More Complete Treatment of Efficiencies in Merger Analysis: Lessons from Recent Challenges,” (with Jonathan M. Orszag), *The Antitrust Source*, Vol. 16, No. 1, October 2016.

“The Prominence of Market Definition in Antitrust Evaluation and Litigation,” (with Maria Stoyadinova), *Global Antitrust Economics: Current Issues in Antitrust Law and Economics*, Eds. Douglas H. Ginsburg and Joshua D. Wright, New York: Institute of Competition Law, 2016, pp. 103-116.

“Can Entry or Exit Event Studies Inform Horizontal Merger Analysis? Evidence from Grocery Retailing,” (with Dan Hosken and Luke M. Olsen), *Economic Inquiry*, Vol. 54, Iss. 1, pp. 342-360, January 2016.

“Dynamics in a Mature Industry: Entry, Exit, and Growth of Big-Box Grocery Retailers,” (with Dan Hanner, Dan Hosken, and Luke M. Olsen), *Journal of Economics and Management Strategy*, Vol. 24, Iss. 1, pp. 22-46, Spring 2015.

“Dynamics and Equilibrium in the Market for Commercial Aircraft,” *Journal of Applied Econometrics*, Vol. 27, Iss. 1, pp. 1-33, February 2012.

“New Market Policy Effects on Used Markets: Theory and Evidence,” *The B.E. Journal of Economic Analysis & Policy*, Vol. 9, Iss. 1 (Topics), Article 32, July 2009.

## **AWARDS AND HONORS**

Who’s Who Legal Thought Leaders – Competition Economists, 2023, 2024

Lexology Client Choice Award – Competition Economists, 2022, 2024

Who’s Who Legal Competition – Competition Economists, 2019 - 2022

Who’s Who Legal Competition: Future Leaders – Economists, 2017, 2018 (named one of the four “Most Highly Regarded” competition economists in North America in 2018)

Award for Outstanding Scholarship: for outstanding contributions to the economics literature and to the pursuit of scholarship at the Federal Trade Commission, 2012

Janet D. Steiger Award: for outstanding contributions to the Pay-for-Delay Team, Federal Trade Commission, 2012

Predocctoral Fellowship, Bankard Fund for Political Economy, University of Virginia, 2003-2004

Research Grant, Darden Business School, University of Virginia, 2002

Graduate Fellowship, University of Virginia, 1999–2002

## **MISCELLANEOUS**

### *REFEREE*

*International Journal of Game Theory*

*International Journal of Industrial Organization*

*Economic Theory*

*Journal of Policy Analysis and Management*

### *TEACHING*

Full Courses:

Econometrics – Johns Hopkins University, 2008

Intermediate Microeconomics – University of Virginia, 2002–2005

Mini Courses:

“Mergers” with Miguel de la Mano, Sean Ennis, and Nicolas Hill – Fordham Law School, 2012

“The Economics of Vertical Restraints” – GHV, Budapest, HU, 2010

“Quantitative Methods for Merger Investigation” with Keith Brand – CADE, Brasilia, BR, 2009

“Quantitative Methods for Antitrust Economists” – Competition Commission, Pretoria, ZA, 2007

“Introduction to Quantitative Methods for Antitrust Lawyers” – FTC, 2006, 2007, and 2008

### *PRESENTATIONS AND SEMINARS*

Concurrences 2023 U.S. Merger Guidelines Conference – The FTC and DOJ’S 2023 Merger Guidelines, Washington, DC

Duke Law Competition Law Society on the Economics of Antitrust and Competition Law, Webinar

Cambridge Forum on U.S. Antitrust Regulation 2023, New Orleans, LA

European Competition Policy Forum 2023 – Global Mergers, Lake Como, Italy

American Bar Association International Law Section 2023 Annual Event – Global Mergers in an Increasingly Divergent Antitrust Climate – The Case of Illumina-Grail, New York, NY

Fordham Competition Law Institute – 49th Annual Conference on International Antitrust Law and Policy and Antitrust Economics Workshops, New York, NY

American Bar Association Antitrust Law Section and Health Law Section 2022 Antitrust in Healthcare Conference – Pharma Conduct Trends: Biosimilars, Generics, Pay-for-Delay, Arlington, VA

Concurrences 6th Global Antitrust Economics Conference – Acquisitions in High-Tech Space: Market Power and Innovation Issues, Webinar

Fordham Competition Law Institute – 48<sup>th</sup> Annual Conference on International Antitrust Law and Policy and Antitrust Economics Workshops, New York, NY

American Bar Association Antitrust Enforcement Priorities for the Healthcare Industry in 2021 Roundtable

Troutman Pepper – Antitrust Economics – The Building Blocks, Webinar

American Health Law Association Education Center – Antitrust Enforcement Update on Hospital and Health System Mergers, Webinar

Fordham Competition Law Institute – 47<sup>th</sup> Annual Conference on International Antitrust Law and Policy and Antitrust Economics Workshops, Webinar

Concurrences and Fordham University School of Law – Antitrust in Life Sciences Conference, Webinar

American Bar Association Economics Fundamentals, Webinar

15th Annual Kirkland Antitrust & Competition Institute – Intersection of Antitrust and Everything Else, Washington, DC

Pepper Hamilton's Annual Antitrust CLE Event, Philadelphia, PA

Fordham Competition Law Institute – 44th Annual Conference on International Antitrust Law & Policy, New York, NY

International Industrial Organization Conference, Boston, MA

GCR Live 2nd Annual Antitrust Litigation USA, New York, NY

The Global Antitrust Economics Conference – George Mason School of Law, Arlington, VA

Compass Lexecon – Economics Seminar, Washington, DC

Southern Economic Association – Annual Meeting, New Orleans, LA

University of Maryland – Econometrics Seminar, College Park, MD

Bureau of Labor Statistics – Empirical IO Seminar, Washington, DC

Drexel University – Industrial Organization Seminar, Philadelphia, PA

American Social Sciences Association – Annual Meeting, Philadelphia, PA

Southern Economic Association – Annual Meeting, New Orleans, LA

University of Virginia – Microeconomics Seminar, Charlottesville, VA

International Industrial Organization Conference, Chicago, IL

## **COMMUNITY ACTIVITIES**

Tutor, Community Club, Washington, DC, 2007–2011

## **CITIZENSHIP**

United States