

## STEPHEN E. CACCIOLA, PHD

### CONTACT

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### PROFESSIONAL EXPERIENCE

2020 - Present, *Senior Vice President*, Compass Lexecon, Boston, MA  
2010 - 2020, *Vice President*, Analysis Group, Boston, MA  
2005 - 2009, *Manager*, Analysis Group, Boston, MA  
2002 - 2004, *Associate*, Analysis Group, Boston, MA

### EDUCATION

*PhD in Economics*, Yale University  
*AB in Economics, Phi Beta Kappa, magna cum laude*, Princeton University

### REPRESENTATIVE CONSULTING ENGAGEMENTS

#### *Antitrust and Competition*

##### ***Multiple plaintiffs v. National Collegiate Athletic Association***

*Various Venues*

On behalf of the NCAA, supported expert in the evaluation of antitrust claims brought against the NCAA's student-athlete eligibility rules.

##### ***Applied Medical Resources Corporation v. Medtronic, Inc.***

*US District Court, Central District of California*

On behalf of Applied, supported expert in the economic analysis of liability and damages related to multi-product loyalty discounts for medical devices.

##### ***The City of Philadelphia v. Bank of America Corporation et al.***

*US District Court, Southern District of New York*

On behalf of class of plaintiffs, supported expert in the analysis of class certification issues related to collusion among financial institutions to artificially inflate interest rates on variable rate demand obligations (VRDOs).

##### ***DNA Genotek Inc. v. Spectrum Solutions LLC***

*US District Court, Southern District of California*

On behalf of Spectrum Solutions, supported expert in the economic analysis of antitrust liability issues in Walker Process Fraud litigation involving saliva collection devices for genetic testing.

##### ***Global Tubing, LLC v. Tenaris Coiled Tubes, LLC and Tenaris S.A.***

*US District Court, Southern District of Texas*

On behalf of Global Tubing, supported expert in the economic analysis of antitrust liability issues in Walker Process Fraud litigation involving coiled tubing used in well interventions.

***Baxalta Inc., et al. v. Bayer Healthcare LLC***

*US District Court, District of Delaware*

On behalf of Bayer, supported expert in the economic analysis of antitrust liability issues in Walker Process Fraud litigation involving pharmaceuticals for the treatment of Hemophilia A.

***In re: Zetia (Ezetimibe) Antitrust Litigation***

*US District Court, Eastern District of Virginia*

On behalf of Merck and Glenmark Pharmaceuticals, supported expert in the evaluation of market definition and market power related to claims that generic versions of the high cholesterol medication Zetia were improperly delayed by a reverse payment settlement agreement.

***Amphastar Pharmaceuticals, Inc., et al. v. Momenta Pharmaceuticals, Inc. and Sandoz Inc.***

*US District Court, District of Massachusetts*

On behalf of Momenta Pharmaceuticals and Sandoz, supported expert in evaluating issues of antitrust liability, alleged to have resulted from fraud on the U.S. patent office that delayed generic entry, involving the anticoagulant medication Lovenox.

***In re: Lamictal Direct Purchaser Antitrust Litigation***

*US District Court, District of New Jersey*

On behalf of GlaxoSmithKline and Teva Pharmaceuticals, supported expert in the evaluation of market definition and market power related to claims that generic versions of the anti-epileptic medication Lamictal were improperly delayed by a reverse payment settlement agreement.

***In re: Solodyn Antitrust Litigation***

*US District Court, District of Massachusetts*

On behalf of Valeant Pharmaceuticals and Impax Laboratories, supported expert in an analysis of indirect purchaser class certification. Supported expert in evaluating the effect of pharmacy and pharmacy benefit manager (PBM) treatment of generic versions of Solodyn on drug utilization.

***In re: Lidoderm Antitrust Litigation***

*US District Court, Northern District of California*

On behalf of Endo Pharmaceuticals, Teikoku Pharma, and Watson Laboratories, supported a PBM expert in the evaluation of the potential impact of delayed generic entry on a class of third-party payers.

***In re: Celexa and Lexapro Marketing and Sales Practice Litigation***

*US District Court, District of Massachusetts*

On behalf of Forest Laboratories, supported expert in the evaluation of the potential impact of alleged off-label promotion on a class of third-party payers.

***In re: Air Cargo Shipping Services Antitrust Litigation***

*US District Court, Eastern District of New York*

On behalf of several air cargo carriers, supported expert in the statistical evaluation of the impact of price-fixing of fuel surcharges on air cargo prices.

***Mylan Pharmaceuticals, Inc., et al. v. Warner Chilcott Public Limited Company, et al.***

*US District Court, Eastern District of Pennsylvania*

On behalf of Warner Chilcott, supported expert in an analysis of whether alleged overcharges paid by insurers were passed on in the form of higher premiums.

***Multiple class action matters v. Philip Morris, et al.***

*Various State Courts*

On behalf of the plaintiffs, supported expert in the analysis of competition in the tobacco industry, and in the estimation of consumer harm resulting from the false advertising of Marlboro Lights cigarettes. Supported expert in the design, development, and analysis of conjoint surveys to estimate consumer valuations of cigarette attributes.

***In re: TFT-LCD (Flat Panel) Antitrust Litigation***

*US District Court, Northern District of California, San Francisco Division*

On behalf of LCD manufacturers, supported expert in the analysis of class certification, liability, and damages issues related to price-fixing allegations.

***Certain Underwriters at Lloyd's London, et al. v. Tyson Foods, Inc.***

*Superior Court, State of Delaware, in and for New Castle County*

On behalf of several insurers, supported expert in an analysis of the damages that Tyson's poultry business allegedly suffered as a result of port and shipping disruptions caused by Hurricane Katrina.

***American Express Travel Related Services Company, Inc. v. Visa U.S.A., Inc., et al.***

*US District Court, Southern District of New York*

On behalf of MasterCard, supported expert in the estimation of damages to American Express resulting from alleged anticompetitive conduct in the credit card industry.

***International air transportation surcharge antitrust litigation***

*US District Court, Northern District of California*

On behalf of an international airline, supported expert in the analysis of the effect of fuel surcharges applied by international air carriers on prices paid by passengers.

***Pioneer Hi-Bred International, Inc. v. Agrigenetics, Inc. (d/b/a Mycogen Seeds), Mycogen Corporation, and Dow Agrosciences LLC***

*US District Court, Southern District of Iowa, Central Division*

On behalf of Pioneer Hi-Bred, analyzed damages related to alleged unauthorized sales of hybrid corn seeds.

***Non-participating manufacturer (NPM) adjustment proceeding under the Tobacco Master Settlement Agreement (MSA) between the settling states and the participating manufacturers***

*Arbitration Proceeding Before Professor Daniel McFadden and the Brattle Group*

On behalf of the settling states, analyzed whether the provisions of the MSA were a "significant factor" contributing to the participating manufacturers' market share loss in 2003. Supported experts in the development of reports and testimony.

***Agri-King, Inc., et al. v. Akzo Nobel, Inc., et al.***

*State of Minnesota, District Court, County of Ramsey, Second Judicial District*

***Steven L. Cox, et al. v. Aventis Animal Nutrition, Inc., et al.***

*District Court, Wyandotte County Kansas*

On behalf of vitamin manufacturers, analyzed damages claimed by indirect purchasers of animal feed products who were overcharged as a result of a vitamins price-fixing conspiracy. Supported client in preparing for and taking over 20 depositions of members of the plaintiff group.

***Northland Cranberries v. Ocean Spray Cooperative***

*US District Court, District of Massachusetts*

On behalf of Ocean Spray, analyzed allegations of monopolization and unfair competition pertaining to the sale of cranberries, concentrate, and retail juice products. Supported expert in evaluating liability and damages issues.

***Remeron antitrust litigation***

*US District Court, District of New Jersey*

On behalf of Remeron, analyzed market definition for antidepressant drugs. Supported expert in preparation of report.

***Netscape Communications Corporation v. Microsoft Corporation***

*US District Court, District of Columbia*

On behalf of Microsoft, evaluated claims of illegal monopolization and tying in the markets for computer operating systems and web browsers.

## **Intellectual Property**

### ***Koninklijke Philips N.V. v. Thales DIS AIS USA, LLC et al.***

*US District Court, District of Delaware*

On behalf of Thales, supported expert in the analysis of FRAND rates for Philips' patents declared for use in cellular standards.

### ***LG Electronics, Inc. v. Dolby Laboratories, Inc. et al.***

*US District Court, Southern District of New York*

On behalf of LG Electronics, supported expert in the economic analysis of exclusionary conduct, injunctive relief, and irreparable harm in intellectual property matter involving standard essential patents.

### ***Rasmussen Instruments, LCC v. DePuy Synthes Products, Inc. et al.***

*US District Court, District of Massachusetts*

On behalf of DePuy, supported expert in rebutting a survey conducted by Plaintiff's expert on the usage of medical instruments for knee replacement surgery, in the context of alleged patent infringement.

### ***Eagle Harbor Holdings LLC, and MediusTech LLC v. Ford Motor Company***

*US District Court, Western District of Washington*

On behalf of Ford, supported expert in assessing market research materials pertaining to alleged patent infringement by Ford's SYNC infotainment system.

### ***Merck & Co., Inc. v. Teva Pharmaceuticals USA, Inc.***

*US District Court, District of Delaware*

### ***Merck & Co., Inc. and Merck Frosst Canada & Co. v. The Minister of Health and Novopharm Ltd.***

*Federal Court (Canada)*

On behalf of Merck, analyzed the market for osteoporosis medications in order to assess the validity of several patents owned by Merck in the United States and Canada. Supported expert in the preparation of reports, deposition testimony, and trial testimony concerning the commercial success of the drug Fosamax.

## **Statistical Sampling**

### ***Rivera et al. v. Humana Inc., and Signify Health, Inc.***

*US District Court, District of Colorado*

On behalf of Signify Health, submitted declaration providing a statistical sampling and extrapolation methodology to evaluate plaintiffs' allegations that Signify Health violated the Telephone Consumer Protection Act.

### ***Confidential engagement***

On behalf of a large U.S. company in a dispute with a major metropolitan area, developed a statistical sampling and extrapolation methodology to evaluate payment responsibilities for the set of at-issue invoices.

### ***Jenkins et al. v. National Grid USA et al.***

*US District Court, Eastern District of New York*

On behalf of National Grid, submitted declaration providing a statistical sampling and extrapolation methodology to evaluate plaintiffs' allegations that National Grid violated the Telephone Consumer Protection Act. Submitted expert report and declaration evaluating the statistical methodology offered by plaintiffs' experts to ascertain class membership.

### ***United States of America v. Quicken Loans, Inc.***

*US District Court, Eastern District of Michigan*

On behalf of Quicken Loans, supported expert in the evaluation of statistical sampling, extrapolation, and damages related to alleged defects in the mortgage underwriting process.

### ***Pudlowski, et al. v. The St. Louis Rams, LLC***

*US District Court, Eastern District of Missouri*

On behalf of the St. Louis Rams, submitted two expert reports evaluating the plaintiffs' statistical sampling and extrapolation methodology for determining the proportion of Missouri citizens in the proposed class.

***C5 Medical Werks, LLC and CoorsTek Medical, LLC v. CeramTec GMBH***

*US District Court, District of Colorado*

On behalf of C5 Medical Werks, supported expert in a statistical analysis of the impact of chromium oxide on the hardness of ceramic material used in hip implants.

***Residential mortgage-backed securities litigation***

*Various Venues*

In several cases, supported expert in the evaluation of statistical sampling and extrapolation techniques to detect defects in the mortgage underwriting process.

***In re: Merck & Co. Vytarin/Zetia Securities Litigation***

***In re: Schering-Plough Corp./ENHANCE Securities Litigation***

*US District Court, District of New Jersey*

On behalf of Merck, supported expert in the statistical assessment of the improvement in data quality resulting from data cleaning efforts undertaken in the ENHANCE clinical trial.

**Finance**

***David Dinkevich, et al. v. Deutsche Telekom AG, et al.***

*In the Court of Chancery in the State of Delaware*

On behalf of Deutsche Telekom, supported investment banking expert to evaluate whether the financial advisors to the parties in the T-Mobile and Sprint merger conducted analyses of the merger price that were consistent with industry custom and practice.

**ARTICLES AND PUBLICATIONS**

“An Economic Analysis of the Effects of Stricter, Unilateral U.S. Export Controls for Electronic Design Automation Technology on Chinese Electronic Design,” with Elizabeth Wang and Sophie Yang, white paper submitted to the U.S. Department of Commerce’s Bureau of Industry and Security (2020)

“Trademark Confusion and the Confusing Eveready Survey,” with Rebecca Kirk Fair and Maggie Hadley, *Law360* (October 23, 2018)

“Reliable Analysis Is Key To Addressing Ascertainability,” with Stephen Fink, *Law360* (December 8, 2016)

“Coase Meets the Cloud: How and When Can Outsourcing IT Improve Organizational Performance?” with Robert Gibbons, white paper (2012)

*Empirical Essays on Incentives, Firm Coordination, and Social Spillovers*, Yale University, Ph.D. thesis (2002)

“Inside the ‘Black Box’ of Project STAR: Estimation of Peer Effects Using Experimental Data,” with Michael Boozer, Yale University Economic Growth Center Discussion Paper No. 832 (2001)