

JOHN HAUT, JD, MBA, CPA

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ABOUT

I am a highly experienced consulting expert (over 28 years, including over 20 years at Charles River Associates and Compass Lexecon working on high stakes matters) who also has testifying experience in both state and Federal Court. I have given expert testimony (reports and depositions); managed complex cases; performed research; drafted expert reports, deposition and trial testimony scripts; supervised and performed various types of analyses; created demonstratives; and advised counsel with respect to deposition and trial strategy. I have experience in business valuation (both public and private companies), economic damages (including copyright, trademark, patent, and personal injury), securities litigation (both domestic (civil and criminal) and international), and shareholder appraisal actions. I am both a CPA and an attorney (UCLA Law School '93) and also have an MBA.

PROFESSIONAL EXPERIENCE

Compass Lexecon, (2011–2021): *Vice President*

Charles River Associates, (2001–2011): *Principal*, (1999–2001), *Senior Associate*

FinEcon, (1998–1999): *Director*, (1996–1998), *Senior Research Economist*, (1993–1995), *Research Economist*

Law Offices of Patrick Kavanagh and Law Offices of Andrew R. Haut, Bakersfield, California, (1991–1992): *Summer Associate*

Freelance Litigation Support Consulting and Forensic Accounting, Bakersfield, California, (1989–1990)

Finance Department, School of Business and Public Administration, California State University, Bakersfield, California, (1987–1988): *Graduate Research Assistant*

Kennedy Cabot & Co., Bakersfield, California, (1987): *Account Executive*

EDUCATION

J.D., University of California, Los Angeles, School of Law, Licensed California Attorney

M.B.A., California State University, Bakersfield

B.S. Business Administration, California State University, Bakersfield (Concentration in Finance)

Certified Public Accountant (California)

Nevada Bar Exam Passed July 2021

PUBLICATIONS

Books and Book Chapters

“Securities Fraud Damages.” With Bradford Cornell and John I. Hirshleifer. *Developments in Litigation Economics*, Vol. 87, P. Gaughan and R. Thornton, eds., Elsevier, Ltd., Oxford, U.K., 2005.

Articles

“How Efficient is Sufficient: Applying the Concept of Market Efficiency in Litigation.” With Bradford Cornell. *The Business Lawyer*, Spring 2019, pp. 417-434.

“Trading Models and Damage Estimation in Class Action Securities Litigation.” With Bradford Cornell, John I. Hirshleifer, and Simon Cheng. Unpublished FinEcon Working Paper, 1994.

“The Challenge of Computing Damages in Securities Litigation under Rule 10b-5.” Unpublished Working Paper, 1992.

“Using Ergonomic Principles to Improve Productivity in the American Office.” With Mohsen Attaran. *Information Executive*, Summer 1989, pp. 20–25, 78–79.

EXPERT TESTIMONY

Serrano v. Merli. Retained by Watten Discoe Bassett & McMains to estimate the value of lost earnings for an injured construction worker. Testimony given July 2006.

Samaha v. Intertainment AG. Retained by Alschuler Grossman Stein & Kahan to opine on the correct rate of return on invested funds where liquidity and safety of principal were important concerns. Report submitted June 2002. Testimony given July 2002.

EXPERT REPORTS

Inter-Avid Productions v. Ventura Content, Ltd. et al. Retained by Jenner & Block on behalf of Ventura Content to estimate alleged infringer's profits in a copyright infringement matter. Report submitted March 2012. Supplemental report submitted April 2012.

Guardian Financial v. Andraos et al. Retained by Ameritas Life Insurance Corp. on behalf of Union Central Life Insurance Co. to estimate damages to a life insurance carrier arising from an agency and its field representatives switching carriers. Case settled July 2009 before a rebuttal report was filed.

Jordan v. Narath. Retained by the Law Offices of Gina Chodler to estimate damages to plaintiff as a result of defendant's purchase of plaintiff's stock options at a price lower than their value once certain allegedly material non-public information was known. Also rendered opinion as to whether the information in question was material and non-public. Report submitted October 2001.

Bistline et al. v. City of Dana Point. Retained by the Law Offices of Jacqueline Axtell to estimate an appropriate rate of return in order to compensate parties for land taken under eminent domain. Declaration submitted June 2001.

REPRESENTATIVE CONSULTING WORK

In re Appraisal of Solera Holdings, Inc. Retained by Grant & Eisenhofer and Lowenstein Sandler to assess the fair value of Solera common stock as of the date that Vista Equity Partners completed its purchase of Solera.

ITW Global Investments Inc. v. American Industrial Partners Capital Fund IV, L.P., et al. Retained by Proskauer and Davis Polk & Wardwell to respond to the opinions of plaintiff's expert regarding damages allegedly suffered as a result of defendant's alleged misstatements made in connection with plaintiff's purchase of Brooks Instrument, LLC.

Kraft Foods Group Brands LLC v. TC Heartland, LLC, et al. Retained by Hughes Hubbard & Reed to respond to the opinions of plaintiff's expert regarding: 1) the nexus between claimed features covered by the patents-in-suit and the purported commercial success of Kraft's and Heartland's liquid water enhancer products; and 2) Kraft's claimed damages from alleged patent infringement by Heartland's liquid water enhancer products.

In re Appraisal of Dell, Inc. Retained by Grant & Eisenhofer to estimate the fair value of Dell in a shareholder appraisal action following Dell's going private transaction.

The Nutro Company v. Paragon Pet Products USA, Inc., et al. Retained by Hughes Hubbard & Reed to analyze claimed damages from alleged trademark infringement involving dental dog chews.

Houghton v. Saunders et al. Retained by Russell McVeagh (NZ) and Bell Gully (NZ) to assess economic loss suffered by plaintiff shareholders as a result of alleged misstatements and omissions. This case involved the IPO of Feltex Carpets Limited and was the first representative securities action to be brought in New Zealand.

Tiffany and Co. v. Costco Wholesale Corp. Retained by Fried Frank to analyze damages associated with Costco's alleged infringement of Tiffany trademarks with regard to the sale of diamond engagement rings.

FDIC v. Van Dellen et al. Retained by Corbin Athey & Martinez to assess whether a future crash in the housing market was reasonably foreseeable from the perspective of the time between January 2005 and December 2006.

Morriscal v. Rogers et al. Retained by Gibson Dunn & Crutcher to analyze whether a series of agreements and transactions entered into between shareholders of a closely-held group of affiliated companies, the companies themselves, and a private equity firm were just and reasonable as to the companies.

Zamora v. Lehman and Weiss. Retained by Irell & Manella to assess economic harm suffered by a bankrupt direct marketing company as a result of alleged breaches of fiduciary duty of two of the Company's senior officers and directors.

Trust Company of the West v. Gundlach et al. Retained by Quinn Emanuel Urquhart & Sullivan to assess economic harm suffered by TCW due to the theft of trade secrets, other breaches of fiduciary duty, and tortious interference with contractual relations by its former Chief Investment Officer and members of his team.

Johnson & Johnson v. Guidant Corp. Retained by Shearman & Sterling and Boies Shiller & Flexner to respond to allegations that Johnson & Johnson suffered economic harm during a bidding war when it was outbid for Guidant Corp by Boston Scientific.

Brown et al. v. Brewer et al. Retained by Hogan Lovells on behalf of News Corp. to assess whether the Board of Directors of Intermix acted reasonably to maximize the company's value when it was sold to News Corp.

SEC v. Mackey. Retained by Bird Marella Boxer Wolpert Nessim Dooks & Lincenberg on behalf of the former COO of Tenet Healthcare Corp. to show that disclosures in the Company's SEC filings and annual reports satisfied the SEC and GAAP reporting standards for disclosure of material information regarding Medicare outlier payments and to analyze Tenet's stock price behavior in response to analyst reports which questioned Tenet's Medicare reimbursements.

Emulex Shareholder Litigation. Retained by Gibson Dunn & Crutcher to show that certain provisions in Emulex's shareholder rights plan maximized shareholder wealth.

CV Therapeutics Shareholder Litigation. Retained by Latham & Watkins to show that the estimates of value arrived at and valuation methodologies employed by Goldman Sachs and Barclays pursuant to CV Therapeutics's proposed acquisition by Gilead Sciences were reasonable.

TD Banknorth Securities Litigation. Retained by Simpson Thacher & Bartlett to analyze the reasonableness of consideration offered by Toronto Dominion Bank pursuant to a proposed cash-out merger of the remaining shares outstanding in its TD Banknorth subsidiary.

YSL v. Costco. Retained by Fried Frank Harris Shriver & Jacobson on behalf of Costco to analyze damages to YSL's brand value caused by allegedly unauthorized sales of YSL cosmetics products through Costco's retail and e-commerce channels.

In re Cellphone Termination Fee Litigation. Retained by Munger Tolles & Olson on behalf of Verizon Wireless to estimate lost profits caused by subscribers terminating their wireless subscriptions before their contracts expired.

Beal Bank v. WestPoint International, Inc. Retained by Hennigan Bennett & Dorman to estimate damages arising from the majority shareholder's failure to timely register WestPoint's common shares.

Dorajay v. Aristocrat Leisure Ltd. Retained by Allens Arthur Robinson on behalf of Aristocrat, an Australian manufacturer of gaming equipment, to estimate damages to shareholders arising from misstatements and omissions which had been stipulated to by both parties. This was the largest securities class action in Australian history as of mid-2007 and settled for approximately A\$140 million.

EchoStar v. NDS. Retained by O'Melveny & Myers to estimate damages to EchoStar arising from NDS's alleged breach of EchoStar's conditional access system. Case went to trial and the jury awarded EchoStar \$1,500 in damages in May 2008.

Recoton Securities Litigation. Retained by Paul Hastings Janofsky and Walker to estimate damages to shareholders arising from alleged accounting misstatements in a consumer electronics accessory company's financial statements.

Dynegy Securities Litigation. Retained by Haynes & Boone to estimate damages to shareholders by an independent energy trading company's alleged accounting irregularities and critique a damages analysis submitted by the plaintiffs' expert.

Miller v. Thane International, Inc. Retained by Orrick Herrington & Sutcliffe to estimate damages to shareholders of a direct marketing company due to that company's trading on the Bulletin Board instead of the NASDAQ NMS and critique a damages analysis submitted by the plaintiffs' expert.

United States v. Berger. Retained by Munger Tolles & Olson to estimate harm caused to a consumer electronics distributor by its Chief Executive Officer's alleged misstatements regarding the value of assets pledged as working capital loan collateral for the purpose of determining a criminal sentence for the CEO.

Brown v. SAP. Retained by Morgan Lewis & Bockius to provide support for expert testimony in connection with the bankruptcy of FoxMeyer Corp.

United States v. Bakhit. Retained by O'Melveny & Myers to estimate harm caused to an aircraft parts distributor by its Chief Executive Officer's alleged accounting irregularities for the purpose of determining a criminal sentence for the CEO.

In re Envoy Securities Litigation. Retained by the Law Office of James W. Mercer and Walker Bryant & Tibbs on behalf of WebMD and its Envoy subsidiary to estimate

damages in a securities fraud class action where plaintiffs' alleged irregularities in accounting for acquired in-process research and development during the acquisition of three health care billing software companies and critique a damages analysis submitted by the plaintiffs' expert.

United States v. Newman. Retained by Corbin & Fitzgerald to estimate harm caused to an apparel merchandising company by its Chief Executive Officer's alleged moving of revenues from one quarter into an earlier quarter and the write-off of certain non-cash deferred expenses for the purpose of determining a criminal sentence of the CEO.

Brown v. Andersen Consulting. Retained by Fulbright & Jaworski and Winston & Strawn to provide support for expert testimony in connection with the bankruptcy of FoxMeyer Corp.

ONEOK et al. v. Southwest Gas et al. Retained by O'Melveny & Myers to estimate damages to a natural gas local distribution company arising from an alleged breach of a merger agreement and to also estimate damages for which that company could have been liable for allegedly blocking a hostile bid.

Needlecraft Industries v. Barbour Threads. Retained by Sidley & Austin to estimate damages to a thread retailer caused by a thread manufacturer's alleged breach of a distribution contract.

Katzenberg v. Disney. Retained by Troop Steuber Pasich Reddick & Tobey to provide market-based estimates of the value of Jeffrey Katzenberg's claim against The Walt Disney Company arising out of Katzenberg's termination of employment with Disney.

Isco v. Arthur Andersen. Retained by Alschuler Grossman Stein & Kahan and Steptoe & Johnson to consult in defense of Arthur Andersen regarding the effects of various alleged accounting errors and misstatements upon a bankrupt home-building company's cash flows.

Liberty House Valuation Matter. Retained by Hennigan Mercer & Bennett to value the business operations of a Hawaii-based department store chain for the purpose of confirming a Chapter 11 reorganization plan.

Ellis v. State of California. Retained by Berger & Norton to calculate the return a reasonably prudent investor would earn so as to produce a reasonable return while maintaining safety of principal as post-judgment interest to be awarded in a condemnation hearing.

Michigan National Corp. Class Action Allocation. Retained by Garwin Bronzaft Gerstein & Fisher and Wechsler Harwood Halebian & Feffer to allocate a lump sum securities class action settlement amount between ERISA and federal securities law claimants.

Plum Creek Timber Company Litigation. Retained by Sullivan & Cromwell to ascertain the fairness to limited partners of the conversion of a master limited partnership into a real estate investment trust.

United States v. Licht. Retained by Hennigan Mercer & Bennett to perform analyses to ascertain whether an individual accused of insider trading and tipping others was in fact in possession of material non-public information.

Falcon Cable Systems Litigation. Retained by Wachtell Lipton Rosen & Katz to determine the appropriateness of appraisal practices used by three independent appraisers in connection with an asset sale.

Los Angeles Metropolitan Transit Authority v. Lazard Freres & Co. Retained by Hennigan Mercer & Bennett to determine the extent to which excessive markups were charged to the MTA by Lazard Freres in sales of Treasury securities used for advance refundings of the MTA's debt issues.

Harter v. McCloskey. Retained by Greenberg Glusker Fields Claman & Machtinger to evaluate the overall performance of a family trust and to determine whether the payouts to current income beneficiaries were unduly detrimental to remainder beneficiaries.

Kenney v. Bear Stearns. Retained by Bartko Tarrant & Miller and Lovitt & Hannan to research academic literature regarding how high technology companies should be financed and to analyze a merger between two computer-aided design companies that resulted in a Chapter 11 bankruptcy.

Guinness Peat Group, Ltd. v. Santa Fe Financial Corp. Retained by Gray Cary Ware & Freidenrich to determine the extent of damages suffered by Santa Fe shareholders as a result of management's grant of a warrant to Intergruop at a price below net asset value. The sole asset held by Santa Fe was a Holiday Inn in San Francisco's Financial District, and the engagement entailed valuing this asset to determine net asset value.

Wrobel v. Gigatek Memory Systems, Inc. Retained by Graham & James to value a manufacturer of quarter-inch computer backup tape cartridges for the purposes of valuing stock appreciation rights granted to a departing president and chief executive officer.

Foodmaker, Inc. v. Vons. Retained by Munger Tolles & Olson to determine any damages suffered by Jack in the Box as a result of the food poisoning outbreak in 1993.

Talieh v. OnTrak Systems, Inc. Retained by Brobeck Phleger & Harrison to value warrants allegedly lost due to termination of employment.

GTE/SBC Communications/Regional Bell Operating Companies Cost of Capital Hearings. Retained by AT&T to determine the cost of capital for the provision of unbundled telephone network elements for GTE, SBC Communications, and other regional Bell operating companies to unrelated users in various states.

Du Pont Securities Litigation. Retained by Garwin Bronzaft Gerstein & Fisher to evaluate damages to Du Pont shareholders resulting from allegedly fraudulent statements and omissions made during litigation involving users of Benlate herbicide.

Nuveen Bond Fund Mediation. Retained by Garwin Bronzaft Gerstein & Fisher to evaluate damages to shareholders of two closed-end municipal bond funds that were the subject of allegedly illegal rights offerings.

Salick Health Care v. Spinella. Retained by Epstein Becker & Green to determine the extent to which a terminated employee mitigated his damages by accepting alternative employment with a stock option package.

Gutierrez v. Charles J. Givens Organization. Retained by Baker & McKenzie to evaluate and compare investment advice provided in seminars to advice offered to the public by others in investment books and literature.

Confidential Trademark Valuation. Performed a confidential valuation of trademark rights transferred by a large multinational corporation.

Weiser Trust. Retained by Ward, Kroll and Jampol to determine the value of securities held in trust and to estimate annual dividend income from these securities.

Arthur D. Little, Inc. v. Electronic Data Systems. Retained by Dewey Ballantine to evaluate damages to Arthur D. Little's aerospace consulting division as a result of EDS's recruitment of employees.

Valuation of the Upper Deck Company. On behalf of Bandai, Inc., prepared a valuation of a minority interest in the Upper Deck Company, a privately held US corporation.

Schwartz v. Stroock, Stroock, and Lavan. Retained by Sidley & Austin to evaluate the competitive position and financial strength of the Federated Group, an electronic equipment retail chain.

Abbey Securities Litigation. Retained by Hale & Dorr to evaluate potential damages to shareholders resulting from alleged deceptive practices.

CamNet Communications Securities Litigation. Retained by Carlsmith Ball Wichman Murray Case & Ichiki to evaluate potential damages to shareholders due to alleged omissions and misstatements in a Canadian broadcasting company's financial statements.

SEC v. Schwartzberg. Retained by Riordan & McKinzie and Talcott Lightfoot Vandeveld Woehrlé & Sadowsky on behalf of a former officer of LA Gear to evaluate damages due to alleged insider trading.

SEC v. Goldinger, et al. Retained by Howrey & Simon and Talcott Lightfoot Vandeveld Woehrlé & Sadowsky on behalf of a broker accused of insider trading in Thrifty stock.

PMC v. Cosrich. Retained by Christensen White Miller Fink & Jacobs to estimate the value of a license to manufacture children's toiletries bearing the likenesses of Mighty Morphin Power Rangers characters in a breach of contract action.

Baca v. Vons. Retained by Munger, Tolles & Olson on behalf of Vons to analyze alleged damages in contract dispute regarding check-cashing concessions in certain supermarkets.

Hamburger Hamlet Securities Litigation. Retained by Irell & Manella on behalf of Hamburger Hamlet to evaluate damages to Hamlet shareholders arising from alleged omissions and misstatements in the prospectus for Hamlet's initial public offering of stock.

Thompson v. Roxbury. Retained by Donovan and Sapienza to evaluate damages for lost business income of a model injured due to alleged negligence. Trial testimony April 1994.

Rosenbaum et al. v. National Medical Enterprises. Retained by Gibson, Dunn & Crutcher on behalf of NME to analyze the extent of potential damages associated with alleged failures to disclose certain practices at the company's psychiatric hospitals.

Heart Technology Securities Litigation. Retained by Bogle & Gates on behalf of Heart Technology to evaluate damages to Heart shareholders arising from alleged omissions in the prospectus for Heart's initial public offering of stock.

Xytronyx Securities Litigation. Retained by Sidley & Austin to evaluate damages to shareholders due to alleged omissions and misstatements in the Xytronyx financial statements.

Ahmanson v. Salomon. Retained by Wachtell, Lipton, Rosen & Katz to evaluate the analysis performed by Salomon with regard to Ahmanson's acquisition of the Bowery and to value certain income maintenance contracts between the Bowery and the FDIC.

KSC Recovery, Inc. v. Jacobs et al. Retained by Coghill & Goodspeed and Lewis & Roca to analyze actual and proposed leveraged buyouts of Kaiser Steel.

Equitec Roll-Up Litigation. Retained by Gibson, Dunn & Crutcher on behalf of Dean Witter to analyze the impact of a roll-up on the value of a group of limited partnership.