

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

In the matter of the application of

THE BANK OF NEW YORK MELLON (as Trustee under various Pooling and Servicing Agreements and Indenture Trustee under various Indentures), BlackRock Financial Management Inc. (intervenor), Kore Advisors, L.P. (intervenor), Maiden Lane, LLC (intervenor), Maiden Lane II, LLC (intervenor), Maiden Lane III, LLC (intervenor), Metropolitan Life Insurance Company (intervenor), Trust Company of the West and affiliated companies controlled by The TCW Group, Inc. (intervenor), Neuberger Berman Europe Limited (intervenor), Pacific Investment Management Company LLC (intervenor), Goldman Sachs Asset Management, L.P. (intervenor), Teachers Insurance and Annuity Association of America (intervenor), Invesco Advisers, Inc. (intervenor), Thrivent Financial for Lutherans (intervenor), Landesbank BadenWuerttemberg (intervenor), LBBW Asset Management (Ireland) plc, Dublin (intervenor), ING Bank fsb (intervenor), ING Capital LLC (intervenor), ING Investment Management LLC (intervenor), New York Life Investment Management LLC (intervenor), Nationwide Mutual Insurance Company and its affiliated companies (intervenor), AEGON USA Investment Management LLC, authorized signatory for Transamerica Life Insurance Company, AEGON Financial Assurance Ireland Limited, Transamerica Life International (Bermuda) Ltd., Monumental Life Insurance Company, Transamerica Advisors Life Insurance Company, AEGON Global Institutional Markets, plc, LIICA Re II, Inc., Pine Falls Re, Inc., Transamerica Financial Life Insurance Company, Stonebridge Life Insurance Company, and Western Reserve Life Assurance Co. of Ohio (intervenor), Federal Home Loan Bank of Atlanta (intervenor), Bayerische Landesbank (intervenor), Prudential Investment Management, Inc. (intervenor), and Western Asset Management Company (intervenor),

Petitioners,

-against-

WALNUT PLACE LLC, WALNUT PLACE II LLC, WALNUT PLACE III LLC, WALNUT PLACE IV LLC, WALNUT PLACE V LLC, WALNUT PLACE VI LLC, WALNUT PLACE VII LLC, WALNUT PLACE VIII LLC, WALNUT PLACE IX LLC, WALNUT PLACE X LLC, WALNUT PLACE XI LLC, POLICEMEN'S ANNUITY & BENEFIT FUND OF CHICAGO AND THE WESTMORELAND COUNTY EMPLOYEE RETIREMENT SYSTEM, CITY OF GRAND RAPIDS GENERAL RETIREMENT SYSTEM, CITY OF GRAND RAPIDS POLICE AND FIRE RETIREMENT

Index No. 651786/2011

Assigned to: Kapnick, J.

**ORDER TO SHOW  
CAUSE**

SYSTEM, TM1 INVESTORS, LLC, FEDERAL HOME LOAN BANK OF BOSTON, FEDERAL HOME LOAN BANK OF CHICAGO, FEDERAL HOME LOAN BANK OF INDIANAPOLIS, FEDERAL HOME LOAN BANK OF PITTSBURGH, FEDERAL HOME LOAN BANK OF SAN FRANCISCO, FEDERAL HOME LOAN BANK OF SEATTLE, and V RE-REMIC, LLC,

Proposed Intervenor-Respondents,

for an order pursuant to CPLR § 7701 seeking judicial instructions and approval of a proposed settlement.

**UPON** application by intervenors Policemen’s Annuity & Benefit Fund of Chicago, Westmoreland County Employee Retirement System, City of Grand Rapids General Retirement System and City of Grand Rapids Police and Fire Retirement System (the “Public Pension Fund Committee”) for expedited discovery and further relief, including the creation of a document repository, and the production of an initial set of documents into the document repository, and

**WHEREAS**, on June 29, 2011, Bank of New York Mellon (“BNY Mellon”), in its capacity as Trustee of five hundred thirty (530) residential-securitization trusts (collectively “Trusts”), filed a verified petition pursuant to CPLR § 7701 seeking the Court’s approval of a proposed settlement with Bank of America Corporation (“BOA”), BOA Home Loans Servicing, LP (“BOA HLS”), Countrywide Financial Corporation (“CFC”), and Countrywide Home Loans, Inc. (“CHC”), regarding, among other things, alleged breaches of representations and warranties made to the Trusts,

**WHEREAS**, the proposed settlement includes a payment of \$8.5 billion from BOA to the Trusts, but does not have an opt-out provision, releases the non-securities claims that the Trusts’ certificate holders have against BOA, BOA HLS, CFC and CHL, and calls for BOA to indemnify BNY Mellon for its conduct as Trustee,

**WHEREAS**, on June 29, 2011, the Court ordered any interested parties seeking to object to the proposed settlement to file a detailed statement of their objections and the grounds therefor, as well as all of the supporting documents they desire the Court to consider, by August 30, 2011,

**WHEREAS**, several interested parties have moved to intervene in this proceeding, including the Public Pension Fund Committee, neither BNY Mellon, nor the group of Institutional Investors with whom BNY Mellon and BOA negotiated the proposed settlement, have objected to any of the interested parties' motions to intervene, and the Court has granted their motions,

**WHEREAS**, on or about July 14, 2011, BNY Mellon made publicly available the expert reports which it purported to rely on in entering into the proposed settlement,

**WHEREAS**, various intervenors, including the Public Pension Fund Committee, have sought information and discovery from BNY Mellon, BOA and the Institutional Investors regarding the merits of the proposed settlement, the process by which it was reached, and the expert reports, in order to determine whether to file objections by August 30, 2011,

**WHEREAS**, in support of this application, the Public Pension Fund Committee has submitted a Memorandum of Law in Support, a proposed Case Management Order (Exhibit A) and the affidavit of Scott Hakala (Exhibit B), and

**WHEREAS**, it may be appropriate to establish a mechanism through which intervenors and interested parties can efficiently obtain the discovery they need to evaluate the proposed settlement and to determine whether to object to it by August 30, 2011, it is hereby

**ORDERED THAT BANK OF NEW YORK MELLON, BANK OF AMERICA CORPORATION, BANK OF AMERICA HOME LOANS SERVICING, LP, COUNTRYWIDE FINANCIAL CORPORATION, COUNTRYWIDE HOME LOANS, INC., AND THE INSTITUTIONAL INVESTORS OR THEIR COUNSEL SHALL SHOW CAUSE**

before this Court, at IAS Part 39 thereof, at the Courthouse at 60 Centre Street, New York, NY, on the \_\_\_ day of August, 2011, at 9:30 a.m., why a Case Management Order should not be entered (Exhibit A):

(a) requiring BNY Mellon, BOA, BOA HLS, CFC, CHL and the Institutional Investors to establish within seven days thereof an electronic Document Repository, consistent with the terms set forth in Exhibit 1 to the Case Management Order, for the purpose of holding documents relevant to the proposed settlement, which intervenors and interested parties can access, and

(b) requiring BNY Mellon, BOA, BOA HLS, CFC, CHL and the Institutional Investors to produce into the Document Repository, within seven days after it is established, the documents listed in Exhibit 2 to the Case Management Order, and

**IT IS FURTHER HEREBY ORDERED** that service of a copy of this Order to Show Cause, together with the papers upon which it is granted, by Personal Service, upon counsel for BNY Mellon, BOA, BOA HLS, CFC, CHL and the Institutional Investors, and any Intervenor, shall be made by July \_\_, 2011.

Dated: July \_\_, 2011

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Hon. Barbara R. Kapnick  
J.S.C.

# **EXHIBIT A**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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In the matter of the application of )  
)  
)  
THE BANK OF NEW YORK MELLON (as Trustee under )  
various Pooling and Servicing Agreements and Indenture )  
Trustee under various Indentures), )  
)  
Petitioner, )  
)  
Assigned to: )  
Kapnick, J. )  
)  
-against- )  
)  
)  
POLICEMEN’S ANNUITY & BENEFIT FUND OF )  
CHICAGO AND THE WESTMORELAND COUNTY )  
EMPLOYEE RETIREMENT SYSTEM, CITY OF GRAND )  
RAPIDS GENERAL RETIREMENT SYSTEM, and CITY )  
OF GRAND RAPIDS POLICE AND FIRE RETIREMENT )  
SYSTEM (proposed intervenors) )  
)  
)  
Respondents, )  
)  
)  
)  
for an order, pursuant to CPLR § 7701, seeking judicial )  
instructions and approval of a proposed settlement )  
)  

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Intervenors the Policemen’s Annuity & Benefit Fund of Chicago, the Westmoreland County Employee Retirement System, City of Grand Rapids General Retirement System and City of Grand Rapids Police and Fire Retirement System (the “Public Pension Fund Committee”) having moved for an Order to Show Cause directing Bank of New York Mellon (“BNY Mellon”), Bank of America Corporation (“BOA”) and the group of Institutional Investors to establish an electronic Document Repository and to produce an initial set of relevant documents therein that BNY Mellon, BOA and the Institutional Investors have ready access to, which is necessary for the Public Pension Fund Committee and other interested parties to determine whether to object by August 30, 2011, to the proposed settlement between BNY Mellon, BOA and the Institutional Investors that would release

multi-million or multi-billion dollar claims belonging to the Public Pension Fund Committee and other interested parties.

Now, upon the Public Pension Fund Committee's motion, and upon all papers submitted and considered in connection with such motion and the prior filings in this proceeding, and it appearing that: (i) the establishment of the Document Repository will efficiently allow intervenors and interested parties access to the documents and information they need to evaluate the proposed settlement so that they may determine whether to object to it by August 30, 2011, and (ii) the list of documents attached hereto shall form the initial set of documents produced into the Document Repository, it is hereby:

**ORDERED**, that within the next seven days BNY Mellon, BOA and the Institutional Investors shall establish and make accessible an electronic Document Repository, consistent with the description of the Document Repository in Exhibit A, which they shall maintain throughout the course of this proceeding and update from time to time as the Parties so agree or the Court so orders, and which any intervenors or interested parties may access for the purpose of evaluating the proposed settlement, and it is further

**ORDERED**, that within seven days of the establishment of the Document Repository, BNY Mellon, BOA and the Institutional Investors shall produce therein the documents listed in Exhibit B, and it is further

**ORDERED**, that if any intervenor requests the production of additional documents into the Document Repository, BNY Mellon, BOA and the Institutional Investors shall meet and confer with the intervenor to arrive at an agreement.

Dated July \_\_\_, 2011

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Hon. Barbara R. Kapnick  
J.S.C.



# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

In re: DEEPWATER HORIZON

CIVIL ACTION

NO: 10-1156


**This order applies to all  
cases.**

SECTION: J(1)

ORDER

This Court, having issued the Order Protecting Confidentiality (**Rec. Doc. 269**), hereby **ORDERS** that pursuant to the Interim Case Management Order (**Rec. Doc. 134**), the attached document is to be filed as **Exhibit A** to the Interim Case Management Order.

New Orleans, Louisiana, this 13th day of July, 2010.

  
CARL J. BARBIER  
UNITED STATES DISTRICT JUDGE

**LISKOW&LEWIS**  
A Professional Law Corporation

EXHIBIT A

One Shell Square  
701 Poydras Street, Suite 5000  
New Orleans, LA 70139  
(504) 581-7979 Main  
(504) 556-4108 Fax

822 Harding Street  
Post Office Box 52008  
Lafayette, LA 70505  
(337) 232-7424 Main  
(337) 267-2399 Fax

First City Tower  
1001 Fannin Street, Suite 1800  
Houston, TX 77002  
(713) 651-2900 Main  
(713) 651-2908 Fax

www.Liskow.com

June 11, 2010

R. Keith Jarrett

Direct: (504) 556-4133  
rkjarrett@Liskow.com

**VIA E-MAIL**

Mr. James Parkerson Roy  
Domengeaux Wright Roy & Edwards  
P.O. Box 3668  
Lafayette, LA 70502

Mr. Stephen J. Herman  
Herman Herman Katz & Cotlar  
820 O'Keefe Ave.  
New Orleans, LA 70113

Re: Deepwater Horizon Litigation  
Our File No.: 10451.084

Dear Jim & Steve:

In your role as joint Interim Liaison Counsel for the plaintiffs before Judge Barbier, I am following up on our productive phone conversations of this week concerning the parameters of a document depository for BP-produced documents. I believe we have an agreement on the following points:

1. BP will create an electronic database consisting of the documents it has already produced to the Marine Board of Inquiry ("MBI") and various committees of Congress.
2. BP's database of documents will be accessible by July 6, 2010. Everything that BP has produced to those entities as of June 18 will be uploaded and available for downloading and printing by July 6. Any documents that BP has produced or will produce to those entities after June 18 will be uploaded and available for downloading and printing within three weeks of the production to the MBI or Congress.
3. BP will withhold from this database documents it considers to be privileged. After an MDL is established, BP will provide a F.R.C.P. privilege log with a listing of those documents it has withheld in accordance with the case management orders entered in that proceeding.



June 11, 2010

4. The BP document depository will be available to all plaintiff counsel in all lawsuits in all federal jurisdictions, provided those lawyers agree to the conditions of this agreement. BP will be in the sole position to grant access to the database, but such access will not be unreasonably withheld so long as the conditions set forth here are met. Any disputes regarding the scope of documents posted or access to such documents will be resolved, after good faith consultation between counsel, by the court handling the case where the dispute arose. except that once created by the JPML, the MDL transferee court shall decide all such disputes.
5. As a condition of access to the document database, interested plaintiff counsel must adhere to the terms of a Confidentiality Agreement to be entered by the court. A draft agreement has been exchanged. All parties reserve their right to seek modification of the terms of such an agreement after the MDL panel consolidates the pending cases.
6. As a condition for the creation of this document depository, Plaintiffs agree that this production will serve in lieu of all other discovery to BP until such time as (a) the MDL panel consolidates these Deepwater Horizon cases and (b) the transferee court enters some sort of discovery plan or case management order. The same agreement would apply to other plaintiff counsel who seek access to the depository.<sup>1</sup>
7. BP acknowledges that this agreement does not constitute a waiver by plaintiffs of their right to seek any and all appropriate discovery under F.R.C.P. 26, *et seq.*, after the MDL panel consolidates the pending cases.

Both sides understand that the document depository – at this time – will not include documents that address environmental, health, and safety issues that affect response workers. These documents will be the subject of a stand-alone agreement, which is currently under discussion among counsel.

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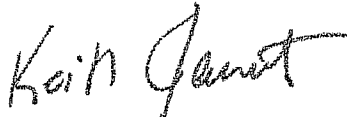
<sup>1</sup> This limitation on formal discovery pending the ruling of the MDL Panel notwithstanding, the parties are continuing to cooperate with respect to the sharing of documents and information regarding environmental, health and safety issues, referenced below.

June 11, 2010

There remains one point of disagreement between the parties. Liaison counsel prefer that the terms of this letter agreement be memorialized in the form of a court order. BP prefers to operate in the form of a letter agreement to preserve the jurisdictional neutrality of the agreement.

Thank you for your help in concluding this discovery issue.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Keith Jarrett". The signature is written in a cursive style with a prominent initial "K".

R. Keith Jarrett

RKJ/efp

cc: Don K. Haycraft, Esq.

# **EXHIBIT 2**

## **INITIAL PRODUCTION TO DOCUMENT REPOSITORY**

*To Bank Of New York Mellon, the group of Institutional Investors, and Bank of America Corporation, Bank of America Home Loans Servicing, LP, Countrywide Financial Corporation, and Countrywide Home Loans, Inc. (collectively, "BOA"):*

1. All reports or similar documents prepared by experts or any other third party analyzing the Proposed Settlement (between BNY Mellon and BOA involving the 530 residential-securitization Trusts).
2. All documents provided to the experts or third parties identified in response to Request 1 for their consideration in preparing the reports.
3. All reports or documents provided to the Institutional Investors or BNY Mellon for their due diligence or exchanged between them and/or BOA discussing or analyzing the Proposed Settlement.
4. All documents exchanged between any of the Institutional Investors, BNY Mellon and/or BOA that discuss or analyze any other settlement proposals (besides the Proposed Settlement) for the 530 residential-securitization Trusts (collectively "Trusts").
5. All documents already produced to any government entities regarding the Proposed Settlement.
6. Any documents produced or transcripts of depositions taken in *MBIA Insurance Corp. v. Countrywide Home Loans, Inc., et al.*, Index No. 08/602825 (N.Y. Sup. Ct.), regarding BOA's successor liability for any Countrywide entity, including all documents filed as an exhibit in that action by any party thereto under seal.
7. All demands made by the Institutional Investors that BNY Mellon, as Trustee, exercise any of the Trusts' rights against BOA.
8. For each Trust, documents sufficient to identify: the original principal balance and current remaining principal balance of the mortgage loans therein; the recognized losses incurred to date; the allocation of the remaining principal balances to the outstanding trust certificates; current or recent (within the last seven months) price, quote or value estimates for the securities issued in connection with or collateralized by the Trust; and the current amounts of loans (by remaining principal amount or as a percentage of remaining principal amount) delinquent, in bankruptcy, and/or in the process of foreclosure.
9. All analyses performed or received regarding the proportion of loans within each Trust that have or will have deficiencies, and are or will be subject to repurchase or rescission by the seller of those loans.

10. Documents sufficient to identify the Allocation Plan for the Proposed Settlement, and all documents provided to the Institutional Investors or BNY Mellon for their due diligence or exchanged between them and/or BOA discussing or analyzing the Allocation Plan, including any earlier drafts of the Allocation Plan, and earlier proposals for allocating the monetary recovery from the Proposed Settlement or from any other settlement proposals (besides the Proposed Settlement) for the Trusts.

11. All documents that discuss or analyze the indemnity provided to BNY Mellon in the Proposed Settlement, and all such documents provided to or exchanged between any of the Institutional Investors, BNY Mellon and/or BOA.



# **EXHIBIT B**



trusts are subject to the Petition by the Petitioner, The Bank of New York Mellon (“BNY Mellon” or “Trustee”), for approval of a settlement agreement between the Trustee and certain affiliates/subsidiaries of Countrywide Financial Corporation (specifically Countrywide Home Loans, Inc. and Countrywide Home Loans Servicing LP, collectively “Countrywide”) and Bank of America Corporation (“BofA”) and certain of its Countrywide subsidiaries.

2. I have reviewed the information summarized to date in various filings and the expert reports filed or produced by the Trustee to date. The information contained within these documents is highly aggregated and insufficient for a holder of a certificate associated with these trusts to evaluate the adequacy of the settlement agreement and the analyses in the filed expert reports purporting to support the reasonableness of the settlement agreement between the Trustee and Countrywide. The expert reports provide a simple aggregate estimate of recorded losses and expected future losses calculated for loans that are currently 60 plus days delinquent (as a percentage of remaining principal). The bases for the assumptions used to calculate expected losses on the delinquent loans in the expert reports are not, however, apparent from the reports, so that further information to evaluate the reliability and reasonableness of the loss estimates is necessary. Thus, obtaining the documents and data considered and relied upon by the experts would be of substantial assistance in assessing the settlement and the adequacy of the due diligence performed on behalf of the trusts. This type of information should be readily available since it would have necessarily been provided to the experts for their reports.

3. In addition, for each Trust certain key facts should exist, in electronic form, to determine the Trust’s likely losses; these include: (a) the original principal balance of mortgage loans in the trust; (b) the remaining principal on loan balances in the trust; (c) recognized losses incurred to date by each trust; (d) the allocation of remaining principal balances to the trust

certificates outstanding; (e) the current amounts of loans (by remaining principal amount or as a percentage of remaining principal) delinquent, in bankruptcy and in the process of foreclosure in the trust; and (f) current or recent values or price quotes for the securities issued in connection with or collateralized by the trust.

## **II. Background and Qualifications of the Expert**

4. My resume is attached. I have a Ph.D. in Economics from the University of Minnesota with a specialization in monetary and financial economics and am a Chartered Financial Analyst (CFA). For the past nineteen, years I have been employed by CBIZ Valuation Group, LLC (a subsidiary of a public company, CBIZ-CBZ on NYSE) and its predecessors. As part of my consulting practice, I have extensive training and experience in evaluating mortgage loans and mortgage backed securities on numerous occasions.

5. I am charging fees for my services in this engagement based on my hourly billing rate of \$575 per hour. I have received assistance from other staff employed by CBIZ Valuation Group.

## **III. Information Considered**

6. In connection with this assignment I have received and reviewed the following information:

- (a) The Verified Petition filed by the Trustee in this matter.
- (b) All of the documents and briefs filed electronically with the Court to date in this matter.
- (c) News and information (on Factiva and Lexis-Nexis news retrieval systems) regarding issues with Countrywide's lending practices and asserted claims for repurchase or rescission and deficiencies in loan files, refusals or requests for refunds or consideration by private mortgage insurance companies with respect to Countrywide

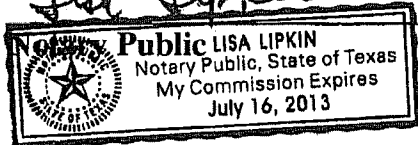
mortgage loan trusts, and the asserted claims of the Investor Group in this matter from June 2010 to the current date.

- (d) Certain information for the Trusts in this case that is publicly filed (such as the Trusts' prospectuses and most recent monthly statements), and additional information on the Countrywide trusts published by Bloomberg, L.P.
- (e) Federal Housing Finance Agency Housing Price Index data from 1990 to 2010, including: monthly indices through October 2010 by geographic region and nationwide in the United States both seasonally and not seasonally adjusted and quarterly state price indices through the second quarter of 2010.

7. This affidavit is based on my experience and research to date using information obtained publicly and is subject to substantial review as further information is produced. The documents and data identified as being relevant are clearly the kind of information either more readily available to the parties in electronic format, not available publicly, and/or important to assessing whether sufficient information was obtained and analyses performed to assess the reasonability of the eligible investor losses and estimated recoverable amounts.

I HEREBY AFFIRM THAT THE FOREGOING IS CORRECT AND IF CALLED TO TESTIFY WOULD APPEAR AND TESTIFY ACCORDING.

SWORN BEFORE ME at Dallas, Texas,  
this 26<sup>th</sup> day of July, 2011

*Lisa Lipkin*  


*Scott D. Hakala*  
 ) Scott D. Hakala, Ph.D., CFA

My commission expires:

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## Exhibit A

Scott D. Hakala, Ph.D., CFA

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### Employment History

- **1992 – Jan 1998, March 1998 to Present    CBIZ Valuation Group, LLC (formerly Business Valuation Services), Dallas, Texas**

*Managing Director.* (previously Director or Principal 1995 to 2009 and Senior Consultant 1992 to 1994) As a financial economist and financial analyst, Dr. Hakala brings to the firm extensive practical knowledge of finance, economics and statistics. His expertise includes: corporate finance, restructuring and cost of capital; the valuation of securities and business interests (transactions, mergers, acquisitions, fairness opinions); the valuation of intangible assets (patents, trademarks); analysis of publicly traded securities (insider trading studies, trading analyses, event analyses, materiality, damages in securities litigation); economic loss analyses (commercial litigation); wage and compensation determination (reasonable compensation studies, lost personal income, wrongful termination); transfer pricing; derivative securities (options pricing and valuation); and antitrust and industry structure, strategic pricing, marketing and cost allocation analyses.

- **Jan 1998 – March 1998    Laser BioTherapy, Inc., Dallas, Texas**

*Interim President.* Dr. Hakala served as the Chief Executive Officer of Laser BioTherapy, Inc. His decision-making authority involved issues of marketing, employment, negotiating with investors, pricing, product planning, financial planning and all other corporate decisions.

- **1988 - 1992    Dept. of Economics, Southern Methodist University, Dallas, Texas**

*Assistant Professor.* Dr. Hakala taught graduate and undergraduate courses in macroeconomics, monetary/financial economics, financial institution regulation and international financial management. He supervised dissertations on international money, commodity options and forward markets, and foreign exchange rates. His research interests included monetary policy, the causes of fluctuations in employment and output, capital stock estimation, aggregate production theory, foreign currency movements (futures, options and forward contracts), inflation, interest rate movements and the term structure of interest rates, asset pricing and consumption.

- **1983 - 1988    Dept. of Economics, University of Minnesota, Minneapolis, Minnesota**

*Lecturer.* Dr. Hakala designed course materials and taught large classes in macroeconomics and international economics. He served on hiring committees and evaluated other instructors.

### Formal Education

- Doctor of Philosophy, Economics - 1989  
University of Minnesota, Minneapolis, Minnesota  
Graduate School Fellowship  
(Graduate/dissertation advisor Edward Prescott was awarded the Nobel Prize in Economics in 2004.)
- Bachelor of Arts, Economics - 1983  
Minor in Business Administration and Pre-Law Emphasis  
University of Minnesota, Duluth, Minnesota  
Graduated Summa Cum Laude

Whiteside Scholarship, full tuition and expenses

## Honors and Awards

- Distinguished Instructor, Department of Economics, University of Minnesota, 1987-1988
- Earhart Foundation Award, Department of Economics, University of Minnesota, 1985
- Graduate School Fellowship, 1983 and 1984
- Cecil H. Meyers Outstanding Economics Student Award, 1982
- Perfect Scores on Quantitative Analysis and Verbal Analysis sections of Graduate Record Examination (GRE), 1982
- Alice Touhy Tweed Award, High School Valedictorian, 1979
- Lee Krough Award (outstanding character), American Legion's Minnesota Boy's State, 1978, elected Lt. Governor and invited to represent state at other events
- Centrum Award, 1979 (for outstanding character and contributions)

## Professional Associations

- CFA Charter, The Institute of Chartered Financial Analysts, completed all tests and requirements for a CFA designation
- Member, American Finance Association

## Publications

- "The Other Side of Kohler: IRS Expert Offers Insights," *Business Valuation Update*, January 2007.
- Thorsen, Kaplan and Hakala, "Rediscovering the Economics of Loss Causation," *Journal of Business and Security Law Acceptance*, Vol. 6, No. 1 and 2, April 2006, pp. 93-125.
- "Estimating and Applying Economic Value Added," Chapter 13E - *Financial Valuation: Businesses and Business Interests - 1998 Update*. Publisher: Warren, Gorham & Lamont
- "Valuation for Smaller Capitalization Companies" (with Dr. Mukesh Bajaj), Chapter 12A - *Financial Valuation: Businesses and Business Interests - 1998 Update*. Publisher: Warren, Gorham & Lamont.
- "Analysis and Valuation of Distressed Equity Securities" (with Mr. M. Travis Keath), Chapter 13F - *Financial Valuation: Businesses and Business Interests - 1999 Update*. Publisher: Warren, Gorham & Lamont.
- "Analysis and Valuation of Distressed Equity Securities" (with Mr. M. Travis Keath), *Valuation Strategies*, September/October 1999, pp. 24-34. Publisher: Warren, Gorham & Lamont.
- Contributing author in *The Art of M&A Integration: A Guide to Merging Resources, Processes and Responsibilities*. October 1997. Publisher: McGraw-Hill. Contributed on valuation of tangible and intangible assets (patents, trade secrets, customers, goodwill, employment agreements, non-competes, etc.), allocation of purchase price issues, accounting treatment of acquisitions, international valuation and transfer pricing and general valuation and due diligence issues. Assisted editor in commenting on and editing first half of text.

- Provided live and taped interviews pertaining to economic issues for television, including lengthy interviews for CNN (July 1990), WFAA-TV (July 1990; July 1991; March 1992), and radio (Internet radio on November 9, 1999, discussing Microsoft anti-trust issues).

## Lectures Presented

Dr. Hakala is a frequent public speaker on valuation, economics, ethics, and monetary policy. Examples include:

- New York City Bar Association, Securities Litigation Meeting– Discussion with Marcia Mayer Kramer regarding: “View from the trenches: How has *Dura* changed the way you analyze damages” - May 14, 2008
- PLUS D&O Symposium – New York-Panel Discussion-Written presentation entitled “Current Economic Issues in Securities Litigation” and Panel Discussion - February 2, 2006
- “Valuation of Options for Litigation Purposes” – New York University CLE Presentation-October 2000
- “Valuation Issues-Family Limited Partnerships” – Professional Financial Service, LP’s Family Limited Partnership Alert and Update; Dallas/Fort Worth - February 2000
- “PPOs for Sale: the Valuation of Managed Care Entities” - Caesars Palace; Las Vegas, Nevada - September 1992
- “Equilibria in Continuous-Time Models of Money” - refereed paper presented to the Sixth World Congress of the Econometric Society; Barcelona, Spain - August 1990
- “The Use and Holding of Currency” - Feature Presentation - Western Economic Association Meeting; San Diego, California - July 1990
- “Values and Economics” - Dallas Philosophical Forum; Dallas, Texas - March 1990
- “Ethics and the Role of Government” - ARCO Oil and Gas Research Center; Plano, Texas - October 1989
- “Continuous-Time Models of Money: Policy Implications” - paper presented to the Division of Research and Statistics of the Board of Governors of the Federal Reserve; Washington, DC - January 1988

## Expert Witness/Litigation Support

Dr. Hakala has undertaken various assignments involving litigation support and has testified as an expert witness. He has been qualified as an expert and has testified in both U.S. District Court and in U.S. Tax Court. The following is a list of testimony on record:

- \* *John K. Agamalian et al. v. Wedbush Morgan Securities, Inc. and Michael Farah*; Financial Industry Regulatory Authority Arbitration; hearing testimony February 16 and 17, 2011; testified as to the standards for appropriate diversification of assets and suitability of assets in various individual and trust accounts, representations regarding the securities invested in the accounts, and losses realized both in absolute terms and relative to appropriate benchmark funds between 2000 and 2004 resulting from investments inconsistent with the individuals’ and trusts’ needs and objectives and violations of the principle of diversification of risk. In particular, the testimony focused on excessive losses associated with investments and concentrations of holdings in more volatile equity securities and in mezzanine and subordinated tranches of non-agency mortgage-backed securities (often representing less-than-prime mortgages).



- \* *David Greenberg et al. v. Commissioner of Internal Revenue*, (Docket No. 1143-05 et al.); United States Tax Court; trial testimony February 8 and 9, 2011; testified as to the fairness, reasonableness and terms of certain digital foreign currency option swaps.
- \* *PATTY BEALL, MATTHEW MAXWELL, TALINA MCELHANY, KELLY HAMPTON, CASEY BROWN, JAWSON BONNER, KEVIN TULLOS, ANTHONY DODD, ILENE MEYERS, TOM O'HAVER, JOY BIBLES, DON LOCCHI AND MELISSA PASTOR*, individually and on behalf of all other similarly situated; vs. *TYLER TECHNOLOGIES, INC. AND EDP ENTERPRISES, INC.*; (Case No. 2:08-CV-422 TJW); In the United States District Court For the Eastern District of Texas; deposition testimony October 25, 2010; testimony regarding the imputed hourly pay rate, overtime pay rate, and pay scales relative to technical, managerial, and significant administrative personnel for the type and nature of the business relating to claims of unpaid overtime in violation of the Fair Labor Standards Act.
- \* *EDUARDO PURICELLI*, on behalf of itself and all others similarly situated, vs. *THE REPUBLIC OF ARGENTINA*; (Civil Action No. 04-CV-02117 (TPG)) and related cases; In the United States District Court For the Southern District of New York; deposition testimony October 4, 2010; testimony regarding the amount of interest, principal and default interest due and owing to date on eight debt securities issued by and defaulted on by the Republic of Argentina on or before December 31, 2001.
- \* *Six & Mango Equipment, L.L.P., et al. v. Adair, Morris & Osborn, P.C., et al.*; (Cause No. 296-00453-2009); In the 296th District Court, Collin County, Texas; deposition testimony July 29, 2010; testimony regarding damages ( loss of value, additional expenses and lost profits) resulting from undisclosed restrictions on use and delays in development of commercial real estate for an operating commercial equipment dealership.
- \* *WILLIAM MOUNTANOS, PETER MOUNTANOS, JAMES RYE, and TYRONE REMINGA*, vs. *DENDREON CORPORATION, et al.*; (Case No. C 09-426-MJP); In the United States District Court For the Western District of Washington at Seattle; deposition testimony June 15, 2010; testimony regarding market efficiency, materiality, loss causation, and damages.
- \* *MIDDLECOUNTRY RETIREMENT SYSTEM*, on behalf of itself and all others similarly situated, vs. *SEMTECH CORP., JOHN D. POE, JASON L. CARLSON, MOHAN R. MAHESWARAN, DAVID G. FRANZ JR., and JOHN M. BAUMAN*; (Civil Action No. 07-CV-7183); In the United States District Court For the Southern District of New York; deposition testimony March 30, 2010; testimony regarding market efficiency, materiality, and loss causation relating to issues of class certification.
- \* *James I. Jaconette*, in his capacity as Trustee of the *James I. Jaconette Separate Property Trust Dated January 14, 2004* vs. *EMERALD BAY FINANCIAL, INC.*, a California corporation; *BOB SYREK*, an individual; *AND DOES 1-50, inclusive*; (Case No. 37-2008-00071642 CU-FR-SC); In the Superior Court for the State of California, County of San Diego, South County Division; trial testimony March 23, 2010; testified as to losses and measures of losses associated with allegations of fraud and negligent misrepresentation in connection with the sale of a mortgage loan to the plaintiff.
- \* *In re: Cobalis Corp., a Nevada Corporation; COBLAIS CORP., A NEVADA CORPORATION, and CORNELL CAPITAL PARTNERS, LP, YORKVILLE ADVISORS, LLC AND, YA GLOBAL INVESTMENTS, LP*; (CASE NO. 8:07: 12347-TA; ADVERSARY NO. 09:09-AP); In the United States Bankruptcy Court For the Central District of California-Santa Ana Division; deposition testimony February 16, 2010; hearing testimony March 10, 2010; testimony regarding gains from short sales and avoided losses from sales of shares by defendants and damage to market value of debtor/plaintiff.
- \* *Harvey Lapin vs. Goldman Sachs Group, Inc. et al.*; (No. 1:04-CV-02236-KMK); In the United States District Court For the Southern District of New York; deposition testimony February 11, 2010; testimony regarding market efficiency, materiality, loss causation, inflation per share, and damages.

- \* *In re: Northfield Laboratories, Inc. Securities Litigation*; (Master File No. 06 C 1493); In the United States District Court For the Northern District of Illinois; deposition testimony February 8, 2010; testimony regarding market efficiency, materiality, and loss causation relating to issues of class certification.
- \* *In re: Gary Vanier* (MDL No. 06-0784); 48th Judicial District Court, Tarrant County, Texas; deposition testimony February 3, 2010; hearing testimony June 17 and 18, 2010; testified as to the absence of any stock price impact (and no damages) associated with various critical Yahoo! Bulletin Board posts regarding a publicly-traded company.
- \* *ROBERT LEVITT for himself and as custodian for Richard Levitt and Monica Levitt, ROBERT RICE, STEPHEN G. SIBEN, STEPHEN STROBEHN, STANLEY VELTKAMP, PHILIP C. VITANZA for himself and Elizabeth Vitanza and Luke Vitanza, JOHN T. WHITE, GUY V. WOOD, CARL ZANDER, JR., and TED M. and KATHRYN N. JONES, as Trustees, vs. J.P. MORGAN SECURITIES INC., and J.P. MORGAN CLEARING CORP.* (Civil Action No. 99 Civ. 2789 MDL 1208 (ADS) (MLO)); In the United States District Court for the Eastern District of New York; deposition testimony November 20, 2009; testimony related to a motion for class certification in a class action alleging market manipulation and non-disclosure in connection with an initial public offering regarding issues of loss causation and common measures of damages.
- \* *Between: ED J. MCKENNA and GAMMON GOLD, INC., RUSSELL BARWICK, COLIN P. SUTHERLAND, DALE M. HENRICK, FRED GEORGE, FRANK CONTE, KENT NOSEWORTHY, CANEK RANGEL, BRADLEY LANGILLE, ALEJANDRO CARAVEO, BMO NESBITT BURNS INC., SCOTIA CAPITAL INC., and TD SECURITIES INC.* Proceeding under the *Class Proceedings Act, 1992* (Court File No. 56862); Ontario Superior Court of Justice; deposition testimony October 27, 2009; testimony, including rebuttal testimony, regarding marketing efficiency, materiality, and loss causation for class certification purposes.
- \* *Douglas Fletcher v. Pivot International*, American Arbitration Association (Arbitration Case No. 57-180-Y-00070-08); deposition testimony October 14, 2009; direct and rebuttal arbitration testimony February 23 and 25, 2010; testified as to various transfer pricing and fair market valuation issues relating to the valuation of Pivot International in connection with a buy-sell agreement for a departing employee.
- \* *In re Herley Industries Inc. Securities Litigation.* (Civil Action No. 06-2596 (JRS)); In the United States District Court for the Eastern District of Pennsylvania; deposition testimony October 9, 2009; testimony, including regarding loss causation and damages issues associated with failure to disclose issues with government contracts.
- \* *Between: ROMAN PYSZNYJ and ORSU METALS CORPORATION (f/k/a EUROPEAN MINERALS CORPORATION) WILLIAM G. KENNEDY and JAMES COLE* Proceeding under the *Class Proceedings Act, 1992* (Court File No.: 59650CP); Ontario Superior Court of Justice; deposition testimony August 26, 2009; testimony, including rebuttal testimony, regarding marketing efficiency, materiality, and loss causation for class certification purposes.
- \* *In re Merix Corporation Securities Litigation.* (Lead Case No. CV-04-826-MO); In the United States District Court for the District of Oregon; deposition testimony August 21, 2009; testimony, including rebuttal testimony, regarding loss causation issues and market and industry forces in a Section 11 case at class certification.
- \* *United States v. Charles Cathcart et al.* (Civil Case No. 07-4762-PJH (JCS)); In the United States District Court for the Northern District of California- San Francisco Division; deposition testimony July 20, 2009; testimony regarding hedging strategies for common equity shares with built-in capital gain and the materiality of various alternatives with respect to constructive sale guidelines.

- \* *In re Scientific-Atlanta, Inc. Securities Litigation* (Case No. 1:01- CV- 1950- RWS); In the United States District Court for the Northern District of Georgia- Atlanta Division; deposition testimony March 6, 2009; testimony regarding market efficiency and reliance, inflation per share, loss causation and damages relating to a relating to securities fraud claims involving "channel-stuffing" and premature revenue recognition.
- \* *In re MIVA Inc. Securities Litigation* (Civil Action No. 2:05-cv-00201-FtM-29DNF); In the United States District Court for the Middle District of Florida- Fort Myers Division; deposition testimony February 18, 2009; testimony regarding market efficiency and reliance, inflation per share, loss causation and damages relating to a relating to securities fraud claims involving revenues based on unethical Internet activity (including "click-fraud").
- \* *Brenholb, Inc. d/b/a Brenner Printing. v. Komori America Corporation* (Cause No. 51 181 Y 00365 08); American Arbitration Association; deposition testimony January 15, 2009; testified as to issues related to lost profits resulting from and impairment of the value of a defective printing press.
- \* *Capital One Financial Corporation and Subsidiaries. v. Commissioner of Internal Revenue* (Docket Nos. 24260-05 and 19519-05); United States Tax Court; trial testimony December 17, 2008; testified as to calculation of OID accruals related to certain fees and revenues generated by credit card portfolios based on analyses of account and balance turnover by type.
- \* *JOHN CARFAGNO, derivatively on behalf of CENTERLINE HOLDING COMPANY, vs. MARC D. SCHNITZER, STEPHEN M. ROSS, JEFF T. BLAU, LEONARD W. COTTON, ROBERT J. DOLAN, NATHAN GANTCHER, JEROME Y. HALPERIN, ROBERT L. LOVERD, ROBERT A. MEISTER, JANICE COOK ROBERTS, and THOMAS W. WHITE, and CENTERLINE HOLDING COMPANY* (Case No. 1:08-cv-00912-SAS-JCF); In the United States District Court for the Southern District of New York; deposition testimony November 18, 2008; testimony regarding the fairness of a preferred equity investment by an affiliate and related fiduciary issues and damages.
- \* *BENJAMIN SHIRK and RONALD JAUSS, individually and on behalf of all others similarly situated, vs. FIFTH THIRD BANCORP, et al.*, (Civil Action No. 05-cv-00049); In the United States District Court for the Southern District of Ohio, Western Division; deposition testimony November 13, 2008; testimony regarding lost profits and economic losses associated with alleged breaches of fiduciary duties and other acts related to investments in company stock in retirement plans.
- \* *AIR MEASUREMENT TECHNOLOGIES, INC. et al. v. AKIN GUMP STRAUSS HAUER & FELD, L.L.P.* (Civil Action No. SA 03 CA 0541 RF); In the United States District Court for the Western District of Texas, San Antonio Division; deposition testimony October 16, 2008; trial testimony April 20 and 21, 2009; testimony regarding reasonable royalty rates and lost royalties associated with a portfolio of patents.
- \* *Cyberdyne Systems Inc. v. BGI, Inc.* (Case No. 06-2954-PHX-ROS); In the United States District Court for the District of Arizona; deposition testimony August 18, 2008; testimony regarding preliminary analyses of claims of damages in a case involving claims of copyright infringement and breach of contract relating to an exclusive distribution agreement.
- \* *In re Stone Energy Securities Litigation* (Civil Action No. 6:05CV2088p, 6:05CV2109, and 6:05CV2220); In the United States District Court for the Western District of Louisiana- Lafayette-Opelousas Division; deposition testimony June 18, 2008; testimony regarding market efficiency and reliance and loss causation relating to a motion for class certification relating to securities fraud claims involving overstated petroleum reserves.
- \* *Asher, et al. v. Baxter International, Inc.* (Case No. CV 02-CV-5608, 5742, 5807, 6085, 6175, and 62567); In the United States District Court for the Northern District of Illinois; deposition testimony May

12, 2008; testimony regarding market efficiency and reliance, loss causation, and damages relating to securities fraud claims involving common stock.

- \* *Charles Moon and AISOFT, Inc. v. Infoglide Software Corporation* (Cause No. D-1-GN-07-000747); 353<sup>rd</sup> Judicial District Court, Travis County, Texas; deposition testimony May 9, 2007; testified as to lost income due to severance and termination associated with allegations of wrongful termination.
- \* *Gordon Roundtree Motors, Ltd. v. Mazda Motor of America Inc. et al.*; (Case No. WA:06-CV--00251); In the United States District Court for the Western District of Texas, Waco Division; deposition testimony April 10, 2008; testimony regarding capitalization and capitalization ratios involving an application for the purchase of an automotive franchise; testimony in hearing before Texas Motor Vehicle Division August 29, 2008, regarding the financial condition and proposed capitalization of the subject dealership relative to manufacturer requirements.
- \* *In re Retek Inc. Securities Litigation* (Case No. CV 02-4209 JRT/AJB); In the United States District Court for the District of Minnesota; deposition testimony March 25, 2008; testimony regarding market efficiency and reliance, loss causation, and damages relating to securities fraud claims involving common stock.
- \* *In re Accredo Health Inc. Securities Litigation* (Civil Action No. 03-2216-BP); In the United States District Court for the Western District of Tennessee; deposition testimony March 10, 2008; testimony regarding market efficiency and reliance, loss causation, and damages relating to securities fraud claims involving common stock.
- \* *Planview, Inc. vs. Computer Associates International, Inc. et al.*; (Cause No. D-1-GN-06-001382); 345<sup>th</sup> Judicial District Court, Travis County, Texas; deposition testimony March 4, 2008; testified as to lost revenues and profits, unjust enrichment, and other issues relating to allegations of theft of trade secrets, tortious interference with contractual relationships (including confidentiality, non-solicitation and non-competition agreements with employees of Planview), unfair competition, and other related causes of action.
- \* *In re Petco Corporation Securities Litigation* (Master File No. 05-CV-0823-H(RBB)); In the United States District Court for the Southern District of California; deposition testimony February 29, 2008; testimony regarding market efficiency and reliance, loss causation, and damages relating to securities fraud claims involving common stock.
- \* *In re Faro Technologies Securities Litigation* (Lead Case No. 6:05-cv-1810-Orl-22DAB); In the United States District Court for the Middle District of Florida, Orlando Division; deposition testimony February 1, 2008; testimony regarding market efficiency and reliance and loss causation relating to securities fraud claims involving common stock.
- \* *James Morton as Trustee for the James E. Morton Living Trust, vs. Merrill Lynch Pierce Fenner & Smith, Inc. and Presidio Capital Advisors, LLC*, (Case No. 2:06cv00236 DB); United States District Court, District of Utah, Central Division; deposition testimony February 12, 2008; testimony regarding damages and measures of damages relating to certain block sales of common shares in alleged violation of plaintiff's instructions.
- \* *New Phoenix Sunrise Corporation and Subsidiaries v. Commissioner of Internal Revenue*, (Docket No. 23096-05); United States Tax Court; trial testimony January 22, 2007; testified as to the fairness, reasonableness and terms of certain foreign currency swaps.
- \* *MS Perry Company, Inc.; Michael Perry; Starr Perry; and Anisa International, Inc. vs. Mary Kay, Inc. et al.*; (Cause No. 05-00857); 68<sup>th</sup> Judicial District Court, Dallas County, Texas; deposition testimony December 3, 2007; testified as to revenues, unjust enrichment, lost profits and other issues relating to allegations of theft of trade secrets, breach of confidentiality agreements, and other related causes of action.

- \* *Premier Ambulatory Surgery of Austin, L.L.P. vs. Brown McCaroll, L.L.P., Hilgers & Watkins, P.C. and David Hilgers* (Cause No. D-1-GN-06-003926); 200<sup>th</sup> Judicial District Court, Travis County, Texas; deposition testimony October 24, 2007; testified as to lost profits and lost purchase price consideration resulting from the loss of certain prospective partners associated with a surgical center.
- \* *In re Tower Automotive Securities Litigation (Civil Action No. 1:05-CV-01926-RWS)*; United States District Court Southern District of New York; deposition testimony November 14, 2007; testimony regarding market efficiency and loss causation.
- \* *In re Forest Laboratories Securities Litigation (Civil Action No. 05-CV-2827 (RMB))*; In the United States District Court for the Southern District of New York; deposition testimony October 19, 2007; testimony regarding market efficiency and reliance, loss causation, and damages relating to securities fraud claims involving common stock.
- \* *Taffazzoli Family Limited Partnership, PMA Corp., Zum Tobel Holdings, Inc. v. Ralph L. Cruz, RLCF-I 1997 Limited Partnership, William R. Cruz, WRCF-I 1997 Limited Partnership, Marc J. Stone, Charles F. Wright, David H. Fleischman and Tradestation Group, Inc*; In the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida (Case No. 03-19815-CA40); deposition testimony September 24, 2007; testified as to materiality of alleged omissions, false and/or misleading statements relating to the sales of common shares by the plaintiffs in Tradestation Group and the losses or damages arising from those sales based on rescission and out-of-pocket damages.
- \* *Hubert Fu v. Baptist/ St. Anthony's Health System; Deborah McCollum; and, Amarillo Anesthesia Consultants, P.A.*; U.S. District Court for the Northern District of Texas, Amarillo Division (Civil Action No. 2-07CV-028-J); deposition testimony September 20, 2007; testified as to lost income and incremental expenses incurred as a result of defamation and other claims involving an anesthesiologist.
- \* *CHASE MEDICAL, LP v. CHF TECHNOLOGIES, INC. and ENDOSCOPIC TECHNOLOGIES, INC.*; U.S. District Court for the Northern District of Texas, Dallas Division (Civil Action No. 304 CV 2570 M); trial testimony September 12, 2007; testified as to the reasonable royalty and lost profits in a patent infringement and trademark infringement case involving a cardiovascular surgical procedure and device.
- \* *In re: CDX CORPORATION: CDX LIQUIDATING TRUST by the CDX LIQUIDATING TRUSTEE, vs. VENROCK ASSOCIATES, et al.*; U.S. Bankruptcy Court, Northern District of Illinois, Eastern Division (Case No. 02-23467; Adversary Case No. 04A03018); deposition testimony August 30, 2007; testified as to the fairness of various non-arm's-length transactions and bridge loans involving the debtor corporation.
- \* *In re Parmalat Securities Litigation* (Master Docket No. 04-MD-1653 (LAK)); In the United States District Court for the Southern District of New York; deposition testimony August 16 and 17, 2007; testimony regarding market efficiency and reliance, loss causation, and damages relating to securities fraud claims involving common stock, preferred stock and bonds.
- \* *In re. Xcelera.Com Securities Litigation.*; United States District Court, District of Massachusetts, Boston, Massachusetts (Civil Action No. 00- CV-11649(RWZ)); deposition testimony August 9, 2007; hearing testimony April 25, 2008; testified as to loss causation and damages in a securities fraud case.
- \* *iValue Group, Inc. a/k/a Explore, Inc. v. M&A Technology, Inc. et al.; v. Julian Ross* (Cause No. 02-09794-B); In the 44<sup>th</sup> Judicial District Court, Dallas County, Texas; trial testimony August 2, 2007; testimony regarding errors in opposing expert's valuation analysis and speculative value of a failing dot.com enterprise.
- \* *Peter Kaltman, et al.; vs. Key Energy Services, Inc., et al.*; (Case No. MO-04-CV-082); In the United States District Court for the Western District of Texas, Midland-Odessa Division; deposition testimony

August 6, 2007; testimony regarding market efficiency, reliance, and loss causation relating to a motion for class certification in securities fraud case.

- \* *Thomas G. Ong for Thomas G. Ong IRA and Thomas G. Ong, Individually and on behalf of all others similarly situated, v. Sears, Roebuck & Co., Sears Roebuck Acceptance Corp., et al.*; (Case No. 03 C 4142); In the United States District Court for the Northern District of Illinois, Eastern Division; deposition testimony July 26, 2007; testimony regarding market efficiency and reliance relating to a motion for class certification involving debt and preferred securities.
- \* *In re Credit Suisse-AOL Securities Litigation* (Civ. Action No. 02-15146-NG); In the United States District Court for the District of Massachusetts; deposition testimony July 10, 2007; testimony regarding market efficiency and reliance relating to a motion for class certification.
- \* *RICHARD WAGNER, MURIEL P. ENGELMAN, PHILIP SCHECHTER, IRA GAINES, and C.H. SMITH, Individually and on Behalf of all Other Similarly Situated vs. BARRICK GOLD CORP., RANDALL OLIPHANT, JOHN K. CARRINGTON, and JAMIE C. SOKALSKY*, (Case Nos. 1:03CV4302; 1:03CV5059; 1:03CV5104; 1:03CV5856;1:03CV6089); In the United States District Court For the Southern District of New York; deposition testimony June 27, 2007, testimony regarding market efficiency and loss causation related to a motion for class certification in a class action securities case; deposition testimony November 20, 2008, regarding market efficiency, loss causation and damages.
- \* *Suzanne Coates and 2055 Incorporated vs. Robert Coates*, 101<sup>st</sup> Judicial District Court, Dallas Texas (Cause No. 05-02456); trial testimony October 2007; testified as a fact witness on June 13, 2007, regarding a preliminary valuation analysis prepared for a company owned by a couple preparing for a divorce in 2002.
- \* *In re Worldcom, Inc., et al.; (Abbott Litigation Claims)* (Chapter 11 Case No.02-13533 (AJG)); In the United States Bankruptcy Court For the Southern District of New York; deposition testimony May 24, 2007; testimony regarding damages and insolvency associated with the merger of WorldxChange with World Access, Inc. in 2000.
- \* *Matt Brody, On Behalf of Himself and All Others Similarly Situated, vs. Zix Corporation, et al.*; (Civ. Action No. 3:04-CV-1931-K ECF); In the United States District Court For the Northern District of Texas-Dallas Division; deposition testimony May 17, 2007 and October 30, 2007; testimony regarding market efficiency and loss causation related to a motion for class certification in a class action securities case.
- \* *Oscar Munoz, et al.; vs. AT&T Corp.* (Civil Action No. 06-cv-01205-PSF-MJW); In the United States District Court For the District of Colorado; deposition testimony May 7, 2007; testimony regarding the valuation of AT&T Wireless stock options vested and held by the Plaintiff, Oscar Munoz.
- \* *In re Flag Telecom Holdings, Ltd. Securities Litigation* (Case No. 02-Civ. 3400 (WCC)); In the United States District Court For the Southern District of New York; deposition testimony May 2, 2007; testimony regarding market efficiency, tracing of shares to an offering and loss causation related to a motion for class certification in a class action securities case.
- \* *156 Alliance Partners, Ltd. V. Susan Bonner Mead, Amy Col Griffin, and Don Cole, as Trustees for the M.T. Cole Trust No. 2, and M.T. Cole Trust No. 3* (Cause No. 2003-10038-16); 16<sup>th</sup> Judicial District, Denton County, Texas; deposition testimony April 18, 2007; hearing testimony May 8, 2008; testimony regarding the calculation of damages associated with claims of breach of contract and fraud involving a real estate transaction.
- \* *Harvey Lapin vs. Goldman Sachs Group, Inc. et al.*; (No. 1:04-CV-02236-KMK); In the United States District Court For the Southern District of New York; deposition testimony April 5, 2007; testimony regarding market efficiency, materiality, and loss causation.

- \* *ESTATE OF MARJORIE deGREEFF LITCHFIELD, DECEASED, GEORGE B. SNELL AND PETER deGREEFF JACOBI, CO-EXECUTORS, v. COMMISSIONER TO INTERNAL REVENUE* (Docket No. 15882-05); United States Tax Court; trial testimony April 12 and 13, 2007; testified as to the discounts for built-in capital gains, lack of control and lack of marketability of two corporations (with equity investments and agricultural real estate and operations representing the primary assets of the corporations).
- \* *In re JDS Uniphase Corporation Securities Litigation* (Master File No. C-02-1486 CW (EDL)); In the United States District Court For the Northern District of California, Oakland Division; deposition testimony March 12 and 13, 2007; additional deposition testimony regarding supplemental report October 20, 2007; trial testimony November 1, 2 and 16, 2007; testimony regarding materiality, loss causation, and damages in a class action securities case.
- \* *In re Enron Corporation Securities, Derivative and "ERISA" Litigation; LAMKIN et al.; vs. UBS PAINE WEBBER, INC., and UBS WARBURG LLC, and, GIANCARLO vs. UBS FINANCIAL SERVICES, INC., UBS SECURITIES, L.L.C., and UBS AG* (MDL Docket No. 1446; Civil Action Nos. H-02-CV-0851 & H-03-4359, respectively); In the United States District Court For the Southern District of Texas, Houston Division; deposition testimony October 26, 2006; testimony regarding materiality, loss causation, solvency and damages in two class action securities cases involving customers and counter-parties of the defendants and Enron employees awarded stock options.
- \* *F. L. Motheral Company d/b/a Motheral Printing Company vs. MLP, U.S.A., Incorporated, Mitsubishi & Company, (U.S.A.), Incorporated*; American Arbitration Association, Fort Worth, Texas (Arbitration No. 71 181 Y 00094 05); deposition testimony August 25 and September 20, 2006; testified regarding economic losses relating to allegedly defective printing equipment.
- \* *In re Rhythms Securities Litigation*; (Case No. 02-K-35); In the United States District Court For the District of Colorado; deposition testimony July 21, 2006; testimony regarding materiality, loss causation, inflation per share and damages in a class action securities case.
- \* *Rose Johnson, Individually and as Personal Representative of the Estate of Jay Johnson, and Thelma Johnson, Jason Johnson and Kindra Johnson, Individually v. Journeyman Construction, L.P.; Austex Concrete Construction, et al.*; (Cause No. GN-303431) 126<sup>th</sup> Judicial District, Travis County, Texas; deposition testimony July 11, 2006; testified as to the lost income associated with the death of Jay Johnson.
- \* *In re Enron Corporation Securities Litigation; Mark Newby, et al.; vs. Enron Corp., et al.*; (MDL Docket No. 1446; Civil Action No. H-01-3624); In the United States District Court For the Southern District of Texas, Houston Division; deposition testimony May 8 and 9, 2006; testimony regarding materiality, loss causation, solvency and damages in a class action securities case in rebuttal to a number of expert reports for defendants.
- \* *Thomas J. O'Neil, et al.; (Plaintiffs) v. Texas American Communications Network, Inc., et al.; (Defendants)*; (Cause No. 67-210728-05) 17<sup>th</sup> Judicial District, Tarrant County, Texas; trial testimony May 3, 2006; testified as to the fair value of a small Internet service provider in a case involving breach of fiduciary duty, wrongful termination and destruction of business.
- \* *Jeffrey H. Winokur, Individually and on Behalf of all Other Similarly Situated, vs. Direct General Corporation, et al.*; (Civil Action No. 3:05-0077); In the United States District Court, Middle District of Tennessee; deposition testimony April 7, 2006; testimony regarding materiality, loss causation and damages in a class action securities case.
- \* *WRS Group, Ltd. And SJS Partnership v. United States* (Civil Action WA:05-CV-166); In the United States District Court, Western District of Texas, Waco Division; deposition testimony April 4, 2006;

testified in rebuttal to and regarding the valuation of equity interests of a medical education company and relating allocation issues in an income tax dispute.

- \* *Jules Adrian Carmack vs. John Dee Carmack II, Kevin Wayne Cloud and Id Software, Inc.*; 134<sup>th</sup> Judicial District, Dallas County, Texas; deposition testimony March 31, 2006; testified as to valuation of a computer game design company and related issues in a shareholder dispute regarding a buy-sell agreement, allegations of oppression and issues of fair value.
- \* *In re Williams Sec. Litig.* (Case No. 02-CV-75-H(M)); In the United States District Court, Northeastern District of Oklahoma; deposition testimony March 22, 2006; testimony regarding materiality, loss causation and damages in a class action securities case.
- \* *James Kelsoe, et al.; v. Texas United Excavators, L.L.C. and Leslie Lynn Cox*; (Cause No. 67-209655-05) Judicial District, Tarrant County, Texas; deposition March 9, 2006; testified as to lost household income and other support in a wrongful death case.
- \* *In re Cigna Corporation Sec. Lit.* (Master File No. 2:02CV8088); In the United States District Court, Eastern District of Pennsylvania; deposition testimony March 7, 2006; testified as to issues of loss causation and damages.
- \* *Windscape Holdings, Ltd. And Live Oak Holdings, Ltd. v. Wes Lochridge & Associates General Contractors, Inc.* (Cause No. 04-8259); 101<sup>st</sup> Judicial District, Dallas County, Texas; deposition February 27, 2006; testified in rebuttal to and regarding claims of lost rental income in apartments as result of alleged paint peeling.
- \* *Joseph D. Martinec, Chapter 11 Trustee of WSNET Holdings, Inc. v. Ceberus Capital Management L.P., et al.*; 200<sup>th</sup> Judicial District, Travis County, Texas; deposition testimony December 15, 2005; testified as to valuation of a digital cable/satellite television provider.
- \* *Vitamin Village, Inc. v. Commissioner of Internal Revenue* (Docket No. 8745-02) and *Universal Marketing, Inc. v. Commissioner of Internal Revenue* (Docket No. 8744-02); United States Tax Court; trial testimony December 9, 2005; testified as to issues related to reasonable compensation of two affiliated companies.
- \* *Estate of Frederic C. Kohler v. Commissioner of Internal Revenue*; (Docket No. 4646-03); United States Tax Court; trial testimony December 7, 2005; valuation of minority shares of Kohler Inc.
- \* *In the Matter of the Marriage of Pamela Elaine White and Jeffrey Alan White*; 401<sup>st</sup> Judicial District, Collin County, Texas; deposition testimony November 8, 2005, trial testimony November 17, 2005; testified as to personal goodwill and business valuation.
- \* *In re Calpine Corporation Securities Litigation*; In the United States District Court, Northern District of California (N.D. Cal. Case No. C-02-1200 SBA (WDB)); deposition testimony October 6 and 7, 2005; testified as to Section 11 damages involving issued debt securities related to allegations of omissions regarding manipulation of the California energy markets in 2000 and 2001.
- \* *In re Omnicom Group Inc. Securities Litigation*; In the United States District Court, Southern District of New York (Case No. 02 Civ. 4483); deposition testimony September 14, 2005; and April 25, 2007; testified as market efficiency in relation to a motion for class certification in the first deposition and testified as to materiality, loss causation and damages in the second deposition.
- \* *In re: Metris Companies Inc. Securities Litigation*; In the United States District Court, District of Minnesota (Civil Action No. 02-CV-3677 JMR/FLN); deposition testimony August 15, 2005; testified as to materiality, inflation per share and aggregate damages in a class action securities case involving a subprime credit card lender.



- \* *Federal Home Loan Mortgage Corp. v. Commissioner*, United States Tax Court (Docket Nos. 3941-99, 15626-99 and 5829-02); trial testimony June 8 and 9, 2005; testified as to allocation of purchase price, valuation of intangible assets and favorable financing.
- \* *David Graben and Frank Strickler v. Western Reserve Life Assurance Company of Ohio; Intersecurities, Inc. and Timothy Hutton*; State District Court, 271<sup>st</sup> Judicial District, Wise County, Texas; deposition testimony March 29, 2005; trial testimony May 18, 2005; testified as to economic losses and prudent investment management involving the management of investment portfolios for two retired individuals.
- \* *Wechsler & Co., Inc. v. Commissioner of Internal Revenue*, United States Tax Court (Docket No. 9667-04); trial testimony March 24, 2005; prepared a written report and rebuttal report as testimony in a matter involving the determination of the reasonable compensation of a Chief Executive Officer of a broker-dealer specializing in trading convertible debt securities as a dealer and on its own account.
- \* *Stephen T. Davis, Individually and as Owner of Lone Star Phones v. Dobson Cellular Systems Inc. d/b/a CellularOne and Dobson Communications Corporation and Kelly Lane*; In the United States District Court for the Northern District of Texas, Dallas Division (Case No. 3-04-CV-0465 B); deposition testimony February 25, 2005; testified as to lost income associated with allegations of a breach of contract and wrongful termination of a dealership agreement.
- \* *In re: PE Corporation Securities Litigation*; In the United States District Court, District of Connecticut (Master File No. 3:00CV705(CFD)); deposition testimony February 23, 2005; testified as to materiality, inflation per share and aggregate damages in a class action securities case involving allegations of inadequate and misleading disclosures relating to a secondary offering of tracking shares.
- \* *Alpine International Corp. v. Texas Health Resources*; State District Court, 101<sup>st</sup> Judicial District, Dallas County, Texas; deposition testimony February 21, 2005; supplemental deposition October 3, 2005; trial testimony November 23, 2005; testified as to lost profits associated with a breach of a non-solicitation provision in a contract.
- \* *Michael Gloster and Victoria Gloster, t/a Gloster Marketing v. Relios, Inc., H. William Pollack, III, and Carolyn Pollack*; In the United States District Court, Eastern District of Pennsylvania (Cause No. 02-CV-7140); deposition testimony February 11, 2005; testified as to issues of valuation and profits involving claims of trademark and copyright infringement.
- \* *In re: Clarent Corporation Securities Litigation*; In the United States District Court, Northern District of California, San Francisco Division (Master File No. C-0103361CRB(JCS)); deposition testimony January 11, 2005; trial testimony January 31 and February 9, 2005; testified as to materiality, inflation per share and aggregate damages in a class action securities case involving allegations of accounting fraud against former officers of the company and the accounting firm for its audit.
- \* *In re: DQE, Inc. Securities Litigation*; In the United States District Court, Western District of Pennsylvania (Master File No. 01-1851); deposition testimony November 23, 2004; testified as to materiality, inflation per share and aggregate damages in a class action securities case.
- \* *In re: Worldcom, Inc. ERISA Securities Litigation*; In the United States District Court, Southern District of New York (Master File No. 02 Civ. 4816 (DLC)); deposition testimony November 15, 2004; testified as to discounts related to block size and information effects associated with the possible sale of shares of Worldcom and MCI tracking stock in the first half of the 2002.
- \* *Adele Brody, et al.; on behalf of themselves and all others similarly situated, vs. Peter S. Hellman, et al.*; District Court, City and County of Denver, State of Colorado; deposition testimony September 3, 2004, and May 27, 2005; hearing testimony November 30, 2004; testified as to the ability to measure damages to a class of shareholders via a plan of allocation.

- \* *In re: Broadcom Corp. Securities Litigation*; In the United States District Court, Central District of California, Southern Division (No. SACV 01-275 GLT (MLGx)); deposition testimony August 27 and 29, September 10, December 1 and 2, 2004, and January 21, 2005; testimony during hearings April 21 and May 25, 2005; testified as to materiality, valuation of customer contracts, valuation, inflation per share and aggregate damages in a securities class action and damages in a related private action.
- \* *Burt L. Schmidt, Individually and d/b/a Diamond S Trucking vs. Navistar Financial Corporation*; State District Court, Hamilton County, Texas; deposition testimony July 28, 2004; trial testimony August 30, 2004; testified in rebuttal as to claims of lost profits associated with the repossession of tractor trucks by the defendant in 2001.
- \* *Basic Management Inc, et al.; vs. United States of America, et al.*; In the United States District Court, District of Nevada (No. CV-S-02-0884-RCJ-(RJJ)); deposition testimony July 22 and 23, 2004; testified in rebuttal as to appropriate assumptions and methods (including discount rates and appreciation rates) for a real estate development company in Nevada.
- \* *In re. JTS Corporation, Suzanne L. Decker, Trustee, vs. Roger W. Johnson, et al.*; In the United States Bankruptcy Court, Northern District of California, (No. 98-59752 MM; A.P. No. 00-5423); deposition testimony July 15, 2004; trial testimony April 11, 2005; testified in rebuttal to trustee's expert as to economic losses to creditors and reasonable value associated with certain business decisions.
- \* *Randy S. Myers, Individually and on Behalf of all others Similarly Situated, vs. Progressive Concepts, Inc. d/b/a Hawk Electronics*; 352<sup>nd</sup> Judicial District, Tarrant County, Texas (Cause No. 352-201156-03); deposition testimony July 2, 2004; testified as to the appropriate measure of damages involving allegations of improper billing involving cell phone services.
- \* *OnSite Technology LLC vs. Duratherm, Inc. et al.*; In the United States District Court for the Southern District of Texas (Civil Action No. H-02-2624); trial testimony June 10, 2004; testified as to lost profits and reasonable royalties as a result of allegations of patent infringement.
- \* *ATS Telecommunications Systems, Inc. and ATS Liquidating, Inc. f/k/a Advanced Telecommunications Systems, Inc., by and through its Plan Agent H. Malcolm Lovett, Jr. vs. Philip R. Lacerte and Four LC Trust vs. Stan M. Gorman, Sr., and D. Scott Pool*; 113<sup>th</sup> Judicial District, Harris County, Texas (Cause No. 2001-00997); deposition testimony May 25, 2004; testified as to reasonable and customary terms and consideration for the provision of performance guarantees, reasonable start-up and operating expenses, and issues of fraud and breach of fiduciary duty.
- \* *ISG State Operations, Inc. vs. National Heritage Insurance Company, Inc.*; 250<sup>th</sup> Judicial District, Travis County, Texas (Cause No. 95-11014); deposition testimony May 11, 2004; trial testimony April 25, 2005; testified as to appropriate measures for calculation lost profits in a breach of contract claim involving data processing.
- \* *Xperex Corporation, et al.; vs. Viasystems Technologies Corp., LLC*; Court of Chancery, New Castle County, State of Delaware (Civil No. 20582-NC); deposition testimony April 23, 2004; testified as to the valuation of intangible assets and business related to allegations of fraudulent conveyance and breach of fiduciary duty to creditors.
- \* *Richard Marcoux, on behalf of himself and all others similarly situated, v. Billy D. Prim, Andrew J. Filipowski, et al.*; County of Forsyth, State of North Carolina (No. 04 CvS 920); deposition testimony April 12, 2004; testified as to errors in a fairness opinion issued in a proposed acquisition of a public company.
- \* *Houston Saba, L.P. vs. Nick Hernandez and Boyd Page Inc. d/b/a Boyd Page & Associates*; 280<sup>th</sup> Judicial District, Harris County, Texas (Cause No. 2003-07457); deposition testimony March 31, 2004; testified as lost profits associated with disruption of a restaurant due to street repairs and construction.

- \* *Autoland of New Jersey, Inc., et al.; v. Commissioner of Internal Revenue*; U.S. Tax Court (Docket number 12639-02); testified in trial February 19, 2004; testified as to issues related to the reasonable compensation of executives in the auto retail business.
- \* *Soils Control International, Inc. vs. Martin Marietta Magnesia Specialties, L.L.C. and Midwest Industrial Supply, Inc*; United States Court, District of Massachusetts (Civil Action No. A-03-CA-531 H); deposition testimony January 30, 2004; testified as to lost profits in a dispute relating to allegations of deceptive trade practices.
- \* *In re Raytheon Company Securities Litigation*; United States Court, District of Massachusetts (Civil Action No. 99-12142 (PBS)); deposition testimony January 27, 2004; testimony in hearings May 3 and 7, 2004; testified as to materiality, causation, inflation per share and aggregate damages.
- \* *In re: AT&T Corp Securities Litigation*; United States District Court of New Jersey (MDL No. 1399, Civil Action No. 01-1883 (GEB)); Consolidation Class Action on Behalf of the Purchasers of AT&T Wireless Tracking Stock Shares between April 27 and May 1, 2000; deposition testimony January 16, 2004; testified as to materiality, causation, inflation per share and aggregate damages.
- \* *Robert Rodgers vs. Johnson Health Tech. Co., Ltd., Epix, Inc. d/b/a Vision Fitness, et al.*; United States District Court for the Western District of Texas, Austin Division (Civil Action No. A 02 CA 731 SS); deposition testimony January 7, 2004; testified as to reasonable royalties and damages for alleged patent infringement.
- \* *In re. Xcelera.Com Securities Litigation.*; United States District Court, District of Massachusetts, Boston, Massachusetts (Civil Action No. 00- CV-11649(RWZ)); hearing testimony November 20 and 21, 2003; testified as to materiality, reliance and market efficiency in a hearing on class certification.
- \* *C. F. Jordan, L.P. v. Argosy Gaming Company, Laneco Construction Systems, and Louisiana Glass*, AAA Arbitration (Case Number 71 110 01059 01); deposition testimony November 18, 2003; testified in rebuttal to allegations of lost income from hotel construction and remediation activities.
- \* *ELIZABETH M. KURECKA, Individually and as Representative of the estate of Edward Kurecka, Deceased, MICHAEL KURECKA, TIM KURECKA, and MELANIE KURECKA POWELL v. DAVID H. AMMONS, M.D., GARY R. GODSIN, M.D., and MICHAEL PETTIBON, M.D.*; 342<sup>nd</sup> Judicial District, Tarrant County, Texas; deposition testimony September 2003; testified as to the loss of income to the survivors in a wrongful death case.
- \* *Betsy Gross v. David Halbert and AdvancePCS*; 352<sup>nd</sup> Judicial District, Tarrant County, Texas (Cause No. 352-196123-02); deposition testimony August 26, 2003; testified at trial November 10 and 11, 2004; testified as to the valuation of executive stock options.
- \* *Michael Aldridge, Individually and on Behalf of All Other Similarly Situated, vs. A. T. Cross Corporation; Bradford R. Boss; Russell A. Boss; et al.*; United States District Court, District of Rhode Island (C.A. No. 00-203 (ML)); deposition testimony August 19, 2003; testified as to materiality, causation and damages in a securities class action.
- \* *In Re Broadcom Corp. Securities Litigation*; United States District Court, Central District of California, Southern Division (Master File No. SACV 01-275 GLT (Eex)); deposition testimony July 29 and 30, 2003; testified as to the market efficiency of the trading of Broadcom shares and aggregate damages calculations relating to class certification.
- \* *J. Bryan Pickens vs. John T. Pickens, J. Michael Tiner, Michael K. Pickens, C. Robert Milner, Jr., Pickens Financial Group, L.L.C., Pickens Resource Corp., and Pickens, Ltd.*; 298<sup>th</sup> Judicial District, Dallas County, Texas (Cause No. 02-01105); deposition testimony July 11, 2003; testified as to the

overall financial performance of certain companies and the fairness (or benefits to the plaintiff) of certain transactions involving the defendant companies and affiliated trusts.

- \* *In re Arthur Franklin Tyler, Jr., Debtor; Arthur Franklin Tyler, Jr., v. Tywell Manufacturing Corporation*; U.S. Bankruptcy Court, Northern District of Texas, Dallas Division (Case No. 01-80343-SAF-13; Adversary No. 02-3530); trial testimony July 1, 2003; testified as to net asset value under various assumptions in an involuntary shareholder foreclosure/shareholder oppression dispute.
- \* *FFP Partners, L.P. v. Jack J. Ceccarelli, Restructure Petroleum Marketing Services, Inc. f/k/a E-Z Serve Petroleum Marketing Company and Environmental Corporation of America, Inc.*; American Arbitration Association (Case No. 71-Y-198-00167-02); hearing testimony May 19, 2003; testified as to the value of gas-only operations related to allegations of breach of contract, breach of fiduciary duty and theft of business opportunities.
- \* *RadioShack Corporation, and TE Electronics, L.P. vs. Fried, Frank, Harris, Shriver & Jacobson and Harvey Pitt*; United States District Court, Northern District of Texas, Ft. Worth Division (Civil Action No. 4:02-CV-0639-TV); deposition testimony May 9, 2003; testified as to causation and damages as a result of allegations of legal malpractice.
- \* *Printwrap, Inc. v. Printwrap Sales, Inc. and Maxine Ammon*; 134<sup>th</sup> Judicial District, Dallas County, Texas (Cause No. 02-5064-G); deposition testimony May 6, 2003; testified as to the valuation and economic losses of a purchase of a specialty printing business as a result of allegations of material misrepresentations on the part of the seller.
- \* *In re Theragenics Corp. Securities Litigation*; United States District Court, Northern District of Georgia, Atlanta Division (Civil Action No. 1:99-CV-141-TWT); deposition testimony April 2, 2003, and August 14, 2003; testified as to materiality, causation, inflation per share and damages as a result of allegations of securities fraud (violations of the Securities Exchange Act of 1934, Rule 10b-5).
- \* *Teleplus, Inc., v. Avantel, S.A.*; United States District Court, Western District of Texas, San Antonio Division (Civil No. SA-98-CA-0849 FB); deposition testimony March 26, 2003; trial testimony September 25, 26 and 29, 2003; testified as to the valuation of a reseller and marketer of long-distance telephone services (primarily for domestic and international service in Mexico).
- \* *Russell Grigsby vs. ProTrader Group Management, L.L.C., et al.*; American Arbitration Association (Cause No. 70-180-00648-02); deposition testimony March 7, 2003; arbitration hearing testimony October 17 and November 3, 2003; testified in a fraud and shareholder oppression case as to the fair value of a brokerage firm with specialization in day trading.
- \* *Donald P. Williams vs. Peter O. Holliday, III, MD, and Open MRI of Decatur*; Circuit Court of Morgan County, Alabama (Case Number: CV-00-974); testified at trial March 4, 2003; testified as to the value of loan guarantees and the value of a business operating an MRI in a shareholder oppression lawsuit.
- \* *Menard, Inc. v. Commissioner of Internal Revenue*; U.S. Tax Court; testified in trial February 27, 2003; testified as to the compensation of executives in comparable and guideline companies and the proper valuation of incentive compensation benefits.
- \* *Richard Strauss, Sovereign Texas Homes, Ltd., et al.; vs. Wallace Sanders & Company, et al.*; 191<sup>st</sup> Judicial District, Dallas County, Texas (Cause No. 02-2562-J); deposition testimony February 14 and 20, 2003; testified as to materiality, causation, and damages as a result of allegations of improper accounting.
- \* *Paul Dzera, Philip J. Gund and Stephen Marotta v. Zolfo Cooper, L.L.C.*; American Arbitration Association (Arbitration no. 18Y180143301), Newark, New Jersey; hearing testimony February 11, 2003; testified as to measures of economic loss associated with claims brought by defendant.

- \* *In re VISIONAMERICA, INC. SECURITIES LITIGATION*; United States District Court, Middle District of Tennessee, Nashville Division (Master File No. 3-00-0279); deposition testimony December 12, 2002; testified as to materiality, causation, inflation per share and damages as a result of allegations of securities fraud involving accounting misstatements (violations of the Securities Exchange Act of 1934, Rule 10b-5).
- \* *In re National Golf Properties, Inc. Shareholder Litigation; (Masseo Investment Partners, Ltd., Anne Marie Rouleau, Thomas Feiman, IRA and Robert Lewis, On Behalf of Themselves and All Others Similarly Situated, vs. James M. Stanich, et al.*; Superior Court of the State of California, County of Los Angeles (Lead Case No. BC268215); deposition testimony November 22, 2002; testified as to fairness and problems with a fairness opinion involving a proposed acquisition of the public REIT, including process, disclosure and allocations of proceeds problems.
- \* *Ralph R. Unstead, Jr., On behalf of Himself and All Other Similarly Situated, v. Intellect Communications, Inc., et al.*; U.S. District Court for the Northern District of Texas, Dallas Division (No. 3:99-CV-2604-M); deposition testimony October 31, 2002; testified as to materiality, causation and damages in a class action securities case.
- \* *Physicians Resource Group, Inc. and EyeCorp, Inc., vs. Dr. David Meyer, et al.*; U.S. Bankruptcy Court, Northern District of Texas, Dallas Division; deposition testimony October 22, 2002; trial testimony February 7, 2002; testified as to issues of solvency and reasonably equivalent damages as a result of certain transactions between the defendants and the plaintiffs prior to bankruptcy.
- \* *Maximicer, L.L.C., vs. PepsiCo, Inc.*; U.S. District Court for the Eastern District of Texas, Marshall Division (No. 2-01-CV-132(tjw)); deposition testimony October 21, 2002; trial testimony December 10, 2002; testified as to damages arising from claims of commercial defamation and other causes.
- \* *HALCYON INVESTMENTS INC., f/k/a B.A.S.S., Inc., et al.; vs. B.A.S.S., LLC, f/k/a LIVEWELL ACQUISITION, LLC, B.A.S.S. (IP), et al.*; AAA Arbitration (File No. 30 E 181 00434 02); deposition testimony October 10, 2002; testified as to due diligence, disclosures and economic damages estimates involving an agreement to sell a business between the parties (subject to confidentiality agreement).
- \* *Jerry Krim, et al.; v. pcOrder.com, Inc., et al.*; U.S. District Court for the Western District of Texas, Austin Division (Master File No. A:00-CA-776-SS); hearing testimony September 20, 2002; testified in a class certification hearing on the trading of shares and source of shares purchased by proposed lead plaintiffs.
- \* *APA EXCELSIOR III L.P., APA EXCELSIOR III OFFSHORE, L.P., APA/FOSTIN PENNSYLVANIA VENTURE CAPITAL FUND, CIN VENTURE NOMINEES LIMITED, STUART A. EPSTEIN and DAVID EPSTEIN, v. PREMIERE TECHNOLOGIES, INC., BOLAND T. JONES, PATRICK G. JONES, GEORGE W. BAKER, SR., and RAYMOND H. PIRTLE, JR.*; U.S. District Court for the Northern District of Georgia (Civil Action No. 1:99-CV-1377-JOF); deposition testimony September 4, 2002; testified as to the materiality of certain representations and damages in a securities case.
- \* *Microtune, L.P. v. Broadcom Corporation*; U.S. District Court for the Eastern District of Texas, Sherman Division (Civil Action No. 4:01-CV-023); deposition testimony August 29, 2002; testified as to the reasonable royalty in a patent infringement case.
- \* *John F. Havens, On Behalf of Himself and All Others Similarly Situated, vs. James L. Pate, et al.; and Howard Lasker, On Behalf of Himself and All Others Similarly Situated, vs. James L. Pate, et al.*; 295<sup>th</sup> Judicial District, Harris County, Texas (Cause No. 2002-16085); deposition testimony July 15, 2002; hearing testimony July 18, 2002; testified as to the materiality of certain information omitted from a proxy to Pennzoil-Quaker State shareholders, issues with respect to the fairness opinion analysis by Pennzoil's financial advisor, the determination of fairness and issues with respect to mergers and acquisitions.

- \* *Lawrence D. Poliner, M.D. v. Texas Health Systems, et al.*; U.S. District Court, Northern District of Texas, Dallas Division (Civil Action No. 3:00CV1007-P); deposition testimony May 20, 2002; testified as to certain anti-competitive issues involving a specialist medical practice.
- \* *In re: Chartwell Health Care, Inc.; John H. Litzler, Chapter 7 Trustee, vs. Irving D. Boyes, et al.*; U.S. Bankruptcy Court, Northern District of Texas, Dallas Division (Case No. 398-38546-SAF-7); deposition testimony April 25, 2002; testified as to solvency and economic losses of a nursing home operator.
- \* *Leonard Sauls, Jr., v. The Estate of William Lee Hatch, Jr., Deceased, et al.*; In the Probate Court Number One, Travis County, Texas (Cause No. 75278-A); deposition testimony March 22, 2002; testified as to the measurement of lost future earning capacity, case settled before issuance of deposition transcript.
- \* *Leland Stenovich, et al., vs. Spencer F. Eccles, et al.*; Third Judicial District Court, Salt Lake County, State of Utah (Class Action, Case No. 000907870); deposition testimony February 5 and 6, 2002; testified as to standards of practice, fairness and adequacy of consideration in a class action lawsuit relating to the acquisition of First Security Corporation by Wells Fargo.
- \* *In re Computer Associates Class Action Securities Litigation*; U.S. District Court for the Eastern District of New York (Master File No. 98-CV-4839); deposition testimony January 23 and 24, 2002; testified as to materiality, causation and damages in a securities fraud lawsuit.
- \* *Pamela Graham Reeves vs. VIJ, Inc. d/b/a National Utilities Co./NUCO and Greer Industries, Inc.*; U.S. District Court for the Northern District of Texas-Fort Worth Division (Case No. 400=CV-1671-BE); trial testimony January 9, 2002; testified as to market wages, current job market and likelihood of employment for an individual alleged to have been wrongfully terminated.
- \* *Patricia E. Vincent and James R. Vincent v. Bank of America Texas, N.A.*; In the 68<sup>th</sup> Judicial District Court, Dallas County, Texas (Cause No. DV99-00745); testimony in hearing in December 2000 and trial testimony December 18, 2001; testified as to the proper calculation of interest on a home mortgage and common standards and practices for calculating mortgage interest.
- \* *Joan C. Howard and Charles A. Anderson, on behalf of themselves and all others similarly situated vs. Everex Systems, Inc., and Steven L.W. Hui, et al.*; U.S. District Court for the Northern District of California (Case No. C 92 3742 CAL); deposition testimony November 19 and 20 and December 17, 2001; testified as to materiality, causation and damages in a securities fraud lawsuit.
- \* *Reinsurance International Services Company, L.L.C. v. Lambert Fenchurch Group Limited, et al.*; In the 98<sup>th</sup> Judicial District Court, Travis County Texas (Civil Action No. 99-00745); deposition testimony September 20, 2001; testified as to lost profits and lost business value experienced by a reinsurance broker relating to allegations of misrepresentations and breach of duty.
- \* *Robert Alpert, James Ventures, L.P., Markus Investments, Inc. and James Investments, Inc. vs. Innovative Valve Technologies, Inc., et al.*; U.S. District Court for the Southern District of Texas, Houston Division (Civil Action No. H-01-076); deposition testimony September 19, 2001; testified as to materiality, causation and damages in a securities fraud lawsuit.
- \* *Premier Lifestyles International Corporation vs. Electronic Clearing House, Inc.; XpresscheX, Inc., et al.*; Superior Court for the State of California, County of Los Angeles (Case No. BC230691); deposition testimony September 17 and 27, 2001; trial testimony November 27 and 28, 2001; testified as to lost business opportunities and damages arising from various causes of action.
- \* *In re Phycor Corporation Securities Litigation*; U.S. District Court for the Middle District of Tennessee, Nashville Division (Civil Action No. 3-98-0834); deposition testimony August 9 and November 6, 2001; testified as to materiality, causation and damages in a securities class action lawsuit.

- \* *Ben Higbee and Bridgestone Healthcare Management, Inc., vs. Bridgestone Healthcare Management, Inc., and David E. Sones*; 101<sup>st</sup> Judicial District, Dallas County, Texas (Cause No. 00-7365-3); deposition testimony June 21, 2001; testified as to preliminary findings as to fairness of certain transactions involving a workers' compensation and rehabilitation business.
  
- \* *Auto Wax Co., Inc. v. Mark V Products, Inc.*; U.S. District Court for the Northern District of Texas, Dallas Division (Civil Action No. 3-99 CV 0982-T); deposition testimony April 25, 2001; trial testimony June 29, 2001; testified as to the reasonable royalty and lost profits in a patent infringement and trademark infringement case.