

Richard J. Eichmann

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Certifications

Accredited Valuation
Analyst

Professional Affiliations

American Statistical
Association

National Association of
Certified Valuation
Analysts

National Association of
Forensic Economists

Education

Doctoral courses in
Econometrics and
Mathematical Economics,
George Mason University

M.A. Applied Economics,
University of Michigan

B.A. Economics /
Philosophy, University of
Michigan

Richard Eichmann is a managing director in the FTI Forensic and Litigation Consulting practice, based in San Francisco with expertise in econometrics, statistics, sampling, survey research methods, risk assessment, and business valuation. He is a member of our Complex Civil Litigation practice groups, including our Labor and Employment, Securities, and Intellectual Property groups. Mr. Eichmann excels at drawing meaningful conclusions from large disparate datasets. His quantitative skill set has been applied in the calculation of damages in commercial litigation in a variety of industries, including the automotive, airline, credit card, financial, energy, gaming, and pharmaceutical industries. He has filed expert reports in Federal court on the application of statistical methods, sampling, survey design, business valuation, and econometrics as they pertain to the calculation of damages. He has provided arbitration, deposition, and trial testimony.

Prior to joining FTI Consulting, Mr. Eichmann provided economic analysis and dispute advisory services at a private litigation consulting firm and two Big 4 firms. In addition, he has worked as an analyst in the automotive industry utilizing proprietary survey research data for time series analysis and as a research assistant for the Survey Research Center at the Institute for Social Research in Ann Arbor, Michigan on panel study surveys.

Complex Commercial Litigation Experience

- Class Action (Automotive) – Calculated damages sustained by a certified class of individuals whose vehicles had been inappropriately seized by a municipality. The task involved analyzing auction and automotive valuation data to determine both the delta and the float.
- Class Action (Automotive) – Designed and managed the execution of econometric and statistical analyses of secondary market pricing in a particular vehicle segment in defense of price impact allegations due to alleged non-disclosures. We utilized econometrics to demonstrate that a recall did not, as the plaintiffs alleged, negatively impact depreciation rates of vehicles, but rather other market forces explain the sudden drop, such as rising lease terminations, market segment saturation.
- Class Action (Software Auctions) – Addressed class certification issues as they arose in matter dealing with the alleged breach of contract in the use of auctions. The matter involved analyzing the expected value of an auction.
- Class Action (Gaming) – Hired by a state lottery commission to provide consulting services in relation to a class action litigation matter, where I designed and managed the execution of an econometric model that generated a expected consumer pricing behavior of a scratch-off game. The model determined the 95 percent confidence interval of sales the lottery commission could have expected to receive but for an alleged misstatement of probabilities on their website.
- Breach of Contract (Recreational Vehicles) – Rebutted the statistical validity of an opposing expert's inferences on the use of his survey design in a matter dealing with the impact of sales to a recreational manufacturer as a result of an alleged harm to their reputation due to an interior drywall component. Within the same, case I wrote a separate report that rebutted the



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statistical validity of an economic expert's damage calculation that sought to calculate the impact on sales due to an alleged reputational loss.

- Breach of Contract (Furniture) – Calculated lost profit damages alleged in a breach of contract case that involved analyzing management forecasts to estimate the fair market value of a lost opportunity as it related to the patio furniture market.
- Breach of Contract (Agricultural Commodities) – Analyzed the short-term fixed cost structure of a slaughter house operating in a perfectly competitive environment as part of a breach of contract dispute in the agricultural commodities market.
- Breach of Contract (Telecommunications) - Managed the analytical aspects of a complex damage calculation model and prepared and presented our findings to counsel in the matter of a breach of contract dispute between two U.S. telecommunications firms.
- Breach of Contract (Auto Parts) – Calculated lost profits as a result of a breach of contract regarding easement rights and advertisement obstruction.
- Business Interruption (Textile Industry) – Provided assistance to counsel in investigating the allegation of business interruption claim by generating an econometric analysis that served to estimate variable expenses and bundling issues.
- Alter Ego (Environmental) – Managed the investigatory accounting relationships between a UK parent and a US subsidiary in an environmental damages case.

Labor and Employment Litigation Experience

- Class Action (Discrimination) – Analyzed class certification issues as they related to an allegation that defendant chose to close an airline call-center due to the gender and age of its employees. The analysis included both an inquiry of descriptive and inferential statistics as well as cost accounting considerations.
- Class Action (Wage/Hour Dispute) – Analyzed class certification issues as they related to a wage-hour dispute of a perfume manufacturer. My task involved conducting a stratified sampling exercise of hand-written invoices of proposed class members and examining the variability, if any, of their work experiences that would influence whether or not they were improperly classified as independent contractors.
- Class Action (Wage/Hour Dispute) – Analyzed class certification issues as they related to a wage-hour dispute of an airline company. My task involved examining various influencing factors that play a role in determining the probability of an alleged class member missing his/her lunch break and how the variance revealed from the data among the influencing factors affects commonality among the alleged class members.
- Class Action (Discrimination) – Analyzed the economic rationale for the closing of certain call-centers for an airline company alleged of engaging in age discrimination. While initial analyses provided prima facie evidence of possible age discrimination when identifying the statistical differences among call-centers, further analysis indicated that regional influences were in fact greater and more prominent in influencing the company's actions.
- Class Action (Discrimination) - Created a probit econometric model of the firm's data to model the effects of race, gender, and other attributes and their alleged effect on the probability of an employee being fired as part of an employment discrimination case.

- Class Action (Discrimination) – Designed and managed statistical and econometric analyses to investigate the allegation of discriminatory behavior within a major bottling distributor.

Intellectual Property Experience

- False Advertising (Software) – Calculated economic damages sustained by a software developer due to a trademark infringement by a competitor company and the impact on sales margins due to false advertisement.
- False Advertising (Trade Association) – Calculated economic damages sustained by a promoter of a trade association trade show that alleged that a competitor trade show was creating consumer confusion due to the use of their trademark infringement and false advertisement.
- False Advertising (Hand Tools) – Calculated economic damages alleged by a class as a result of false advertising, which promoted hand tools sold in the United States as “American made.”
- False Advertising (‘Sippy’ Cups) – Calculated economic damages alleged by a competitor as a result of false advertising, which stated that certain children’s ‘sippy’ cups held certain patents, which they did not.
- False Advertising (Beverages) – Calculated economic damages alleged by a competitor as a result of consumer confusion brought on due to false advertising, which stated that certain beverages held certain ingredients, which they did not.
- Misappropriation of Trade Secrets (Pharmaceutical Adjudication Services) – Led team in the rebuttal of alleged lost profit and unjust enrichment claims in defense of a leading pharmaceutical adjudication service provider accused of having illegally acquired trade secrets from a former business associate.
- Misappropriation of Trade Secrets (Gene Therapy) – Rebutted an opposing expert’s assessment of damages incurred by a former laboratory employee who alleged that a major academic university misappropriated his intellectual capital in the acquisition of a patented gene therapy.
- Misappropriation of Trade Secrets (Value Added Retailer) – Led team in the calculation of compensatory damages and unjust enrichment claims in defense of a value-added retailer in the Florida market accused of having illegally acquired trade secrets from a competitor.
- Class Action (Breach of Contract / Fraud) – Led team in the calculation of damages for a case where the plaintiff alleged that the defendant willingly failed to pay royalties. The case involved a stratified statistical sampling so as to investigate the liability claims of intent as well as damage implications, if any.
- Breach of Contract (Intellectual Property / Fraud) – Led team in the calculation of damages for a case where the plaintiff alleged that the defendant had failed to disclose a potential liability with regard to a possible infringement of intellectual property concerning soybean germ plasm prior to their merging of assets. The alleged liability materialized several years later and the plaintiff then sought indemnification under the benefit of the bargain method.
- Intellectual Property Valuation (Automotive) - Generated a cost-based valuation model for the intellectual property of a European automotive research and development facility as part of a tax minimization strategy for a multinational firm, successfully defended in court.

Antitrust Litigation Experience

- Antitrust (Construction Commodity) – Designed and managed statistical and econometric analyses to investigate the impact of alleged price-fixing among producers of a construction input commodity. The case dealt with Federal Sentencing Guideline issues and the estimation of affected commerce, where Mr. Eichmann utilized a two-stage regression analysis that sought to isolate whether prices of alleged impacted months were indeed inflated by the allegations of price-fixing. The methodology in the case was ultimately described in an article presented at the Western Economic Association International Annual Conference in Vancouver, B.C. on July 1, 2009
- Antitrust (Energy) – Reviewed plaintiff's pricing methodology and presented an alternative mitigated price methodology to the Federal Energy Regulatory Commission (FERC) that was ultimately accepted in the matter of the California energy dispute, concerning the defense of thermal generators against the charges of price fixing and collusion.
- Antitrust (Energy) - Conducted statistical analyses of trader behavior to determine the probability of systematic gaming behavior, in the matter of FERC allegations on natural gas traders, concerning the defense of energy futures trades against the charges of price manipulation.
- Antitrust (Energy) - Managed and led programming analyses of large disparate data sets for determining liability and timing issues, in the matter of an antitrust dispute concerning allegations of collusion in the electric markets.
- Predatory Pricing Behavior (Pharmaceuticals) – Designed and managed the execution of econometric and statistical analyses of HIV pharmaceutical drugs as they pertained to alleged predatory pricing behavior of a supplier. The case involved isolating the impact, if any, an alleged act caused on sales to both plaintiffs and defendants. Mr. Eichmann generated code to analyze various model specifications, correcting for first-series serial correlation that might indicate what exogenous variables influenced markets and how.
- Trade Disputes (Lumber) - Designed and executed statistical and econometric models to calculate the impact of cross-border interactions on industrial development in the matter of Canadian softwood lumber, concerning trade development and border effects.

Securities and Financial Experience

- Mortgage-Backed Securities (Statistical Analysis) – Provided statistical support of a motion to deny class certification of a proposed class of investors that sought restitution from an underwriter for allegedly not having properly accounted for the risk of the underlying collateral of several securitizations.
- Mortgage-Backed Securities (Statistical Analysis) – Provided statistical and econometric support examining the factors that influence the likelihood of loan default as it pertained to a class action that sought restitution of the alleged wrongdoings of a municipal bond insurance agency.
- Mortgage-Backed Securities (Statistical Analysis) – Provided statistical support in examining the difference of bid and close data provided a municipal bond insurance agency.
- Insider Trading – Created an econometric model to analyze the impact and materiality of

alleged insider tip investigated by the SEC.

- Breach of Contract (Hedge Funds) – Calculated damages for a case that dealt with breach of an investment contract between a seed financier and a hedge fund.
- Trade Secrets (Trading Models) – Named expert in a case that involved rebutting alleged damages sustained by an investment management company. The head of the quant group left, along with the core of his group to form a competitor investment management company. The Plaintiff alleged that when he left he took with him a proprietary trading model. Damages centered on valuing the worth and subsequent alleged diminution in value of the alleged stolen trading model.
- Securities Litigation (IPO) - Adapted 10b-5 securities litigation model to estimate alleged damages of IPO allocations and valuations, in the matter of a class action lawsuit against a consortium of major Wall Street underwriters.
- Securities Litigation (10b(5)) – As a research associate for a private litigation consulting firm in Washington, D.C. Mr. Eichmann worked on a variety of 10b(5) class action case work.

Valuation Experience

- Business Valuation (e-Commerce) – Utilized ARIMA time series techniques to forecast subscription revenues of a charitable social network site, for which I calculated the fair market value of the minority interest. The income approach relied heavily on the use of historical subscription data that allowed for a range of values within a statistically confident interval.
- Business Valuation (Telecommunications) - Conducted a business valuation of an alleged lost international telecommunications opportunity that took into consideration varying capital structures within financial projections that served to rebut a plaintiff's valuation model.
- Business Valuation (Financial Services) – Assisted with the critique of a business valuation involving a minority interest of an investment management firm arising out of an employment dispute.
- Intellectual Property Valuation (Mining Technology) – Assisted with the critique of an intellectual property valuation involving mining technology in a civil litigation matter.

Economic and Statistical Consulting Experience

- Currency Markets (Automotive Industry) - Co-authored a syndicated report, cited by the Financial Times that analyzed the effects of the Southeast Asian crisis on the automotive industry.
- Intellectual Property Infringement (Farm Equipment) – Hired as an expert to provide statistical analysis of the clinical trials run by an agricultural expert to examine the efficiency and alleged improved benefits of a mechanized corn seed planter.
- Statistical (Gemology) – Designed statistical tests to examine the likelihood of collusion within international grading facilities of various gems, including diamonds.
- Economic (Automotive Markets) – Co-authored the U.S. automotive industry newsletter for J.D. Power and Associates, working directly under the senior economist in executing and managing their syndicated market forecasts and reviews.

- Econometrics (Forecasting) - Assisted in the creation of the J.D. Power Development Index © utilized within their automotive sales forecasts.
- Econometrics (Forecasting) - Created and maintained ARIMA production and sales forecast models for the U.S. and developing markets, including Asia and Latin America, acquiring substantial knowledge of the automotive industry and OEM distribution channels.
- Forensic Investigations – Led a FCPA investigation for a U.S. petroleum company with subsidiaries in the Latin America. The case dealt with utilizing statistical techniques on a large set of general ledger transactions and a series of financial statement analyses that ultimately revealed a complex fraud where funds were being laundered via service contracts to provide bribe money for contract extensions.
- Transfer Pricing - Managed various transfer pricing cases from documentation to controversy work in tax court. Provided quantitative skill set to international tax planning strategies via the creation of asset-based adjustment analyses of operating margins.

Expert Reports & Testifying Experience

- *C. Scilimenti v. The Leland Stanford Junior University et al.*, U.S. District Court, Southern District of California, Case No. 08-cv-01730-W-BLM, Expert Report, February 1, 2011; and, Deposition Testimony, May 6, 2011.
- *Cardstore.com, Inc. f/k/a Ink2 Corporation v. Mimeo.com, Inc.*, JAMS Arbitration, Expert Report, December 21, 2010 (Settled before filing).
- *CNH America LLC and Blue Leaf I.P., Inc. v. Kinze Manufacturing, Inc.*, U.S. District Court, District of Delaware, Civil Action No.: 08-945-GMS, Declaration, October 25, 2010.
- *DWS International, Inc. dba Marble Dimensions Worldwide v. Meixia Arts and Handcrafts Co. Ltd., Home Casual, LLC., et al.* U.S. District Court, Southern District of Ohio, Case No. 3:09cv458, Expert Report, August 16, 2010; Deposition Testimony, January 21, 2011; and Trial Testimony, June 24, 2011.
- *LBV Asset Management LLP et al. v. SGAM Newedge Management, Inc. et al.*, JAMS Arbitration, Expert Report, April 28, 2010; Supplemental Expert Report, June 2, 2010; and, Arbitration Testimony, June 10, 2010.
- *Celso Robledo et al. v. City of Chicago et al.*, U.S. District Court, Northern District of Illinois, Eastern Division, No. 05 C 0335, Expert Report, November 21, 2008.
- *Coachmen Industries et al. v. Crane Composites, Inc. f/k/a Kemlite*, U.S. District Court, Northern District of Indiana, Case No. 3:06-CV-0160-CAN, two separate Expert Reports, June 21, 2007 and July 1, 2007.
- *Tiffany Blackwell v. Skywest Airlines, Inc.*, U.S. District Court, Southern District of California, Case No. 06CV0307, Expert Report, June 25, 2007.

Selected Publications

- “Use of Two-Stage Linear Regression Models in Identifying the Existence and Extent of Affected Commerce in Price-Fixing Cases,” co-author with M. Mercurio, working paper.

- “Hand Rule as a Basis for Calculating Punitive Damages,” working paper.
- “Continuing Patent Applications and Performance of the U.S. Patent and Trademark Office – Extended,” co-authors C. Quillen and O. Webster, *The Federal Circuit Bar Journal*, August 2002.
- “Southeast Asian Crisis: Implications in the Asian Automotive Industry,” co-author R. Schnorbus, J.D. Power and Associates Syndicated Report, December 1997.

Speaking Engagements

- “Litigation a Trade Secret Case: Economic Damage Considerations,” presented via Bridgeport Continuing Education in San Francisco, CA on December 9, 2010.
- “Financial Forecasting,” presented within the Mergers and Acquisitions section of the American Institute of Certified Public Accountants (AICPA) meeting held in San Francisco, CA on August 4, 2010.
- “Application of Multivariate Regression Analysis in Identifying Economic Damages,” white paper presented under the “Law and Crime” section of the Western Economic Association International Annual Conference in Portland, Oregon on July 1, 2010.
- “The Use of Regression Analysis as a Means to Better Forecast Sales When Using the DCF Method,” presented within the Business Valuation section of the National Association of Certified Valuation Analysts (NACVA) and Institute of Business Appraisers (IBA), 2010 Annual Consultants’ Conference, held in Miami, Florida, on June 4, 2010.
- “Use of Two-Stage Linear Regression Models in Identifying the Existence and Extent of Affected Commerce in Price-Fixing Cases,” paper to be co-presented with M. Mercurio under the “Commercial Damages and Antitrust Litigation” section of the Western Economic Association International Annual Conference in Vancouver, B.C. on July 1, 2009.
- “Hand Rule as a Basis for Calculating Punitive Damages” paper originally presented at the Southern Economic Association Conference in Washington, DC on November 19, 2005 and again at the Annual Meeting of the World Institute for Research and Publication (WIRP) – Law on May 16, 2010.
- “An Economic Analysis of Punitive Damages” co-presented with Andrew Frey of Mayer, Brown, Rowe & Maw LLP and John Thomas, Office of General Counsel of Ford Motor Company at a conference titled “Managing Risks in High Stakes Litigation” on December 2, 2004, Chicago, Illinois.

Teaching Experience

- Developed and taught a three-day CLE-approved course titled “Calculating Economic Damages in Commercial Litigation” as part of national training for consultants and senior consultants across all FTI segments for the past 5 years.
- Adjunct Lecturer, Department of Economics, Northern Virginia Community College, Alexandria, Virginia (Introductory Microeconomics / Introductory Macroeconomics).
- Taught day-long and two-hour CLE introductory courses in econometrics, damage calculation methods, sampling techniques, financial statement and ratio analysis, and financial modeling

techniques, as a national instructor for FTI Consulting.

Prior Employment History

- Cornerstone Research,
Washington, DC, 2001 – 2004.
- Ernst & Young, LLP, Economic and Quantitative Analysis Group,
Washington, DC, 2000 – 2001.
- KPMG, LLP, Forensic and Litigation Consulting,
Washington, DC, 1998 – 2000.
- J.D. Power and Associates, Forecasting and Economic Analysis Group,
Troy, Michigan, 1996 – 1998.
- University of Michigan, Inter-University Consortium for Political and Social Research (ICPSR),
Ann Arbor, Michigan, 1995 – 1996.
- University of Michigan, Institute for Social Research (ISR), Survey Research Center,
Ann Arbor, Michigan, 1993 – 1996.