

EconLit LLC

Economic and Litigation Consulting

Dwight J. Duncan, M.S., CFA

Position

Mr. Duncan is the founder and Managing Director of the Phoenix, Arizona based firm of EconLit LLC. He is an economist who also holds the Chartered Financial Analyst designation and has over 16 years experience in economic and financial consulting. Areas of expertise include economic analysis, intellectual property analysis, securities litigation, valuation of closely-held businesses, environmental damage quantification, class certification/class action analysis, general lost profits analysis and minority shareholder disputes. He has consulted with and been engaged as an independent expert witness for companies ranging from sole proprietorships to Fortune 500 in a wide range of industries throughout the U.S.



Selected Experience

Economic Analyses

Evaluated the economic feasibility of a proposed project to store Central Arizona Project (“CAP”) water in natural underground water tables. The project consisted of an analysis of the “market” for storing immense quantities of water for later use by large municipal water authorities throughout the Southwest. Demographic studies of developing metropolitan areas were conducted to project future water demand. Anticipated water supply given existing legal water rights and given proposed legislation to allow the buying and selling of water across state boundaries was also analyzed.

Analyzed the impact of a multimillion-dollar advertising campaign on the brand value of an international insurance corporation. The analysis was centered on expenditures tied to the Summer Olympic Games.

Evaluated the economic impact of the horse and greyhound dog racing industry on the local economy. Conducted primary research to quantify the impacts of the racing industry for use in proposed gaming legislation. Analysis included an assessment of the employment and income multiplier effects on other sectors of the local economy.

Analyzed the economics of the “Rent-To-Own” industry. Performed survey research to model the economic paradigm utilized by “Rent-To-Own” stores in a wide variety of business

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segments: consumer electronics, computers, appliances, and furniture. Parameters studied included typical rental terms, financing implications, percentage of rentals through term to buyout, and profitability by segment.

Analyzed the sub-prime auto industry for a potential investment of approximately \$30 million. Conducted primary research into the underlying economic forces facing the industry and evaluated likely outcomes under different sets of assumptions regarding the economy overall and the industry in particular.

Evaluated development fees assessed by various municipalities for reasonableness in relationship with the impact imposed by both proposed and existing developments. Fees analyzed include sewer connection fees, water connection fees, emergency service fees, and public library fees.

Commercial Litigation

Lost Profits / Breach of Contract Analyses

Analyzed prevailing macroeconomic factors, changing demographics, changes in competing operations, customer trends, and media analysis. Statistical analyses included econometric modeling of historical sales in relation to overall sales and models to quantify damages arising from the alleged breaches of contract, business slander, breaches of fiduciary duties, breaches of franchise agreements, anticompetitive behavior, and other general commercial damage claims.

Industries analyzed include compressed natural gas distribution and retail sales, retail jewelry, gas stations and convenience stores, collectible dolls, hearth product distribution and retail operations, food distribution, electronics distribution, real estate brokerages, securities brokerages, internet application service providers, internet retail operations, specialty wheel manufacturers, microchip manufacturers, high-tension power line equipment manufacturers, chiropractic practices, steel rebar fabricators, brake service franchises, health care providers, asset disposal service providers, contract research organizations, restaurants, apartments, commercial real estate, master-planned communities, medical practices, dental practices, accounting practices, tankless water heater distribution and retail operations.

Minority Shareholder Disputes

Conducted financial and economic analysis to evaluate corporate actions as potentially oppressive to minority shareholders. Quantified economic damages to minority shareholders as a result of oppressive actions. Industries analyzed include national self-storage facilities, real estate lending, steel rebar fabrication, electrical power management devices, architectural

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firms, medical practices, dental practices, accounting practices, construction companies, and casino gaming.

Legal Malpractice

Quantified damages related to alleged legal malpractice in divorce proceedings. Analyzed the timing and implications of corporate restructuring, multiple issued financial statements versions, historical store-level company operations, industry trends and the value of the underlying business.

Personal Injury / Wrongful Death / Wrongful Termination

Analyzed complex personal injury, wrongful death and wrongful termination claims involving multiple company pension funds, company retirement saving funds, bonus eligibility and other related compensation issues. Professions analyzed include nurses, medical doctors, engineers, construction workers, barbers, highway workers, professional services, and business owners.

Wage and Hour Class Action

Conducted comprehensive analyses of compliance with wage and hour meal break, rest break and vacation day regulations. Industries analyzed include pest control services, retail home décor, women's clothing, reservation call center for rail transportation, retail auto sales, payday loans, and utilities distribution.

Bankruptcy

Analyzed and evaluated the feasibility of various plans presented to the court in bankruptcy proceedings. Industries analyzed include apartments, condominiums, timeshare units and housing construction. Analysis included industry trends, local real estate trends, macroeconomic factors and detailed financial statement modeling.

Finance / Securities Instruments

Evaluated a complex financial model developed to ascertain the financial feasibility of a 30 million peso international joint venture. Evaluated partnering alternatives, branding strategies, and profitability impacts on the United States joint venture partner.

Analyzed a financial model of a collateralized mortgage obligation instrument consisting of 18 types of bonds from multiple commercial and residential mortgages. The work involved discounted cash flow analysis and extensive sensitivity analysis.

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Evaluated potential corporate restructuring alternatives in connection with a multi-million dollar collateralized transaction of self-storage properties. Also determined associated impacts on the value of the underlying business and consulted on appropriate modifications to the transaction to maximize business value.

Construction Defects

Analyzed construction defect claims associated with apartment complexes, condominiums and Class A office towers. Performed extensive statistical analysis of sampling design and sampling frames.

Intellectual Property Analyses

Analyzed the economics of the United States beef industry in connection with licensing arrangements for an innovative tenderization technique subject to a patent. Analyzed competing technologies, the economic feasibility of the proposed process, the applicable market segment, pricing strategies, partnering strategies, and image branding through packaging and advertising. The analysis was used by the licensor in successfully negotiating a license fee arrangement for use of the technology.

Performed a detailed apportionment analysis in a case alleging infringement of a software copyright agreement. The project included a detailed industry analysis, development of an extensive database of software products, analysis of advertising, packaging and customer usage, as well as customer satisfaction surveys. Prepared a report to refute the \$28 billion damage claim.

Developed disgorgement damage and lost profits claim for a mainframe utility software program. Analyzed the infringing company's financial statements and determined appropriate deductible expenses to arrive at disgorgement profits. Also performed in-depth worldwide analysis of the subject company's customers to determine which customers switched to the infringing software.

Analyzed the golf industry accessory markets domestically and internationally to evaluate a claim arising from an allegedly lost international patent. Developed damage model to evaluate lost licensing opportunities in foreign markets.

Performed lost profits and reasonable royalty calculations for use in trial in a case alleging infringement of patented, coded optical-traffic preemption systems. The analysis included a definition of the relevant market and detailed analysis of the *Panduit* factors as well as the *Georgia Pacific* factors.

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Analyzed economic damages arising from the theft of trade secrets. Industries analyzed include mortgage brokerage, high-tension power lines, and residential real estate renovation and resale.

Securities Litigation

Quantified damages stemming from an alleged manipulation of an international commodity market. Analyses included data identification and collection, development of a database of commodity price explanatory variables, econometric model specification and estimation, and the projection of prices in the absence of the alleged manipulation.

Valuation of Closely-Held Businesses

Determined the fair market value of closely held businesses. Valuations included three major types of analyses. Income Approach analyses included review of pro-forma financial statements, discounted cash flow analyses, and financial ratio analyses. Market Approach analyses included extensive research of different industries, assembling financial information on selected companies, and analyses of financial statements for comparison purposes. Cost Approach analyses included researching relevant historical information on asset costs, estimating appropriate depreciation rates, and making adjustments to reflect current market conditions.

Conducted valuation assignments in various industries including international trucking distribution, restaurant supply, restaurants, international ice-cream franchise, dairy distribution, national self-storage facilities, specialized shipping containers, educational seminars, fast-food franchises, real estate general partnerships, dental supply distribution, latex glove distribution, family limited partnerships, residential home builders, investment general partnerships, hotel joint ventures, educational materials publishers, commercial and retail tire companies, tire retreading operations, internet application service providers, workman compensation service providers, insurance brokerage houses, contract research organizations, temporary staffing agencies, securities brokerages, real estate brokerages, architectural firms, engineering firms, medical practices, dental practices, autistic music therapy, and accounting practices.

Environmental Damage Quantification

Commercial / Residential Environmental Damages

Quantified the magnitude of property value diminution in a wide array of residential and commercial property arising from environmental contamination using economic analyses. Analyses included utilizing demographic and/or census data to determine areas comparable to

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the subject areas, extensive primary research to develop sales transaction histories over extended time periods, and complex multivariate regression analysis to analyze the property value diminution claims by comparing the subject areas to unimpacted areas. Media coverage of the contamination issues was also analyzed.

Analyzed numerous sources of environmental contamination including soil, air, and groundwater contaminated with radioactive materials, TCE's, PCB's and various other chemicals. Also conducted this type of analysis in relation to landfill citations, landfill operations, and wastewater treatment facilities. Range of geographic experience includes: Alabama, Arizona, California, Colorado, Florida, Georgia, Illinois, Missouri, Nevada, New Mexico, New Jersey, New York, Oklahoma, Texas, Utah, Virginia, and Washington D.C.

Natural Resource Damages

Consulted in the cooperative assessment of natural resource damages for the PCB contamination of the 39-mile Fox River in Wisconsin. Analyses included the review of survey design, survey implementation, data gathering, data interpretation, and extensive statistical modeling of revealed and stated preference data.

Analyzed a multi-billion dollar NRD assessment associated with groundwater contamination in the southwestern United States. Analyses included evaluation of water replacement models, hedonic regression analysis and lost state tax revenue claims.

Class Certification / Class Action Analyses

Conducted economic analysis to develop evidence relating to the evidentiary requirements of class certification as outlined in Federal Rule of Civil Procedure 23. Performed extensive analyses of census data, geographic characteristics, exposure pathways, and potentially intervening factors when evaluating the appropriateness of class certification.

Merger & Acquisition Analysis

Analyzed the potential effects on a company's income statement, balance sheet, and statement of cash flows resulting from the acquisition of another company. The companies had a combined market value of \$450 million.

Advised a privately held company during an acquisition by a publicly held corporation. Performed financial statement analysis, business valuation and various due diligence activities on behalf of the client. Advised the client on alternative deal structures and associated implications.

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Consulted with the board of directors of a national milling company on a complex real estate project. The project involved joint ventures to develop a hotel, four office towers, 150,000 square feet of retail space and hundreds of residential units. Analyses included evaluation of financing alternatives through Improvement District bonds, assessment of cash flow probabilities, review of key zoning proposals and modeling of the entire project's cash flows. Ultimately presented the results of sophisticated monte-carlo financial simulations to the board of directors who used the findings to determine the company's strategy for the project.

Teaching Experience

Graduate Macroeconomic and Microeconomic Principles

Topics covered included application of microeconomic analysis to managerial decision-making at the firm-level in areas of supply and demand, production, cost and pricing as well as evaluation of competitive strategies and the economics of the firm.

Macroeconomic Principles and Intermediate Macroeconomics

Topics covered included unemployment/full employment, inflation/price stability, economic growth/gross national product, determination of national income, and monetary and fiscal policies.

Microeconomic Principles

Topics covered included functioning of markets (demand and supply analysis), elasticities, theory of the firm (profit maximization), industry performance, allocation of resources, and government regulation.

Other Courses

Taught economics-related sections of annual Power Learning Series for Financial Advisory Services (a national training seminar for PricewaterhouseCoopers): 1995, 1996, 1997, and 1999.

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Publications

“Arizona Blue Chip Economic Forecast”; Monthly Forecast Panel Member, 1995 – Present.

“Western Blue Chip Economic Forecast”; Monthly Forecast Panel Member, 1995 –Present.

“The Role of the Economist in Litigation and Consulting Services Part I – An Overview”, October 1998.

“The Role of the Economist in Litigation and Consulting Services Part II – Shareholder (10b-5) Litigation Cases”, November 1998.

“The Role of the Economist in Litigation and Consulting Services Part III Antitrust Litigation Cases”, December 1998.

“The Role of the Economist in Litigation and Consulting Services Part IV Intellectual Property”, February 1999.

“The Role of the Economist in Litigation and Consulting Services Part V –General Lost Profits Cases”, May 1999.

“Value Assurance Programs: Address Property Value Concerns”, Environmental Compliance and Litigation Strategy, May 1999.

“Economic Theory in Business Disputes”, AWLA Perspectives, December 2000.

“Damage Analysis in Shareholder Litigation”, AWLA Perspectives, June 2001.

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Professional History

EconLit LLC, Managing Director (2000 – Present)¹

Arizona State University, Adjunct Professor of Economics in the ASU MBA program (2001 - 2004)

PricewaterhouseCoopers LLP, Director (final position) -- Financial Advisory Services (Dispute Analysis & Investigations Group / Economics and Statistics Practice, 1994 – 2000)

Arizona State University, Faculty Associate / Teaching Assistant in the Department of Economics (1992 – 1993)

Orbital Sciences Corporation, Consultant to the Chief Financial Officer (1992 –1994)

Education and Training

Chartered Financial Analyst (CFA[®]) conferred by the CFA Institute.

M.S., Economics, Arizona State University. Areas of specialization: Microeconomics, Macroeconomics, Finance, International Finance, and Econometrics.

B.S., Economics, Arizona State University, Summa cum Laude.

Other

NITA (National Institute for Trial Advocacy), Board of Trustees (2009 – Present)

- Audit Committee – Secretary
- Internal Audit Subcommittee – Chair

¹ EconLit LLC was an independent subcontractor to Lancaster Consulting LLC on certain engagements during 2000 - 2004.