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### OVERVIEW

Elizabeth Kroger Davis is a managing director in BRG's Chicago office and a member of the firm's Leadership Council. She has more than thirty years of consulting experience and focuses on providing both expert testimony and litigation consulting services, with an emphasis on the strategic and tactical components of high-profile litigation matters that require expertise in finance, accounting, auditing, economics, valuation, and the analysis of big data. A distinguishing aspect of her practice involves retentions by litigators to bring leadership and strategic coordination to matters that involve interrelated teams of accountants, academics, financial experts, and other technical experts.

Ms. Kroger Davis has been retained in some of the largest antitrust and financial market disputes of the past decades, matters involving economic damages, market manipulation, the fair value of financial instruments, post-acquisition disputes, alleged shareholder dilution, Ponzi schemes, fraud, and pre-arranged, unauthorized, and tax-motivated trading. She has consulted on disputes involving a variety of financial instruments, including credit default swaps, interest rate swaps, FX, futures, options, collateralized mortgage obligations, government securities, auction rate securities, repurchase agreements, commodities, and other securitized assets and derivatives.

Ms. Kroger Davis has also consulted and testified on a variety of matters involving commercial damages related to antitrust, alleged false advertising, IP, contract and employment disputes, and issues pertaining to class certification and ability to pay.

Ms. Kroger Davis has a background in accounting and auditing and was a partner in a large accounting firm, and she has advised counsel on dozens of civil and criminal litigation matters and regulatory investigations involving alleged violations of accounting, auditing, and other professional standards. She has also led management consulting practices dedicated to advising the legal departments of Fortune 500 companies on strategic restructuring, operational improvement, and litigation financial management strategies.

Ms. Kroger Davis received her MBA from the University of Chicago Graduate School of Business (now Booth School of Business) and BBA from Southern Methodist University. She is a Certified Public Accountant. She was notably named to the first listing of the Lawdragon 100 "Legal Consultants You Need to Know" (2009), which recognized leading providers of strategic and leadership advice to the legal profession.

## **EDUCATION**

MBA (Finance)      University of Chicago Graduate School of Business, 1991  
BBA (Accounting)      Southern Methodist University, Cox School of Business, 1984

## **PRESENT EMPLOYMENT**

Berkeley Research Group, LLC  
Managing Director, 2013–present

## **PREVIOUS POSITIONS**

Finance Scholars Group  
Managing Director, 2009–2013

Davis Consulting  
2009

CRA International  
Vice President, 2007–2008

Navigant Consulting  
Managing Director, 2005–2007

Arthur Andersen  
Partner, 1996–2002  
Manager, Senior, Staff Consultant, 1983–1996

## **PROFESSIONAL CERTIFICATIONS**

Licensed as a Chartered Global Management Accountant, 2012

Licensed as a Certified Public Accountant, 1986 (Texas and Illinois). Currently registered as a CPA in the State of Illinois.

Named to the first-ever listing of Lawdragon 100 “Legal Consultants You Need to Know” (2009), showcasing the leading providers of strategic and leadership advice to the legal profession.

## TESTIMONY AND EXPERT REPORTS

*United States of America, Plaintiff v. NGL Crude Logistics, LLC (f/k/a Gavilon, LLC), Defendant*, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF IOWA, EASTERN DIVISION. Expert rebuttal report opining and deposition on the economic benefit to Gavilon from the sale of and failure to retire allegedly invalid Renewable Identification Numbers ("RINs") and the appropriate discount rate to apply to damages. Matter settled prior to trial at level consistent with Davis' calculations of economic benefit. (McDermott Will & Emery, 2017)

*Cung Le et al., Plaintiffs vs. Zuffa, LLC d/b/a Ultimate Fighting Championship and UFC, Defendant*, UNITED STATES DISTRICT COURT, DISTRICT OF NEVADA. Expert report and deposition. (Boies Schiller Flexner LLP, 2017). Matter pending Trial.

*In Re Credit Default Swaps Antitrust Litigation*, UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK. Declaration in support of class counsel's motion for award of attorneys' fees, reimbursement of expenses, and incentive awards for class representations. Declaration describes work performed by BRG, and supervised by Davis, in regards to the compilation and analysis of hundreds of millions of credit default swap transactions and billions of related quotes, and the subsequent application of econometric models for purposes of estimating bid-ask spread inflation on a class-wide basis and allocating claimant settlement proceeds. (Quinn Emanuel Urquhart & Sullivan, LLP, 2016)

*In Re Credit Default Swaps Antitrust Litigation*, UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK. Declaration in response to an appeal submitted by a claimant who sought to recover additional settlement proceeds (2016). Declaration explained the flaws and unusual characteristics in the claimant's submission, and described how the award of additional settlement proceeds would be inconsistent to the rigor applied to other submissions and create a windfall for claimant. Judge Cote denied the appeal submitted by the claimant. (Quinn Emanuel Urquhart & Sullivan, LLP, 2016)

*Ross University School of Medicine, Ltd., vs. Brooklyn-Queens Healthcare, Inc., and Wyckoff Heights Medical Center*, UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF NEW YORK. Expert report and deposition testimony on economic damages pertaining to breach of contract. Of three components of damages, judge accepted Davis' computations on two elements prior to trial. The matter subsequently settled prior to trial for a confidential amount. (Baker & Hostetler LLP, 2011)

## PROFESSIONAL EXPERIENCE

### Litigation, Investigations, and Forensic Accounting Matters

*Retained on behalf of plaintiff's class (Quinn Emanuel Urquhart & Sullivan, LLP) in re: Interest Rate Swaps Antitrust Litigation*. Confidential matter in process.

*Retained on behalf of Hank Greenberg (Boies, Schiller and Flexner LLP, Skadden, Arps, Slate, Meagher & Flom LLP) in re: Greenberg v. Spitzer*. Confidential matter in process.

*Retained on behalf of plaintiff's class (Quinn Emanuel Urquhart & Sullivan, LLP) in re: Credit Default Swaps Antitrust Litigation* to provide litigation support, mediation support, class certification analysis, damages analysis and post-settlement fund allocation analysis. Assignment involved the construction of an econometric model, incorporating hundreds of million transactions in the CDS market and over 1.8 billion quotes on such securities, to analyze the economic impact of allegations that the investment banks had conspired to block exchange trading in the credit default swaps market in order to keep trading prices artificially high. Following a series of mediations that incorporated the economic model, matter resulted in a favorable settlement of \$1.86 billion to plaintiffs. At the concluding settlement conferences, Judge Cote recognized the work of BRG for its development of a settlement allocation model that would fairly allocate the proceeds associated with millions of transactions executed by over 14,000 class members, including banks, insurance companies, pension funds and hedge funds.

*Retained by Starr International Co. (Boies, Schiller and Flexner LLP, Skadden, Arps, Slate, Meagher & Flom LLP) in re: Starr International Company, Inc. v. The United States* as a strategic consultant to the law firms on liability and damages issues pertaining to the constitutional takings case against the United States brought by AIG shareholders in the Court of Federal Claims. Advised on case experts and expert issues involving both the plaintiff and defendant experts (over a dozen experts), and coordinated expert testimony and expert trial support during the ensuing three-month 2014 trial. Court of Federal Claims found liability on behalf of the U.S. Government in July 2015.

*Retained by Hank Greenberg, CEO of AIG, and Howard Smith, CFO of AIG (Boies Schiller and Flexner LLP, Skadden Arps, Slate, Meagher & Flom LLP and Kaye Scholer LLP)* as a strategic consultant to the law firm on liability and damages issues pertaining to a securities litigation involving allegedly fraudulent reinsurance transactions. Advised on case experts and experts issues involving both the plaintiff and defendant experts (over a dozen experts) and coordinated expert testimony and expert trial preparation. After approximately a month of trial, matter favorably resolved on behalf of clients.

*Retained on behalf of the Corn Refiners Association (Winston and Strawn) in re: Western Sugar Cooperative et al. v. Archer-Daniels-Midland Company et. al.* to provide litigation support in response to allegations that the Corn Refiners Association and its member companies ran a multi-year, multi-media advertising campaign that induced consumers and food and beverage manufacturers to purchase or manufacture more products sweetened by high-fructose corn syrup ("HFCS") at the expense of sucrose sugar. Developed a statistical model incorporating detailed stores sales scanner data to evaluate the effects of television, print and website challenged advertising on actual purchases of over 40 food and beverage products. Parties reached a confidential settlement during trial.

*Retained by plaintiff class (Boies, Schiller & Flexner LLP) in re: Anwar, et al., v. Fairfield Greenwich Limited, et al.* as a strategic consultant to the law firm on liability issues pertaining to the demise of hedge funds operated and marketed by the Fairfield Greenwich Group that invested with Bernard Madoff.

*Retained on behalf of Bluestem Brands, Inc. (Faegre Baker Daniels LLP) in re: CIGPF I Corp. v. Bluestem Brands, Inc.,* to provide economic analysis related to the capital structure of Bluestem,

allegations by plaintiff of damages associated with anti-dilution adjustments under a warrant agreement, and damages associated with alleged participation rights in a credit financing transaction. Matter settled.

*Retained by Halliburton (formerly Godwin Ronquillo) in re: Oil Spill by the Oil Rig "Deepwater Horizon (DWH)"* to lead litigation support team in development of expert report in support of objections by Halliburton to class certification and final approval of the DWH Economic and Property Damages Settlement Agreement of \$6.5 billion. Though the expert report was excluded on the basis that Halliburton had no legal standing with regard to the settlement, after its submission lawyers for BP filed an emergency motion contending that the settlement "systematically produces illogical and absurd compensation awards to claimants," and is paying "hundreds of millions of dollars, and perhaps billions, to claimants with 'losses' that do not exist in reality." These outcomes are a direct consequence of the fundamental flaws in the economic damages settlement that were derived and later described in the expert report involving Davis.

*Retained by Barclays Bank (Boies, Schiller & Flexner LLP) in re: Lehman Brothers Holdings, Inc. et al.* to lead litigation support team and six-month trial support initiatives related to 2008 bankruptcy of Lehman Brothers Inc. and the resulting \$45 billion acquisition by defendant Barclays of its North American broker dealer business. Primary financial and economic consulting work streams included defending a \$5 billion damages component sought by plaintiffs involving the fair value of thousands of purchased securities including mortgage backed securities, auction rate securities, collateralized loan obligations and other securitized assets. Of \$5 billion valuation damages sought by plaintiffs, \$0 damages were awarded in 2010 trial.

*Retained by the Official Committee of Unsecured Creditors of the LandAmerica Financial Group, Inc. et al. (formerly Bingham McCutchen LLP, LeClairRyan)* to lead litigation support team in development of expert report pertaining to liability and damages in breach of fiduciary duty litigation brought against directors and officers as a result of massive financial losses suffered by LandAmerica and its subsidiary, Land America 1031 Exchange Services, which ultimately led to its implosion and Chapter 11 filing 2009. Matter favorably settled with recovery of most of the available insurance proceeds.

*Retained on confidential matter on behalf of hedge fund (Hogan Lovells)* to lead expert work pertaining to losses incurred on close out of credit default swaps with certain counterparties in the wake of the Lehman Brothers Holdings bankruptcy.

*Retained by DaimlerChrysler Financial Services (Thompson Coburn LLP)* to lead litigation support and expert work in defense of claims of alleged lending discrimination sought by Chrysler's dealer network. Compilation of an analytical dataset and subsequent statistical analysis of tens of thousands of financing transactions led to significant settlement savings within nine months of retention.

*Various matters on behalf of Arthur Andersen LLP.* Advisory partner in dozens of litigation and investigation matters. Provided litigation consulting or investigatory role on legal and regulatory matters involving alleged audit failures and violations of professional standards (GAAP/GAAS). Responsibilities included working paper review, assessment of compliance with policies and procedures, engagement team interviews and matter resolution strategies. Illustrative cases include:

a civil/criminal matter pertaining to the forward-looking financial statements issued by real estate limited partnerships; civil litigation involving the unauthorized trading of mortgage-backed securities by a governmental entity; civil and regulatory matters involving revenue recognition of bill and hold transactions for a public company; and civil litigation involving revenue recognition issues of a biotechnology company.

*Retained by Grant Thornton (Mayer Brown)* in its defense of a broker–dealer audit client that allegedly executed sham government securities transactions and conferred tax losses on professional athletes. Work involved forensic reconstruction and financial analysis of trading and re-estimation of tax liabilities. Matter resolved favorably on behalf of accounting firm.

*Retained by the Chicago Board of Trade (Kirkland & Ellis LLP)* in response to a CFTC enforcement action against the exchange’s internal audit division. Led engagement team that reviewed the work papers of the Office of Investigations and Audits (OIA), and subsequently uncovered a fraudulent accounting scheme at a broker dealer that the OIA had been unable to unravel. Case was favorably resolved. Subsequently retained by the OIA to advise on improvements to its policies and procedures to reduce execution risks on future audits.

*Retained by Ferruzzi Finanziaria (Sidley Austin LLP) and Deloitte & Touche* to assist in an independent investigation initiated by a consortium of Italian banks regarding grain trading losses reported by an Italian subsidiary.

*Retained by Ferruzzi USA (Sidley Austin LLP)* to lead litigation support team in response to a \$150 million deficiency notice issued by the IRS over the tax treatment of futures and options hedges. Work involved forensic reconstruction of trading models and strategies and was subsequently used by Ferruzzi’s outside auditor and tax preparer, PricewaterhouseCoopers, in advantageous settlement with IRS.

*Retained by Ferruzzi Finanziaria (Sidley Austin LLP)* to lead engagement in response to a CFTC investigation into regulatory reporting issues. Matter favorably resolved based on analytical information and reports provided to regulators.

*Retained by Ferruzzi Finanziaria (Sidley Austin LLP)* to lead litigation support team in defense of a securities class action alleging market manipulation and hundreds of millions of dollars of damages on thousands of futures market participants. Performed forensic reconstruction of global trading positions in cash, futures and forwards for purposes of analyzing speculative versus hedging positions and testing allegations of inflated market prices given market events and defendant holdings. Work resulted in narrowing of class and favorable settlement on behalf of client.

*Retained by First Chicago (now JPMorgan Chase) (Sidley Austin LLP)* in litigation involving the “run” on a real estate investment fund stemming from sudden investor redemption requests. Led litigation support team that modeled effects of participants’ net asset values under various redemption scenarios and provided strategic advice in settlement negotiations. Client settled at amount below expectations. Subsequently retained to assist in the settlement discussions with the Office of the Comptroller of the Currency (OCC), which were timely resolved.



*Retained by Ferruzzi Finanziaria (Sidley Austin LLP)* to lead litigation support and three-month trial support initiatives in defense of a regulatory investigation by the Chicago Board of Trade Business Conduct Committee over allegations of market manipulation and multi-million-dollar market damages. Performed forensic reconstruction of multi-legged soybean spot, forward, futures, options and CIF/FOB market transactions, and macroeconomic analysis of underlying market fundamentals. Client prevailed against charges. No findings of market manipulation were brought against client.

*Retained by the Legal Department of First Chicago (now JPMorgan Chase)* to consult on the valuation of employee stock options in regards to pending employment litigation matters.

*Retained by Conagra/Armour Swift Eckrich (formerly Pretty Schroeder Brueggemann & Clark)* in its defense against patent infringement charges pertaining to the meat processing and packaging division. Led litigation support and trial support team addressing damages. Jury award against client less than one-third the amount requested by plaintiff.

*Retained by Commonwealth Edison (Sidley Austin LLP)* in response to an EEOC complaint alleging discrimination in the recruitment and hiring of employees. Led litigation support engagement that constructed an applicant flow database and models for over 80,000 prospective employees spanning a half decade. Analytical work used in successful resolution of matter.

*Retained by Continental Grain (Sidley Austin LLP)* in its corporate investigation of a failed arbitrage trading subsidiary and ensuing multi-district litigation involving the trading fraud perpetrated by this entity. Led litigation support team that performed forensic reconstruction of hundreds of thousands of government securities, repurchase agreements and futures market transactions, and built computer models to test hypotheses of fictitious, fraudulent, prearranged, and tax-motivated trading on customer accounts. Coordinated analytical support for numerous experts. Provided trial support in first counter claim tried against a primary dealer for facilitating the fraud and achieved \$140 million verdict for client. Subsequently participated in settlement discussions with hundreds of investors and achieved favorable resolution of all outstanding matters.

*Retained by Drexel Burnham Lambert (Sidley Austin LLP)* in conjunction with massive governmental investigation of insider trading in junk bonds by Mike Milken and Ivan Boesky. Led litigation support team in forensic investigation that entailed the review of millions of documents.

### **Other Consulting Assignments**

*Retained by the legal department of Walmart* to advise on strategic technology initiatives. Developed a benchmarking survey on technology utilization by leading corporate legal departments.

*Retained by the legal department of Walmart* to advise on attorney compensation in the wake of the 2008 market collapse.

*Retained by the general counsel of General Dynamics* to advise on organizational structure and knowledge management. Delivered cutting-edge research to a peer group of Fortune 200 law departments with the highest reputations for innovation. Reported on the impact of law department organizational design on the ability of lawyers to identify, communicate and respond to critical legal and risk-related information.

*Retained by legal department of Amgen* to perform legal technology benchmarking and make recommendations on investments in matter management and e-billing software. Scope of recommendations included advice on enhancements/modifications to business processes and information flows.

*Retained by the general counsel of Walmart* to advise on the transformation of its attorney compensation and performance platform. Repositioned client to attract and retain top talent thru revised career paths, compensation packages and performance structures.

*Retained by an international accounting firm* to advise on knowledge management and data mining processes to identify patterns in causation factors in litigation matters and other troubled engagements.

*Retained by the Association of Corporate Counsel* (Dallas, Fort Worth, Houston, Austin and San Antonio chapters) to provide legal compensation surveys compiling trends in salary, bonus and other employee benefits.

*Retained by the Association of General Counsels*, an organization of Fortune 200 general counsels, to provide law department compensation survey. Retained to create and analyze statistical information on thousands of domestic and international law department positions. Study became industry benchmark for leading law departments. Findings presented at annual conference.

*Retained by University of North Carolina Chapel Hill* to advise on Governmental Accounting Standards Board reporting and disclosure requirements related to derivative investments in its endowment and other funds.

*Retained by International Nederlanden Bank (ING)* to perform a surprise audit of a futures commission merchant, Quantum Financial Services, and assess compliance with financial covenants. Subsequently retained to perform a business diagnostics review of Quantum to identify opportunities to enhance revenue and reduce costs over payout structures and floor brokerage operations, and improve both its organizational structure and accounting and business information systems.

*Performed financial statement audits* of banks, savings and loans, hotels, and real estate developers and operators. Also specialized in performing information systems reviews in support of complex audits. Illustrative clients included First City Bank of Houston, University of Chicago Hospital, Continental Airlines, University Savings and Loan, Ben Franklin Savings, the Houstonian Hotel, and Romanek Properties.

## **Other Professional Experience**

Global Risk Management partner at Arthur Andersen with international responsibilities to drive strategic alignment, risk management and cost reduction strategies across matrix structure of functional groups, firm management and the business operators/partners. Delivered firm's first international knowledge management initiatives, including the creation of a data mining function to analyze litigation and other troubled client engagements, identify patterns in causation and recommend policies and procedures to reduce recurrence.



Partner seconded to Arthur Andersen's Global Risk Management Executive Committee to monitor risk management action plans of the business units to peer reviews and compliance audits.

Partner leading Arthur Andersen's firm wide initiative to analyze risks associated with dozens of international mergers, acquisitions, alliances, joint ventures, equity deals and new country expansions totaling about \$420,000,000 in investments. Responsibilities varied, but typically included an emphasis on deal quality control, integration execution management and identification of best practices.

Interim CFO/COO responsibilities for Arthur Andersen's legal department, a \$100 million to \$250+ million, 100-person international law department. Implemented top-down enhancements to the department's organizational structure, technology solutions, financial reporting policies and procedures, and management of outside counsel. Migrated service model from outside counsel to dedicated, in-house support, tripling headcount about twelve months and creating cost savings by reducing law firm expenditures and strategically outsourcing non-core activities.

Arthur Andersen partner liaison between the legal department and professional indemnity insurance representatives regarding the litigation portfolio, costs, risk benchmarks, and firm-wide risk management initiatives. Liaison responsibilities extended to status/management of cases.

Advised on the wind-down of Arthur Andersen's insurance consortium, the startup of a captive program, and the solicitation of reinsurance bids for certain attest and non-attest risk portfolios. Accounted for the coverage and collection on matters and performed financial modeling on various loss scenarios for the firm's captive insurance company.

Selected to perform the Litigation Services Quality Review Program of Andersen's Washington D.C. Specialty Consulting Practice.

## **ARTICLES/INSTRUCTOR/LECTURER/PANELIST**

"Liability Hot Buttons for 2014." Baruch College National Association of State Boards of Accountancy Center for the Public Trust (CPT), December 6, 2013, New York, NY.

"Update: A Brief Overview of Trends in PCAOB Inspection Reports, What Every Practitioner Should Know" (with Joe Moravy), in PLI Course Handbook, Basics of Accounting for Lawyers 2013: What Every Practicing Lawyer Needs to Know (2013).

Article commentary. Kmet, Carolyn. "Illinois' Big Four." *Insight Magazine*, The Magazine of the Illinois CPA Society, Sep. 2013: 38–41. Print.

"A Brief Overview of Trends in PCAOB Inspection Reports: What Every Practitioner Should Know" (with Joe Moravy), in PLI Course Handbook, Basics of Accounting for Lawyers 2011: What Every Practicing Lawyer Needs to Know (2011).

"Turning Litigation Data into Litigation Intelligence," National Organization of Women Lawyers Fourth Annual General Counsel Institute, November 6, 2008, New York, NY.

"Report on the Third Annual National Survey on Retention and Promotion of Women in Law Firms," National Association of Women Lawyers, November 2008.

"Managing Outside Counsel: From Bill Review to Benchmarking," Mitrastech Interact Legal and Compliance Technology Forum, October 3, 2008, Marina del Rey, CA.

"Risk Management: How to Stay Ahead of the Next Big Development," Sixth Annual DELVACCA General Counsel Forum, 2008, Philadelphia, PA.

"Early Case Assessment and Preliminary Damages Analysis," Mitrastech Interact Legal and Compliance Conference, September 9–11, 2007, Phoenix, AZ.

"Business Intelligence," Mitrastech Interact 2007 Conference, September 9–11, 2007, Phoenix, AZ.

"Managing Matter Management," International Legal Technology Association, March 2, 2007, New York, NY.

"Risk Management is Good Management," National Association of Women Lawyers Third Annual General Counsel Institute, November 2007, New York, NY.

"2006 Association of General Counsel In-House Legal Department Survey," Association of General Counsel, October 2006, Washington, DC.

"How to Manage Document Retention and Destruction Issues in Illinois-Role of Inside Counsel," Lorman Education Series, June 22, 2006, Chicago, IL.

"10 Common Electronic Discovery Risks: How to Avoid Them, Fix Them and Learn from Them," Greenberg Traurig Annual Conference, May 19, 2006, Kohler, WI.

"Litigation Matter Management and Technology Trends," Jenner & Block (1999), Chicago, IL.

"Andersen Technology Platform and Litigation Case Assessment," DuPont In-House Legal Department, (1999), Wilmington, DE.

"Statistical Sampling and Regression Analysis," three-day course presented to Provident Life and Accident Insurance Company and the law firm of Steel, Hector and Davis LLP, St. Charles, IL.

"Partner/Manager Statistical Sampling"; developed and taught three-day sampling course for Andersen partners and managers (1993, 1994, 1995)

"Statistical Sampling and Regression Training"; developed and taught three-day sampling and regression analysis course for Andersen seniors and staff (1993, 1994).