

## **Curriculum Vitae**

**KEVIN W. CHRISTENSEN**  
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## **SUMMARY**

Kevin W. Christensen, PhD is a director in BRG's Washington, DC office. Dr. Christensen specializes in competition economics, antitrust, damages analysis, and public policy, which he often applies in the context of the pharmaceutical industry. He regularly works on class action litigation matters to address questions of class certification and estimation of classwide damages. He has submitted expert reports to the US District Court for the District of Columbia, US District Court for the Eastern District of Virginia, state courts, and regulatory agencies. Dr. Christensen has provided deposition testimony in state and federal courts. Additionally, he has written white papers submitted to the State of Florida's Department of Transportation and drafted portions of new product applications submitted to the US Food and Drug Administration (FDA).

Dr. Christensen has been involved in competition and antitrust matters that included price fixing, monopoly and attempted monopoly, monopsony and attempted monopsony, market allocation, raising rivals costs, and tying and bundling allegations. He also has worked on several mergers and acquisitions and nonpublic investigations by federal agencies, estimated economic damages in antitrust and false advertising litigations, and provided testimony on economic damages resulting from bribery. His disputes and investigations work spans industries including oil and gas, pharmaceutical, biotechnology, medical device, banking, automobile finance, wholesale distribution, transportation, consumer packaged goods (CPG), agriculture, building materials, tourism, and gaming.

In addition to his litigation practice, Dr. Christensen is regularly engaged on matters of public policy. In this context, Dr. Christensen has estimated the economic and tax revenue impact of proposed infrastructure investments or regulatory changes. He has also worked on matters involving the economic and tax implications of ballot initiatives.

Dr. Christensen holds a PhD and MA from the University of Florida and a BS from James Madison University, all in economics. Between 2018 and 2022, he was selected by Global Competition Review for its Who's Who Legal: Competition – Future Leaders publication, which highlights experts in the field of competition economics under the age of forty-five. In 2023, Dr. Christensen was included in Who's Who Legal: Competition – Economists and Consulting Experts – Economics publications. From 2011 to 2022, he was on the board of editors for the *Antitrust Source*, an online publication from the American Bar Association's Section of Antitrust Law. From 2018 to 2021, Dr. Christensen was a member of the James Madison University Economics Department Executive Advisory Board. He served as chair of the Advisory Board for two years. Currently, he is on the board of directors for RxPartnership, a part of the healthcare safety net that provides affordable brand and generic medications to low-income, uninsured Virginians.

## **PRESENT POSITION**

Director, Berkeley Research Group, 2021-Present

## **EDUCATION**

Ph.D. (Economics)	University of Florida, 2006
M.A. (Economics)	University of Florida, 2004
B.S. (Economics)	James Madison University, 1998

## **ECONOMIC CONSULTING EXPERIENCE**

### **Class Action Litigation (including Quantum of Economic Damages)**

- Submitted an expert report providing an estimate of economic damages arising due to alleged excessive overdraft fee charges. The report was submitted to the court evaluating the fairness of a class action settlement.
- Provided expert consulting and estimated economic damages for antitrust litigation involving the short selling of stocks.
- Provided expert consulting on class certification issues in the cosmetics industry.
- Provided expert consulting on class certification issues related to purchasers of salad kits.
- Analyzed the proposed class action settlement agreement related to the Deepwater Horizon spill.
- Estimated economic damages for a class of indirect purchasers of vitamin supplements.
- Quantified economic damages caused by alleged monopsony behavior in the U.S. dairy industry. The economic analysis also encompassed class certification and merits issues.
- Economic analysis for the purposes of class certification of an alleged market allocation conspiracy between two wholesale grocery companies.
- Performed a statistical analysis on the effect of allocation and short-supply for a class action antitrust litigation related to the fiberglass insulation industry.
- Prepared quantitative and qualitative analyses for an expert witness testifying on class certification issues in an antitrust lawsuit involving a U.S. herbicide company.

### **Antitrust & Competition Litigation (including Quantum of Economic Damages)**

- Supported an expert opining on the relevant antitrust market (geographic and product) and the presence of market power for a medical device manufacturer as part of a response to a Defendant's antitrust counterclaim to alleged patent infringement.
- Assessed the economic analysis of an opposing expert's report involving the chemicals used in spray foam insulation. Supported an expert opining on the relevant antitrust market (geographic and product) and the presence of market power. The matter arose from an antitrust counterclaim to alleged patent infringement.

- Assessed the regression model and economic analysis of an opposing expert's report involving the automobile parts industry. The plaintiff was an opt-out to antitrust class action litigation involving direct purchasers of polyurethane foam.
- Analyzed data from an automobile parts manufacturer related to a government investigation of price fixing allegations.
- Critiqued the econometric analysis of an opposing expert in a price-fixing case in the agriculture sector.
- Prepared economic analyses of issues related to antitrust counterclaims arising from patent litigation in the digital audio technology industry.
- Provided expert consulting on the relevant antitrust market, monopoly power, competitive effects, and damages issues regarding vertical restraints in sale of Automated License Plate Recognition solutions in a case involving trade secret misappropriation.

#### **Other Experience (including Quantum of Economic Damages)**

- Retained as damages expert for a matter alleging violations of the Lanham Act. Developed damages model quantifying lost sales for mediation. The parties settled in mediation.
- Provided expert testimony analyzing the estimated costs asserted by an opposing expert to be caused by a change in military accession standards.
- Provided expert consulting on survey design, implementation, and analysis on multiple matters.
- Consulted on a labor and employment matter involving age discrimination. Prepared report and econometric critique of opposing expert's reports.
- Prepared survey to assess the extent of reverse confusion in trademark litigation.
- Developed a benchmarking analysis of semiconductor patent portfolios for a client seeking information on the efficacy of their R&D relative to their competitors.
- Drafted section of a Premarket Tobacco Application (PMTA) for a novel oral tobacco derived nicotine product. The PMTA was submitted to FDA for review in 2018.
- Developed an economic model estimating the long-term cost of extending financial support to former professional athletes.
- Assisted with consumer perception and behavior studies submitted as part of FDA applications (PMTA and MRTPA). Served as primary point of contact between regulatory and marketing departments, coordinated research with study leads and streamlined procedures to complete work while adhering to federal compliance guidelines, internal policies, and best research practices.
- Analyzed the extent of competition in the U.S. insulation industry and the factors that affect entry of a supplier to insulation manufacturing companies.

## **Public Policy and Regulation**

- Assessed the impact on state highway funding resulting from a new state policy that would eliminate the sale of new gas-powered vehicles in adopting states by 2035.
- Prepared analyses and provided economic advisory services related to proposed rules for risk management programs under the federal Clean Air Act.
- Estimated the economic impact to Illinois' economy if a proposed graduated income tax were to replace the flat income tax rate. The methods and results of the analysis were described in a white paper.
- Estimated the economic impact of a proposed change to California's split-roll tax system. The methods and results of the analysis were described in a white paper.
- Estimated the economic impact of investments made by a Florida economic development organization in the U.S. The analysis was used to evaluate the efficacy of development initiatives and estimate rates of return.
- Prepared economic analysis assessing the economic impact of a privacy protection legislation on a state's economic performance and competitiveness.
- Estimated the tax revenue impact of changes to the federal tax code. The analysis was used by the client to pursue changes to the tax rates for the industry.
- Conducted in-person survey of tourists visiting three different attractions in a U.S. city. The results of the survey were used to determine factors driving city tourism.
- Estimated the economic impact of a call center on the local, regional, and state economies.
- Provided research, writing, and analytical support for white papers on e-commerce taxation. The papers were submitted to the Advisory Commission on Electronic Commerce which was tasked with assessing the impact of the Internet on state and local tax revenues.
- Estimated the economic impact of the biotechnology industry on the U.S. economy. The analysis was used as part of an industry trade association's public relations effort.

## **Pharmaceutical Industry Experience**

- Provided expert consulting on economic and damages issues in antitrust litigation relating to brand and generic HIV medications.
- Provided expert consulting on economic issues surrounding the distribution and alleged diversion of controlled substances in Multi-District Litigation.
- Provided expert consulting services to a pharmaceutical company that manufactures controlled substances. The engagement included analysis of the Drug Enforcement Agency's ARCOS database.
- Provided expert consulting regarding an alleged breach of a distribution agreement for a generic animal drug.

- Provided expert consulting regarding the valuation of a manufacturer of medical equipment.
- Analyzed usual and customary prices charged by pharmacies to assess whether the payor overpaid for member drugs.
- Provided expert consulting services in opt-out antitrust litigation regarding alleged price-fixing among manufacturers of generic drugs.
- Provided expert consulting services to a pharmaceutical industry trade association regarding: the federal 340B program, the international supply chain of pharmaceuticals, and the effect of international trade on domestic drug prices.
- Quantified economic damages arising from alleged patent infringement by pharmaceutical company for two related cases. Both cases involved biologic and biosimilar drugs.
- Performed statistical analyses evaluating the extent of competition between topical and oral pharmaceutical treatments of a skin ailment. The merger review was closed by the FTC without the need for a second request.

## **Mergers & Acquisitions**

- Provided economic analyses and data support in response to a non-public post-merger review in the consumer food product industry. The inquiry was closed without further investigation from the enforcement agency.
- Assisted in the preparation of second request materials (data and documents) related to a merger between two natural gas compression companies.
- Worked with in-house counsel to collect materials necessary to respond to a second request for a proposed acquisition under review by the FTC.
- Econometric estimation of the effect of competition between two firms on the retail price for gasoline. The analysis was responsive to requests from federal and state authorities reviewing a proposed acquisition.
- Analyzed competitive implications of a merger in the avionics industry during a DOJ investigation of potential horizontal and vertical effects including the potential for raising rivals costs.
- Assisted in the preparation of econometric analyses for an expert retained on behalf of merging parties in the gaming industry.
- Supported an economic expert analyzing the competitive impact of a proposed merger in the U.S. steel industry.

## PUBLICATIONS & CONTRIBUTIONS

“United States: Economist Perspective,” *Global Competition Review*, Enforcer Hub, with C. Tyler, November 24, 2023, available at <https://globalcompetitionreview.com/insight/enforcer-hub/2023/article/united-states-economist-perspective>.

“BRG Policy Brief: The Effect of Zero-Emission Vehicle Policies on Dedicated Highway Infrastructure in Virginia,” available at <https://www.thinkbrg.com/insights/publications/effect-of-zev-policies-on-dedicated-highway-infrastructure-funding/>.

Similar analyses were performed for fourteen other states.

“Roundtable: Discussing the Big Picture on Big Data,” *The Antitrust Source* (December 2018), available at [https://www.americanbar.org/content/dam/aba/publishing/antitrust\\_source/2018-2019/atsource-december2018/dec18\\_bigdata\\_rndtbl\\_12\\_17f.pdf](https://www.americanbar.org/content/dam/aba/publishing/antitrust_source/2018-2019/atsource-december2018/dec18_bigdata_rndtbl_12_17f.pdf).

“The Next Frontier of Antitrust?” A Review of Virtual Competition by Ariel Ezrachi and Maurice E. Stucke, *The Antitrust Source* (October 2017), available at [https://www.americanbar.org/content/dam/aba/publishing/antitrust\\_source/oct17\\_christensen\\_review\\_10\\_16f.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publishing/antitrust_source/oct17_christensen_review_10_16f.authcheckdam.pdf).

Contributor to Section of Antitrust Law, *Antitrust Law Developments* (Eighth), American Bar Association, 2017.

“Extraterritoriality and US patent damages,” IAM IP Economics Industry Report, Globe Business Media Group (August 24, 2016), available at <http://www.iam-media.com/industryreports/detail.aspx?g=73f8896a-596e-4a39-a0d8-2b4b59665005> (with D. Sundararaman).

“A Closer Look at Google's New Patent Program,” available at <http://www.law360.com/articles/659871/a-closer-look-at-google-s-new-patent-program>, May 27, 2015 (with D. Sundararaman).

“Martin Gaynor, Director, FTC Bureau of Economics: A Review of His Recent Economic Research,” *The Antitrust Source* (December 2013), available at [http://www.americanbar.org/content/dam/aba/publishing/antitrust\\_source/dec13\\_full\\_source.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publishing/antitrust_source/dec13_full_source.authcheckdam.pdf).  
 “Interview with Howard Shelanski, Director, FTC Bureau of Economics,” *The Antitrust Source* (December 2012), available at [http://www.americanbar.org/content/dam/aba/publishing/antitrust\\_source/dec12\\_shelanski\\_intrvw\\_12\\_20f.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publishing/antitrust_source/dec12_shelanski_intrvw_12_20f.authcheckdam.pdf).

Contributor to “Market Definition and Measurement,” in R. Schlossberg (ed.) *Mergers and Acquisitions, Third Edition: Understanding the Antitrust Issues*, American Bar Association, March 2008.

“Report on Trends and Conditions Research: The Impact of The Internet on Transportation in Florida-Current Economic Perspective and Possibilities for Further Research,” March 30, 2002 (with D. Denslow and J. Dewey).

“Total Corporate Taxation: ‘Hidden,’ Above-the-Line, Non-Income Taxes,” *National Tax Journal*, 5-4, No. 3 (September 2001); 495-506, (with R. Cline, and T. Neubig.)  
 Reprinted: *State Tax Notes* (November 12, 2001); 525-531.

## TESTIMONY AND EXPERT REPORTS

*Isaiah Wilkins, et al. v. Lloyd Austin III*, U.S. District Court for the Eastern District of Virginia, Case no. 1:22-cv-1272

Expert Report (July 2023)

Supplemental Expert Report (August 2023)

Deposition (August 2023)

*Dilling Group, Inc., v. Winona Building Products, LLC*, State of Indiana County of Marshall Circuit Court, Cause No. 50C01-1912-PL-000046.

Expert Report (January 2023)

*CyrusOne LLC v. Great American Insurance Company*, Court of Common Pleas Hamilton County, OH, A 1504669.

Deposition (April 2017)

*Romona Trombley, et al. v. National City Bank et al.*, U.S. District Court for the District of Columbia, Case no. 10-cv-00232

Expert Report

*District of Columbia Taxi Cab Commission*, Washington D.C.

Expert Report

## PRESENTATIONS

National Association for Business Economics, TEC Conference, Santa Clara, CA

“‘Antitrust’ on X,” November 2023

Consumer Data Industry Association, Law & Industry Conference, Washington, D.C.

“‘Navigating by the stars under cloudy skies’: 2024 US Economic Outlook, September 2023

National Institute of Trial Advocacy (NITA), Washington DC and Virtual

Expert Witness for Program on Expert Witness Deposition

2022 – DLA Piper

2014 - 2015, and 2018 – Georgetown University Law Center

2007 - 2010 – Howrey LLP

Expert Witness for Program on Expert Witness Testimony

2022 – DLA Piper

2016 – Georgetown University Law Center

New York State Bar Association, New York, NY

Antitrust Trial Training Academy, May 2017

Cozen O'Connor, Philadelphia, PA

"The Evolution of an Expert Report in a Complex Damages Case", November 2010

Southern Economic Association Annual Meeting

“The Effect of Prudent Investor Laws on Innovation”, 2006

Annual Meeting of Western Economic Association International

“A Model of Venture Capital, Entrepreneurs, and Endogenous Growth”, 2004

## **PRIOR PROFESSIONAL EXPERIENCE**

Associate Director, Berkeley Research Group, 2015 - 2017, 2019 - 2021

Consulting Economist, Berkeley Research Group, 2017 - 2019

Senior Managing Economist, Berkeley Research Group, 2013 - 2015

Senior Manager, Altria, 2017-2019

Consulting Economist, Finance Scholars Group, 2012

Vice President, Edgeworth Economics, 2010-2012

Principal, Edgeworth Economics, 2010

Economist, The CapAnalysis Group, LLC, 2006-2010

Consultant, Ernst & Young, LLP, 1998-2001

## **TEACHING EXPERIENCE**

Johns Hopkins University, Guest Lecturer (2017)

*Microeconomic Theory* (Graduate)

University of Florida, Instructor (2005 - 2006)

*The Economics of Science, Technology, and Innovation* (Undergraduate)

## **PROFESSIONAL AFFILIATIONS**

Associate Editor, *BRG Review*, 2022 - Present

Editor, *Antitrust Source*, 2011-2022

Member, American Economic Association and Richmond Association for Business Economics

Associate Member, American Bar Association (Antitrust Law and Health Law Sections)

## **REFEREE/REVIEWER FOR**

*Antitrust Law Journal*, *BRG Review*, *Review of Development Economics*



## **COMMUNITY ACTIVITIES**

RxPartnership Board of Directors (2021-Present)

Bluestone Institute Board of Directors (2021-Present)

James Madison University Economics Department Executive Advisory Board (2018-2021)

Appointed by Arlington County Board to the Neighborhood Complete Streets Commission  
(2016-2017)