

NELS A. PEARSALL

703-728-1057 (direct line)

PROFESSIONAL EXPERIENCE:

Mr. Pearsall has worked as a testifying expert and economic consultant for approximately 35 years and has provided opinions in matters involving economic damages and asset valuation for clients in various industries as well as for the U.S. and State Governments. He has provided testimony regarding economic damages in various commercial disputes involving, among other things, real estate valuation, forgone revenue and management fees associated with real estate investment instruments, allegations of commercial fraud, breach of contract, changes in asset and/or share value, fiduciary duty, and operating margins. He has analyzed financial markets and instruments, quantified business interruption losses, developed economic and financial models to analyze market wage and business value. He has developed analyses and directed research engagements involving industry transactions, corporate spinoffs, asset allocations, funded liabilities and market activity.

Mr. Pearsall has submitted expert reports covering antitrust liability and damages and worked on numerous matters involving monopolization, price discrimination, tying, predatory pricing, price fixing, attempted collusion, vertical and horizontal restraints. He also has been engaged in matters involving industry standardization and alleged anticompetitive licensing strategies.

He has consulted on numerous intellectual property matters involving determination of economic damages based on application of reasonable royalty rates, lost profits, price erosion, and overall changes in firms' IP asset values. He has been retained as an expert to determine value of intellectual property assets including patents, trademarks, copyrights, and trade secrets. He has opined on transfer prices of intangible assets and worked with clients to develop strategies. Mr. Pearsall has provided testimony and quantified damages associated with changes in firms' sales and/or market strategy resulting from events affecting firms' ability to compete in markets and has testified to appropriateness of alternative damage calculations set forth by opposing parties.

In broader commercial disputes, Mr. Pearsall has assessed damages in matters involving breach of contract, business interruption, real estate investment losses, commercial fraud, changes in asset or equity value, and fiduciary claims. His work includes detailed analyses of markets, financial instruments, industry transactions, and corporate strategies. He has developed economic and financial models to evaluate firm performance, forecast sales, and measure competitive impact.

Mr. Pearsall has led business consulting engagements involving transfer pricing, market intelligence, pricing models, analyses of corporate financial data, firms' assets, collection and interpretation of survey data, sales forecasts, economic modeling, predictive analyses, competition and marketing campaigns. He has expertise in applications of economic and financial theories in the organization and management of complex engagements as well as market analyses, acquisition of patented technologies, revenue performance, cash flow models, and industry competition.

EXPERT REPORTS AND TESTIMONY:

1. *InKit, Inc., v. airSlate, Inc.*, Case No. 1:23-cv00793-RGA, 2024

Expert Report addressing claims of economic damages and forgone revenues associated with alleged misappropriation of trademark and breach of contract.

2. *Stratera Holdings, LLC and Destra Capital Management, LLC v. Prospect Capital Management*, Case No. 01-19-0001-7529, 2021

Testimony, Expert Report and Affidavit addressing claims of economic damages and forgone revenues associated with alleged fraud and contract breach.

3. *Paul Ritchie, v. Matthew A. Dolman, P.A., Et Al*, Case No.: 20-cv-61047-Rar, United States District Court, Southern District of Florida, Broward Division, 2021

Expert disclosure involving alleged wrongful termination.

4. *Meister, et al v. Verizon New Jersey, Inc. et al*, Case No. ESX-L-4738-17, 2019

Consulting expert assisting with and identifying possible statistical outliers and providing understanding as to issues related to damage claims.

5. *Deborah M. Manchester, Ph.D., v. Sivantos GMBH, a German company; Sivantos, Inc., et al.* Case No.: 2:17-cv-05309-ODW

Expert report and deposition involving economic damages associated with misappropriation of trade secrets.

6. Analysis of alleged inventory loss due to individual failure of essential production machinery. Reviewed valuation prepared by forensic accountants and determination as to viability of alternative product development, 2018.

7. Report addressing value of individual shares held in a business development company ("BDC") and corresponding trust holding companies. Analysis of executed agreement between parties and economic likelihood of anticipated revenue streams connected with issuance of new funds, 2018.

8. *Sonja Porter Wiles v. The City of Daytona Beach Florida and James Chisholm*, Case No.:6:17-cv-583-Orl-40DCI, United States District Court Middle District of Florida Orlando Division.

Deposition and expert report involving allegation of wrongful termination, determination of alleged lost wages and valuation of current and future retirement distributions.

9. Analysis of ongoing business operations following award of ongoing government contract and impact on parties assuming breach of fiduciary duties, 2017

10. *Dur-A-Flex, Inc. v. Samet Dy, A&E Procoat, LLC, Auttdomm Dy, Koster American Corporation, Merrifield Paint Company, Inc., Polystar, LLC, Steven Lipman, A&E Procoat, North America, LLC, Durafloor Industrial: Flooring & Coating, Inc., Christopher Krone, Engineered Coatings, Inc., Mix-It, Inc., and Indue Sales and Services Inc.*, (2018)

Trial testimony, depositions and expert reports involving damages attributed to alleged theft of trade secrets.

11. *Linda Grant Williams v Citigroup, Inc., et al.* Index No.: 650481/2010, (2018) Supreme Court of the State of New York, County of New York.

Deposition, expert report and affidavits involving economic damages associated with alleged anticompetitive behavior, valuation of intellectual property and calculation of lost economic advantage due to loss of employment. Numerous affidavits filed in ongoing matter.

12. *The Wornick Company, v. Trans-Packers Services Corporation: Trans-Packers Services Corporation, v. Franklin Farms East, Inc.*, Civil Action No.: 1:11-cv-3008 (FB) (CLP), (2015) United States District Court Eastern District of New York, Damage Analysis.

Expert report involving damages attributed to alleged loss of government contracts, industry goodwill and valuation of contract revenue streams given anticipated changes in market.

13. *Alfred B. Levine, v. Samsung Telecommunications America, LLC, et al*, Case No. 2:09-cv-372, (2012) In the United States District Court for the Eastern District of Texas Marshall Division, Patent Infringement Damage Analysis.

Multiple expert reports involving damages resulting from defendants' alleged patent infringement.

14. *ThermaPure, Inc., v. TEMP-AIR, Inc.*, (2011), *Civil Action No. 1:10-cv-04724*, Patent Infringement Damage Analysis.

Consulted regarding damages suffered by plaintiff because of defendant's alleged patent infringement.

15. *IP Damages in Belgium Court* (2008)

Expert report involving lost profits suffered by plaintiff as a result of defendant's alleged contractual default, breach of confidentiality, and misappropriation of plaintiff's intellectual property rights.

16. *Danny Thomas Real Estate, Inc. and DT Capital Group, L.P. v. Behringer Harvard TIC Management Services LP, Behringer Harvard Holdings, LLC, And Harvard Property Trust, LLC*, (2008), Case No. 06-00017 I, Dallas County, Texas 162nd Judicial District involving damages associated with intellectual property rights.

Deposition, affidavits and expert reports on damages associated with loss of investors' funds, lost profits, business reputation, perceived status and/or loss of goodwill within the industry. Provided an opinion as to the economic reasonableness of business decisions regarding participation in the tenant-in-common ("TIC") industry.

17. *Triple Net Properties, LLC, v. Mission Residential, LLC*, (2007), Case No. 16 181 Y 00228 06 American Arbitration Association, Commercial Arbitration Tribunal involving economic analysis of commercial real estate products.

Testimony and rebuttal expert report disputing claims of economic damages and lost profits alleged and provided analysis of characteristics associated with joint-ownership products used within the market.

18. *Triple Net Properties, LLC, v. Mission Residential, LLC*, (2007), Case No. 16 181 Y 00228 06, American Arbitration Association, Commercial Arbitration Tribunal involving analysis of economic damages.

Expert report (co-authored) pertaining to impact on ability to conduct business operations resulting from alleged breach of fiduciary duty.

19. *Financial Concepts Unlimited, Inc., v. Eric Schrott*, (2006), Civil Number 269837-V involving damages associated with alleged breach of contract.

Expert report covering damages associated with alleged breach of confidentiality agreement, alleged misappropriation of protected information and rebuttal of damage methodology set forth by plaintiff.

20. *JDS Uniphase Corporation v. Robert Jennings*, (2006), Civil Action Number 1:06CV200 involving damages due to alleged wrongful termination.

Deposition testimony and expert report pertaining to damages arising from alleged wrongful termination in violation of the Sarbanes-Oxley Act.

21. *Synthon IP, Inc. v. Pfizer Inc.*, (2006), Civil Action Number: 1:V5CV1267 involving damages due to alleged patent infringement.

Deposition testimony and expert report pertaining to the reasonable royalty rate that would have resulted from hypothetical negotiation and estimated damages associated with alleged patent infringement involving pharmaceutical manufacturing process patents.

22. *In the Matter of Digital Performance Right in Sound Recordings and Ephemeral Recordings*, (2005) Written Testimony before the Library of Congress Copyright Royalty Board, Docket No. 2005-1 CRB DTRA involving royalty calculation.

23. *North Shore Pharmacy Services, Inc. and Value Pharmacy, Inc. et al., v. Breslin Associates Consulting, LLC, et al.*, (2005), Civil Action No. 02-11760-NG involving damages associated with lost wages.

Deposition testimony and expert report pertaining to methodology and economic assumptions set forth in the estimation of alleged future income.

24. *Nexans Wires S.A. and Lacroix & Kress v. Sark-USA, Inc and Sarkuysan Elektrolitik Bakir Sanayii v. Ticaret A.S.*, (2005) Civil Action No. 03 Civ. 2291 (MGC) involving damages associated with trade secrets.

Deposition testimony and expert report pertaining to damage estimates and lost sales associated with alleged misappropriation of trade secrets.

25. *International Stamp Art, Inc. v. United States Postal Service*, (2004), Civil Action No 1: 02-CV- 2459-TWT involving damages associated with alleged trademark infringement.

Deposition testimony and expert report regarding trademark valuation, lost profits on lost sales, and economic factors to be considered within the market.

26. *Johnnie Merrill and Kimberly Merrill v. Waffle House, Inc.* (2004), Civil Action No. 3:04-CV-0888-M involving economic analysis of proposed damage awards.

Expert report outlining factors to be considered in determining if a punitive damage award might impact the operations of a firm.

27. *Eli Jackson, Hakeem Mack, Tashina Green, Clarence Watson, Brenda French, Terrance Taylor v. Waffle House, Inc.* (2004), Civil Action No. 1:04-CV-0758-RLV involving economic analysis of proposed damage awards.

Expert report pertaining to the use of methodologies to determine the appropriateness of a damage award.

28. *In Re: Compensation of Managerial, Professional, and Technical Employees Antitrust Litigation*, (2003) Civil Action No. 02-2924(AET) involving economic analysis of alleged anticompetitive behavior in labor markets.

Expert report (co-authored) pertaining to commonality of class members, relevant market definition, and proposed damage methodology.

29. *Jarrow Formulas, Inc. v. International Nutrition Company, et al.*, (2002) Civil Action No. 3:01CV478(RNC) involving analysis of economic conditions and lost profits.

Deposition testimony and three expert reports pertaining to econometric analyses used to estimate market conditions, appropriateness of lost profit calculation, and critique of plaintiff's overall damage calculation.

30. *Cognex Corporation v. National Instruments Corporation*, (2001) Civil Action No. 00-442 involving damages associated with alleged patent, trademark and copyright infringement.

Expert report estimating damages based on reasonable royalty rate and lost sales associated with alleged patent and copyright infringement as well as damages attributed to an alleged unauthorized use of plaintiff's trademark.

31. *Raymond Verdin, et al. v. R&B Falcon Drilling USA, Inc., et al.*, (2000) C.A. No. G-00-488 involving economic analysis of alleged anticompetitive behavior in labor markets.

Multiple expert reports (coauthored) on behalf of class members on economic issues relating to alleged anticompetitive behavior pertaining to employment of offshore oil workers.

32. *In the Matter of Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities, Before the Federal Communications Commission*, (2000) GN Docket No. 00-185 involving economic industry analysis.

Affidavit (co-authored) in support of various consumer groups and internet service providers regarding proposed policies for open access cable broadband.

33. *eFUNDS Corporation v. Citizens Advisers Inc.*, (2000) Civil Action No. 99-13096-FMC involving damages attributed alleged trademark infringement. Prepared and submitted an analysis estimating the value of a trademark.

PUBLICATIONS

- "Efficiency and Economic Benefits of Dispute Resolution through Arbitration Compared with U.S. District Court Proceedings," with Roy Weinstein, Cullen Edes and Joe Hale (2017)
- "A Basic Introduction to Financial Concepts," PLI Pocket MBA Textbook, (2016)
- "Commercialization of Nanotechnology, LES Insight, Online Journal of the Licensing Executives Society, November 2014
- "Antitrust" (with Don T. Hibner, Jr., Andrew E. Reisman and Roy Weinstein), *Litigation Services Handbook*, The Role of The Financial Expert, John Wiley & Sons, Fifth Edition (2012), Chapter 26
- "Economic Impact of Reduced Judiciary Funding and Resulting Delays in State Civil Litigations" with Bo Shippen and Roy Weinstein, March 2012, Micronomics White Paper.
- "Consideration of IP Asset Value by Pre-Merger Firms," World Intellectual Property Review, 2008.
- "IP in Energy Litigation," Oil, Gas & Energy Law, Special Edition: Energy Litigation and Arbitration - Expert Perspectives, 2007.

PRESENTATIONS/SPEECHES

- "Better Living Through Brands - Understanding Brand Value and Why Businesses Get It Wrong," Session Speaker, LES Annual Meeting, October 2024
- "Innovation, Entrepreneurship, Economic Development: Assessing Impact," Panelist, AUTM Annual Meeting, March 2017
- "The Language of Business: Accounting Fundamentals," Pocket MBA 2016, Practising Law Institute, October 2016
- "Technology and the Driverless Car," Licensing Executive Society Webinar, March 2016
- "Understanding Successes in Technology Transfer." Association of University Technology Managers Annual Meeting, February 2016
- "The Language of Business: Accounting Fundamentals and Financial Statements," Pocket MBA 2015, Practising Law Institute, New York, October 2015
- "Understanding Commercial Successes in Advanced Science and Technology – The Role of Technology Transfer Offices and Research Institutions," Licensing Executive Society Spring Meeting, May 2015
- "Commercialization and Licensing of Nanotechnology Patents," moderator, Licensing Executive Society Annual Meeting, October 2014
- "Understanding the Value of Intellectual Property," Guest Lecturer, Wharton Business School, University of Pennsylvania, November 2013
- "Practical Elements of Finance," Pocket MBA 2013, Practising Law Institute, New York, October 2013

- "Perspectives on State Court Funding," Guest Speaker/Panelist, Presidential Summit, New York State Bar Annual Meeting, 2012
- "Standard Setting Organizations – Implication for Patent Licensing and Antitrust Analysis," presented to various Washington DC law firms, 2010
- "Proposed Changes in Patent Law," Virginia CLE Course, June 2009
- "Aggressive Patent Asserters," Pennsylvania CLE Course, November 2006
- "Recent Developments in Patent Damages," Pennsylvania CLE Course, November 2006
- Participation as Expert in National Institute for Trial Advocacy course, "Advanced Deposition Practice: Damages and Expert Testimony," October 2006
- "Antitrust Applications to Intellectual Property Litigation: Antitrust Counterclaims and Anticompetitive Licensing Practices," CRA International Internal Competition Seminar, July 2004
- "Economics and Strategic Management of Intellectual Property," Business Showcase Series, Loudoun County Chamber of Commerce, January 2003
- "Understanding and Maximizing the Value of Intellectual Property," Guest Lecturer, Georgetown University Law Center, September 2002
- "Dealing With Uncertainty in an Uncertain World—Maximization of Strategic Management and Licensing Under Uncertainty," LES Seminar, February 2002
- "Antitrust and Misuse—an Economic Prospective," Guest Lecturer, George Washington University Law School, March 2002
- "Strategic Management of Intellectual Property," Guest Lecturer, George Washington University Law School, January 2002
- "Government Contracting and Strategic Management of Intellectual Property," The Government Contract Intellectual Property Institute, Washington, D.C., December 2001
- "Government Contract Negotiations—Understanding Value of Intellectual Property," The Government Contract Intellectual Property Institute, Washington, D.C., December 2001
- "Valuation of Intellectual Property: Understanding the Role of IP in Business Decisions," McDonough School of Business, Guest Lecturer, Georgetown University, May 2001

INDUSTRY EXPERIENCE:

Mr. Pearsall has provided testimony, economic research and/or consulting services in matters related to the following industries and products: computer CPUs, semiconductors, pharmaceutical products, medical equipment, surgical instruments (including trocars, stents, and biopsy devices), hospitals, genetic tests, drug testing products, nutritional supplements, performance rights, satellite radio, computer software, computer platforms, machine recognition software, retail grocery, bicycle equipment, financial data providers, offshore oil exploration, professional and collegiate sports

(including the National Football League, Major League Baseball, National Basketball Association, NCAA and college football), alcoholic beverage distribution, sports and casual apparel, cable television, soft drink bottlers, electric utilities, cigarettes, plant oil extraction, high-efficiency washers, retail and drug stores, integrated circuit testing software, high-speed printing, litigation support services, lithium-ion batteries, label printing, cellular phones, insurance, natural gas storage facilities, land grants, milk production, aquaculture (catfish), securities trading/regulation (NASDAQ), airlines, newspaper distribution, automobile parts, lumber, water-pumps, credit card incentive programs, copper wiring, and Internet access. Mr. Pearsall also has been retained as a consultant for the United States Department of Justice and Department of Treasury.

EDUCATION:

M.A. Economics, Virginia Polytechnic Institute and State University

B.A. Economics, Virginia Polytechnic Institute and State University