

Josephine I. Duh

CONTACT

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EDUCATION

Ph.D., Economics, Princeton University, 2014

M.A., Economics, Princeton University, 2010

B.S., Economics, Massachusetts Institute of Technology, 2008

EMPLOYMENT

Eonic Partners

Partner, March 2025–Present

The Brattle Group

Principal, January 2023–March 2025

Senior Associate, July 2018–December 2022

Associate, August 2014–June 2018

AREAS OF EXPERTISE

- Antitrust & Competition
- Healthcare & Life Sciences
- Economic Damages

SELECTED EXPERIENCE

Testimony

- **Submitted declaration and supplemental declaration in *In the Matter of Peach State Health Plan, Inc., Protestor, and Georgia Department of Administrative Services, Agency* (RFP No. 41900-DCH0000133).** Analyzed data provided by the Georgia Department of Administrative Services related to ratings, scores, and comments of bids for the Georgia Families Program (Medicaid).
- **Submitted expert report on the competitive effects of an exclusive supply contract in the technology industry.** Addressed claims of exclusionary conduct and efficiencies gained through vertical integration. Provided economic analysis based on ordinary course documents, deposition testimony, interviews with industry personnel, and public records.

- **Submitted expert report and declaration, and provided deposition testimony in *Aetna, Inc., et al. v. Mednax, Inc., et al.* (Civil Action No. 18-2217 (E.D. Pa.)).** Applied econometric methods to assess patterns of medical billing by Defendants. Analyzed administrative health insurance claims data and publicly available data sources for modeling.
- **Retained as the rebuttal expert in a contractual dispute between a large private payer and medical provider.** Evaluated and rebutted the opposing expert's analysis of but-for case volumes in the absence of the alleged contractual breach. Addressed allegations of increased administrative costs associated with out-of-network status. Arbitration settled before submission of expert rebuttal report.
- **Provided summary witness testimony and submitted declaration in *Alexander et al. v. United Behavioral Health* (Case No. 14-cv-05337 (N.D. Cal.))/*Wit et al. v. United Behavioral Health* (Case No. 14-cv-02346-JCS (N.D. Cal.)).** Provided live testimony in the US District Court in the Northern District of California San Francisco Division on health plan provisions and denial letters related to mental health and substance use disorder services. Submitted declaration in support of Plaintiffs' petition for attorney fees and costs.

Antitrust & Competition

- **Analyzed monopolization and damages claims in *Restore Robotics LLC, Restore Robotics Repair LLC, and Clif Parker Robotics LLC v. Intuitive Surgical, Inc.* (Case No. 5:19-cv-55 (N.D. Fla.)) and *Rebotix Repair LLC v. Intuitive Surgical, Inc.* (Case No. 8:20-cv-02274 (M.D. Fla.)).** Co-led team supporting the expert testimony of Dr. Loren Smith to address claims that Intuitive Surgical allegedly monopolized aftermarkets through tying and exclusive dealing. Dr. Smith's testimony addressed market definition, monopoly power, competitive effects, and procompetitive justifications using record evidence, testimony, and empirical analyses using data on sales transactions and surgical volumes. Assessed plaintiffs' damages calculations and supported Dr. Smith's rebuttal testimony.
- **Analyzed monopolization and damages claims in *Surgical Instrument Service Company, Inc. v. Intuitive Surgical, Inc.* (Case No. 5:21-cv-03496 (N.D. Cal.)).** Co-led team supporting Dr. Loren Smith through trial testimony. Dr. Smith's opinions rebutted plaintiff's claims of monopoly power, anticompetitive conduct, and effects and addressed procompetitive justifications. Court ruled in favor of Intuitive Surgical, Inc.
- **Analyzed class-wide injury and class certification issues in *In Re: Da Vinci Surgical Robot Antitrust Litigation* (Case No. 3:21-cv-03825 (N.D. Cal.)).** Co-led team supporting the expert testimony of Professor James Hughes to rebut plaintiffs' claims of class-wide injury. Assessed and presented evidence from ordinary course documents and deposition testimony as well as empirical evidence from transactions and procedures data to address questions regarding common impact.

- **Analyzed the competitive importance of scale in the ad tech industry in *United States of America, et al. v. Google LLC (1:23-cv-00108 (E.D. Va.))***. Supported Professor Gabriel Weintraub through trial testimony. Professor Weintraub quantified the effect of Google’s conduct on the scale of rival ad tech firms using results from Google’s internal A/B tests and multiple data sources produced by Google and third parties. His testimony also described how the reduction in scale impaired rivals’ ability to compete.
- **Analyzed labor substitutability on behalf of the *Writers Guilds of America (East and West) in William Morris Endeavor Entertainment, LLC v. Writers Guild of America, West, Inc. et al. (Case No. 2:19-cv-05465-AB-AFM (C.D. Cal.))***. Supported Dr. Coleman Bazelon in opposition to Plaintiff’s Preliminary Injunction Motion. Assessed job and wage competition between showrunners and writers based on public sources, declarations submitted by the parties, and data from the Guilds. The Court dismissed the Plaintiff’s motion.
- **Analyzed alleged collusion and “no-poach” agreement in buyer market**. Supported an economics expert on arguments of alleged collusion between employers in the context of higher education. Expert’s testimony discussed the economic theory of collusive agreements and assessed evidence from the case record (such as emails, meeting minutes, and deposition testimony) of alleged collusive behavior in the labor market.

Healthcare & Life Sciences

- **Assessed damages in connection with alleged kickbacks in *United States, et al. ex rel. Bilotta v. Novartis Pharm. Corp. (Case No. 1:11-cv-00071 (S.D.N.Y.))***. Co-led team supporting Professor Daniel McFadden and Dr. Richard Goldberg on damages and data analytics, respectively. Developed econometric models to analyze effects of alleged kickbacks on prescribing behavior and calculated damages across Medicare Part D, Medicaid, and TRICARE.
- **Estimated proof of claims on behalf of a group of states in the Purdue Pharma bankruptcy**. Estimated historical and projected economic costs of the opioid epidemic to state governments, including federal disbursements. Worked with state attorney offices and state agencies to collect and synthesize information on costs of opioid-related abatement programs and departments impacted by the opioid epidemic. Developed forecasts of state populations with opioid use disorder and program expenditures.
- **Calculated opioid abatement costs to state and counties in *The People of the State of New York, County of Nassau, and County of Suffolk v. Purdue Pharma, L.P., et al.*** Developed Markov Model to forecast state and county populations impacted by the opioid

epidemic. Conducted detailed research into components of opioid abatement programs for costing. Case settled before submission of expert reports.

- **Analyzed economic value of acquisition of PBM subsidiary and entry into PBM agreement in *Anthem, Inc. v. Express Scripts, Inc.* (Case No. 1:16-cv-02048-ER (S.D.N.Y.)).** Supported Ms. Yvette Austin Smith to calculate the economic value of an acquired Pharmacy Benefit Manager (PBM) subsidiary and the parties' agreement for the provision of PBM services. Assessed transactions using ordinary-course financial records and internal valuation models, and calculated expected and realized returns on the transactions.
- **Estimated damages from hospital acquisition of physician specialty groups.** Analyzed the impact of alleged monopolistic behavior by a health system after it had acquired physician specialty groups in the local market. Demonstrated the relevant product and geographic market for services. Calculated damages using hospital billing data submitted to the state department of health.
- **Assessed damages connected with an allegedly fraudulent scheme to inflate branded prescription drug volume and prices.** Damages calculation drew on ordinary-course business records of sales volume over time, estimates of changes in volumes and pricing with generic entry from published studies, and publicly available pharmaceutical data on prices. Results were used for settlement discussions between parties.
- **Critically analyzed damages claims regarding biologic assets by clinical development company.** Assessed company's financial ability to develop pre-clinical biologic assets based on credit-risk metrics. Analyzed opposing expert's discounted cash flow model of the assets by testing key assumptions, such as the probability of clinical development success and market potential. Reviewed and rebutted expert's "market approach" of comparable licenses and agreements to infer valuation of assets.
- **Estimated damages from patent infringement in the medical devices industry.** Computed reasonable royalties in connection with the patent at issue. Analyzed comparable licenses and royalties. Calculated incremental lost profits using company sales and financial data.
- **Analyzed competitive effects of alleged disparagement of medical professional.** Analyzed the market for tertiary care in a US metropolitan area. Evaluated the claim that an alleged disparagement campaign slowed diffusion of medical technology and harmed competition. Analysis involved assessing patient flow and supply of medical service throughout the damages period.
- **Calculated avoided costs and administrative revenue for allegedly wrongfully denied health claims/requests in ERISA lawsuit.** Analyzed avoided costs and administrative

revenue associated with denials of authorization requests and/or claims using authorizations data and paid & denied claims data from a large health insurer.

Economic Damages

- **Estimated damages from mortgage servicing failures in *Consumer Financial Protection Bureau v. Ocwen Financial Corporation, et al.* (Case No. 9:17-cv-80495 (S.D. FL.)).** Supported Professor Daniel McFadden on damages. Developed models to assess and quantify impact of mortgage servicing failures on borrowers including opportunity costs and costs from additional adverse credit events, such as foreclosure.
- **Estimated damages from trademark infringement in sports equipment.** Conducted a hypothetical negotiation analysis to construct a range of reasonable royalty rates for alleged trademark infringement in the sports equipment industry. Analyzed company sales data, financials, and marketing surveys.
- **Estimated damages from false advertising in consumer products.** Analyzed the impact of media coverage of allegedly misleading research on demand for a consumer product. Both parties claimed that the opposing side had promoted research that was scientifically unfounded. Critically assessed methods of measuring media coverage for damages calculation for rebuttal testimony.
- **Estimated damages from environmental disaster.** Analyzed the impact of a large-scale environmental disaster on recreational activities. The approach included statistically inferring cumulative visitation from point-in-time counts and estimating the impact of the event using econometric techniques.

PROFESSIONAL AFFILIATIONS

American Bar Association; American Economic Association; American Health Lawyers Association; American Society of Health Economists; National Asian Pacific American Bar Association

ACADEMIC HONORS AND FELLOWSHIPS

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| 2018 | Co-winner of The Austin Robinson Memorial Prize with Dean Spears for the “best non-solicited paper published in The Economic Journal by an author who has completed their PhD in the last five years” |
| 2013 | Graduate Research Grant for Global Health and Infectious Disease, Center for Health and Wellbeing, Princeton University; Graduate Research Grant, Griswold Center for Economic Policy Studies, Princeton University |

2011, 2012 Towbes Prize for Outstanding Teaching, Princeton University
2008–2013 Princeton University Graduate Fellowship, Princeton University
2007 Patrick J. McGovern '59 Entrepreneurship Award, MIT

PUBLICATIONS

- “China’s Merger Control of Non-Horizontal Transactions: The Growing Role of Economic Analyses and Behavioral Remedies,” with Vanessa Yanhua Zhang and Rita Xiaoping Li, *Antitrust Magazine Online* (February 2022), available at https://www.americanbar.org/groups/antitrust_law/publications/antitrust-magazine-online/2022/february/chinas-merger-control-non-horizontal-transactions/
- “Looking Behind the Mask: Economic Analyses of Physician Group Transactions,” with Daniel Fanaras, Bogdan Genchev, and Loren Smith, *American Health Law Association PG Briefing* (February 9, 2022), available at <https://www.americanhealthlaw.org/content-library/publications/briefings/f5e6c787-59d0-4aea-92c0-946ee4de1399/Looking-Behind-the-Mask-Economic-Analyses-of-Physi>
- “4 Economic Takeaways from 6th Circ. ProMedica Decision,” with Loren Smith, *Law360* (November 9, 2021), available at <https://www.law360.com/articles/1438179/4-economic-takeaways-from-6th-circ-promedica-decision>
- “Health and Hunger: Disease, Energy Needs and the Indian Calorie Consumption Puzzle,” with Dean Spears, *The Economic Journal* 127, no. 606 (November 2017): 2378-2409, DOI: 10.1111/eoj.12417
- “Overcoming the Over-Forecasting Bias of Pure Econometric Models: A Utility Case Study,” with Ahmad Faruqi and Ingrid Rohmund, *Electricity Policy* (February 2017)
- “Curating the Future of Rate Design for Residential Customers,” with Ahmad Faruqi, Wade Davis, and Cody Warner, *Electricity Policy* (July 2016)

PRESENTATIONS

- “The Prevalence of Opioid Use Disorder May be Underreported By 3 to 4 Times across the United States” in the “Opioids and Health” panel, *Association for Public Policy Analysis & Management Fall Conference* (November 11, 2023)
- “AI, Algorithms, and Antitrust Economics” (panelist), *Fordham 50th Annual Conference on International Antitrust Law and Policy, and Antitrust Economics Workshop* (September 20, 2023)

- “Fundamentals of Economics” (panelist), American Bar Association Antitrust Spring Meeting (March 29, 2023)
- “A Little Healthy Competition Never Hurt Anyone – Labor Mobility and Noncompete Clauses” (panelist), National Asian Pacific American Bar Association’s 2022 Convention (November 4, 2022)
- “The IP/Antitrust Intersect: An Economic Perspective” (panelist), Fordham 49th Annual Conference on International Antitrust Law and Policy, and Antitrust Economics Workshop (September 14, 2022)
- “Health & Big Data: Antitrust & Privacy Issues” (panelist), 2nd Antitrust in Life Sciences Conference organized by Concurrences (June 25, 2021)
- “Expert Depositions: Just the Facts Ma’am” (moderator), Bar None: Women Leading in the Courtroom series sponsored by the ABA Antitrust Law Section (May 27, 2021)
- “Impact of Low Load Growth and Increased Energy Efficiency,” Indiana Energy Conference, Indianapolis, IN (October 15, 2015)
- “A Template for Designing the Optimal Tariff for Residential Customers,” the 28th Annual Western Conference, Center for Research in Regulated Industries, Rutgers University, Monterey, CA (June 26, 2015)
- “Re-examining the Controversial Rebound Effect in Energy Efficiency,” the 28th Annual Western Conference, Center for Research in Regulated Industries, Rutgers University, Monterey, CA (June 25, 2015)
- “Health and Hunger: Disease, Energy Needs and the Indian Calorie Consumption Puzzle,” Population Association of America Annual Meeting, San Diego, CA (May 1, 2015)
- “AIDS Treatment and Child Schooling in Sub-Saharan Africa,” Population Association of America Annual Meeting, San Diego, CA (April 29, 2015)