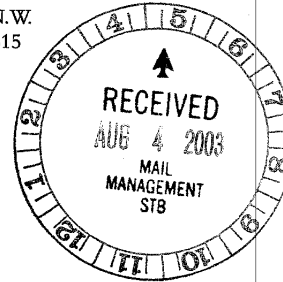


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August 4, 2003

BY HAND

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
Office of the Secretary
1925 K Street, N.W.
Washington, DC 20423-0001

ENTERED
Office of Proceedings

AUG 05 2003

**Part of
Public Record**

Re: Kansas City Southern – Control – The Kansas City Southern Railway Company, Gateway Eastern Railway Company, and The Texas Mexican Railway Company (STB Finance Docket No. 34342)

Dear Mr. Williams:

Enclosed for filing in the above-referenced docket please find an original and 25 copies of the Comments of Canadian National Railway Company (designated as CN-6).

I have also enclosed a diskette containing the text of this pleading in WordPerfect 6/7/8/9/10 format, as required by 49 C.F.R. § 1104.3(b).

Very truly yours,

Paul A. Cunningham

Paul A. Cunningham

Enclosures

cc: All parties of record

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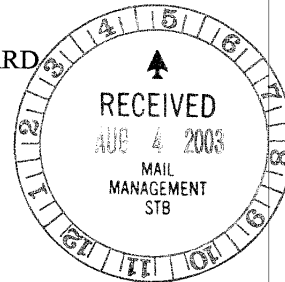
AUG 05 2003

Part of
Public Record

CN-6

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34342



KANSAS CITY SOUTHERN
- CONTROL -
THE KANSAS CITY SOUTHERN RAILWAY COMPANY, GATEWAY EASTERN
RAILWAY COMPANY, AND THE TEXAS MEXICAN RAILWAY COMPANY

COMMENTS OF CANADIAN NATIONAL RAILWAY COMPANY

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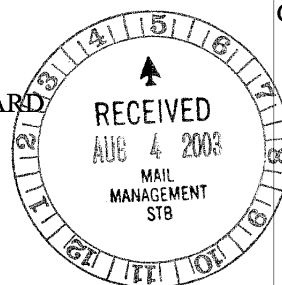
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Counsel for Canadian National Railway Company

August 4, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34342



KANSAS CITY SOUTHERN
– CONTROL –
THE KANSAS CITY SOUTHERN RAILWAY COMPANY, GATEWAY EASTERN
RAILWAY COMPANY, AND THE TEXAS MEXICAN RAILWAY COMPANY

COMMENTS OF CANADIAN NATIONAL RAILWAY COMPANY

Canadian National Railway Company (“CN”) hereby presents its comments on the Application in this proceeding (KCS-3/TM-3), as supplemented (KCS-10/TM-10) and on the proposed acquisition by KCS of Tex Mex.¹

Actions taken by KCS and its affiliates, including TFM, are not beyond the Board’s jurisdiction to the extent that they involve or affect “transportation in this country.” *Canadian Nat’l Ry – Acquisition – Interests of Consolidated Rail Corp. in Canada S. Ry.*, Finance Docket No. 30387, slip op. at 8 (ICC served Sept. 4, 1984). Unfortunately, despite the Board’s instructions to Applicants in Decision No. 2, Applicants have not provided the Board with enough information to determine the combined effects on transportation in this country of the combined Tex Mex and TFM transactions.² For that reason, CN respectfully wishes again to

¹Unless otherwise indicated, abbreviations and acronyms used herein are defined in the “List of Acronyms Used in Application,” found in KCS-3/TM-3, at 8, except that, consistent with the Board’s usage, Grupo TMM, S.A., is referred to as “Grupo TMM” rather than as “TMM,” and KCS, KCSR, GWER, Tex Mex, and Mexrail are referred to collectively as “Applicants.” See Decision No. 2, at 1 n.1, 6 n.9.

²The Board has held that the Tex Mex and TFM transactions, while “nominally . . . separate and independent of each other,” are “in reality . . . two components of a single, larger

direct the Board's attention to CN's Petition to Reopen Decision No. 2 (CN-3).

Whether the Board grants or denies that Petition, the Board should examine the record carefully to determine whether KCS has provided sufficient information to permit the Board to resolve the principal substantive issue on the record to date – whether, once it has control of TFM, KCS can be expected to seek to recover a cost-of-capital return on its investment in TFM and Tex Mex through enhancements of the efficiency of TFM, or through an exercise of TFM's market power that may reduce efficiencies.

As explained in the attached verified statement of Dr. Christopher A. Vellturo, this is a legitimate economic question that is relevant to the Board's examination of these transactions. It is especially pertinent because KCS has now reiterated that it plans to make no changes in the operations of TFM or to integrate TFM's operations with those of Tex Mex and KCSR. Thus, despite KCS's claims that it expects to, in effect, "grow the business" on TFM (*see* Closing Remarks of Gerald K. Davies, STB Public Hearing, July 31, 2003), KCS offers no suggestion as to how it plans to achieve that growth. By contrast, KCS has been quite clear what sort of investments (very large) and operating changes (many) were required to "grow the business" on TFM in the past after KCS made its initial investment in that property. *Id.* If KCS has no plans to make changes in operations, how does it plan to increase KCS earnings sufficiently to recover its investment?

If the Board should decide to approve the Tex Mex transaction, without more information relating to the consequences of the combined Tex Mex/TFM transactions in this country, then it is especially important that the Board impose particular conditions on the Tex

transaction with broader potential implications in the U.S." Decision No. 2, at 11.

Mex transaction that would allow for continuing Board oversight of KCS' plans with respect to TFM.

In particular, the Board should:

- Require Applicants to meet their commitments on the record (*e.g.*, KCS-10/TM-10 at 4, 24-27; *id.*, Verified Statement of Gerald K. Davies at 14-16) – such as their pledge that TFM shall deal with all carriers at Laredo on reasonable commercial terms – in an efficient and pro-competitive manner and retain jurisdiction to investigate any step taken or not taken to meet those commitments.³
- Ensure KCS's future actions with respect to TFM are transparent by requiring any KCS agreements in this regard be made available, subject to the customary confidentiality protections, to concerned parties.
- Condition any approval of the Tex Mex transaction on a stipulation by KCS that it will not object on jurisdictional grounds to the Board's reopening of this proceeding to consider allegations that KCS, as a result of its control of Tex Mex or TFM, is acting to reduce competition or efficiency in U.S. markets. This is necessary to ensure that affected parties would have the opportunity to come to the Board for relief if KCS does not meet its commitments in an efficient and pro-competitive manner.

³ KCS has asserted that it has made arrangements with the National Industrial Transportation League that may or may not address some of these issues, but no such arrangements had yet been made public as of noon, August 4, 2003.

- Underscore that any antitrust or other legal immunity flowing from the Board's approval of the Tex Mex transaction would extend only as necessary to carry out that transaction and not to carrying out any aspect of the TFM transaction. CN does not understand Applicants to have suggested otherwise.

Respectfully submitted,

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Counsel for Canadian National Railway Company

August 4, 2003

CERTIFICATE OF SERVICE

I hereby certify that I have, this 4th day of August, 2003, caused the foregoing
Comments of Canadian National Railway Company (CN-6) to be served by causing copies to be
delivered by hand to:

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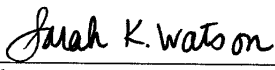
Richard H. Streeter
Barnes & Thornburg
750 17th Street, N.W.
Washington, DC 20004-2134

and by Federal Express to:

W. James Wochner
Thomas J. Healey
Kansas City Southern
427 West 12th Street
Kansas City, MO 64105

Allan Van Fleet, Esq.
Vinson & Elkins
2300 First City Tower
1001 Fannin
Houston, TX 77002

and by first-class mail, postage prepaid, or by a more expeditious manner or delivery, to all other
parties of record in STB Finance Docket No. 34342.



Sarah K. Watson

BEFORE THE SURFACE TRANSPORTATION BOARD

Finance Docket No. 34342

KANSAS CITY SOUTHERN
-CONTROL-
THE KANSAS CITY SOUTHERN RAILWAY COMPANY, GATEWAY EASTERN
RAILWAY COMPANY, AND THE TEXAS MEXICAN RAILWAY COMPANY

**VERIFIED STATEMENT
OF
CHRISTOPHER A. VELLTURO, Ph.D.**

I am the founder and president of Quantitative Economic Solutions, LLC, a microeconomic consulting firm located in Cambridge Massachusetts. I have studied structural, regulatory, and competitive issues relating to the rail industry for 20 years. My curriculum vitae, detailing my experience and qualifications, is attached to this statement.

I have been asked by CN to address whether Applicants have sufficiently addressed the implications for rail traffic in the U.S. of KCS's acquisition of TFM in conjunction with its acquisition of Tex Mex, or whether, to the contrary, there are plausible and serious unanswered questions relating to whether the effects in the U.S. will be benign. For purposes of this examination, I am assuming that TFM has substantial market power with respect to rail traffic moving over the Laredo gateway to or from the U.S. Applicants' witness Curtis Grimm notes that Laredo is the "principal rail gateway between the U.S. and Mexico." Verified Statement of Curtis M. Grimm, KSC-3/TM-3 at 84. TFM is the only Mexican rail carrier that goes to Laredo.

Thus, KCS, by acquiring TFM, is buying a well-assured earnings stream. Because TFM is not publicly traded, there is no ready means of determining whether the purchase price that KCS has agreed to pay for TFM includes a premium beyond the present value of that earnings stream. It would be most unusual, however, if it did not. In the overwhelming majority of acquisitions of publicly traded companies, the purchaser pays a premium over the prevailing market price for the target firm, often in excess of 25%. There is no evident reason, and KCS has not suggested any reason, why TMM, the seller in this case, would not have successfully demanded a premium for control of the major Mexican railroad, which has a bottleneck position in what are probably the fastest

growing rail traffic flows in North America. And there would be little reason for the seller's debt holders to consent to a sale without a premium. Because a control premium is a plausible and un rebutted possibility, a prudent economic analysis must take seriously the questions that a control premium would raise.

A control premium means that the acquiring railroad expects the increase in its earnings as a result of the acquisition to be greater than simply the pre-merger earnings of the acquired railroad. There are essentially three ways that this additional increase can occur. Each is a way of increasing contribution - the excess of revenues over variable costs. One way is to increase efficiency, which can result from lowered costs or from improved service without a corresponding price increase. The second way is to expand output (at profitable prices) over an existing infrastructure, through improved marketing, sales, or product development. Efficiencies and improved marketing and product development typically lead to traffic being diverted from other railroads or from truck. The third way is to exploit additional market power. The questions that KCS has failed to answer in this case relate to which of these alternatives is the intended and likely result. It should be evident that the choice between these possibilities can directly affect competition and efficiency in rail transportation within the U.S.

KCS's statements in this proceeding draw into serious question whether it has any intention of increasing the efficiency of TFM. KCS did not find it necessary to conduct a traffic diversion study with respect to the TFM acquisition. Instead, KCS relied on a "static model with respect to cross-border traffic; that is, it was assumed that there would be no change in the existing growth rates or business plans for KCS and

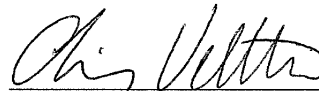
TFM.” KCS-10, TM-10, Verified Statement of Gerald K. Davies at 3. KCS has stated that TFM will continue to be operated as it is today, and that KCS/TM will “coordinate, not consolidate, operations with TFM.” KCS-10, at 7. KCS has provided no plans for marketing, operations, service improvements, or investments relating to TFM, which “will continue to operate as a separate company” and will be “controlled from” Mexico. Id., at 31. KCS has stated to analysts (but not to the Board) that NAFTA Rail will “lengthen hauls through an ‘across-the-border’ view” (UP-1, Exhibit A at 4) but KCS did not do a diversion study to estimate the amount of increased contribution from any longer hauls. KCS’s disavowal of efficiency-enhancements even makes it unreasonable to expect the ordinary benefits of single-line service, because KCS has said that it does not intend to integrate TFM’s operations. I am also unaware of any evidence proffered by KCS that identifies incremental traffic opportunities that will arise as a result of the acquisition.

In these circumstances, based on the record that I understand that is before the STB to date, I find that the evidence or assertions put forward by KCS are an inadequate basis on which to conclude that the effects of KCS’s acquisition of TFM on U.S. rail movements, in conjunction with its acquisition of Tex Mex, will be neutral or procompetitive.

VERIFICATION

I, Christopher A. Vellturo, verify under penalty of perjury under the laws of the United States that the foregoing Verified Statement is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on August 4th, 2003


Christopher A. Vellturo

CHRISTOPHER A. VELLTURO
President/Manager
Quantitative Economic Solutions, LLC

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1280 Massachusetts Avenue
Cambridge, MA 02138

Dr. Vellturo has studied structural, regulatory, and competitive issues relating to the rail industry for 20 years. He has published several papers in academic journals relating to regulatory and competitive determinants of rail efficiency and viability. This body of research focused significantly (though not exclusively) on rail consolidation and rail regulatory reform. He continues to conduct research on transportation issues generally, and rail issues in particular. He has assessed structural and competitive issues relating to the assimilation of Conrail into CSX and Norfolk Southern, and relating to Canadian National's acquisition of the Illinois Central railroad, both before the Surface Transportation Board. He presented testimony before the Board during the ANPR phase of the Board's rulemaking on Major Rail Consolidation Procedures.

Dr. Vellturo has extensive antitrust expertise and experience with respect, in particular, to the competitive ramifications of mergers and acquisitions. He has provided economic analysis in over one hundred mergers and acquisitions spanning a broad array of industries. He has appeared before the U.S. Department of Justice, the Federal Trade Commission, various states' Attorneys General offices, the Federal Reserve Bank Board of Governors, and various Federal Reserve Banks on merger-related issues. He has also appeared at hearings before the European Commission. Dr. Vellturo has performed economic analysis relating to litigation matters in more than twenty-five antitrust actions and more than one hundred intellectual property actions. He has testified in U.S. District Court and before the American Arbitration Association.

Prior to founding Quantitative Economic Solutions, Dr. Vellturo was a principal with Analysis Group/Economics. Before joining Analysis Group/Economics, Dr. Vellturo was a Senior Vice President at National Economic Research Associates (NERA) and a Director of Cambridge Economics. He was previously a research associate for Dean Ann F. Friedlaender of the Massachusetts Institute of Technology.

Dr. Velturo has published on a variety of topics, including merger and acquisition-related efficiencies, price discrimination, differentiated product analysis and market definition. His research has appeared in leading academic journals, including *Antitrust*, the *Antitrust Law Journal*, and the *Journal of Economics and Management Strategy*. Dr. Velturo is a recipient of the Bradley Fellowship in Public Economics and has served as a referee for *American Economic Review* and *Rand Journal of Economics*.

Dr. Velturo holds a Ph.D. in Economics from the Massachusetts Institute of Technology and a Sc.B. in Applied Mathematics and Economics from Brown University, where he graduated *magna cum laude* and *Phi Beta Kappa*.

EDUCATION

- | | |
|------|--|
| 1989 | Ph.D. in Economics, Massachusetts Institute of Technology
<i>Primary Fields:</i> Econometrics, Industrial Organization
<i>Secondary Fields:</i> Public Finance, Game Theory, Law and Economics |
| 1983 | Sc.B. in Applied Mathematics and Economics (<i>magna cum laude</i>), Brown University |

PROFESSIONAL EXPERIENCE

- | | |
|--------------|--|
| 2003-Present | Quantitative Economic Solutions, LLC
<i>President and Founder</i> - Direct research and provide expert testimony on a variety of microeconomic issues with particular emphasis on antitrust, intellectual property, and mergers and acquisitions. |
| 2000-2003 | Analysis Group/Economics
<i>Principal</i> - Directed research and provide expert testimony on a variety of microeconomic issues with particular emphasis on antitrust, intellectual property, and mergers and acquisitions. Expert reports and testimony presented in U.S. District Court. Presented antitrust economic analyses to Federal Trade Commission, U.S. Department of Justice, Federal Reserve Bank Board of Governors and the European Commission. |
| 1996-2000 | National Economic Research Associates, Inc.
<i>Senior Vice President</i> (1999-00)
<i>Vice President</i> (1996-99) |
| 1991-1996 | Cambridge Economics, Inc.
<i>Director</i> - Directed research and provided expert testimony on a variety of microeconomic issues with particular emphasis on antitrust, intellectual property, and mergers and acquisitions. Prior expert testimony provided in U.S. District Court and before the American Arbitration Association. Presented antitrust economic analyses to |

- U.S. Department of Justice, Federal Trade Commission (Antitrust Division), state Attorneys General offices, and the Federal Reserve Bank Board of Governors.
- 1989-1991 **National Economic Research Associates, Inc.**
Senior Consultant - Directed and performed research relating to issues of antitrust, intellectual property, mergers and regulation.
- 1987 **Department of Economics, M.I.T.**
Teaching Assistant - Undergraduate econometrics.
- 1985-89 **Dean Ann F. Friedlaender, M.I.T.**
Research Associate - Participated in research relating to transportation pricing and capital allocation responses to regulatory changes.
- 1983-85 **National Economic Research Associates, Inc.**
Research Associate - Conducted research on a wide variety of issues including antitrust, railroad rate setting, optimal landfill pricing, and PCB and asbestos abatement strategies.

AWARDS AND PROFESSIONAL ACTIVITIES

Recipient, Bradley Fellowship in Public Economics, 1987 and 1988-89
M.I.T. Departmental Fellowship, 1986
Phi Beta Kappa, Brown University, 1983
Sigma Xi, Brown University, 1983
Journal Referee for *American Economic Review* and *Rand Journal of Economics*
Member, American Economic Association

SELECTED TESTIFYING EXPERIENCE (PAST FOUR YEARS)

- *Massachusetts Businessman's Association Inc., v. Blue Cross and Blue Shield of Massachusetts, Inc.*
Superior Court of the Commonwealth of Massachusetts, (C.A. No. 97-02279)
- *Union Carbide Chemicals & Plastics Technology Corporation v. Shell Oil Company, Shell Chemical Company and CRI Catalyst Company.*
U.S. District Court, District of Delaware, C.A. No. 99-274 (SLR)
- *Carl Zeiss Jena GmbH, Carl Zeiss Inc., v. Bio-Rad Laboratories, Inc., Cornell Research Foundation Inc. and Bio-Rad Laboratories, Inc., Cornell Research Foundation Inc., v. Carl Zeiss Jena GmbH, Carl Zeiss Inc*
U.S. District Court, Southern District of New York, C.A. 98 CIV 8012
- *Sulzer Intermedics, Inc. v. Medtronics, Inc., et al.*
U.S. District Court, Southern District of Texas, (C.A. H-97-3526)

- *Joseph E. Seagram & Sons, Inc., The Seagram Company Ltd. and JDC S.A. de C.V. v. St Maarten Spirits, Ltd., and St. Maarten Spirits Limited*
Superior Court of the State of California, for the County of Los Angeles, (No. BC 191 681)
- *General Electric Capital Corporation v. DirecTV, Inc., Hughes Electronics Corporation and General Motors Corporation*
U.S. District Court, District of Connecticut, 3:97 CV 01901 (PCD)
- *Bristol Technology, Inc. v. Microsoft Corporation*
U.S. District Court, District of Connecticut, C.A. No. 398-CV-1657 (JCH)
- *America Online, Inc. v. AT&T Corporation*
U.S. District Court, Eastern District of Virginia, C.A. No. 98-1821-A
- *Forty-Niners Truck Plaza, Inc. v. Unocal Corporation*
Superior Court in and for the County of Sacramento, California, Case No. 531830
- *Dade Behring Marburg Gmbh, Syva Company v. Biosite Diagnostics, Inc.*
U.S. District Court, Southern District of New York, C.A. No. 97-501 MMS
- *CBS Broadcasting Inc., et al., v. PrimeTime 24 Joint Venture*
U.S. District Court, Southern District of Florida, C.A. No. 96-3650-CIV-Nesbitt
- *Becton Dickinson and Company v. Syntron Bioresearch, Inc.*
U.S. District Court, Southern District of California, C.A. No. 97-CV-1634K (POR)
- *Hard Rock Café International (USA), Inc., (f/k/a Rank Licensing, Inc.), v. Peter A. Morton and Hard Rock Hotel, Inc.*
U.S. District Court, Southern District of New York, C.A. No. 97-CIV-9483 (RPP)
- *Wang Laboratories, Inc. v. FileNet Corporation*
U.S. District Court, District of Massachusetts, C.A. No. 94-12141
- *Neles-Jamesbury, Inc. v. Fisher Controls International, Inc. and Fisher Service Company*
U.S. District Court, District of Massachusetts, C.A. No. 94-40200
- *The Toro Company v. White Consolidated Industries, Inc. and WCI Outdoor Products, Inc.*
U.S. District Court, District of Minnesota, C.A. No. 4-95-656
- *Polo Ralph Lauren, L.P.. v. The Magnin Company, Inc.*
American Arbitration Association Commercial Arbitration Tribunal, Case No. 74-181-1094-96
- *Roll Systems, Inc. v. Wallace Computer Services Inc.*
U.S. District Court, District of Massachusetts, C.A. No. 94-10372-MEL
- *Black & Decker (U.S.), Inc. and Black & Decker, Inc. v. The Coleman Co., Inc.*

U.S. District Court, Eastern District of Virginia, C.A. No. 96-656-A

- *Century Wrecker Corporation v. Chevron, Inc.*
U.S. District Court, Western District of Pennsylvania, C.A. No. 89-1452
- *Federal Trade Commission v. New Balance Athletic Shoe, Inc.*
Boston, Massachusetts, File No. D9268
- *Minnesota Mining and Manufacturing Co. v. Avery Dennison Corp.*
U.S. District Court, District of Minnesota, C.A. No. 4-93-1070
- *Becton Dickinson and Co. and Becton Dickinson Vascular Access Inc. v. Critikon Inc.*
American Arbitration Association, Arbitration No. 13 133 00388 93
- *Minnesota Mining and Manufacturing Co. v. Norton v. Bay State Abrasives Co.*
U.S. District Court, District of Delaware, C.A. No. 89-533 (JF)

AFFIDAVITS

- Expert Report in connection with *Union Carbide Chemicals & Plastics Technology Corp. and Union Carbide Corp. v. Shell Oil Company, Shell Chemical Company and CRI Catalyst Company*
October 2000, U.S. District Court, District of Delaware, C.A. No. 99-274 (SLR).
- Expert Report in connection with *Carl Zeiss Jena GmbH, Carl Zeiss Inc., v. Bio-Rad Laboratories, Inc., Cornell Research Foundation Inc., and Bio-Rad Laboratories, Inc., Cornell Research Foundation Inc., v. Carl Zeiss Jena GmbH, Carl Zeiss Inc.*, May 2000 — U.S. District Court, Southern District of New York, (98 CIV. 8012 RCC (DFE)).
- Expert Report in connection with *Omniglow Corporation v. Unique Industries, Inc.*, November 1999 — U.S. District Court, District of Massachusetts, (C.A.No. 99-30052-MAP).
- Expert Report in connection with *Joseph E. Seagram & Sons, Inc., The Seagram Company Ltd. and JDC S.A. de C.V. v. St Maarten Spirits, Ltd., and St. Maarten Spirits Limited*, August 1999 — Superior Court of the State of California, for the County of Los Angeles, (No. BC 191 681).
- Expert Report in connection with *General Electric Capital Corporation v. DirecTV, Inc., Hughes Electronics Corporation and General Motors Corporation*, August 1999 — U.S. District Court, District of Connecticut, (3:97 CV 01901 (PCD)).
- Expert Report in connection with *America Online, Inc. v. AT&T Corporation*, March 1999 — U.S. District Court, Eastern District of Virginia, C.A. (98-1821-A).
- Expert Report in connection with *Ashraf M. Dahod v. Bay Networks, Inc. and LanCity Corporation, Inc.*, September 1998 — U.S. District Court, District of Massachusetts, C.A. (No. 96-11907 REK).

- Expert Report in connection with *Harris Corporation, et. al v. Atmel Corporation*, June 1998 — U.S. District Court, Eastern District of Virginia, C.A. (No. 98-98-A).
- Expert Report in connection with *Critikon, Inc. v. Becton Dickinson Vascular Access, Inc.*, June 1998 — U.S. District Court, District of Delaware, C.A. (No. 93-108 (JJF)).
- Expert Report in connection with *CBS Broadcasting Inc., et al., v. PrimeTime 24 Joint Venture*, May 1998 — U.S. District Court, Southern District of Florida, C.A. No. 96-3650-CIV-Nesbitt.
- Expert Report in connection with *Becton Dickinson and Company v. Syntron BioResearch, Inc.*, May 1998 — U.S. District Court, Southern District of California, C.A. No. 97-CV-1634K.
- Expert Report in connection with *Luigino's, Inc. v. Pezrow Company, Inc. and Pezrow Company of New Jersey, Inc.*, October 1997 — U.S. District Court, District of Minnesota Fifth Division, C.A. No. 5-96-244.
- Supplemental Expert Report in connection with *Neles-Jamesbury, Inc. v. Fisher Controls International, Inc. and Fisher Service Company*, October 1997 — U.S. District Court, District of Massachusetts, C.A. No. 94-40200).
- Expert Report in connection with *Neles-Jamesbury, Inc. v. Fisher Controls International, Inc. and Fisher Service Company*, August 1997 — U.S. District Court, District of Massachusetts, C.A. No. 94-40200.
- Expert Report in connection with *The Toro Company v. White Consolidated Industries, Inc. et al.*, May 1997 — U.S. District Court, District of Minnesota, C.A. No. 4-95-656.
- Supplemental Expert Report in connection with *Century Wrecker Corporation v. Chevron, Inc.*, May 1997 — U.S. District Court, Western District of Pennsylvania, C.A. No. 89-1452.
- Supplemental Rebuttal Expert Report in connection with *Polo Ralph Lauren, L.P.. v. The Magnin Company, Inc.*, May 1997 — American Arbitration Association Commercial Arbitration Tribunal, C.A. No. 74-181-1094-96.
- Rebuttal Expert Report in connection with *Polo Ralph Lauren, L.P.. v. The Magnin Company, Inc.*, May 1997 — American Arbitration Association Commercial Arbitration Tribunal, C.A. No. 74-181-1094-96.
- Expert Report in connection with *Wang Laboratories, Inc. v. FileNet Corporation*, April 1997 — U.S. District Court, District of Massachusetts, C.A. No. 94-12141 RLC.
- Affidavit in Support of Ag-Chem Equipment Co. Inc. and Soil Teq, Inc.'s Motion For Summary Judgment, gust 1996 — U.S. District Court, District of Minnesota, C.A. No. 4-93-1228.
- Expert Report and Supplemental Expert Report in connection with *Roll Systems, Inc. v. Wallace Computer Services Inc.*, July 1996 and December 1996 — U.S. District Court, District of Massachusetts, C.A. No. 94-10372-MEL.

- Expert Report in connection with *Dynamic Manufacturing Inc. et al. v. Chevron Inc.*, April 1996 — U.S. District Court, Eastern District of Virginia, C.A. No. 2:95CV947.
- Expert Report in connection with *Century Wrecker Corp. v. Chevron Inc.*, March 1996 — U.S. District Court, Western District of Pennsylvania, C.A. No. 89-1452.
- Expert Report in connection with *Medtronic v. Pacesetter and St. Jude Medical Inc.*, February 1996 — American Arbitration Association.
- Expert Report in connection with *Cedar Ridge Trailer Sales et al. v. National Community Bank of New Jersey et al.*, December 1995 — Superior Court of New Jersey, C.A. No. BER-L-09277-92.
- Expert Report in connection with *Federal Trade Commission v. New Balance Athletic Shoe, Inc.*, 1995 — Boston, Massachusetts, File No. D9268.
- Expert Report in connection with *Minnesota Mining and Manufacturing Co. v. Avery Dennison Corp.*, 1995 — U.S. District Court, District of Minnesota, C.A. No. 4-93-1070.
- Expert Report in connection with *Minnesota Mining and Manufacturing Co. v. Norton v. Bay State Abrasives Co.*, 1994 — U.S. District Court, District of Delaware, C.A. No. 89-533 (JJF).

PUBLICATIONS AND PRESENTATIONS

“What Drives Consolidation?” Presented at the 28th Semiannual Members Meeting MIT/CRE, Cambridge, MA, May 14, 1998.

“Proving Unilateral Effects and Efficiencies in Merger Cases: A Demonstration.” Presented at the 46th Annual ABA Antitrust Meeting, Washington, DC, April 1, 1998.

“Creating An Effective Diversion: Evaluating Mergers With Differentiated Products,” *Antitrust*, Spring 1997.

“Economic Battles in the Antitrust Wars: Network Industries and Their Relevance to Antitrust in the Computer Industry.” Presented at the Washington State Bar Association’s Thirteenth Annual Antitrust, Consumer Protection and Unfair Business Practices Conference, November 8, 1996.

“Differentiated Products: New Tools for New Methods.” Presented at NERA’s Seventeenth Annual Antitrust & Trade Regulation Seminar, Santa Fe, NM, July 5, 1996.

“Market Definition Under Price Discrimination” (with J. A. Hausman and G. K. Leonard), *Antitrust Law Journal*, Vol. 64, No. 2 (Winter 1996).

“Learning-by-Doing in the Context of Antitrust Analysis” (with J. Hausman), April 1995.

“An Economic Analysis of ATM Surcharging,” prepared for Southeast Switch Inc., October 5, 1995.

“Cost Effects of Mergers and Deregulation in the U.S. Rail Industry” (with Berndt et al.), *Productivity Issues in Services at the Micro Level*, ed. Zvi Griliches and Jacques Mairesse, Kluwer Academic Publishers, 1993.

“Cost Effects of Mergers and Deregulation in the U.S. Rail Industry” (with Berndt et al.), *Journal of Productivity Analysis*, 4, 127-144, 1993.

“Rail Costs and Capital Adjustments in a Quasi-Regulated Environment” (with Friedlaender et al.), *Journal of Transport Economics and Policy*, 131-152, May 1993.

“Deregulation, Mergers and Cost Savings in Class I U.S. Railroads, 1974-1986” (with Berndt et al.), *Journal of Economics and Management Strategy*, Vol. 1, No. 2, 1992.

“Observations on Pre-Trial Bargaining Models,” MIT Mimeo, September 1989.

“The Deregulation of the U.S. Rail Industry: Efficiency and Equity in Attaining Rail Viability,” Ph.D. Dissertation, Department of Economics, MIT, 1989.

“Achieving Cost Efficiency Through Merger: Evidence from the U.S. Rail Industry,” Presented at the American Economic Association Symposium on Mergers and Acquisitions, New York, December 29, 1988.