



1. I am an economist and Director at Micronomics, Inc., an economic research and consulting firm located in Los Angeles, California. I have 25 years of economic research and consulting experience in areas including the valuation of intellectual property and other assets, industrial organization, and the calculation of economic damages. Over the course of my career, I have worked on numerous projects involving the life insurance industry, including matters in which I have been asked to compute damages caused by cost of insurance overcharges. In that connection, I have analyzed historical policy data for over 650,000 life insurance policies. I also have analyzed, calculated, and reconciled numerous other variables pertaining to life insurance, including premium payments, administrative expenses, sales loads, rider charges, interest credits, account values, surrender values, corridor values, net amounts at risk, grace notice values, and death benefits, among other variables, and I have provided expert testimony concerning these analyses and calculations. A biographical summary is attached as Exhibit 1.

2. I previously submitted an opening expert report in this matter on April 19, 2022, and a rebuttal expert report on August 26, 2022.

3. I received updated policy level data from PHL Variable Insurance Company (“PHLVIC”) for policies owned by members of the Settlement Class in connection with the proposed settlement of this matter. Using these data, I updated the COI overcharge damages calculations set forth in my opening expert report. I understand that a subsequent COI rate increase was announced in 2020 and implemented in 2021 (the “2021 COI rate increase”) and that PHLVIC maintains that the COI rates imposed on a policy after the 2021 COI rate increase went into effect are attributable to the 2021 COI rate increase, not the 2017 COI rate increase. Given this understanding, total COI overcharges for the Settlement Class resulting from the 2017 COI rate

increase are \$29,435,208. This amount is fixed and represents the damages (exclusive of pre-judgment interest) that Plaintiffs could potentially recover by proceeding to trial.

4. I understand that under the terms of the proposed settlement, PHLVIC has agreed to a cash settlement payment of \$18,500,000. This settlement payment is equal to 62.8% of the total alleged COI overcharges for the Settlement Class resulting from the 2017 COI rate increase.<sup>1</sup>

5. To assist with the distribution of the Final Settlement Fund, I calculated the COI overcharge for each of the 4,973 policies owned by a member of the Settlement Class and divided that COI overcharge by total COI overcharges for all policies owned by members of the Settlement Class to determine the policy's share of total COI overcharges. The distribution due for each policy owned by a member of the Settlement Class is determined by multiplying the policy's share of total COI overcharges by the amount of the Final Settlement Fund.

Executed on March 7, 2023,



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Robert Mills

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1.  $62.8\% = \$18,500,000 \div \$29,435,208$ .

**EXHIBIT 1**

**MICRONOMICS**  
*Economic Research & Consulting*

**ROBERT MILLS**  
**Director**

Robert Mills has extensive experience quantifying economic damages in connection with commercial litigation. He has served as an expert witness or consultant in a wide range of matters, including patent, trademark and copyright infringement, theft of trade secrets, breach of contract, interference, conversion, fraud, predatory pricing, attempted monopolization, and labor disputes. His consulting experience spans many industries, including software, semiconductors, telecommunications, manufacturing, apparel, insurance, energy, entertainment, waste, real estate, sporting goods, health care, pharmaceuticals, and medical devices, among others. Mr. Mills has testified as an economic expert in Federal District Court, state courts in multiple jurisdictions, and at arbitration. He has appeared at mediation venues and before the U.S. Department of Justice.

Mr. Mills also engages in economic research and consulting activities outside the context of litigation. He has assessed the anticipated competitive effects of mergers and joint ventures on behalf of government regulatory agencies and merging parties; developed forecasts and strategic recommendations for government agencies and clients involved with real estate development; and assisted clients with the valuation of intangible assets and entire businesses.

**FIELDS OF CONCENTRATION**

Intellectual Property; Industrial Organization; Economic Valuation and Damages Calculations

**EMPLOYMENT**

Micronomics, 1998 – present (affiliated with InteCap, Inc., 2000 – 2003)  
Los Angeles, California

Hobson Johnson & Associates  
Associate, 1996 – 1998  
Portland, Oregon

University of California, Santa Barbara  
Teaching Assistant, Department of Economics, 1994 – 1995  
Santa Barbara, California

**SELECTED CONSULTING EXPERIENCE**Economic Damages/Lost Profits

- Calculated lost profits on behalf of plaintiffs and defendants in connection with contract disputes, patent infringement, fraud, interference, antitrust, and other causes of action. Addressed lost sales, incremental cost, market definition, capacity, foreseeability, mitigation, and alter ego issues.
- Assessed feasibility of calculating damages on a class-wide basis in numerous class action matters involving alleged breaches of contract, securities violations, employment disputes, and other causes of action.
- Quantified relevant profits under disgorgement theories of damages.
- Determined magnitude of alleged underpayment of overtime to a class of exempt employees on behalf of a national retail chain.
- Quantified lost earnings and benefits in connection with wrongful termination and personal injury matters.
- Determined damages resulting from cost of insurance rate increases in the life insurance industry.
- Analyzed irreparable harm issues in connection with motions for temporary restraining orders and preliminary injunctions.

Intellectual Property

- Determined reasonable royalties and calculated lost profits in connection with patent infringement matters on behalf of patent owners and alleged infringers. Addressed royalty base, reasonable royalty rates, commercial success, non-infringing substitutes, availability, comparability, capacity constraints, convoyed sales, price erosion damages, and the entire market value rule.
- Calculated damages on behalf of clients involved with theft of trade secrets, trademark infringement, and copyright infringement litigation.
- Reviewed numerous license and cross-license agreements covering technologies related to telecommunications, semiconductors, software, sporting goods, medical devices, security, construction materials, motion control, and consumer products, among other industries.
- Assisted with the negotiation of patent license agreements.

Valuation

- Valued controlling and minority interests in closely held businesses. Addressed issues of liquidity, marketability, comparability, and the cost of capital.
- Valued stock options, earn-outs, and escrowed contingencies in connection with acquisitions and intellectual property transfers.
- Analyzed commercial and industrial real estate appraisals and made strategic recommendations to government agencies contemplating real estate transactions.

Antitrust

- Assessed the anticipated competitive effects of mergers, acquisitions, and joint ventures on behalf of government regulatory agencies as well as merging parties.
- Estimated anticipated post-merger prices using merger simulation techniques on behalf of a manufacturer of branded consumer products. Presented findings to U.S. Department of Justice.
- Conducted studies of market definition, attempted monopolization, below-cost pricing, price discrimination, and economic damages on behalf of plaintiffs and defendants involved with antitrust litigation.
- Evaluated price fixing allegations in the semiconductor industry.
- Analyzed relevant markets and economic damages in connection with a patent misuse claim.
- Conducted econometric analyses of pricing and output in a matter involving price fixing allegations.

Real Estate

- Assisted government agencies with eminent domain compensation issues.
- Prepared feasibility studies and financial projections for income producing properties, including commercial, industrial, residential, and resort projects.
- Prepared forecasts of vacancy, absorption, rental rates, and new construction for financial institutions, government agencies, and real estate developers.
- Conducted study of student housing options on behalf of a university. Recommended adjustments to university housing rental rates and determined target rates for planned development.

- Recommended development strategies to numerous real estate developers. Addressed product size, mix, location, and other qualitative factors.
- Calculated damages caused by interference with development of a master planned community.

#### Cost-Benefit Analysis

- Estimated the economic, fiscal, and social impact of instituting system development fees for new real estate development.
- Assisted a multi-jurisdiction planning commission in assessing economic, fiscal and social impacts of anticipated demilitarization.
- Advised the developer of a major destination resort of the economic and fiscal impacts of the proposed project.
- Advised client of financial and other costs and benefits of relocating headquarters and manufacturing operations.
- Recommended development strategies to a port authority based on analysis of the costs and benefits of its options.

#### Econometrics

- Developed econometric models used to assess the competitive impacts of proposed mergers.
- Estimated own- and cross-price elasticity of demand for differentiated products in the baking industry.
- Prepared and evaluated revenue and earnings forecasts on behalf of plaintiffs and defendants involved with commercial litigation.
- Evaluated econometric models provided to a government regulatory agency by parties contemplating a merger.
- Developed econometric models used to measure the effects of economic events on the value of firms.
- Assisted clients with survey design, sampling, and hypothesis testing.

#### Risk Analysis

- Assisted law firms, corporate legal departments, and mediators with assessments of litigation risk and the expected value of litigation.
- Analyzed risk associated with litigation versus settlement in insurance claim disputes on behalf of insurers and insured parties.

**RECENT TESTIMONY**

1. *Eland 1 Solar CEI Parent, LLC, et al. v. 8minutenergy US Solar, LLC, et al.*  
JAMS Alternative Dispute Resolution  
JAMS Ref No. 510000603  
Breach of Contract, Fraud  
Reports, Deposition, Trial
2. *Ericsson Inc., et al. v. Apple Inc.*  
United States District Court, Eastern District of Texas  
Case No. 2:21-cv-376-JRG  
Breach of Contract  
Reports, Deposition, Trial
3. *In the matter of Certain Mobile Telephones, Tablet Computers with Cellular Connectivity, and Smart Watches with Cellular Connectivity, Components Thereof, and Products Containing Same*  
United States International Trade Commission  
Investigation No. 337-TA-1299  
Reports, Deposition
4. *Advance Trust & Life Escrow Services, LTA, et al. v. PHL Variable Insurance Company*  
United States District Court, Southern District of New York  
Case No. 1:18-cv-03444 (PAC)  
Breach of Contract  
Reports, Deposition
5. *TVPXARS Inc., et al. v. Lincoln National Life Insurance Company*  
United States District Court, Eastern District of Pennsylvania  
Case No. 18-CV-05173 (RBS)  
Breach of Contract  
Reports, Deposition
6. *Aspect Pharmaceuticals, LLC v. Allergan, Inc., et al.*  
JAMS Ref. No. 1220067779  
Breach of Contract  
Report, Trial
7. *LSIMC, LLC v. American General Life Insurance Company*  
United States District Court, Central District of California  
Case No. 20-CV-11518-SVW-PVC  
Breach of Contract  
Declaration, Deposition

8. *HTC Corporation v. Telefonaktiebolaget LM Ericsson*  
International Chamber of Commerce International Court of Arbitration  
ICC Case No. 24176/MK  
Reports, Trial
9. *TRU Creditor Litigation Trust v. David A. Brandon, et al.*  
United States District Court, Eastern District of Virginia  
Case No. 17-34665 (KLP)  
Breach of Duty, Fraud  
Reports, Deposition
10. *In Re: Lincoln National 2017 COI Litigation*  
United States District Court, Eastern District of Pennsylvania  
Case No. 17-CV-04150-GJP  
Breach of Contract  
Declaration, Deposition
11. *In Re: Lincoln National COI Litigation*  
United States District Court, Eastern District of Pennsylvania  
Case No. 16-CV-06605-GJP  
Breach of Contract  
Declaration, Deposition
12. *Rebotix Repair LLC v. Intuitive Surgical, Inc.*  
United States District Court, Middle District of Florida  
Case No. 20-CV-02274-VMC-TGW  
Antitrust  
Reports, Deposition
13. *Brighton Trustees, LLC v. Genworth Life and Annuity Insurance Company*  
United States District Court, Eastern District of Virginia  
Case No. 3:20-CV-240-DJN  
Breach of Contract  
Report, Deposition
14. *Fractus, S.A. v. TCL Corp., et al.*  
United States District Court, Eastern District of Texas  
Case No. 2:20-CV-00097-JRG  
Patent Infringement  
Report, Deposition

15. *Vida Longevity Fund, LP v. Lincoln Life & Annuity Company of New York*  
United States District Court, Southern District of New York  
Case No. 1:19-cv-06004-ALC-DCF  
Breach of Contract  
Reports, Deposition
16. *Advance Trust & Life Escrow Services, LTA v. North American Company for Life and Health Insurance*  
United States District Court, Southern District of Iowa  
Case No. 4:18-cv-00368-SMR-HCA  
Breach of Contract  
Declaration, Reports, Depositions
17. *Damonie Earl, et al. v. The Boeing Company, et al.*  
United States District Court, Eastern District of Texas  
Case No. 4:19-cv-00507  
Fraud  
Report, Deposition
18. *Ancora Technologies, Inc. v. Samsung Electronics Co., Ltd., et al.*  
United States District Court, Western District of Texas  
Case No. 6:19-cv-384  
Patent Infringement  
Report, Deposition
19. *Soundgarden, et al. v. UMG Recordings, Inc.*  
United States District Court, Central District of California  
Case No. 2:19-cv-05449-JAK-MRW  
Breach of Contract  
Deposition
20. *Lois Friedman, et al. v. John Murphy, et al.*  
Superior Court of the State of California, County of Los Angeles  
Case No. SC 121128  
Shareholder Dispute and Professional Negligence  
Deposition
21. *Brach Family Foundation, Inc., et al. v. AXA Equitable Life Insurance Co.*  
United States District Court, Southern District of New York  
Case No. 16-cv-740  
Breach of Contract and Statutory Claims  
Reports, Deposition

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22. *Fractus, S.A. v. AT&T Mobility LLC, et al.*  
United States District Court, Eastern District of Texas  
Case No. 2:18-cv-00135-JRG  
Patent Infringement  
Reports, Depositions, Trial
  23. *Fractus, S.A. v. ZTE Corporation, et al.*  
United States District Court, Northern District of Texas  
Case No. 3:18-cv-2838-K  
Patent Infringement  
Reports, Deposition
  24. *HTC Corporation, et al. v. Telefonaktiebolaget LM Ericsson, et al.*  
United States District Court, Eastern District of Texas  
Case No. 6:18-cv-00243-JRG  
Breach of Contract  
Report, Deposition, Trial
  25. *Denis Marc Audet, et al. v. Stuart A. Fraser, et al.*  
United States District Court, District of Connecticut  
Case No. 3:16-cv-00940  
Fraud  
Reports, Depositions
  26. *Helen Hanks v. The Lincoln Life & Annuity Company of New York, et al.*  
United States District Court, Southern District of New York  
Case No. 16-CV-6399  
Breach of Contract and Unjust Enrichment  
Reports, Deposition
  27. *37 Besen Parkway, LLC v. John Hancock Life Insurance Company (U.S.A.)*  
United States District Court, Southern District of New York  
Case No. 1:15-CV-9924  
Breach of Contract  
Report, Deposition
  28. *Network-1 Technologies, Inc. v. Alcatel-Lucent USA Inc., et al.*  
United States District Court, Eastern District of Texas  
Case No. 6:11-cv-00492-RWS-KNM  
Patent Infringement  
Reports, Depositions, Trial

29. *Isaac Jakobovits v. Allianz Life Insurance Company of North America*  
United States District Court, Southern District of New York  
Case No. 1:15-CV-9977  
Breach of Contract  
Report, Deposition

## EDUCATION

M.A., Economics, University of California, Santa Barbara, 1995  
M.S., Applied Economics, Portland State University, 1994  
B.S., Economics and History, Portland State University, 1992

## PAPERS/SPEECHES/PRESENTATIONS

- “Practical Elements of Finance,” Practising Law Institute, New York, New York, June 13-14, 2011.
- “Regression Analysis Applications in Litigation,” (with Dubravka Tasic), chapter in *Pocket MBA: Finance for Lawyers*, Practising Law Institute, March 2011.
- “Industry Norms and Reasonable Royalty Rate Determination,” (with Roy Weinstein and Michelle Porter), *les Nouvelles*, March 2008.
- “Market Concentration and Unilateral Effects,” UCLA First Annual Institute on US and EU Antitrust Aspects of Mergers and Acquisitions, Ritz-Carlton Hotel, Marina Del Ray, California, February 28, 2004.
- “Hot Topics in Intellectual Property Valuation,” California Mandatory Continuing Legal Education Program, Los Angeles, November 2000.
- “Valuing Intellectual Property,” California Mandatory Continuing Legal Education Program, Los Angeles, July 2000.
- “Unilateral Effects in Merger Analysis: The Simulation Approach,” for the Los Angeles County Bar Association, February 1999.

## AFFILIATIONS

American Economic Association  
Licensing Executives Society