

At A Glance

## Securities and Finance Expertise in the Life Sciences Industry

### Overview

NERA is widely recognized as the leading provider of economic and financial analysis in securities and finance matters. Our experts work with pharmaceutical and biotechnology companies and executives, their counsel, and with regulators in the context of shareholder class actions, white collar criminal and regulatory enforcement actions, and commercial disputes.

Publicly-listed pharmaceutical and biotechnology companies have been under increasing scrutiny and many have faced allegations with respect to their pricing and business practices, and their public disclosures regarding these aspects of their businesses. Delays or failure to obtain expected regulatory approval for new drugs and medical devices, increased public scrutiny over business practices, product recalls, and other negative company-specific news can cause increased security price volatility, which in turn often leads to securities litigation. Such cases often involve claims of material misrepresentations and omissions and/or allegations of insider trading. Consolidation in the industry has also led to disputes arising from corporate mergers and acquisitions.

NERA economists have provided expert evidence and advice in securities class actions, regulatory enforcement and white collar crime matters, and commercial disputes involving companies in the pharmaceutical and other life sciences sectors. Members of NERA's Global Securities and Finance Practice have deep expertise in addressing the range of economic and finance issues that arise in these cases and have set the bar for robust and compelling economic analysis. We bring to bear a thorough understanding of both the pharmaceutical and biotechnology industries, and of the securities such companies issue, the markets in which they trade, and the regulatory institutions that govern them.

### Key Areas of Expertise

#### Securities Class Actions

Economic analysis is an important and valuable tool in a wide range of class action litigation. At NERA, we advise our clients on the entire range of economic issues that can arise in class action cases, including the determination of common impact on a class-wide basis, proof of loss, analysis of intra-class conflict and the feasibility of formulaic approaches

to damages. NERA economists employ sophisticated economic theory and quantitative methods, grounded in a thorough understanding of markets. We work with clients at all stages of counseling, from the pre-complaint period through discovery and trial, and we present our findings in a clear and concise manner that is accessible to attorneys, juries and judges, as well as other economists.

### **White Collar Crime and Regulatory Enforcement Matters**

NERA economists have extensive experience applying quantitative economic analysis in white collar criminal investigations and litigation. Our expertise enables us to support firms in all economic aspects of white collar matters, including responding to market manipulation and insider trading investigations, defending enforcement actions, providing expert testimony, and quantifying regulatory impacts and risks. We frequently assist clients in responding to formal investigations and requests for data and analyses from regulatory entities, such as the Division of Enforcement at the SEC, the DOJ, offices of State Attorneys General, and self-regulatory organizations such as FINRA. Our capabilities include the construction and analysis of large and complex transaction databases, analysis and implementation of computerized surveillance procedures, and preparation of summary materials in response to regulators' requests. NERA experts' analysis of damages and disgorgement measures aids clients in negotiating settlement agreements.

### **Commercial Litigation/Lost Profits Analyses**

There are many scenarios in which a business' ability to earn profits allegedly has been compromised by another party's actions. By comparing the level of profits before and after the relevant actions, NERA economists go beyond such simple comparisons and bring economic, statistical, and accounting expertise to bear on such questions. Depending on the situation, it is often possible to develop more sophisticated analyses that account for changes in the industry as well as pre-existing projections or trends that would have led to a change in profits even in the absence of any outside influence. When feasible, statistical analyses can help one draw an inference about whether a change in profits was so unusual as to be of a magnitude unlikely to be caused by normal fluctuations in the business in the absence of some form of material outside influence.

### **Client Experience**

Examples of recent matters for which NERA experts have provided expert assistance and/or testimony include:

- Conducted economic analyses of materiality, loss causation, and damage quantification for a cross-border (US-Canada) shareholder class action lawsuit involving a global pharmaceutical company.
- Administered lost profits analysis in connection with a breach of license agreement claim for an international arbitration involving technology used in the manufacture of pharmaceutical drugs for the US and Canadian markets.
- Examined the pattern of trading in the shares and options of a biopharmaceutical company prior the publication of short seller reports in connection with claims for damages arising from false accusations in those reports.
- Conducted a materiality assessment of alleged misrepresentations and the alleged corrective disclosures in a federal securities class action brought on behalf of purchasers of the American Depository Receipts of a European pharmaceutical company.
- Addressed materiality and damages issues on behalf of defendants in a 10b-5 shareholder class action involving alleged misrepresentations and omissions of a biopharmaceutical company regarding the status of the clinical development of a developmental-stage drug.
- Carried out economic analysis of allegations of material misrepresentation and loss causation on behalf of a biotechnology company in connection with allegations brought under Rule 10b-5 and Rule 20A relating to its disclosures regarding its effort to obtain regulatory approval for a cancer vaccine.
- Provided expert testimony on reasonableness of settlement amount in a dispute involving litigation exposure related to use of blockbuster arthritis medication.
- Testified on loss causation and damages relating to medical device company's announcement of a US Department of Health and Human Services investigation into claims submitted to Medicare and Medicaid.
- Evaluated investor claims under Section 11 involving a major healthcare facility and hospital staffing and nursing, allied health care, pharmacy, and medical case management services provider.

## About NERA

NERA Economic Consulting ([www.nera.com](http://www.nera.com)) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. We bring academic rigor, objectivity, and real world industry experience to bear on issues arising from competition, regulation, public policy, strategy, finance, and litigation.

NERA's clients value our ability to apply and communicate state-of-the-art approaches clearly and convincingly, our commitment to deliver unbiased findings, and our reputation for quality and independence. Our clients rely on the integrity and skills of our unparalleled team of economists and other experts backed by the resources and reliability of one of the world's largest economic consultancies. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

## Contacts

### **Brad Heys**

Director

Toronto: +1 416 868 7312

[brad.heys@nera.com](mailto:brad.heys@nera.com)

### **Robert Patton**

Associate Director

Toronto: +1 416 868 7318

[robert.patton@nera.com](mailto:robert.patton@nera.com)

### **Ivelina Velikova**

Senior Consultant

New York City: +1 212 345 1160

[ivelina.velikova@nera.com](mailto:ivelina.velikova@nera.com)