

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Case No. 2:14-CV-09600-RGK-SH

MICHAEL CORONA,
CHRISTINA MATHIS, et al.,
individually and on behalf of
others similarly situated,

Plaintiffs,

v.

SONY PICTURES
ENTERTAINMENT, INC.,

Defendant.

EXPERT REPORT
IN SUPPORT OF CLASS CERTIFICATION

June 30, 2015

**Henry H.
Fishkind, Ph.D.**

Digitally signed by Henry H.
Fishkind, Ph.D.

Date: 2015.06.30 17:25:29 -04'00'

Henry Fishkind, Ph.D., President
Fishkind & Associates, Inc.
12051 Corporate Boulevard
Orlando, Florida 32817
(407) 382-3256
Fishkind.com

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Introduction

- 1.0 The Plaintiffs through their counsel retained Fishkind and Associates, Inc. to provide expert economic analysis and litigation support, including by: (a) quantifying their economic damages arising from the unauthorized disclosure of their personal identifying information (“PII”); (b) providing this expert report; and (c) testifying at trial.
- 2.0 I conducted the research in this engagement; I drafted this opinion and will offer the testimony. Clerical support was provided by other members of my firm. My resume is attached as Exhibit #1, and my court experience as an expert is provided in Exhibit #2. The materials reviewed and relied upon in rendering this opinion are presented in Exhibit #3. A list of all publications I have authored in the last 10 years is provided in Exhibit #4.
- 3.0 Our standard hourly fees apply in this engagement. These are as follows:

Dr. Fishkind	\$450/hour for office work, and \$900/hour for testimony at trial or deposition
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Assistants	\$250/hour for research
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Qualifications to Provide Expert Opinion in this Matter

- 4.0 I am qualified to provide the Court with this expert opinion because of my education and my experience. I am an economist and President of Fishkind & Associates, Inc. (“FA”). FA is an economic and financial consulting firm with offices in Orlando and Port St. Lucie, all in Florida. My clients include state and municipal governments, the U.S. Department of Justice, Fortune 500 Companies, and major property developers, as well as both plaintiffs and defendants in litigation.
- 5.0 My resume is included as Exhibit #1 which documents my qualifications. I have a Ph.D. in economics with specialties in Urban and Regional economics and in Econometrics.

- 6.0 For many years I was Research Economist with the Bureau of Economic and Business Research at the University of Florida, and from time-to-time I served as its Acting Director and its Associate Director. During the course of my work at the Bureau I conducted numerous surveys. I designed, launched, and administered the Bureau's monthly economic confidence index which involved sample surveys of Floridians. I also designed and executed the Bureau's economic forecasting program.
- 7.0 I have also served on the Governor's Council of Economic Advisors under two different administrations. In addition, I was a founding board member of two publicly traded companies, Summit Properties (NYSE) and Engle Homes (NASDAQ) until both companies were sold.
- 8.0 As the President of FA, I am regularly engaged to provide valuations of goods and services as well as tangible and intangible properties. That experience includes valuation of market traded goods and services and non-market traded goods and services. I have conducted numerous surveys similar to the types of surveys I have identified for possible use in this matter. These surveys have assisted FA's clients in business decision making, and the surveys have been used in court proceedings.
- 9.0 Furthermore, I have been qualified as an expert witness to provide economic value testimony on more than 50 occasions by both the federal and state courts in Florida and in federal courts in Tennessee and Washington, D.C. I have also served as a court-appointed expert to provide valuation reports to the U.S. Tax Court. Exhibit #2 lists my court experience over the last five years.
- 10.0 I have been engaged to provide expert economic analysis, reports and testimony in privacy related court cases on five previous occasions. In those matters I developed expert reports and I was deposed in four of them. All of these matters settled prior to their trials.
- 11.0 Finally, I am experienced in conducting contingent valuation ("CV") surveys to determine the values of non-market traded goods. This experience includes the application of a CV survey to determine the value of privacy in *Fresco et al. v. Automotive Directions, Inc., et al.*, Case No. 03-61063 (S.D. Fl.).

Summary of Expert Opinions

- 12.0 Sometime in late November and early December 2014, the personal identifying information (“PII”) of current and former employees of Defendant, Sony Pictures Entertainment, Inc. (“SPE”) was posted to the internet as a result of the cyber-attack (“Breach”) on SPE. The PII included names, addresses, social security numbers, employment files, salary and bank account information, email addresses, medical information, visa and passport numbers, and information on family members.¹ Soon thereafter, WikiLeaks posted a searchable database containing 30,287 documents and 173,132 emails from the Breach.² WikiLeaks posted a second installment on June 18, 2015.³
- 13.0 All Plaintiffs report that their PII was published on the internet, and many also learned that their PII is being sold on the dark web. Furthermore, there are already some direct instances of the actual misuse of their PII. These misuses include: (1) unauthorized charges on credit card;⁴ (2) an attempt to open a fraudulent PayPal credit card;⁵ and (3) an unauthorized notification to a credit card company of an intent to make a large purchase.⁶
- 14.0 All of the Plaintiffs have acted to mitigate the economic harm arising from the increased risk of identity fraud due to the unauthorized disclosure of their PII. Plaintiffs report that they felt compelled to investigate the extent to which their PII was disclosed given that the disclosure of their PII put them at increased risk of identity fraud. Furthermore, since the Plaintiffs and putative class members were not immediately provided with any identity protection services by SPE, most felt compelled to purchase their own credit monitoring/ identity

¹ *Corona, et al. v. Sony Pictures Entertainment, Inc.*, No. 14-9600, Amended Class Action Complaint, Doc. 43 (“Amended Complaint”), at 1.

² See <https://wikileaks.org/sony/emails/> (June 29, 2015 9:56 am).

³ See <http://techcrunch.com/2015/06/19/wikileaks-unloads-second-batch-of-sony-files-into-its-database/> (June 29, 2015 9:57 am).

⁴ Plaintiffs’ Amended Consolidated Responses and Objections to Defendant Sony Pictures Entertainment Inc.’s First Set of Interrogatories (“Plaintiffs’ Interrogatory Responses”), Interrogatory 1 for Mr. Corona.

⁵ Amended Complaint, ¶ 93 for Mr. Forster.

⁶ Plaintiffs’ Interrogatory Responses, Interrogatory 1 for Mr. Shapiro.

theft protection services to protect against the increased risk of the fraudulent use of their PII.

- 15.0 Additionally, many Plaintiffs reported that they felt compelled to purchase credit monitoring/identity theft protection services which exceeded the AllClear ID service provided for free.⁷
- 16.0 One form of harm to Plaintiffs and the putative class members here is the increased risk of identity fraud and the misuse of their PII. That increased risk can be conservatively valued based on the reasonable cost of protecting and insuring oneself from such misuse, as measured by reference to the protection/insurance products available in the marketplace. From an economic perspective, the focus of measuring this economic harm is what a reasonably prudent person would have done in terms of purchasing credit monitoring/identity theft protection services on an ongoing basis starting from the time of the Breach.
- 17.0 The actions described above are steps that the Plaintiffs have already taken and for which they have already incurred costs and will continue to incur costs for the first year following the Breach (“Year One”). These costs amount to \$311 on average per Plaintiff. A reasonably prudent person would have purchased credit monitoring/identity theft protection services for Year One. The costs incurred by the Plaintiffs for Year One are representative of economic damages incurred by other members of the putative class for Year One.
- 18.0 In addition, beyond Year One (after the AllClear ID service offered through SPE is no longer available), the Plaintiffs are also exposed to substantial on-going economic damages. To date, the preponderance of these damages arise from the need for future credit monitoring and insurance and are applicable to the putative class as a whole. SPE automatically enrolled members of the class in AllClear Secure, a minimal credit protection service, for Year One; however, this credit protection will not extinguish the putative class members’ exposure to the risk of the future misuse of their PII nor will it protect them from future monetary harm arising from misuse that occurred in Year One or

⁷ Amended Complaint, ¶ 74; *see also* <https://spe.allclearid.com/> (June 29, 2015 6:35 pm).

future years.⁸ It is economically reasonable and prudent to expect that the putative class members will need to purchase protective monitoring and insurance for at least two years beyond the initial year of credit monitoring provided by SPE following the Breach (“Years Two and Three”). I have calculated the reasonable cost for these services for the subsequent two years (“Years Two and Three”) at \$720 per class member, or \$637 per class member when discounted to present value.⁹ These economic damages are commonly applicable to all members of the putative class.

19.0 Additionally, each member of the putative class whose medical information was compromised in the Breach has suffered additional harm which I understand carries statutory damages of \$1,000 under the California Confidentiality of Medical Information Act (“CMIA”).

20.0 Table 1 summarizes damages arising from the Breach for Years One, Two and Three.

⁸ To the extent putative class members suffer harm in the form of fraudulent financial charges for which they incur out-of-pocket damages, these damages could also be accounted for in my damages model.

⁹ I have estimated this cost using the current monthly rate for LifeLock Ultimate Plus offered at \$30/month (which is below the average of \$36.90/month actually incurred by the Plaintiffs for similar services). LifeLock Ultimate Plus provides an array of services including credit monitoring, identity theft monitoring, black market website surveillance, an identity theft insurance, among others. *See* <https://secure.lifelock.com/enrollment?flag=20> (June 29, 2015 7:08 pm). Using a discount rate of 8.55%, the total for Years Two and Three is \$720 per class member or \$637 when discounted to present value.

Table 1.

<i>Damages Per Member</i>	<i>Total</i>	<i>Present Value</i>
Economic Damages for Year One Pecuniary –Credit Monitoring/Identity Theft Protection Services	\$311	\$311
Economic Damages for Years Two and Three Pecuniary - Credit Monitoring/Identity Theft Protection Services	\$720	\$637
	=====	=====
Subtotal Economic Damages for Years One, Two and Three	\$1,031	\$948
Statutory Damages under the CMIA	\$1,000	\$1,000
	=====	=====
Total Damages	\$2,031	\$1,948

21.0 Credit monitoring and insurance services such as Lifelock do not prevent identity theft or fraud. Instead, these services monitor activity and reimburse their insureds for losses after they have occurred. The putative class will still need to exert heightened levels of review of their accounts over the upcoming years. However, since it is difficult to precisely gauge the future amount of time the members of the putative class will need to invest in the heightened scrutiny of their financial transactions, I have not added any additional costs for this. Thus, my estimate of the economic damage in this matter – three years of credit monitoring/identity theft protection services – is conservative.

22.0 In total I have estimated that the Plaintiffs have suffered total economic damages of \$948 per Plaintiff to a reasonable degree of economic certainty, non-inclusive of statutory damages under the CMIA. These damages are common to each member of the putative class who also purchased credit monitoring/identity theft protection services for Year One. To the extent a member of the putative class did not purchase credit monitoring/identity theft protection services for Year One, the total economic damages (non-inclusive of statutory damages under the CMIA) are common to each such class member – \$637 per class member to a reasonable degree of economic certainty.

The Nature of the Economic Damages in This Case

- 23.0 As noted above, the Breach in this case caused extensive disclosure of the class members' PII. While there have been a number of recent massive data breaches containing PII, including medical records,¹⁰ the Breach in this case was particularly broad ranging. In this case the Breach included not only PII and medical records, but in some cases detailed employment records as well.
- 24.0 Another distinguishing feature of this Breach is that unlike some other well publicized breaches, such as in the breach of Advocate Health and Hospital Corp¹¹ or of Starbucks,¹² in this case there is already direct evidence that the PII is being misused.
- 25.0 In this case, the damages I have identified are economic and statutory damages. The economic damages refer to the harm incurred by Plaintiffs and the class members in the form of increased risk of identity theft and misuse of their PII, which can be valued economically as the reasonable cost of protecting and insuring oneself from such risk, as measured by reference to the cost of such protection/insurance products on the market.
- 26.0 For purposes of this report, I have separated the economic harm between the first year after the Breach, when SPE has offered (albeit not immediately) AllClear ID's limited monitoring service (Year One) and the subsequent two years (Years Two and Three).
- 27.0 The Plaintiffs have purchased additional reasonable protection for Year One at an average cost of \$311 for the year. These economic damages are representative of economic damages for each member of the class who incurred expenses due to the purchase of credit monitoring/identity theft protection services, beyond the AllClear ID service offered by SPE, for Year One.

¹⁰ See, e.g., The Ponemon Institute, *2013 Survey on Medical Identity Theft* (2013); The Ponemon Institute, *2014 A Year of Mega Breaches* (2014).

¹¹ *Matias Maglio et al., v. Advocate Health and Hospitals Corp. et al.*, No. 13-538 (16th Judicial Cir. Ct.).

¹² *Krottner v. Starbucks Corp.*, No. 09-35823 (W.D. Wash.).

- 28.0 In addition, the nature of this Breach means that the members of the putative class will reasonably need to protect themselves well after the end of Year One, when SPE will no longer be providing any protection for free. As noted previously, the Breach in this case is unusual in the expansiveness of PII compromised and posted on the internet in a user friendly format. Although the putative class members can change their bank accounts, credit card numbers, and passwords, they cannot change their dates of birth and other PII that has been compromised.
- 29.0 Changing a social security number can take months, and involves voluminous paperwork. In addition, changes to a social security number creates additional complications and expenses related to establishing new bank accounts and credit ratings. This means that the class will be exposed to heightened risk of identity theft and misuse of their PII for some time.
- 30.0 While it is unclear precisely how far into the future the Plaintiffs and the putative class will be exposed to identity theft and fraud damages, SPE has offered credit monitoring through AllClear ID for 12 months. This is tantamount to an admission that SPE is concerned that all of the Plaintiffs and putative class members are exposed for at least one year.
- 31.0 In contrast to SPE, Premera Blue Cross has offered its customers two years of free credit monitoring despite the fact that, unlike this Breach, there is no evidence yet of any misuse of the PII released in the Premera breach.¹³ David Kennedy, an expert in health-care security and CEO of TrustedSEC, said that although Premera's offer of free monitoring is a good step, identity theft could happen "tomorrow or five years from now."¹⁴
- 32.0 According to the latest research by Javelin,¹⁵ data breaches, similar to the Breach in this case, create the greatest risk factor for identity fraud. Javelin defines identity fraud as "the unauthorized use of another person's personal information to achieve illicit financial gain. Identity

¹³ Shane Pringle, *5 Ways the IRS Scammers Could Have Stolen All Those Tax Returns*, Security News (June 29, 2015 10:07 a.m.), <https://securedataafrica.wordpress.com/category/pii/>.

¹⁴ *Id.*

¹⁵ Javelin Strategy and Research, *2015 Identity Fraud Study* (2015).

fraud can range from simply using a stolen payment card account, to making a fraudulent purchase, to taking control of existing accounts or opening new accounts.”¹⁶

- 33.0 Javelin provided information that informs my opinion concerning how long into the future credit monitoring and insurance may be needed in this case. According to Javelin’s research most identity fraud is discovered quickly. For all identity fraud, the average time prior to a discovery was 37 days and the average time of misuse was 47 days.¹⁷ However, for new account identity fraud, the average time increased to 99 days for discovery and 130 days for average time of misuse.¹⁸
- 34.0 However, Javelin also found that 13% of all victims of new account fraud did not even discover that a fraudulent new account had been opened and used for a year or more.¹⁹ These findings support the view that identity fraud arising from data breaches similar to the Breach in this case give rise to at least two years or more of future exposure.
- 35.0 Therefore, while the heightened risk here will likely persist for many more years to come for the putative class members, it is reasonable to project that the majority of any identity theft or PII misuse will occur within the three years following the Breach.
- 36.0 Even this three-year period is a conservative estimate of the time period when the Plaintiffs and putative class members may be at risk. The Javelin research indicates that in most cases discovery happens soon after the misuse occurs, not that misuse occurs soon after the breach itself. Therefore, it is likely that in this case additional misuse will occur for a number of additional years after the Breach.
- 37.0 There is uncertainty involved with the time horizon for damages arising from the Breach. Furthermore, as noted above, most damage from

¹⁶ Javelin Strategy and Research, *\$16 Billion Stolen from 12.7 Million Identity Fraud Victims in 2014, According to Javelin Strategy & Research* (Mar. 2, 2015), <https://www.javelinstrategy.com/news/1556/92/16-Billion-Stolen-from-12-7-Million-Identity-Fraud-Victims-in-2014-According-to-Javelin-Strategy-Research/>.

¹⁷ *2015 Identity Fraud Study*, at 44.

¹⁸ *Id.*

¹⁹ *Id.* at 57.

identity fraud is identified soon after the breach occurs. These facts give rise to my calculation of a discount rate of 8.55% via the build-up method that is described in more detail later in this report.

Economic Damages

- 38.0 The economic damages to the Plaintiffs, and to the putative class, can be directly quantified to a reasonable degree of economic certainty based on formulae and facts that are common to the proposed class.
- 39.0 Table 2 documents the scope of the PII that Plaintiffs have discovered was revealed in the Breach. It is important to note that this is just the PII that Plaintiffs have discovered was posted on the internet. This does not mean that this inventory developed by Plaintiffs fully represents all of their employees' PII that has been compromised in the Breach. SPE has yet to provide a full inventory of the PII compromised in the Breach, and SPE may not be able to do so, compounding the uncertainty.
- 40.0 Not only have the Plaintiffs already incurred damages, they will continue to be exposed to damages from the Breach into the future. As discussed above, it is reasonable to project at least three years of needed identity theft protection/monitoring arising from the Breach.
- 41.0 Most of the Plaintiffs have purchased LifeLock, have taken advantage of SPE's offer of AllClear ID for a year or, in some cases, both. However, the Plaintiffs will still need protection from economic damages related to the Breach for at least two additional years. I have estimated this cost at the LifeLock rate of \$360/year which is their current rate. As noted above, I have used a 12.6% discount rate to reduce the future costs for credit monitoring and insurance to their present value.

Table 2. Summary of Plaintiffs’ PII Exposed and Mitigating Actions by Plaintiffs

<i>Plaintiff</i>	<i>PII Exposed</i>	<i>Identity Theft</i>	<i>ID Prot. (\$)</i>	<i>ID Prot. (Time)</i>
Corona	Name, SSN, former address, salary, employment information. Birthdate, salary history, medical information, and beneficiary PII also believed to be exposed.	Fraudulent credit card transactions	LifeLock, \$282/yr.	102 hrs.
Mathis	Name, SSN, prior address. Beneficiary PII also believed to be exposed.		LifeLock, \$305/yr.; \$30 password management software	10 hrs.
Forster	Name, former address, SSN, birthdate, telephone number, salary, employment information. Bank account information, driver’s license, resident alien card, and medical information also believe to be exposed.	Fraudulent credit card application		23 hrs.
Archibeque	Name, address, email address, SSN birthdate, former bank account information, passport, and driver’s license.	Lifelock notification that PII being sold on black market	LifeLock, \$240/yr.	2 hrs.
Levine	Name, former address, SSN, and employment information. Birthdate, address, bank account information, employment history, education history, and medical information also believed to be exposed.		\$45/yr.	100 hrs.
Springer	Name, SSN, former address, employment information. Birthdate, bank account information, employment history, education history, and medical information also believed to be exposed.	Lifelock notification that PII being sold on black market	LifeLock, \$360/yr.; \$30 security freeze fees	85 hrs.

<i>Plaintiff</i>	<i>PII Exposed</i>	<i>Identity Theft</i>	<i>ID Prot. (\$)</i>	<i>ID Prot. (Time)</i>
Bailey	Name, SSN, former address, employment information, and family member's PII. Signature, birthdate, marital information, telephone number, driver's license, passport, visa, bank account information, medical information, insurance information, financial information, beneficiary information, employment history, education history, and passwords also believed to be compromised.	Lifelock notification that PII being sold on black market	LifeLock, \$1,028/yr.	170 hrs.
Shapiro	Name, SSN, former address, bank account information, and employment information. Driver's license, passport, salary history, education history, employment history, and medical information also believed to be compromised.	Unauthorized notification of an anticipated large purchase to credit card company	\$170 credit-related fees	200 hrs.

Derivation of the Discount Rate

- 42.0 The discount rate is a factor used widely in economics, finance and accounting to convert a stream of future values to their present value amount.²⁰ The appropriate discount rate reflects two factors.
- 43.0 The risk-free, or safe, rate of return for a similar investment horizon.
- 44.0 An additional return (premium) that reflects the relative degree of risk in excess of the risk free rate associated with the future expected stream of values.²¹
- 45.0 To estimate the appropriate discount rate in this case I used the build-up method that is commonly employed for this purpose.²² This method “builds up” the discount rate by combining the risk-free rate with the additional risk premiums from systematic risk and non-systematic risk. Systematic risk is that risk above the risk-free rate that is market driven or associated with the investment market in general, and usually measured by returns in the stock market. The non-systematic risk is composed of factors specific to the future stream of expected values.²³
- 46.0 Table 3 provides the calculations for the discount rate in this matter. The risk-free rate is the average rate on a 3-Year U.S. Treasury Note in 2015. The systematic risk amount is the risk calculated as the difference between the 3-year return on the stock market less the return on long term U.S. Treasury Bonds.²⁴ Finally, I set the non-systematic risk at 5% to reflect the uncertainties surrounding the future effects of

²⁰ The National Association of Certified Valuators and Analysts, *Fundamentals, Techniques and Theories* ch. 5, at 3 (2012).

²¹ *Id.*, ch. 5, at 1.

²² Shannon P. Pratt, *Valuing a Business 5th Edition: The Analysis and Appraisal of Closely Held Companies*, at 198-204 (5th ed. 2008); Jay E. Fishman, et al., *PPC’s Guide to Business Valuations*, 5-55 - 5-63 (24th ed. 2014).

²³ Pratt, at 191-204.

²⁴ Duff & Phelps, *2014 Valuation Handbook – A Guide to Cost of Capital*, ch. 3, at 14 (2014).

the Breach.²⁵ As noted previously, a significant portion of the future economic damage is associated with Plaintiffs need to mitigate their damages by purchasing credit monitoring and identity fraud insurance. While SPE has offered to pay for one year of protection, it is very likely that the Plaintiffs will purchase at least two additional years of protection in light of the magnitude of the Breach. The result is a conservatively determined overall rate of almost 12.6%.

Table 3. Derivation of the Discount Rate

<i>Category</i>	<i>Amount</i>
Risk Free Rate	0.95%
Systematic Risk	6.60%
Non Systematic Risk	5.00%
	=====
Discount Rate	12.55%

Summary of Conclusions

47.0 One form of economic harm incurred by the putative class members here is the reasonable cost of credit monitoring/identity theft protection services as a form of insurance against the increased risk of the fraudulent use of their PII on an ongoing basis for a reasonable period of time which I have estimated at three years from the Breach.

48.0 In my opinion, Plaintiffs and class members who have mitigated their economic harm for Year One by purchasing credit monitoring/identity theft protection services as a form of insurance against the increased risk of the fraudulent use of their PII acted reasonably. The purchase of credit monitoring/identity theft protection services was reasonable due to: (1) SPE's failure to confirm within a reasonable time period following the Breach that free credit protection services were available to class members for one year and (2) the limited protections the credit protection services SPE offered (AllClear ID) provided class members.

²⁵ The quantification of this type of specific risk is a matter of professional judgment well recognized in the professional literature. *See, e.g., Pratt*, at 213.

- 49.0 These damages for Year One amounted to \$311 on average per Plaintiff. The economic damages suffered by the Plaintiffs are commonly applicable to those members of the putative class who purchased credit monitoring/identity theft protection services for Year One.
- 50.0 In my opinion, given the expanse of PII revealed and posted on the internet in a user friendly format, as well as the documented instances of misuse, it is economically reasonable and prudent to expect that the members of the putative class will need to avail themselves of credit monitoring/identity theft protection services for at least three years following the Breach.
- 51.0 Given that SPE has provided members of the class AllClear ID credit monitoring for Year One, I have calculated that the total economic damages for these services for the subsequent two years (“Years Two and Three”) is \$720 per class member, or \$637 per class member when discounted to present value. These economic damages are commonly applicable to all members of the putative class.
- 52.0 In addition to economic damages, under the California Confidentiality of Medical Information Act, statutory damages of \$1,000 are commonly applicable to all members of the putative class whose medical information was compromised in the Breach.
- 53.0 To the extent putative class members suffer harm in the form of fraudulent financial charges for which they incur out-of-pocket damages, these damages could also be accounted for in my damages model.

Discovery Developments May Warrant an Update

- 54.0 Should additional information become available that would materially alter my analysis, I would update this report accordingly.

Exhibit #1 – Resume



Henry H. Fishkind, Ph.D. President

hankf@fishkind.com



PROFESSIONAL SYNOPSIS

With over 30 years of experience in economic analysis and forecasting, Dr. Henry Fishkind is widely regarded as one of Florida's premier economists and financial advisors. Dr. Fishkind's career began in the public sector where he worked as an economist and associate professor at the University of Florida. In 1980 Dr. Fishkind became the associate director for programs at the University of Florida's Bureau of Economic and Business Research. During his tenure at the university, Dr. Fishkind served from 1979-1981 on the governor's economic advisory board. He began his career as a private sector consultant when he became president of M.G. Lewis Econometrics in Winter Park, Florida. In 1988 Dr. Fishkind formed Fishkind & Associates, Inc. as a full service economic and financial consulting firm.

From 2001-2003 Dr. Fishkind was a member of Governor Bush's Council of Economic Advisors, and also served on the board of directors of Engle Homes and Summit Properties until the companies were sold.

AREAS OF EXPERTISE

- Economic Analysis
- Econometric Modeling
- Project Finance & Feasibility
- Financial Analysis & Advisory
- Fiscal Analysis
- Intellectual Property and Fiscal Impact Analysis
- Real Estate Economics

PROFESSIONAL EXPERIENCE

Chairman, FLSAFE	2008 - 2011
Managing Partner, Woodbridge Vintage Chips	1994 - 2007
President, Fishkind & Associates, Inc.	1988- Present
President, M.G. Lewis Econometrics, Inc.	1984 - 1987
Associate Director for Programs, Bureau of Economics & Business Research, University of Florida	1980 - 1983
Economist/Associate Professor, University of Florida	1975 - 1983

EDUCATION

- Indiana University, Doctor of Philosophy, Economics, 1975
- Syracuse University, BA, Economics, 1971

SELECT CLIENT LIST

- AEGON
- Baron Collier
- BP
- Cemex/CSR/Rinker Materials
- Centex
- Colonial Properties Trust
- Collier Enterprises
- Fannie Mae
- Florida Power Corporation
- Forrest City Enterprises
- Waste Management, Inc.
- FPL
- King Ranch
- Lennar
- Major Central FL Attraction Co.
- Mosaic
- Newland Communities
- Perry Capital
- State of Florida
- State of Pennsylvania
- St. Joe
- U.S. Department of Justice
- The Villages
- Waste Management, Inc.
- WCI Communities

Fishkind & Associates, Inc., 12051 Corporate Blvd., Orlando, FL 32817, 407.382.3256/Office, 407.382.3254/Fax



Exhibit #2 – Court Experience

DEPOSITIONS AND TESTIMONY	<u>2011-2012-2013-2014-2015</u>						
HENRY H. FISHKIND, PH.D., FISHKIND & ASSOCIATES, INC.							
CASE NAME	Court	Case Number	Worked For	Opinion	Testified	Depo	Affidavit
Andress Family Florida v. Charlotte County	In the Circuit Court of the Twentieth Judicial Circuit In and For Charlotte County, Florida	10-0639-CA	Plaintiff	yes	yes	yes	
Anutra, LLC v. Chris Byrd	In the Circuit Court of the Ninth Judicial Circuit, In and For Orange County, Florida	2011-CA-008482-O; Division 43	Defendant	yes	yes	yes	
Atlantic Housing Partners, LLP, Town Parke, Ltd., CPG Construction, LLP, Global Realty Company, LLP, and Concord Management, Ltd., v City of Winter Springs, Florida	United States District Court, Middle District of Florida, Orlando Division	6:10-cv-01905-MSS-DAB	Plaintiff	yes	no	yes	
Bank of America, N.A. v. Robert G. Dello Russo and Stephen Rominger	United States District Court Middle District of Florida Orlando Division	6:11-cv-734-Orl-22GJK	Defendant	yes		yes	
Beach Group Investments, LLC v. State of Florida Department of Environmental Protection	In the Circuit Court of the Nineteenth Judicial Circuit In and For St. Lucie County, State of Florida, Civil Division	2011-CA-000702	Plaintiff	yes	yes	yes	
BGR, LLC d/b/a Deland Dodge v. Chrysler Group, LLC	American Arbitration Association	33 532 00034 10	Plaintiff	yes	yes		yes
Big 5 Sporting Goods Song-Beverly Cases	Superior Court of the State of California, County of Los Angeles - Central District	JCCP 4667	Plaintiff	yes		yes	
Boral Material Technologies Inc., v PMI Ash Technologies, LLC	In the Circuit Court for the Fifth Judicial Circuit In and For Citrus County, Florida - Civil Division	2010-CA-3798	Defendant	yes	no	yes	

Caribbean Condominium Limited Partnership v The City of Flagler Beach	In the Circuit Court of the Seventh Judicial Circuit in and for Flagler County, Florida	2010-CA-000445	Defendant	yes	yes	yes	
City Center Community Development District v. Boardwalk and Baseball, et al.	In the Circuit Court for the Tenth Judicial Circuit in and for Polk County, Florida Civil Division	2009-CA-10330	Plaintiff	yes	yes	yes	
Clarkston-Potomac Group Inc v Internet Technology Broadcasting Corp.	In the Circuit Court of the Ninth Judicial Circuit In and For Orange County, Florida	11-CA-003073	Defendant	yes	yes	yes	
Colony Beach & Tennis Club Assn. v. Colony Beach & Tennis Club, William W. Merrill, Carolyn L. Field	United States Bankruptcy Court, Middle District of Florida , Tampa Division	8:08-bk-16972-KRM	Plaintiff	yes	yes	yes	
Consolidated Citrus, LP, vs. Martin County, and 1000 Friends of Florida Inc.	State of Florida Division of Administrative Hearings	13-3393GM; 13-3395GM; 13-3397GM; 13-3413GM; 14-0118GM;14-0132GM; 14-0135GM	Respondent	yes	yes	yes	
Crystal Dunes Owners' Association Inc., v. City of Destin, Florida	United States District Court Northern District of Florida Pensacola Division	3:10-CV-157	Plaintiff	yes		yes	
Deer Valley Realty, Inc. v. SB Hotel Associates	In the Circuit Court of the 17th Judicial Circuit In and For Broward County, Florida	12-10560 CACE (07)	Defendant	yes		yes	
Fasse Paint v Arch Chemicals	State of Wisconsin, Circuit Court, Branch 1, Sheboygan County	10-CV-746; Case Code: 30301, 30303	Plaintiff	yes	yes	yes	no
Federal Deposit Insurance Corp. as Receiver for Peoples First Bank, v. Greg M. Brudnicki	In the United States Distrit Court Northern District of Florida Panama City Division	5:12-cv-00398-RS-GRL	Defendant	yes		yes	
Federal Deposit Insurance Corp. as Receiver for Orion Bank of Naples, v. James Aultman, et al.	In the United States Distrit Court for the Middle District of Florida, Ft. Myers Division	2:13-cv-FtM-99SPC	Plaintiff	yes	no	no	
Federal Deposit Insurance Corp. as Receiver for Wakulla Bank, v. Walter C. Dodson, et al.	In the United States Distrit Court for the Northern District of Florida, Tallahassee Division	4:13-cv-00416-MW-CAS	Defendant	yes		yes	

Federal National Mortgage Association v. Velma Scott v Federal National Mortgage Association & Chase Home Finance	In the Circuit Court of the Fourth Judicial Court In And For Duval County, Florida	2010-CA-011095, Division FC-F	Plaintiff	yes		yes	
Fiddler's Creek Bankruptcy	United States Bankruptcy Court, Middle District of Florida, Fort Myers Division	9:10-bk-03846-ALP	Debtors	yes	yes	yes	
Fiddler's Creek Community Development CDD 2 v. U.S. Bank	In the Circuit Court of the 20th Judicial Circuit In and For Collier County, Florida, Civil Division	11-CA-3947 and 13-CA-1143	Plaintiff	yes		yes	
Florida Department of Financial Services v. Deloitte & Touche, LLP	IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT IN AND FOR LEON COUNTY, FLORIDA	CASE NO.: 2010-CA-003201	Defendants	yes		yes	
Florida East Coast Railway v. Norfolk Southern Railway	American Arbitration Association	33 125 00161 13	Respondent	yes		yes	
Florida Gulf Venture, LLC v City of Cape Coral	In The Circuit Court of the Twentieth Judicial Circuit In and for Lee County, Florida	09-CA-004379	Plaintiff	yes		yes	
Florida Oncology Network v. Adventist Health System/Florida Hospital	AAA Arbitration	33 193 Y 00168 06	Defendant	yes	no	yes	
Florida Oncology Network v. Michael Pirkowski and Atlantic Urological Associates, P.A.	In the Circuit Court of the Nineth Judicial Circuit in and for Orange County, Florida	2008-CA-0044750	Defendant	yes		yes	
Florida Power & Light Co. Turkey Point Units 6 & 7 Power Plant Siting Application No. PA 03-45A3	State of Florida Division of Administrative Hearings	DOAH Case No.: 09-3575EPP; OGC Case No.: 09-3107	FPL	yes	yes	yes	
Fountain Lakes Residential (MDG Capital) v Regions Bank	Circuit Court of the Twentieth Judicial Circuit, In and For Collier County, Florida	09-5010-CA-01-HDH	Plaintiff	yes		yes	
Good Gateway LLC v. Orlando Gateway	In the Circuit Court of the Ninth Judicial Circuit In and For Orange County, Florida	2010-CA-015315-O	Plaintiff	yes	yes	yes	
Hanson v Tetti	Circuit Court 12th Circuite Colliler County	09-6515-CA	Plaintiff	yes	yes	no	

Hillcrest Property, LLP, v Pasco County, a political subdivision of the State of Florida	United States District Court Middle District of Florida, Tampa Division	8:10-cv-819-T-23TBM	Plaintiff	yes		yes	
Home Design Services, Inc. v. Turner Heritage Homes, Inc.	United States District Court Northern District of Florida Tallahassee Division	4:08-cv-355-SPM-WCS	Defendant	yes	no	yes	
Hopewell, LLC v. SDII Global Corp.	In the Circuit Court of the Eighth Judicial Circuit In and For Alachua County, Florida	2011-CA-4530 (Div. 01)	Plaintiff	yes		yes	
Ivonne Aurea Garcia	United States Bankruptcy Court Southern District of Florida	12-11839-LMI	Respondent	yes	no	no	
James A. Armour v Howard A. Jacobs (Armour v Karins)	American Arbitration Association	32-110-Y-00911-09	Plaintiff	yes	yes	yes	yes
LaColonnade Development, LLC, A Florida limited liability company v Clancy & Theys Construction Company, a North Carolina corporation	In the Circuit Court of the Eighteenth Judicial Circuit in and for Brevard County, Florida	05-2007-CA-029535-xxxx-xx	Defendant	yes	no	yes	
Leon Timothy White III, v. United States of America	United States District Court, Middle District of Florida Tampa Division	8:11-cv-1355-T-33-EAJ	Defendant	yes		yes	
Liberty Wentworth LLC v. Savannah West, LLC et al	Circuit Court Ninth Judicial Circuit in and for Orange County, Florida	48-2007-CA-011485-O	Plaintiff	yes	no	yes	
Lynn Hartenberger & Nancy Stevens v. High Desert Investment Corp	Thirteenth Judicial District County of Sandoval State of New Mexico	D-1329-CV-2012-02350	Defendant	yes		yes	
Malbec Investments v. Grande Palisades Loan Holdings	In The Circuit Court of the Ninth Judicial Circuit In and For Orange County, Florida	2014-CA-9320-O	Defendants	yes		yes	
Marion County v. G&C Enterprise of Ocala	In the Circuit Court of the Fifth Judicial Circuit In and For Marion County, Florida	12-2339-CA-G; Parcel: 32	Petitioner	yes	no	yes	
Matthew Ellison v James D. Salter	In the Circuit Court, Third Judicial Circuit, In and For Taylor County, Florida	2011-371-CA	Plaintiff	yes		yes	
MDI v MCCS, et al	Circuit Court, Seventh Judicial Circuit, in and for St. Johns County, Florida	CA06-17	Defendant	yes	yes	yes	
Mee Industries v Wasserman Comden & Casselman, LLP	In the Circuit Court of the Ninth Judicial Circuit In and For Orange County, Florida	2011-CA-004008-O	Plaintiff	yes	no	yes	

Okaloosa County, FL v. State of Florida & Taxpayers, Property Owners & Citizens of Okaloosa County	Circuit Court for the First Judicial Circuit in and for Okaloosa County, FL	2008-CA-006280	Defendant	yes	yes	yes	
OSI Restaurant Partners, LLC v T-Bird Nevada, LLC	Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida	09-CA-04270	Defendant/Counter Plaintiff	yes	no	yes	
Pacetta, LLC, a Florida limited liability company; Down The Hatch, Inc., a Florida corporation; Sea Love, Inc., a Florida corporation; and Mar-Tim, Inc., a Florida corporation v The Town of Ponce Inlet, a Florida municipality	In The Circuit Court, Seventh Judicial Circuit In and For Volusia County, Florida	2010-31696-CICI	Plaintiff	yes	yes	yes	
Palm Partners LLC v. City of Oakland Park	United States District Court Southern District of Florida	14-21242-CIV-MOORE/MCALILEY	Plaintiff	yes		yes	
Patricia Chandler v. Curtis Chandler	In the County Court of the Twentieth Judicial Circuit In and For Collier County Florida (Civil Division)	13-0817-DR	Respondent	yes		yes	
Pedro J. Soto v Luis Batista, individually, Jaime Corona, individually, and FEDEX Ground Package System, Inc., a foreign corporation authorized to do business in the State of Florida	Circuit Court of the Ninth Judicial Circuit, in and for Orange County, Florida	2009-CA-020860-O	Defendant	yes		yes	
Razorback Funding, LLC et al., v Scott W. Rothstein, et al	In the Circuit Court of the 17th Judicial Circuit In and For Broward County, Florida	09-062943 (07)	Plaintiff	yes	no	yes	
Reid Yeoman and Rita Medellin v Ikea US West Inc	United States District Court Southern District of California	3:11-cv-00701-WQH(BGS)	Plaintiff	yes		yes	
Richard J. Felsenstein v. Keene's Point Community Association	In the Circuit Court of the Ninth Judicial Circuit In and For Orange County, Florida	2010-CA-024506-O	Defendant	yes	yes	yes	
Sandra Landwehr v AOL Inc.	United States District Court for the Middle District of Florida	1:11CV1014-CMH-TRJ	Plaintiff	yes	no	yes	

School Board of Miami-Dade County v Matheson Properties, S.A.	The 11 th Judicial Circuit in Miami-Dade County a/k/a the Dade County Courthouse	07-25661 CA 22	Defendant	yes		yes	
School Board of Orange County, Florida v. Universal Engineering Sciences	In the Circuit Court of the Ninth Judicial Circuit Court In and For Orange County Florida, Civil Division	2009-CA-022063-O; Division 43	Plaintiff	yes	yes	yes	
Seda Construction Comp. v. Nassau County, Florida	In the Circuit Court, Fourth Judicial Circuit, In and For Nassau County, Florida	45-2010-CA-000294, Division A	Defendant	yes		yes	
Seminole Tribe of Florida v. Hendry County, Florida & Florida Power & Light	In the Circuit Court of the Twentieth Judicial Circuit In and For Hendry County, Florida	2011-540-CA	Defendant	yes		yes	
Shingle Creek Community Development District v. Osceola Trace LLC	In the Circuit Court of the Ninth Judicial Circuit of the State of Florida, In and For Orange County, Florida	2011-CA-001286	Plaintiff	yes		yes	
South Bay Community Development District v. Bahia Sun Associates	In the Circuit Court of the Thirteenth Judicial Circuit In and For Hillsborough County, Florida Civil Division	08-27737	Defendant	yes		yes	yes
Spartan v Cheeburger	United States Court, Middle District	2:10-cv-91-FtM-360NF	Plaintiff	yes		yes	
Spitznagel v Rubinton	United States District Court for the Middle District of Florida, Ft. Myers Division	2:09-cv-00824-CEH-SPC	Defendant	yes	no	yes	yes
Stock Development LLC v. Lely CDD	In The Circuit Court of the Twentieth Judicial Circuit In And For Collier County, Florida Civil Division	11-2013-CA-001507-0001-XX	Plaintiff	yes		yes	
Susan McCurry v Kurtz Homes LLC	Circuit Court of the Twentieth Judicial Circuit in and for Collier County, Florida	09-8469-CA	Plaintiff	yes		yes	
Sylvia Sussman, vs. The Cessna Aircraft Company	In the Circuit Court of the Seventh Judicial Circuit, In and For Volusia County, Florida	2007-20336	Defendants	yes		yes	
T.H. Old Town Associates Ltd.	United States Bankruptcy Court Middle District of Florida Orlando Division	6:13-bk-04147-KSJ	Debtors	yes		yes	
Teamster's Impasse Hearing	City Hall, Commission Chambers, Coral Gables	NA	City	yes	yes	no	

The Broadcast Team, Inc. v. Hartford Insurance Co. of the Southeast	Circuit Court Seventh Judicial Circuit in and for Volusia County, Florida	2003-30717-CICI Div 31 Watson	Plaintiff	yes	yes	yes	
The Villas at Green Gate, LLC, v Walling Engineering, Inc.	In the Circuit Court of the Fifth Judicial Circuit In and For Lake County, Florida	07-CA-2354	Defendant	yes		yes	
Town Center at Doral LLC, et al	United States Bankruptcy Court, Southern District of Florida, Miami Division	11-35884-RAM	Debtors	yes	no	yes	
Tuscano, LLC v. Pulte Home Corporation & Pulte Homes, Inc.	American Arbitration Association	32 115 Y 00208 09	Plaintiff	yes	no	yes	
United States v. Samir Cabrera	Federal Defender, Middle District of Florida	Case No.: 2:08-CR-94-FTM-29DNF	Defendant	yes	yes	yes	
Vulcan v FDOT	In The Circuit Court, Second Judicial Circuit, In And For Leon County, Florida	2010 CA 4040	Defendant	yes	no	yes	
Wilder v Wilder	In the Circuit Court in and for Pinellas County, Florida	06-9990-FD022/Family Division	Respondent	yes		yes	

Exhibit #3 – Materials Relied Upon

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