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7 *Proposed Class Counsel*  
8

9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**  
11 **SOUTHERN DIVISION**

12 PHILIP ALVAREZ, RANDALL BETTISON,  
13 MARC KELLEHER, and DARLENE  
14 VAUGH, individually and on behalf of all  
others similarly situated,

15 Plaintiffs,

16 v.

17 SIRIUS XM RADIO INC.,

18 Defendant.

Case No. 2:18-cv-08605-JVS-SS

**DECLARATION OF CHRISTIAN  
TREGILLIS, CPA, ABV, CFF, CLP IN  
SUPPORT OF MOTION FOR  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

Hon. James V. Selna, presiding

Date: July 13, 2020  
Time: 1:30 PM  
Location: Courtroom 10C  
411 West 4<sup>th</sup> Street,  
Santa Ana, CA 92701



1 4. I have on several occasions quantified damages, as well as evaluated the question  
2 of whether there is available a method to calculate damages, on a class-wide basis, in class action  
3 disputes.

4 5. As set forth below, the purpose of this declaration is to express my opinion as to  
5 the value provided to the named plaintiffs and putative class members per the terms of the proposed  
6 settlement agreement in this matter (the “Settlement Agreement”).

7 **SCOPE OF WORK, BACKGROUND, AND DEFINITIONS**

8 6. I was retained by Ahdoot & Wolfson, PC (“AW”), to provide an expert opinion  
9 with respect to the value of certain aspects of the Consideration agreed to in the Settlement  
10 Agreement entered into by the Parties in this Action.

11 7. For the purposes of this declaration, capitalized words and phrases that are not  
12 otherwise defined herein have the same meaning as defined in the Settlement Agreement, Section  
13 II (“Definitions”).

14 8. In the course of performing my analysis, I reviewed and analyzed certain  
15 documents, data and information provided to me by AW (as specified below), the Settlement  
16 Agreement, the Stipulated Protective Order (described below in paragraph 9), and information  
17 available in the public domain.

18 9. I have executed the document entitled “Exhibit A – Acknowledgment and  
19 Agreement to Be Bound” to the Stipulated Protective Order entered by this Court on April 25,  
20 2017, as Docket No. 56, in the civil action entitled *Wright v. Sirius XM Radio Inc.*, Case No. 8:16-  
21 cv-01688-JVS-LCG (C.D. Cal.).

22 10. I have been informed by AW that this declaration will be filed in support of the  
23 preliminary approval of the Settlement.

24 11. I have been informed and believe that the Named Plaintiffs allege, *inter alia*, that:  
25 (i) Sirius XM and/or its predecessors (Sirius Satellite Radio Inc. and XM Satellite Radio Inc.)  
26 marketed and sold Lifetime Subscriptions to its satellite radio service that were advertised to last  
27 the lifetime of the subscriber, (ii) Sirius XM misrepresented the Lifetime Subscriptions that it

1 marketed and sold, and refused to honor such subscriptions for the lifetime of the subscriber; and  
2 (iii) instead, Sirius XM claimed that each Lifetime Subscription was limited to the life of the radio  
3 originally used for the subscription (as opposed to the life of the subscriber) or that each Lifetime  
4 Subscription was subject to a limited number of radio transfers, subject to a \$75 transfer fee for  
5 each such transfer.<sup>1</sup>

6 12. I have been informed and believe that Sirius XM ceased selling Lifetime  
7 Subscriptions in or about January 2012. Moreover, based on Sirius XM’s best available records,  
8 as of June 2020, Sirius XM had sold a total of approximately 964,000 Lifetime Subscriptions, and  
9 of these approximately 838,000 were Active Lifetime Subscriptions (“Active Subscriptions”), and  
10 126,000 were Inactive Lifetime Subscriptions (“Inactive Subscriptions”).<sup>2</sup> Class Members with  
11 Active Subscriptions and Inactive Subscriptions are referred to herein as “Active Subscribers” and  
12 “Inactive Subscribers,” respectively.

13 13. The consideration of the Settlement, which consideration I value herein, is set forth  
14 in Paragraphs 66(a), 66(b), and 66(c) (and their subsections) of the Settlement Agreement.

15 **PROSPECTIVE VALUE OF THE SETTLEMENT’S CONSIDERATION**

16 14. Under the terms of the Settlement Agreement, benefits to Class Members can be  
17 measured as I describe below, using data produced by Sirius XM to Class Counsel (and provided  
18 to me by AW), as well as publicly available information.

19 15. Pursuant to Paragraph 66(a) of the Settlement Agreement, Active Subscribers will  
20 now be able to transfer their subscription between devices, an unlimited number of times, and pay  
21 \$35 for each such transfer.

22 16. Pursuant to Paragraph 66(b) of the Settlement Agreement, Inactive Subscribers  
23 may either reactivate their Lifetime Subscriptions (at no charge) and thereafter avail themselves  
24 of the benefits afforded to Active Subscribers or, instead, make a claim to receive \$100 in cash  
25 and forever relinquish their rights to their subscription.

26 \_\_\_\_\_  
27 <sup>1</sup> Settlement Agreement, p. 2.

28 <sup>2</sup> Settlement Agreement, pp. 2-3.

1           17. Paragraph 66(c) of the Settlement Agreement states that, in addition to benefits  
2 above, Inactive Subscribers who reactivate or have reactivated are entitled to also receive the Sirius  
3 XM Internet streaming service at no cost (I am informed and believe that Active Subscribers  
4 currently have this benefit).

5           18. *First*, the value made available to Inactive Subscribers by the Settlement is at least  
6 \$100 x the number of Inactive Subscribers, given that the value of reactivating is greater, as I  
7 describe in detail below, and that Inactive Subscribers can choose to receive \$100 in cash as  
8 consideration pursuant to the Settlement, compared to their current situation of no payment and no  
9 active subscription. Thus, the Settlement makes available to Inactive Subscribers, all of whom  
10 may choose to make a claim for a \$100, a total value in the amount of at least \$12,600,000 (126,000  
11 Inactive Subscribers x \$100).

12           19. *Second*, I estimate the value of the Settlement's benefits conferred to a) Active  
13 Subscribers, and b) Inactive Subscribers who choose to reactivate their subscriptions and receive  
14 the same package of benefits as Active Subscribers.














15           20. I am informed and believe that the document attached hereto as **Exhibit B** is a  
16 Schedule listing the subscription prices paid by purchasers of Lifetime Subscriptions.

17           21. As can be seen from the Schedule attached as **Exhibit B**, new subscriptions (not  
18 upgrades) ranged from \$357.54 to \$755.00, plus add-ons. Moreover, the **Exhibit B** Schedule  
19 shows that the transfer fee under the Lifetime Subscription model was \$75 per transfer.

20           22. The value of the Lifetime Subscriptions, as seen in the **Exhibit B** Schedule above,  
21 reflects the price at which Sirius XM valued the subscription, based on Sirius XM's understanding  
22 of the policies it was going to implement. Moreover, this reflects the value of a subscription with  
23 a limit of three transfers (from one satellite device to another) and a \$75 transfer fee for each  
24 transfer. Were the program to have unlimited transfers (which is a matter in dispute) and / or a  
25 lower transfer fee, the price charged by Sirius XM for the Lifetime Subscription would therefore  
26 almost certainly have been higher.

23. Sirius XM’s current plans for use in autos vary from \$10.99 to \$21.99 per month.<sup>2</sup>

### Our Packages

	<b>XM Select</b> <small>See OFFER DETAILS below</small> <b>16<sup>99</sup></b> /Month	<b>XM All Access</b> <small>See OFFER DETAILS below</small> <b>21<sup>99</sup></b> /Month	<b>XM Mostly Music</b> <small>See OFFER DETAILS below</small> <b>10<sup>99</sup></b> /Month
	<p><b>Get ad-free music, plus sports, news, talk, entertainment, SiriusXM video, and more—anywhere you want.</b></p> <p><a href="#">See What's In XM Select</a></p>	<p><b>Enjoy the widest variety of entertainment,</b> anytime, anywhere you want to hear it. SiriusXM video gets you a backstage pass to your favorite shows—including Howard Stern, online and on the app.*</p> <p><a href="#">See All Access Full Channel List</a>                      *Satellite and outside-the-car lineups vary slightly. Other fees and taxes may apply.</p>	<p><b>A sampling of music, news, and talk channels.</b></p> <p><a href="#">See Mostly Music Full Channel List</a></p>
SiriusXM Video 	✓ Access to SiriusXM video online and on the app	✓ Access to SiriusXM video, including Howard Stern video, online and on the app	
Listening Outside the Car 	✓ Includes 5,000+ hours of On Demand shows, performances and interviews	✓ Includes 5,000+ hours of On Demand shows, performances and interviews	
Personalized Stations Powered by Pandora		✓ Create customized, ad-free music stations online and on the app	
Ad-Free Music Channels	✓ All of our ad-free music channels.	✓ All of our ad-free music channels.	✓ A selection of our ad-free music channels.
Exclusive Artist-Dedicated Channels	✓ The Beatles, Garth Brooks, Pearl Jam, Bruce Springsteen, Grateful Dead, and more	✓ The Beatles, Garth Brooks, Pearl Jam, Bruce Springsteen, Grateful Dead, and more	
24/7 Comedy Channels	✓ Comedy Central Radio, Jeff & Larry's Comedy Roundup, and more	✓ Comedy Central Radio, Jeff & Larry's Comedy Roundup, and more	
World-Class News 	✓ FOX News Channel, CNN, MSNBC, Bloomberg Radio, NPR, and more	✓ FOX News Channel, CNN, MSNBC, Bloomberg Radio, NPR, and more	
Howard Stern 		✓ 2 Dedicated Channels	
NFL 	<p>Some channels and programming are only available with the Select package on certain radios.</p> <p>Tell us what type of vehicle you have and we can show you what's available with the Select package on your specific radio.</p> <div style="border: 1px solid black; padding: 5px; text-align: center; width: fit-content; margin: 0 auto;">Set Your Car</div>	✓ Every NFL game, plus 24/7 Exclusive NFL® Talk Channel	
NASCAR 		✓ Every Race, Plus 24/7 Exclusive NASCAR® Talk Channel	
MLB 		✓ Every MLB game, Plus 24/7 Exclusive MLB® Talk Channel	
NBA 		✓ Every NBA Game, Plus 24/7 Exclusive NBA® Talk Channel	
NHL 		✓ NHL Games, Plus 24/7 Exclusive NHL® Talk Channel	
PGA Tour 		✓ PGA TOUR® Coverage, Plus 24/7 Exclusive PGA TOUR® Talk Channel	
College Sports 		✓ 24/7 coverage of men's and women's major college conference sporting events.	✓ 24/7 coverage of men's and women's major college conference sporting events.
Traffic & Weather 	✓ Dedicated Channels	✓ Dedicated Channels	
Xtra Channels 	✓ 100+ online Xtra channels for every mood or activity	✓ 100+ online Xtra channels for every mood or activity	

<sup>2</sup> <https://www.siriusxm.com/ourmostpopularpackages>. Retrieved May 19, 2020.

24. In addition, Sirius XM offers packages for use “Outside the Car,” which appear to deliver the Sirius XM service through Internet streaming, for prices as low as \$8.00 per month.<sup>3</sup> These packages do not include the in-car features that were part of the Lifetime Subscription program.

SiriusXM Outside the Car

**SiriusXM Essential** MONTHLY **8<sup>00</sup>**

See OFFER DETAILS below.

- Listen on your phone, at home, and online
- Ad-free music, including additional online Xtra channels with the ability to skip songs
- News, talk, entertainment, sports
- 24/7 Comedy Channels
- Thousands of On-Demand shows, concerts, and more
- Watch SiriusXM video online and on the app

Subscribe Now

**SiriusXM Premier** MONTHLY **13<sup>00</sup>**

See OFFER DETAILS below.

- Listen on your phone, at home, and online
- Personalized Stations Powered by Pandora
- Ad-free music, including additional online Xtra channels with the ability to skip songs
- News, talk, entertainment, sports
- 24/7 comedy channels
- Thousands of On-Demand shows, concerts, and more
- Two dedicated Howard Stern channel
- Watch SiriusXM video, including Howard Stern videos, online, and on the app
- NHL and NCAA Play by Play and talk channels

Are you a student? View our [Student Premier Plan](#).

Subscribe Now

OFFER DETAILS: The subscription plan you choose will automatically renew and you will be charged according to your chosen payment method at then-current rates. Fees and taxes apply. Please see our [Customer Agreement](#) for complete terms and how to cancel, which includes calling us at 1 866-635-2349. All fees, content and features are subject to change.

25. For purposes of my analysis and to be conservative, using the lowest price that permits in-car services, \$10.99 per month equals \$131.88 per year.

26. In addition, there are discounts available, such as the following offer available as of May 19, 2020, of \$5.00 per month for the first 12 months, for a new subscriber.<sup>4</sup>

SIRIUSXM SELECT — INSIDE + OUTSIDE THE CAR

\$5

/mo for 12 months

with a new Select subscription. Credit card required. See [Offer Details](#).

GET SELECT

SIRIUSXM ALL ACCESS — EVEN MORE CONTENT

\$8.25

/mo for 12 months

with a new All Access subscription. Credit card required. See [Offer Details](#).

GET ALL ACCESS

<sup>3</sup> <https://www.siriusxm.com/ourmostpopularpackages>. Retrieved May 19, 2020.

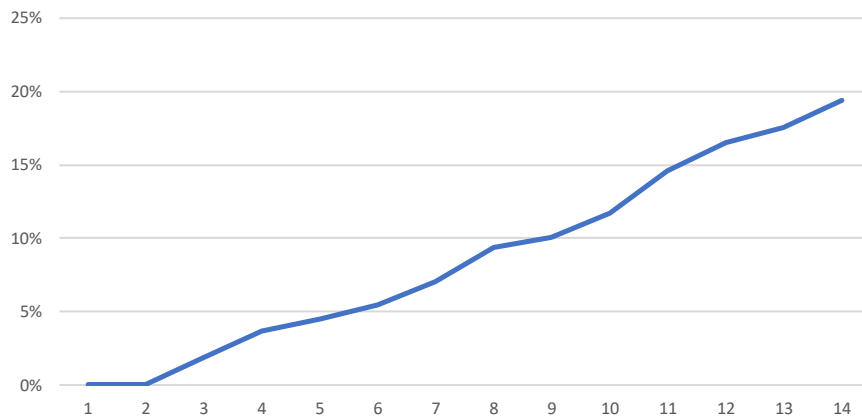
<sup>4</sup> <https://www.siriusxm.com/>. May 19, 2020.

1 27. The value gained for an Active Subscriber,<sup>5</sup> per the Settlement Agreement, is  
 2 therefore conservatively greater than \$100 if the average Active Subscriber will gain  
 3 approximately nine months of use, based on the Mostly Music (lowest) in-car service (\$100.00 /  
 4 \$131.99 = 0.76 years), or 1.67 years of use, based on the lowest promotional price (\$100.00 /  
 5 \$60.00 per year = 1.67 years).

6 28. To estimate the number of gained years requires an estimate of when the Lifetime  
 7 Subscriber will be expected to become inactive under the current program, compared to when the  
 8 Lifetime Subscriber would stop using his or her subscription under the terms of the Settlement  
 9 Agreement.

10 29. As regards the question of when the Lifetime Subscriber will be expected to become  
 11 inactive under the current program, this is estimable by looking at the rates at which Lifetime  
 12 Subscription purchasers have become inactive over time. Below is a table that shows these data,  
 13 for year 1 (year of sign-up) through year 14.

14 **Table 1. Lifetime Subscription Percent Inactive, by Year**



15  
16  
17  
18  
19  
20  
21  
22 **Data Source:** Attachment A and disclosures for Settlement Agreement.

23 30. As can be seen in the table above, there is a nearly linear relationship between  
 24 inactivity and time since sign-up. Extrapolating this into the future, while 13% of Lifetime  
 25 Subscribers had gone inactive as of June 2020 (approximately 126,000, out of 964,000 total  
 26 Lifetime Subscriptions), Active Subscribers (absent the Settlement Agreement) are expected to go

27 \_\_\_\_\_  
 28 <sup>5</sup> An Active Subscriber is not a new subscriber.



1 inactive at the pace of over 15,000 subscribers per year (accelerating in the coming years as  
 2 subscribers reach their three-transfer limit, and then falling off in later years as the number of  
 3 remaining Active Subscribers decreases).

4 31. Also instructive is the expected lifespan of driving for Sirius XM users. Although  
 5 driving is not a prerequisite for use of a Lifetime Subscription,<sup>6</sup> it can serve as a good indicator  
 6 because all Lifetime Subscriptions were issued to subscribers with satellite enabled devices (as  
 7 opposed to Internet based devices), which I understand are generally installed in vehicles. Per a  
 8 study published in the American Journal of Public Health, drivers aged 70 to 74 had a driving life  
 9 expectancy of approximately 11 years, and 88% of males aged 70 to 74 still drove.<sup>7</sup>

10 32. However, as referenced above, 13% of Lifetime Subscribers have already gone  
 11 inactive under the current Sirius XM protocol, even though the median age of Sirius XM  
 12 subscribers is only 44 years.<sup>7</sup>

	<u>US Pop</u> %	<u>SiriusXM</u> <u>Listener</u> %		<u>US Pop</u> %	<u>SiriusXM</u> <u>Listener</u> %
<b>Gender</b>			<b>HH Income</b>		
Male	48	55	\$100,000 or more	25	48
Female	52	45	\$75,000-\$99,999	14	18
			\$50,000-\$74,999	19	16
<b>Age</b>			\$35,000-\$49,999	14	9
18-24	13	8	Less than \$35,000	28	9
25-34	18	19	Average Income	\$74,110	\$110,600
35-44	19	25			
45-54	20	21	<b>Education</b>		
55-64	15	16	HS Grad or less	45	28
65+	16	10	Some College/Assoc. Degree	28	30
Median Age	45	44	College graduate or more	27	42
<b>Home</b>			<b>Marital Status</b>		
Own	70	82	Married	55	69
Rent	29	17	Single/Widowed/ Divorced/Separated	45	31
Other	1	1			
<b>Occupation</b>			<b>HHs w/Children</b>		
Professional	14	19	<18	41	44
Mgmt/Bus./Financial	10	18			
Sales/Office	15	17			
Nat. Res./Const./Maint.	6	6			
Other	18	16			
Top Management Job Title	4	9			

6 As of 2015, Sirius XM was not only in vehicles and accessible via portable radios, and  
 24 connection via phones and tablets available as of 2015. [https://www.codeandtheory.com/things-  
 25 we-make/siriusxm-thinks-outside-the-car](https://www.codeandtheory.com/things-we-make/siriusxm-thinks-outside-the-car). Retrieved April 27, 2020.

7 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1447231/>. Retrieved April 27, 2020.

7 <http://www.bkgolfmedia.com/SiriusXM-satellite-radio-and-demographics/>. Retrieved  
 28 April 27, 2020, per Sirius XM broadcaster Brian Katrek.

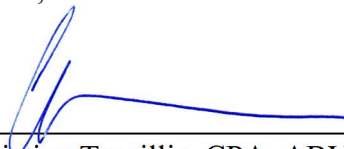
1           33. As a result, given that there are Active Subscribers becoming Inactive at the rate  
2 of 1.6% per year, whereas they continue to drive without meaningful drop-off until after age 70,  
3 the data indicate that the number of gained years if a subscriber is able to remain Active at least  
4 as long as they drive is much greater than two.

5           34. Thus, using the lowest subscription price I have seen, including promotional rates  
6 for new subscribers of \$60 per year, just two gained years is worth more than \$100. This  
7 suggests that it is highly likely that the Settlement Agreement terms will provide Active  
8 Subscribers and Inactive Subscribers who choose to go active again with two or more years of  
9 service.

10           35. As a result, the application of gained value of just \$100 per Lifetime Subscription  
11 (a very conservative assumption give the analysis above) to the total subscriptions of Active and  
12 Inactive Subscribers of 964,000 yields a conservative estimate of \$96,400,000 in value made  
13 available to all Class Members of this Settlement.

14           36. If this conservative estimate is applied to only Active Subscribers (as of June  
15 2020), the Settlement value made available to those Class Members is \$83,800,000 (\$100 x  
16 838,000).

17  
18 Dated: June 11, 2020

19  
20 Signed:   
21 Christian Tregillis, CPA, ABV, CFF, CLP

22  
23  
24  
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28

**EXHIBIT A**



# HEMMING | MORSE

FORENSIC & FINANCIAL CONSULTANTS

## Christian Tregillis, CPA, ABV, CFF, CLP Partner

800 S. Figueroa Street, Suite 1270  
Los Angeles, CA 90017  
213.222.0888 | tregillisc@hemming.com

### Summary

Christian Tregillis is a partner in Hemming Morse's Los Angeles office. In this role he analyzes financial, accounting, economic, statistical, and market issues, primarily relating to disputes, valuations, and the negotiation of license agreements covering the use of intellectual property. He has participated in mediations and has testified in over 120 matters, in state and federal courts and arbitration venues, including approximately 50 trials/arbitrations. His testimony has been almost exactly evenly split between plaintiffs/claimants and defendants/respondents.

In his 25 years of financial consulting and investigations, Mr. Tregillis spent 11 years at big four accounting firms. Before joining Hemming Morse he was the leader of the Damages, Valuation & IP practice area globally for LECCG. Prior to that he led the Forensic Accounting & Litigation Consulting group in the Western U.S. for Kroll and was the leader of Kroll's Intellectual Property Services practice. Before his work at Kroll he was a partner in the Financial Advisory Services practice at Deloitte & Touche.

Mr. Tregillis is a past Chair of the Economic Damages Task Force of the American Institute of Certified Public Accountants, for which he has authored practice aids and taught on the calculation of economic damages and related topics. He is also a past Chair and current member of the Economic Damages Section and is a member of the Steering Committee of the Forensic Services Section of the California Society of Certified Public Accountants. In addition, he is a co-chair of the Standards, Admissions, and Recertification Committee of the Certified Licensing Professionals, within the Licensing Executives Society. From 2003 to 2007 he was on the Board of Trustees of the Center for Law in the Public Interest and served as the Center's Chief Financial Officer. Early in his career he spent two years at First Interstate Bank, where he helped design a portfolio hedging system to manage interest rate exposure, valued acquisition targets and lines of business, and statistically forecasted loan losses.

### Education and Certifications

- Occidental College, A.B. Economics with Distinction
- University of Chicago Graduate School of Business, M.B.A. Finance and Accounting
- Certified Public Accountant, Licensed in California and Certified in Illinois
- Accredited in Business Valuation, American Institute of Certified Public Accountants
- Certified in Financial Forensics, American Institute of Certified Public Accountants
- Certified Licensing Professional, Licensing Executives Society

Christian Tregillis, CPA, ABV, CFF, CLP



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## Select Engagements

- ***Putative class v. supermarket chain.*** The plaintiffs, women who were at a time pregnant when they worked for the defendant, claimed that they were subject to discrimination in that they were not offered the same accommodations as other employees. Mr. Tregillis analyzed statistical issues and the sample size needed to provide for the sample to be representative of the class (and subclasses).
- ***Air carriers v. states and city governments.*** Two states and a city each passed laws requiring employers to provide to employees paid sick time, with the employee to not be penalized for using that time off. Plaintiff air carriers, in three different cases, alleged that they were forced to comply with this law it would cause great harm to the air carriers and the traveling public because of challenges if flight attendants call in sick. Mr. Tregillis performed a statistical analysis to evaluate the effects of compliance on the companies and the traveling public.
- ***Air carrier v. mechanics union.*** In the context of a contract negotiation between the parties, the defendant was accused of encouraging its members to conduct a slow-down, in a manner not permitted by the Railway Labor Act. Mr. Tregillis performed a statistical analysis to evaluate whether the communications in question had any effect on the productivity and performance of the union's members.
- ***Non-profit corporation v. manufacturers/sellers of personal care products.*** Plaintiff brought a claim against companies that sell personal care products (e.g., lotion, shampoo, and conditioner). Allegations included that the products were packaged and marketed as "natural" and/or organic, when the products in question were alleged to in fact not meet particular ingredient criteria. Mr. Tregillis analyzed the amount of economic benefit that defendants received as a result of the claims/packaging in question, including price premia and enhanced sales volumes, each of which were elements of incremental profits. After Mr. Tregillis issued a declaration the matter settled.
- ***Putative class v. seller of coconut water.*** The plaintiffs alleged that the defendant employed false advertising in its use of the phrase "born in brazil" on the product's packaging, when in fact the coconuts used to make the product were from Indonesia, Thailand, and the Philippines. Mr. Tregillis performed a hedonic regression analysis to evaluate the effect on prices of the use of this tagline on the packaging, and to answer the question of whether there was available a methodology to calculate damages and monetary remedies relating to the alleged misrepresentation.
- ***Putative class v. department store retailer.*** Plaintiffs alleged that defendant falsely advertised its products by using advertised reference prices (e.g., "regular price," retail price," and "formerly") in ads and on product price tags. Mr. Tregillis developed a methodology to quantify damages to consumer plaintiffs and issued a report for class certification. The matter settled before any testimony was given.
- ***Putative class v. pharmaceutical company.*** The plaintiffs, women sales representatives of the defendant, alleged that they were offered inferior employment terms compared to equally qualified men. Mr. Tregillis analyzed the sample data provided and used a regression to estimate the effect of gender on employment terms, all else equal.

Christian Tregillis, CPA, ABV, CFF, CLP



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- ***Putative class v. seller of smartphones.*** Plaintiffs alleged that defendant sold extended warranty programs to buyers of smartphones, but the replacement phones were refurbished rather than new, such that plaintiffs alleged that the warranties were sold based on misrepresentations. Mr. Tregillis issued a declaration on the question of whether there was available a methodology to calculate damages and monetary remedies relating to the alleged misrepresentations.
- ***Putative class v. manufacturer of artificial sweetener.*** Plaintiffs alleged that defendant falsely advertised its artificial sweetener as being natural. Mr. Tregillis issued a declaration on the question of whether there was available a methodology to calculate damages relating to the alleged false advertising.
- ***Putative class v. clothing retailer.*** Plaintiffs alleged that defendant falsely advertised its products as being discounted from a "normal" or "reference" price, to a discounted price, when in fact sales were not routinely made at these prices. Mr. Tregillis issued a declaration on the question of whether there was available a methodology to calculate damages and monetary remedies relating to the alleged false advertising.
- ***Software licensor v. software licenses.*** The plaintiff alleged that the defendant failed to pay license fees that were due on different categories of products. Mr. Tregillis analyzed the stratified sample needed to test the products at issue.
- ***Putative class v. insurance company.*** Plaintiffs alleged that defendant insurance company breached its contracts with plaintiffs by virtue of the implementation of a policy that limited the reimbursement rate for body work on automotive damage claims. Given that policies for more expensive vehicles had higher premia than those for lower-priced vehicles, plaintiffs alleged that it was inappropriate to pay the same rate for all vehicles – especially in light of particular training needed to perform certain repairs in order to keep vehicles under warranty. As part of the class certification process, Mr. Tregillis analyzed whether there was available a methodology to calculate damages for the class.
- ***Putative class v. pharmaceutical company.*** Plaintiffs alleged that defendant paid other drug companies to delay their launch of generic drugs, in order to preserve defendant's monopoly on the branded drug Adderall XR. Mr. Tregillis valued consideration included in multiple transactions between defendant and the other companies, so as to better evaluate whether there had been overpayments and underpayments that would effectively transfer money to the other companies in exchange for their willingness, by delaying their competitive drugs' release, to help defendant earn additional profits during the years in question.
- ***States v. pharmaceutical company.*** The states' attorneys general investigated defendant related to the prices charged to Medicaid and other agencies for various drugs, particularly in comparison to costs and other figures that were to be a part of the pricing formulae. Mr. Tregillis led an investigation of the pricing and potential damages to individual states, including development of a database of transactions over several years, with tens of millions of reimbursement events, to calculate amounts owed under a variety of scenarios, dependent on a determination of what the appropriate pricing should have been.

Christian Tregillis, CPA, ABV, CFF, CLP



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- **Individuals v. retailer of residential heating units.** The dispute related to the sale by defendant of faulty and dangerous residential heating units. Mr. Tregillis's role was to perform a statistical analysis in the computation of damages to replace all units ever sold, given limited data on sales. After Mr. Tregillis provided deposition testimony, his calculations and declaration were used by the judge and counsel from both sides to settle the case.
- **Flash memory device company v. flash memory device company.** After the parties entered into a license agreement covering the sale of flash drives, claimant alleged that respondent failed to pay amounts owing under the license agreement. Mr. Tregillis developed a database to calculate amounts owing under alternate contractual interpretations and inputs (e.g., which products were previously licensed under other agreements, what types of products were licensed, what countries of manufacture and/or sale qualified as licensed, and what the start and end dates were). Mr. Tregillis testified at an arbitration about some of his scenarios, but explained that after being provided with clarification by the arbitrator could provide the amount owing. After the arbitrator made a ruling on these issues, Mr. Tregillis provided figures for this scenario.

## Professional Activities, Groups & Affiliations

- California Society of Certified Public Accountants
  - Past Chair and current member, Economic Damages Section
  - Member, Steering Committee for Forensic Sections
- American Institute of Certified Public Accountants
  - Past Chair, Economic Damages Task Force
  - Past member, Forensic & Litigation Services Committee
- Licensing Executives Society/Certified Licensing Professionals
  - Co-Chair, Standards, Admissions, and Recertification Committee
  - Past Co-Chair, Exam Development and Maintenance Committee

## Publications, Presentations & Speaking

- *Income Statement Analysis.* Practising Law Institute, *Basics of Accounting and Finance* (September, 1998).
- *The Use of Outside Accountants.* Practising Law Institute course *Basics of Accounting and Finance* (September, 1998) – instructor and chapter author, “*Overview of Services Provided by CPAs.*”
- *Evaluating IP Lost Profits: From Panduit to Grain Processing.* California Society of CPAs publication, *The Witness Chair* (Summer, 2001).
- *The Valuation of Trademarks.* American Intellectual Property Lawyers Association Annual Meeting (October, 2001).
- *The Valuation of Intellectual Property.* San Diego Institute of Intellectual Property Lawyers Association Meeting (April, 2002).

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- *Issues to Consider in Evaluating a Reasonable Royalty*. American Institute of CPAs publication, *CPA Expert* (Summer, 2002).
- *IP Through the Life of Your Business*. The Phelps Group: IP Summit (July, 2002).
- *The Use of Multiple Regression in Commercial Litigation*. California Society of CPAs, Economic Damages Section Meeting (October, 2002).
- *Review of Valuation for Financial Reporting: Intangible Assets, Goodwill, and Impairment Analysis, SFAS 141 & 142* (by Michael J. Mard, et al.). American Institute of CPAs publication, *CPA Expert* (Winter 2003).
- *The Use of Surveys and Statistics in Litigation*. California Society of CPAs, California Society of CPAs, *Advanced Business Litigation Institute* (May, 2003).
- *Current Issues in IP Litigation Damages*. California Society of CPAs, California Society of CPAs, *Advanced Business Litigation Institute* (May, 2003).
- *The Role of the Financial Expert in Trade Secret Litigation*. California Society of CPAs, Economic Damages Section Meeting (July, 2003).
- *Notes and Numbers: Does the Data on Declining Music Sales “Sing” In an Age of Music Downloading?* Los Angeles County Bar Assoc., Music Section Meeting (December, 2003).
- *Peer to Peer File Sharing Suits: What’s Next?* California Society of CPAs publication, *The Witness Chair* (Winter, 2004).
- *AICPA Statement on Standards for Business Valuation*. California Society of CPAs, Economic Damages Section Meeting (February, 2004).
- *Research on Current Issues in Economic Damages*. California Society of CPAs, Economic Damages Section Meeting (May, 2004).
- *Assessing and Proving Damages from Infringement, Program Moderator*. University of Southern California *Intellectual Property Institute* (May, 2004).
- *Daubert Case Law*. American Institute of CPAs, *Conference on Fraud and Litigation Services* (September, 2004).
- *Cost Shifting and Electronic Discovery: How Experts Can Help Clients Minimize Costs*. California Society of CPAs publication, *The Witness Chair*, with Rachel Laybourn (Fall 2004).
- *Valuation of Intellectual Property*. California State Bar Intellectual Property Law Section, *Intellectual Property Institute* (November, 2004).
- *From Qualifications to Unsupported Opinions: A Review of Motions to Exclude Financial Experts*. California Society of CPAs, Economic Damages Section Meeting (February, 2005).
- *Challenges for the Intellectual Property Damages Expert: Apportionment of Value, Multiple Patent Litigation, Price Erosion, and the Entire Market Value Rule*. California Society of CPAs, *Advanced Business Litigation Institute* (May, 2005).



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- *You've Been Sued for Infringement – Now What?* University of Southern California Gould School of Law, *Intellectual Property Institute* (May, 2005).
- *Fraud Identification, Protection and Management.* Financial Executives International, Seattle Section meeting (September, 2005).
- *Spending Your IP Dollars Wisely in Foreign Markets.* AeA Oregon Section Meeting (December, 2005).
- *Differences Between Lost Profits and Diminution in Business Value as a Measure of Damages.* American Institute of CPAs publication, BV-FLS Section Update, with Michael Thompson (January, 2006).
- *Practice Aid on Damages in Intellectual Property Disputes* (contributor/editor). American Institute of CPAs publication (February, 2006).
- *The Top 10 Things About IP Every Technology Manager Needs to Know.* Mentor Graphics User2User Conference (May, 2006).
- *Financing Issues in Managing Intellectual Property Risk.* Risk & Insurance Management Society, Los Angeles Chapter Meeting (June, 2006).
- *Awards for Future Damages in Patent Infringement Cases after eBay v. MercExchange.* American Bar Association, *IPL Newsletter* (Summer, 2006, Volume 24, Issue 4).
- *The Forensic Accountant's Role in Claims of Alter-Ego, Successor Liability, and Fraudulent Transfers.* California Society of CPAs, Economic Damages Section Meeting (October, 2006).
- *The Financial Expert Post-eBay: The Four-Factor Test and Future Royalties.* Law Seminars International, *Calculating and Proving Patent Damages* (February, 2007).
- *Econometric Analysis and Multiple Regression.* Chapter in *Litigation Services Handbook: The Role of the Financial Expert, (Fourth Edition)*, with Dr. Mohan Rao, edited by Peter Frank, Michael Wagner and Roman Weil (February, 2007); also in the supplement to the third edition.
- *Patent Rights in the Post-eBay Era: What You Need to Survive.* University of Southern California Gould School of Law, *Intellectual Property Institute* (March, 2007).
- *Current Issues in Patent Damages.* IQPC, *3rd Patent Strategies* (March, 2007).
- *Conducting Internal Corporate Investigations.* Association of Corporate Counsel of America, Southern California quarterly meeting (April, 2007).
- *Managing Digital Intellectual Property Risk.* Automotive News Webinar (April, 2007).
- *Protecting Your Intellectual Property: Essential Strategies to Building a Successful IP Protection Program.* Microsoft CSO Summit (April, 2007).
- *Top 10 Reasons Financial Experts Get Excluded and What to Do About It.* American Institute of Certified Public Accountants National Conference on Fraud and Litigation Services (September, 2007).
- *Forensic Accounting Investigations and Valuation Analysis in an XBRL World.* 16th XBRL International Conference (December, 2007).

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- *The CPA's Handbook on Fraud and Commercial Crime Prevention*. American Institute of Certified Public Accountants publication (lead author – 2008 update) (May, 2008).
- *Forensic Investigation of Financial Statement Fraud: Case Studies*. Florida Institute of Certified Public Accountants, *Accounting and Business Expo* (May, 2008).
- *Discovery and Production Issues*. American Institute of Certified Public Accountants, *National Conference on Fraud and Litigation Services* (September, 2008).
- *Quanta, Exhaustion and Patent Damages*. IP360 (October, 2008).
- *Discount Rates and the Time Value of Money in Litigation*. California Society of CPAs, Economic Damages Section Meeting (May, 2009).
- *Understanding, Developing & Managing Forensic Engagements*. American Institute of Certified Public Accountants Webinar, "Creating a Niche Forensic Practice Series" (February, 2010).
- *Economic Damages: An Overview*. American Institute of Certified Public Accountants Webinar, "Creating a Niche Forensic Practice Series" (May, 2010).
- *Reasonable Royalties and Apportionment of Value: Part 2 (Royalty Stacking)*. California Society of Certified Public Accountants and Los Angeles Intellectual Property Lawyers Association, *IP Damages Institute* (November, 2010).
- *Hot Issues in Reasonable Royalty Patent Damages* (topics led: *The Use of Surveys and Demand Curves*, and *The Use of Settlement Agreements*). University of Southern California Gould School of Law, *Intellectual Property Institute* (March, 2011).
- *Differences Between Lost Profits and Diminution in Business Value as a Measure of Damages*. American Institute of Certified Public Accountants, *FVS Consulting Digest* (Issue 1, January 2012).
- *Discount Rates, Risk, and Uncertainty in Economic Damages Calculations*. American Institute of Certified Public Accountants Practice Aid (April, 2012).
- *Discount Rates, Risk, and Uncertainty in Economic Damages Calculations*. American Institute of Certified Public Accountants Webinar (July, 2012).
- *Discount Rates, Risk, and Uncertainty in Economic Damages Calculations; Attaining Reasonable Certainty in Economic Damages Calculations*. California Society of Certified Public Accountants Forensic Services Section Meeting (October, 2012).
- *Financial Forensic Accounting Education Series: Applicable Professional Standards*. (Course Author) American Institute of Certified Public Accountants (May, 2013).
- *Interpreting and Reconciling Recent Case Decisions: Raising the Bar on Lost Profits, Business Valuation and Intellectual Property Damages*. American Institute of Certified Public Accountants Forensic and Valuation Services Conference (November, 2013).
- *Reasonable Certainty Round 2: An Inside Look at the Findings of the Damages Task Force - Reasonable Certainty for New or Unestablished Businesses*. American Institute of Certified Public Accountants Forensic and Valuation Services Conference (November, 2013).
- *Reasonable Certainty in Economic Damages Calculations*. California Society of Certified Public Accountants Forensic Services Section Meeting (February, 2015).

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- *Patent Damages Roundtable*. University of Southern California Gould School of Law, Intellectual Property Institute (March, 2015).
- *Reasonable Certainty in Economic Damages Calculations*. American Institute of Certified Public Accountants Practice Aid (August, 2015).
- *IP Remedies Roundtable and Workshop*. University of Southern California Gould School of Law, Intellectual Property Institute (March, 2017).
- *Reasonable Certainty and the New AICPA Practice Aid*. Kentucky Society of Certified Public Accountants, Forensic Accounting and Litigation Conference (August, 2017).
- *Prejudgment Interest*. Chapter in *Lost Profits Damages: Principles, Methods, and Applications*, with Greg Pinsonneault, edited by Everett Harry and Jeffrey Kinrich (October, 2017).
- *Linking Causation to Damages*. American Institute of Certified Public Accountants, Forensic and Valuation Services Conference (November, 2017).
- *Calculating Lost Profits*. American Institute of Certified Public Accountants Practice Aid (March, 2019).
- *Economic Damages Update: Reasonable Certainty, Lost Profits and Intellectual Property*. American Institute of Certified Public Accountants Webinar (May, 2019).
- Author of quarterly “AICPA Update” (2006-2009), and “Economic Damages Section Update” (2008-2010). California Society of CPAs publication, *The Witness Chair*.
- Research assistant in the publication of textbooks in Microeconomics, Macroeconomics and Econometrics.
- Instructor, the Conviser Duffy (Becker) CPA Review Course.

**EXHIBIT B**

Lifetime Package Details

Product	Package	Rate	Price Start Date
PPC Lifetime	Sirius Select	450.00	2/7/2005
Lifetime upgrade from 2yr - 228.04	Sirius Select	228.04	11/23/2006
Lifetime upgrade from Prepaid 6mo - 422.29	Sirius Select	422.29	1/28/2006
	Sirius Select Family Friendly	422.29	10/14/2010
FPO Lifetime upgrade from Prepaid 6mo - 422.29	Sirius Select	422.29	7/6/2007
Lifetime Plan (MRF GRACE)	Sirius Select	399.99	4/27/2009
	Sirius Premier	399.99	10/28/2011
Lifetime Subscriber	Sirius Select	499.99	10/6/2004
		699.00	10/28/2004
		399.99	5/18/2007
		399.99	10/14/2008
	Sirius Premier	499.99	9/30/2008
		399.99	10/14/2008
		399.99	11/5/2010
		699.00	1/26/2011
	Sirius Select Family Friendly	499.99	5/23/2008
		449.99	10/3/2008
		399.99	1/11/2011
		649.00	1/27/2011
	Sirius Premier Family Friendly	449.99	10/25/2008
		499.99	6/30/2010
		649.00	2/9/2011
		399.99	3/28/2012
Select Family Friendly - Life - 649.00	Sirius Select Family Friendly	649.00	5/21/2012
Premier Family Friendly - Life - 749.00	Sirius Premier Family Friendly	649.00	5/31/2012
Prepaid Lifetime Subscriber	Sirius Select	499.99	10/3/2004
		399.99	11/1/2004
		357.54	1/12/2005
		499.99	9/11/2006
		699.00	1/1/2012
Prepaid- Audio + Traffic (Lifetime)	Sirius Select with Sirius Traffic (TM)	551.99	12/4/2010
		555.99	9/16/2011
		751.00	1/2/2012
		755.00	1/4/2012
Select - Life - 699.00	Sirius Select	699.00	5/4/2012
OEM Trial - Select - Life - 699.00	Sirius Select	699.00	5/4/2012
		699.00	5/4/2012
Premier - Life - 799.00	Sirius Premier	699.00	5/4/2012
		639.00	9/30/2016

Lifetime Package Add-on & Fees

Add-ons & Fees	Package	Rate	Price Start Date	
Lifetime Transfer Fee - 75.00		75.00	4/26/2005	
Best of Add-on - Life	Sirius Select	150.00	10/7/2008	
		100.00	10/15/2008	
		99.00	11/23/2008	
		25.00	12/5/2009	
		150.00	9/30/2008	
		100.00	10/14/2008	
	Sirius Premier	100.00	5/4/2012	
		25.00	9/26/2012	
		160.00	9/30/2016	
		Sirius Premier Family Friendly	150.00	10/25/2008
			100.00	6/30/2010
			100.00	5/30/2012
150.00	4/18/2014			
Lifetime Enhancement Package		50.00	12/25/2008	
		25.00	12/5/2009	
		100.00	9/20/2011	
Lifetime Subscriber - CREDIT - 116.55		116.55	12/28/2005	
	Sirius Select	116.55	5/17/2008	
Lifetime Subscriber - CREDIT - 129.50		129.50	6/10/2006	
	Sirius Select	129.50	11/15/2016	
Lifetime Subscriber - CREDIT - 142.45		142.45	9/25/2005	
	Sirius Select	142.45	8/10/2016	
Lifetime Subscriber - CREDIT - 65.00		65.00	5/2/2006	
Lifetime Subscriber - CREDIT - 77.70		77.70	2/28/2006	
	Sirius Select	77.70	5/14/2008	
Premier Add-on - Life	Sirius Premier Add-on	25.00	9/26/2012	
		50.00	11/6/2012	
Prepaid Lifetime Subscriber		5.00	5/14/2010	
Prepaid Lifetime Subscriber - 499.99		5.00	8/12/2009	
Select Add-on - Life	Sirius Select Add-on	50.00	6/20/2012	
Lifetime Plus Best of Sirius 42 Month Premium SO Consumer Price List 1	Sirius Select	99.00	10/4/2009	
Lifetime Plus Best of Sirius 42 Month Premium SO Consumer Price List 12	Sirius Select	99.00	10/3/2009	
Lifetime Plus Best of Sirius 42 Month Premium SO Consumer Price List 3	Sirius Select	99.00	10/2/2009	
Lifetime Plus Best of Sirius 42 Month Premium SO Consumer Price List 6	Sirius Select	99.00	10/25/2009	
OEM Trial - Traffic - Life - 52.00	Sirius Traffic (TM)	52.00	5/4/2012	
OEM Trial - Traffic - Life - 56.00	Sirius Traffic (TM)	56.00	5/9/2012	