

Exhibit B

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

LINDA FRANULOVIC, individually and on behalf of a class of persons,)	CIVIL NO. 1:07-cv-00539-RMB-JS
)	
Plaintiff,)	CLASS ACTION
)	
v.)	
)	Document Electronically Filed
THE COCA-COLA COMPANY,)	
)	
Defendant.)	

DECLARATION OF JOEL H. STECKEL, Ph.D.

1. INTRODUCTION

1.1 My name is Joel H. Steckel, I am over 21 years of age and of sound mind. I am capable of making this declaration. I have personal knowledge of all factual statements contained herein and all such factual statements are true and correct to the best of my knowledge.

1.2 I have been asked to provide a marketing based perspective on the consumer behavior implicit in the lawsuit in the purported class action lawsuit *Linda Franoulovic et. al. v. The Coca-Cola Company*. In particular, I have been asked to comment on whether the commonality in consumer behavior asserted by the plaintiffs in the lawsuit was likely to have manifested itself in the marketplace. In support of that endeavor, I have also reviewed materials in two related cases: *Adam Simmens vs. The Coca-Cola Company, Nestle USA, Inc., and Beverage Partners Worldwide* and *Catherine M. Melfi*

vs. The Coca-Cola Company, Nestle USA, Inc., and Beverage Partners Worldwide. My rate of compensation for this assignment is \$725 per hour and is not contingent upon either the substance of my opinions or the outcome of the case.

2. QUALIFICATIONS

2.1 I am a Professor of Marketing at the Stern School of Business, New York University, where I have taught since January 1989. I was the Chairperson of the Marketing Department for six years, from July 1998 to June 2004, when I stepped down from the position. I am currently the faculty director of the Stern School Doctoral Program and have been so since May 2007. I have also held either permanent or visiting faculty appointments at the Graduate School of Business, Columbia University; the Anderson Graduate School of Management, U.C.L.A.; the School of Management, Yale University; and the Wharton School, University of Pennsylvania. I received my B.A. from Columbia University in 1977, and M.B.A., M.A., and Ph.D. degrees from the Wharton School, University of Pennsylvania in 1979, 1980, and 1982, respectively.

2.2 I was the Founding President of the INFORMS (Institute for Operations Research and Management Science) Society for Marketing Science, the foremost professional group for the development and application of management science theory and tools in marketing. In addition, I am a member of the American Marketing Association, the American Statistical Association, the Association for Consumer Research, the American Association for Public Opinion Research, the International Trademark Association (INTA), and the Society for Consumer Psychology.

2.3 My fields of specialization within marketing include marketing research. I am an author of three books and over 35 articles. In the course of my scholarly research,

teaching, and consulting work, I have studied issues of marketing research, branding and their roles in consumer choice and marketing strategy. My professional qualifications are described further in my curriculum vita, which is attached as Exhibit A. I have served as an expert witness on marketing research and branding issues in a variety of litigation matters. In the past four years, I have testified as an expert witness in the matters listed in Exhibit B.

3. REFERENCES

3.1 In arriving at my opinion, I considered the following sources:

- Documents from *Linda Franoulovic et. al. v. The Coca-Cola Company*
 - Third Amended Class Action Complaint
 - Notice of Motion for Class Certification
 - Deposition of Linda Franoulovic, September 30, 2008
 - Memorandum of Points and Authorities in Support of Plaintiff's Motion for Class Certification
- Documents from *Adam Simmens vs. The Coca-Cola Company, Nestle USA, Inc., and Beverage Partners Worldwide*
 - Plaintiff's Second Amended Class Action Complaint
 - Deposition of Adam Simmens, October 2, 2008
- Documents from *Catherine M. Melfi vs. The Coca-Cola Company, Nestle USA, Inc., and Beverage Partners Worldwide*
 - Plaintiff's Second Amended Class Action Complaint
 - Deposition of Catherine M. Melfi, October 3, 2008
- Documents from the Coca Cola Company

- Research International: Enviga – Claims & Communication Quantitative Research Summary of Findings; Beverage Partners Worldwide, 13th January 2006
- Project Rocket Naming Study: Final Report, March 10, 2006
- Enviga Print Advertising Copy Test, November 2006.
- Enviga Print Ads
- Enviga Television Advertising Copy Test, November 2006
- Enviga Television Ad Scripts
- <http://www.Enviga.com>

4. CONCLUSIONS

4.1 As I understand it, the lawsuit is based on the following alleged four bullet point model of consumer behavior:

- The Coca-Cola Company markets “Enviga” as a product that will “burn calories”:
- The *average reasonable* (emphasis added) consumer believes that burning calories will result in weight loss;
- The average reasonable consumer therefore interprets Enviga’s marketing as promising weight loss, despite the fact that Coke never explicitly mentions weight loss in any of its marketing material; and
- If not for their beliefs that Enviga would “burn calories” and cause them to lose weight, consumers would never have purchased Enviga. In other words, consumers purchased Enviga because and only because of this belief that they derived from Coke’s marketing efforts.¹

The lawsuit alleges that the above model is common to all members of its proposed class.

¹ As I understand them, the Melfi and Simmens suits are based on the same model. To be clear, the three lawsuits exhibit two levels of commonality. The four bullet point model is common across the three lawsuits; and each lawsuit alleges that the above model is common to all members of its proposed class.

4.2 My examination of the evidence leads me to believe that the above four bullet point model does not capture the behavior of all purchasers of Enviga in New Jersey, Pennsylvania, or nationally. Before I go into details, I am struck by the use of the phrase “average reasonable consumer”. This language is not only reflected in the Franoulovic lawsuit, but the Melfi and Simmens cases as well.² Even if an average consumer behaves exactly as plaintiffs contend, that does not mean that all consumers do. Marketing scholars often cite the principle of the “fallacy of the middle”. Averages are single representations of what could be very heterogeneous populations. The average of the numbers one through ten is 5.5, yet no single number (much less all of them) is 5.5. The point here is that even plaintiffs’ language undermines their presumption that the class is homogeneous.

4.3 Precise language aside, consumers in the class are likely to differ from the above four bullet point model in two basic ways:

1. Consumers do not all interpret Enviga’s marketing as promising weight loss; and
2. Consumers purchase Enviga for a variety of reasons, not simply because of weight loss, or even “calorie burning”.

4.4 *Consumers do not all interpret Enviga’s marketing as promising weight loss.*

4.4.1 In preparing to market Enviga, The Coca Cola Company conducted several research studies of how consumers would react to marketing variables. Two of these studies employed variables that were similar to the ones encountered by the

² *Linda Franoulovic et. al. v. The Coca-Cola Company*, Third Amended Class Action Complaint, page 4, para. 17; *Adam Simmens vs. The Coca-Cola Company, Nestle USA, Inc., and Beverage Partners Worldwide*, Plaintiff’s Second Amended Class Action Complaint, page 5, para. 23; *Catherine M. Melfi vs. The Coca-Cola Company, Nestle USA, Inc., and Beverage Partners Worldwide* Plaintiff’s Second Amended Class Action Complaint, page 6, para. 23.

proposed class, print advertising and package design.³ Consumers that participated in these studies did not all interpret Enviga's marketing as simply promising weight loss.

4.4.2 To be specific, in the print advertising study a total of 2,031 consumers were tested in 20 markets in September 2006. Approximately 200 respondents were exposed to each of ten ads. After being shown an ad, consumers were then asked to provide open ended responses to what is the "main idea" the advertising is trying to tell them. A follow-up eliciting other ideas the advertising was trying to tell them ensued. Anyone mentioning "burn calories/fat", or "increases metabolism/uses up energy" were asked to tell what they understood by these terms in the advertising. The advantage of this type of questioning is that if a consumer respondent took away a weight loss message, s/he had ample opportunity to express it.

4.4.3 Of the 2000-plus consumers interviewed in this study, 584 or 29% of them "played back a weight loss related mention on an unaided basis".⁴ These data demonstrate two flaws in the four-bullet point model of consumer behavior. First, clearly not everyone takes away a weight loss promise from Enviga's marketing. Second, there is heterogeneity in what people do take away from Coke's marketing of Enviga. Only 19% of respondents took a weight loss/diet message (main idea or other idea) from the advertising; 34% took away a metabolism/energy message; 43% took away a healthy/good for you message; and 27% took away a green tea message. The heterogeneity in interpretation is evident.

4.4.4 I suspect that plaintiffs might respond to these data by pointing to the 73% that took away a calories/fat message, invoking the second bullet point in the model,

³ Here I refer to Enviga 3 in the Project Rocket Naming Study: Final Report; March 10, 2006.

⁴ Enviga Print Advertising Copy Test, p. 8.

and concluding that virtually everyone did indeed interpret a weight loss message from the advertising. But this would be wrong for two reasons. First, if the 19% who took away a weight loss/diet message from the advertising were a subset of the 73%, that would still leave substantial heterogeneity (i.e. 27% that did not take away a weight loss message). Second, data in the study contradict the second bullet point. Those mentioning a “burn calories/fat” message in the advertising were asked what they understood by that. Of those respondents only 22% (16/72) played back “weight loss/diet”.⁵ Consumers do not perceive equivalence between “burn calories/fat” and “weight loss/diet”.

4.4.5 Interestingly, even class representative Linda Franoulovic disavows the equivalence. In her deposition, she testified, “I don’t care about calories, I care more about fat and protein.”⁶ In the follow-up, she responded “(y)es” to the question, “(s)o in your personal diet, the way you believe you either lose weight or don’t gain weight is to control the amount of fat and protein you take in?”⁷

4.4.6 One of the package designs, Enviga 3, in the Project Rocket Naming Study bore a strong similarity to the can introduced into the market.⁸ 203 respondents were exposed to this can and answered questions on package liking, package design attributes, and package personality attributes. Similar insights to those from the print ad study emerge from this study. 65% of the sample thought that the beverage was “for people trying to lose a pound or two;” and 63% thought that it was “a drink that burns calories”; but only 44% thought it was “for serious dieters”, yet 88% thought the

⁵ Enviga Print Advertising Copy Test, p. 40

⁶ Deposition of Linda Franoulovic, September 30, 2008, 45:23-4.

⁷ Deposition of Linda Franoulovic, September 30, 2008, 45:25-46:3.

⁸ See Exhibit C.

package evoked “green tea.”⁹ Indeed, when asked to send an email to a friend telling him/her about Enviga, most respondents focused on taste and flavor (e.g. the green tea aspect).¹⁰ Clearly, the Enviga 3 can design sends a variety of messages to prospective consumers. To the extent that there is any commonality with respect to these messages, it has little to do with “weight loss/diet”.

4.5 Consumers purchase Enviga for various reasons, not just weight loss, or even “calorie burning”

4.5.1 The print advertising study discussed earlier also elicited information on what the 2,031 respondents would like about Enviga. According to the study’s report:

Respondents indicated that they would like Enviga because it “burns calories/fat” (29%), “is green tea” (28%), they like the “color and design of the packaging” (24%), it “is healthy/good for you” (16%), “would like the taste/ flavor” (15%), “is made by Nestea” (13%), and “increases metabolism/energy” (12%).¹¹

Interestingly, helps with “weight loss/diet” was cited by only six percent of the respondents. Clearly, there were a variety of things about Enviga inducing consumers to purchase the product. Again, the fourth bullet point in the consumer behavior model fails for two reasons. First, consumers purchased Enviga for a variety of reasons. Second, the reason reflected in the model, “weight loss/diet” was relevant for only six percent of the study respondents.

4.5.2 Similar insights emerge from consumer reaction to Enviga 3 in the Project Rocket Study. Respondents had very different likes about Enviga based on the can. One respondent likened it to the energy drink Red Bull.^{12 13} The largest set of likes

⁹ TCCC-Enviga-0006611

¹⁰ TCCC-Enviga-0006623

¹¹ Enviga Print Advertising Copy Test, p. 10.

¹² TCCC-Enviga-0006589.

based on the can was its taste and flavors (50%).¹⁴ Only 7% liked it because it was a diet drink, less than liked it because it delivered the benefits of tea and bore the Nestea brand.¹⁵ Again, the can communicates various product attributes that motivate consumers to buy. This study further demonstrates heterogeneity in consumers' product buying rationales.

4.5.3 Consumer Catherine Melfi herself cites a variety of reasons she bought the product apart from weight loss: taste, calorie burning, health, and that it was green tea.¹⁶ Consumer Adam Simmens acknowledges that he bought it in part because it was green tea and he liked it. Furthermore, he acknowledged the health benefits of the antioxidants contained therein.¹⁷ I recognize that the claims made by Ms. Melfi and Mr. Simmens as class plaintiffs are not at issue in the present lawsuit. However, they are consumers and as these plaintiffs suggest, Enviga is marketed "to the entire U.S. population, without qualification."¹⁸

4.6 The print ad copy test and the Enviga 3 component of the Project Rocket Naming Study are the most relevant research that Coke has done for my opinion. However, Coke did conduct several other studies. There were other packages examined both in the Project Rocket Study and in others. Coke also examined television advertising even though the television ads never ran. These other packages and advertising contained very similar appeals and language to those in the studies referred to earlier in this affidavit.

¹³ Ms. Franoulovic echoed that perception. Actually, her belief that Enviga is an energy drink demonstrates that people could have bought the product for reasons other than weight loss. See Franoulovic deposition (109:21-110:12). Class plaintiff Adam Simmens acknowledged that Enviga could be promoted as an energy drink as well (See Simmens deposition 80:10-11).

¹⁴ TCCC-Enviga-0006602

¹⁵ TCCC-Enviga-0006602

¹⁶ Deposition of Catherine M. Melfi, October 3, 2008, 13:24-14:9.

¹⁷ Deposition of Adam Simmens, October 2, 2008, 16:15-17:4.

¹⁸ Melfi case, Second Amended Complaint, page 6, para. 25; Simmens case, Second Amended Complaint, page 6, para. 25.

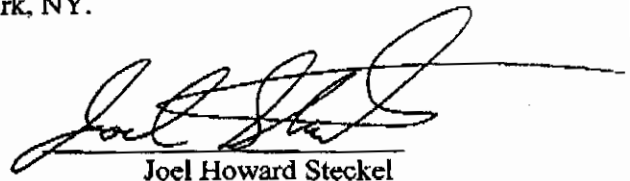
That systematic studies of these other marketing vehicles produced qualitatively similar findings to those referred to here gives me greater confidence that marketing communications using those appeals and language would both be interpreted differently across the consumer population and trigger different purchase motivations in consumers.

4.7 In sum, the evidence I examined clearly suggests that plaintiffs' model of consumer behavior as reflected in the four bullet points set at the outset is oversimplified and not an accurate representation of what happens in the marketplace. Consumers infer a wide variety of messages about Enviga from Coke's marketing, not just that Enviga leads to weight loss. Consumers also buy Enviga for a variety of reasons, not just weight loss. As such, plaintiffs' claims that "the only reason for any class member to purchase Enviga was Coke's ...advertising claim of caloric burning", the class in its entirety "purchased and consumed Enviga because of the (caloric burning) representations made about the product,"¹⁹ and that "(i)f not for (Coke's)....claims about Enviga,...the class would not have purchased and consumed Enviga"²⁰ are untenable.

4.8 I reserve the right to supplement and/or amend these opinions should more information become available to me as the case continues.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 11th day of December 2008 in New York, NY.



Joel Howard Steckel

¹⁹ *Linda Franoulovic et. al. v. The Coca-Cola Company*, Third Amended Class Action Complaint, paragraph 58.

²⁰ *Adam Simmens vs. The Coca-Cola Company, Nestle USA, Inc., and Beverage Partners Worldwide*, Plaintiff's Second Amended Class Action Complaint, paragraph 9 and *Catherine M. Melfi vs. The Coca-Cola Company, Nestle USA, Inc., and Beverage Partners Worldwide*, Plaintiff's Second Amended Class Action Complaint, paragraph 9.

EXHIBIT A

Curriculum Vitae

JOEL HOWARD STECKEL

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Home Address

112 Berkeley Place
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EDUCATION

UNIVERSITY OF PENNSYLVANIA, THE WHARTON SCHOOL

Doctor of Philosophy Degree (Marketing/Statistics) awarded, May 1982.
Dissertation Title: "A Game Theoretic and Experimental Approach to the Group Choice Phenomenon in Organizational Buying Behavior," Professor Yoram Wind, advisor.

Master of Arts Degree (Statistics) awarded May 1980.

Master of Business Administration Degree (Management Science) awarded with Distinction, May 1979.

Elected to Beta Gamma Sigma, May 1979.

COLUMBIA UNIVERSITY

Bachelor of Arts (Mathematics) awarded Summa Cum Laude, May 1977.

Elected to Phi Beta Kappa, May 1977.

ACADEMIC POSITIONS

Director of Doctoral Studies, Stern School of Business, New York University, May 2007-Present.

Marketing Department Chairperson, Stern School of Business, New York University, July 1998-June 2004.

Professor and Associate Professor, Stern School of Business, New York University, January 1989 - present. Taught courses in Business Strategy, Marketing Management, Marketing Research, Corporate Reputation and Branding, Models of Pricing and Promotion, Field Studies in the New Economy, Marketing Engineering, and Analytic Marketing for Management Consulting. Also taught Doctoral Seminars in Mathematical Models in Marketing and Research Methods.

Visiting Professor, Wharton School, University of Pennsylvania, January 1995 - December 1995. Taught Core Marketing course.

Visiting Professor, Escola de Pós-Graduação em Ciências Económicas e Empresariais, Universidade Católica Portuguesa, May - June 1992, May - June 1993. Taught Industrial Marketing and Marketing Strategy.

Associate Professor and Assistant Professor, Graduate School of Business, Columbia University, July 1981 - December 1988. Taught MBA-level courses in Industrial Marketing, Marketing Planning, and Marketing Research. Taught three Ph.D.-level Marketing Seminars and Applied Multivariate Statistics.

Visiting Associate Professor, School of Organization and Management, Yale University, September - December 1988. Taught graduate course in Marketing Strategy.

Visiting Assistant and Associate Professor, Graduate School of Management, University of California at Los Angeles, July 1984 - June 1985, January - March 1987. Taught Advanced Marketing Management, Marketing Research, and Strategic Marketing Planning.

Assistant Instructor, Department of Statistics, University of Pennsylvania, July 1979 - June 1980. Assisted in undergraduate and MBA-level courses in Statistics. Taught undergraduate course in Calculus.

Teaching Assistant, Department of Mathematics, Columbia University, September 1976 - May 1977. Assisted in courses in Number Theory and Differential Equations.

PROFESSIONAL INTERESTS

Marketing Strategy and Marketing Research. In particular, marketing research methodology, marketing and branding strategies, electronic commerce, approaches for one-to-one marketing, and managerial decision making.

PUBLICATIONS

Books

Marketing Research (with D. Lehmann and S. Gupta), Boston: Addison-Wesley Longman, 1998.

Analysis for Strategic Marketing (with V. Rao), Boston: Addison-Wesley Longman, 1998.

The New Science of Marketing: State of the Art Tools for Anticipating and Tracking the Market Forces that will Shape Your Company's Future (with V. Rao), Chicago: Irwin Professional Publishers, 1995.

Journal Articles

- "When Do Purchase Intentions Predict Sales?" (with V. Morwitz and A. Gupta), International Journal of Forecasting, Vol. 23, November 2007, 347-64.
- "Dilution through the Looking Glass: A Marketing View of the Trademark Dilution Revision Act of 2005," (with R. Klein and S. Schussheim), The Trademark Reporter, Vol. 96, No. 3, May-June 2006.
- "Choice in Interactive Environments," (with R. Winer, R. Bucklin, B. Dellaert, X. Drèze, G. Häubl, S. Jap, J.D.C. Little, T. Meyvis, A. Montgomery, and A. Rangaswamy), Marketing Letters, Vol. 16, No.3/4, 2005.
- "Using Capital Markets as Market Intelligence: Evidence from the Pharmaceutical Industry," (with D. Markovich and B. Yeung), Management Science, October 2005.
- "Marketing Science – Growth and Evolution," (with J. Hauser, G. Allenby, F.H. Murphy, J.S. Raju, and R. Staelin), Marketing Science, Vol. 24, No. 1, Winter 2005.
- "Supply Chain Decision Making: Do Shorter Cycle Times and Shared Point of Sale Information Always Help?," (with S. Gupta and A. Banerji), Management Science, Vol. 50, No. 4, April 2004.
- "Choice and the Internet: From Clickstream to Research Stream," (with R. Bucklin, J. Lattin, A. Ansari, S. Gupta, D. Bell, E. Coupey, J.D.C. Little, C. Mela, and A. Montgomery), Marketing Letters, Vol. 13, No. 3, Summer 2002.
- "A Multiple Idea Point Model: Capturing Multiple Preference Effects from within an Ideal Point Framework," (with J. Lee and K. Sudhir), Journal of Marketing Research, Vol. 39, No. 1, February 2002.
- "2001: A Marketing Odyssey," (with E. Brody), Vol. 20, No. 4, Marketing Science, Fall 2001.
- "Consumer Strategies for Purchasing Assortments within a Single Product Class," (with Jack K.H. Lee), Journal of Retailing, Vol. 75, No. 3, Fall 1999.
- "The Max-Min-Min Principle of Product Differentiation," (with A. Ansari and N. Economides), Journal of Regional Science, May 1998.
- "Models of Dynamic Consumer Choice," (with R. Meyr, F. Feinberg, I. Gilboa, W. Hutchinson, A. Krishna, C. Mela, A. Pazgal, and D. Prelic), Marketing Letters, Vol. 7, No. 3, July 1997.
- "Addendum to 'Cross Validating Regression Models in Marketing Research'," (with W. Vanhonacker), Marketing Science, Vol. 15, No. 1, 1996.
- "Selecting, Evaluating, and Updating Prospects in Direct Mail Marketing," (with V. Rao), Journal of Direct Marketing, Vol. 9, No. 2, Spring 1995.
- "A Cross-Cultural Analysis of Price Responses to Environmental Changes," (with V. Rao), Marketing Letters, Vol. 6, No. 1, January 1995.
- "Cross Validating Regression Models in Marketing Research," (with W. Vanhonacker), Marketing Science, Vol. 12, No. 4, Fall 1993.

- "Aggregation and Repeat Buying in Households," (with S. Gupta), Marketing Letters, Vol. 4, No. 4, October 1993.
- "Roles in the NBA: There's Still Always Room for a Big Man... But it Has Changed" (with A. Ghosh), Interfaces, Vol. 23, No. 4, July-August 1993.
- "Introduction to 'Contributions of Panel and Point of Sale Data to Retailing Theory and Practice,'" Journal of Retailing, Vol. 68, No.3, Fall 1992.
- "The Relationship Between Operating Performance, Causal Attributions and Strategic Planning Activities" (with M.T. Curren and V.S. Folkcs), Journal of Marketing, Vol. 56, No. 2, April 1992.
- "Locally Rational Decision Making: The Distracting Relationship Between Information and Managerial Performance" (with R. Glazer and R. Winer), Management Science, Vol. 38, No. 2, February 1992.
- "Prospects and Problems in Modelling Group Decisions" (with K.P. Corfman, D.J. Curry, S. Gupta, and J. Shanteau), Marketing Letters, Vol. 2, No. 3, July 1991.
- "Microscale: A Stochastic Multidimensional Scaling Methodology for the Empirical Determination of Convex Indifference Curves in Consumer Preference/Choice Analysis" (with W.S. DeSarbo and K. Jedidi), Psychometrika, Vol. 56, No. 2, June 1991.
- "A Polarization Model for Describing Group Preferences" (with V. Rao), Journal of Consumer Research, Vol. 18, No. 1, June 1991.
- "Creating Conjoint Analysis Experimental Designs with Acceptable Stimuli" (with W.S. DeSarbo and V. Mahajan), Decision Sciences, Vol. 22, No. 2, Spring 1991.
- "Longitudinal Patterns of Group Decisions: An Exploratory Analysis" (with K.P. Corfman and D.R. Lehmann), Multivariate Behavioral Research, Vol. 25, No. 3, July 1990.
- "Investing in the Stock Market: Statistical Aggregation of Individual Judgment" (with N. Capon), Annals of Operations Research, Vol. 23, 1990.
- "Judgmental Forecasts of Key Marketing Variables: Rational vs. Adaptive Expectations" (with R. Glazer and R. Winer), International Journal of Forecasting, Vol. 6, No. 3, July 1990.
- "Committee Decision Making in Organizations: An Experimental Test of the Core," Decision Sciences, Vol. 21, No. 1, Winter 1990.
- "Towards a New Method for Measuring Power: Applying Conjoint Analysis to Group Purchase Decisions" (with J. O'Shaughnessy), Marketing Letters, Vol. 1, No. 1, December 1989.
- "The Formation and Use of Key Marketing Variable Expectations: Some Experimental Evidence" (with R. Glazer and R. Winer), Marketing Science, Vol. 8, No. 1, Winter 1989.
- "A Heterogeneous Conditional Logit Model of Choice" (with W. Vanhonacker), Journal of Business and Economic Statistics, Vol. 6, No. 3, July 1988.

"Estimating Probabilistic Choice Models with Sparse Data: A Method with an Application to Groups" (with D.R. Lehmann and K. Corfinan), Psychological Bulletin, Vol. 95, No. 1, January 1988.

"A Friction Model for Describing and Forecasting Price Movements" (with W.S. DeSarbo, V.R. Rao, Y.J. Wind and R. Colombo), Marketing Science, Vol. 6, No. 4, Fall 1987.

"Group Process and Decision Performance in a Simulated Marketing Environment" (with R. Glazer and R. Winer), Journal of Business Research, Vol. 15, No. 6, December 1987.

"Effective Advertising in Industrial Supplier Directories" (with D.R. Lehmann), Industrial Marketing Management, Vol. 15, No. 2, April 1985.

Book Chapters

"Dynamic Decision Making in Marketing Channels", with S. Gupta, and A. Banerji, in Experimental Business Research, A. Rapoport and R. Zwick (eds.), Boston, MA: Kluwer Academic Publishers, 2002.

Refereed Proceedings

"PIONEER: Decision Support for Industrial Product Planning" in Efficiency and Effectiveness in Marketing, Proceedings of the American Marketing Association Educator's Conference, Vol. 54, 1988, G.L. Frazier and C.A. Ingene, eds., Chicago.

"Mathematical Approaches to the Study of Power: A Critical Review" in Advances in Consumer Research, Vol. XII, 1985, E. Hirschman and M. Holbrook, eds., Provo, UT.

"On Obtaining Measures from Ranks" in An Assessment of Marketing Thought and Practice, Proceedings of the American Marketing Association Educator's Conference, Vol. 48, B.J. Walker, ed., 1982, Chicago.

Other

"Forecasting Online Shopping," Stern Business, Fall/Winter 2000, pp. 22-27.

"Method to Their Madness," The Industry Standard, August 7, 2000.

Book review of The Application of Regression Analysis by D.R. Wittink, Journal of Marketing Research, Vol. 26, No. 4, November 1989.

Co-author (with many others) of The Statistics Problem Solver, Research and Education Association, New York, 1978.

OTHER WORKING PAPERS

"Modeling Credit Card Share of Wallet: Solving the Incomplete Information Problem," (with Y. Chen).

"Assessing New Product Performance: The Stock Market as Crystal Ball," (with D. Markovich)

"Modeling New Product Preannouncements as a Signaling Game," (with H. Jung)

"On-Line Shopping: How Many Will Come and When Will they Get There?"

"Cost Benefit Rules in Consideration Set Formation," (with B. Buchanan and S. Sen).

"Group Decision Models in Marketing: Issues and Outlook."

"Using Attraction Models to Allocate Resources in a Competitive Environment."

"A Stochastic Model For Committee Evaluations of New Product Introductions."

"Consumer Cycle Marketing: A Behavioral Review with Strategic Implications," (with L. W. Norjean).

"On Blocking Coalitions and Models for the Combination of Individual Preference Orders."

CONFERENCE PRESENTATIONS

"New Product Development: The Stock Market as Crystal Ball," (with D. Markovich), INFORMS Marketing Science Conference, Atlanta, GA., June 2005.

"Modeling Credit Card Usage Behavior: Where is my VISA and Should I Use It?," (with Y. Chen), INFORMS Marketing Science Conference, College Park, Md., June 2003.

"Using Capital Markets as Market Intelligence: Evidence from the Pharmaceutical Industry," (with D. Markovich and B. Yeung), INFORMS Marketing Science Conference, College Park, Md., June 2003.

"Using Capital Markets as Market Intelligence: Evidence from the Pharmaceutical Industry," (with D. Markovich and B. Yeung), Share Price Accuracy and Transition Economics Conference, U. of Mich. Law School, Ann Arbor, Mi., May 2003.

"Modeling Internet Site Visit Behavior," (with E. Bradlow and O. Sak), Joint Statistical Meetings, Indianapolis, August 2000.

"Consumer Strategies for Purchasing Assortments within a Single Product Class," (with Jack K.H. Lee), INFORMS Fall Conference, Philadelphia, November 1999.

"When Do Purchase Intentions Predict Sales?" (with V. Morwitz and A. Gupta), AMA Advanced Research Techniques Forum, Santa Fe, NM, June 1999.

"Modeling New Product Preannouncements as a Signaling Game," (with H. Jung), University of Mainz Conference on Competition in Marketing, Germany, June 1999.

"A Multiple Idea Point Model: Capturing Multiple Preference Effects from within an Ideal Point Framework," (with J. Lee), Joint Statistical Meetings, Dallas, TX, Aug. 1998.

"Modeling New Product Preannouncements as a Signaling Game," (with H. Jung), INFORMS Marketing Science Conference, Fontainebleau, France, July 1998.

"Dynamic Decision-Making in Marketing Channels: Traditional Systems, Quick Response, and POS Information," (with S. Gupta and A. Banerji), NYU Conference on Managerial Cognition, May 1998.

"When Do Purchase Intentions Predict Sales?" (with V. Morwitz and A. Gupta), INFORMS International Meetings, Barcelona, July 1997.

"Mental Models in Competitive Decision Making: A Blessing and A Curse," Conference on Competitive Decision Making, Charleston, SC, June 1997.

"When Do Purchase Intentions Predict Sales?" (with V. Morwitz and A. Gupta), INFORMS Marketing Science Conference, Berkeley, March 1997.

"Model Adequacy versus Model Comparison: Is the 'Best' Model Any 'Good'?", (with A. Ansari and P. Manchanda), INFORMS Marketing Science Conference, Berkeley, March 1997.

"Dynamic Decision-Making in Marketing Channels: Traditional Systems, Quick Response, and POS Information," (with S. Gupta and A. Banerji), First Conference in Retailing and Service Sciences, Banff, 1994.

"Dynamic Decision-Making in Marketing Channels: Traditional Systems, Quick Response, and POS Information," (with S. Gupta and A. Banerji), Behavioral Decision Research in Management Conference, Boston, 1994.

"Modeling Consideration Set Formation: The Role of Uncertainty," (with B. Buchanan and S. Sen), TIMS Marketing Science Conference, Tuscon, 1994.

"A Cross-Cultural Analysis of Price Conjectures to Environmental Changes," (with V. Rao), TIMS Marketing Science Conference, St. Louis, 1993.

"Decision-Making in a Dynamic Distribution Channel Environment," (with S. Gupta and A. Banerji), TIMS Marketing Science Conference, St. Louis, 1993.

"Cross Validating Regression Models in Marketing Research," (with W. Vanhonacker), TIMS Marketing Science Conference, London, 1992.

"The Influence of Stock Price on Marketing Strategy," (with D. Gautschi and D. Sabavala), TIMS Marketing Science Conference, Wilmington, DE, 1991.

"A Polarization Model for Describing Group Preferences" (with V. Rao), ORSA/TIMS National Fall Meetings, Philadelphia, 1990.

"A Polarization Model for Describing Group Preference," (with V. Rao), Behavioral Decision Research in Management Conference, Philadelphia, 1990.

- "Conflict Resolution and Repeat Buying" (with S. Gupta), TIMS Marketing Science Conference, Champaign, Ill., 1990.
- "Variety Seeking at the Group Level" (with S. Gupta), Association for Consumer Research Fall Meetings, New Orleans, 1989.
- "On Using Attraction Models to Allocate Resources in a Competitive Environment," TIMS Marketing Science Conference, Durham, NC, 1989.
- "Multidimensional Scaling with Convex Preferences" (with W.S. DeSarbo), ORSA/TIMS National Fall Meetings, St. Louis, 1987.
- "A Social Comparison Model for Describing Group Preference Evaluations" (with V. Rao), TIMS Marketing Science Conference, Jouy-en-Josas, France, 1987.
- "The Day the Earth Stood Still," Association for Consumer Research Fall Meetings, Toronto, 1986.
- "A Friction Model For Describing and Forecasting Price Movements" (with W. DeSarbo, V. Rao, Y. Wind, and R. Colombo), ORSA/TIMS National Fall Meetings, Miami Beach, 1986.
- "An Eigenvalue Method for Measuring Consumer Preferences" (with E. Greenleaf and R. Stinerock), TIMS Marketing Science Conference, Dallas, 1986.
- "Creating Conjoint Analysis Experimental Designs without Infeasible Stimuli" (with W. DeSarbo and V. Mahajan), TIMS Marketing Science Conference, Dallas, 1986.
- "The Mediating Role of Information in Marketing Managers' Decisions" (with R. Glazer and R. Winer), TIMS Marketing Science Conference, Dallas, 1986.
- "Incorporating Interdependencies of Utility Functions into Models of Bargaining" (with S. Gupta), ORSA/TIMS National Fall Meetings, Atlanta, 1985.
- "The Formation of Key Marketing Variable Expectations" (with R. Glazer and R. Winer), ORSA/TIMS National Fall Meetings, Atlanta, 1985.
- "Does the Nash Equilibrium Really Describe Competitive Behavior?: The Case of Cigarette Advertising," TIMS Marketing Science Conference, Nashville, 1985.
- "A Heterogeneous Conditional Logit Model of Choice" (with W. Vanhonacker), ORSA/TIMS National Fall Meetings, Dallas, 1984.
- "Using a 'Robust' Response Function to Allocate Resources in a Competitive Environment," TIMS Marketing Science Conference, Chicago, 1984.
- "Longitudinal Models of Group Choice Behavior," (with D. Lehmann and K. Corfman), ORSA/TIMS National Fall Meetings, Orlando, 1983.
- "Considerations of Optimal Design of New Task Industrial Products," ORSA/TIMS National Fall Meetings, San Diego, 1982.

"Game Theoretic Choice Models in Organizational Buying Behavior," TIMS Special Interest Conference in Marketing Measurement and Analysis, Philadelphia, 1982.

OTHER RESEARCH IN PROGRESS

Loss Aversion – Are Professional Tennis Players too Careful with the Second Serve? (with L. Nelson and S. Yang)

Modeling the Impact of Banner Ads (with R. Winer)

Modeling Credit Card Share of Wallet (with Y. Chen)

Modeling the Tradeoffs between Marketing Research and Flexible Manufacturing.

Modeling the Strategic Use of List Rentals (with D. Schmittlein)

INVITED SEMINARS

Columbia University	Spring 1991, Summer 1994
Cornell University	Fall 1983, Spring 1989
Georgetown University	Fall 2006
Pennsylvania State University	Fall 1996, Fall 2006
Rutgers University	Spring 1994
Temple University	Fall 1995
University of California, Berkeley	Spring 1990
University of California, Los Angeles	Spring 1985, Spring 1996
University of California, San Diego	Fall 2003
University of Florida	Spring 1992
University of Mainz, Germany	Summer 1998
University of Michigan	Spring 1993
University of Pennsylvania	Spring 1992, Spring 1995, Spring 1998
University of Southern California	Spring 1987
Washington University, St. Louis	Spring 2003

EDITORIAL SERVICE

Editorships

Guest editor, special section of Marketing Science on the history of marketing science theory and practice, 2001.

Consulting editor in marketing, Addison-Wesley Longman Academic Publishers, Boston, MA, 1993-1999.

Guest editor, special issue of Journal of Retailing on the use of panel and point of sale data, 1992.

Other

Member of Editorial Boards, Marketing Science, Marketing Letters, Review of Marketing Science, Journal of Retailing.

Have served as ad-hoc referee for Journal of Marketing, Journal of Marketing Research, Management Science, Journal of Consumer Research, Journal of Retailing and Consumer Services, Manufacturing and Service Operations Management, Decision Sciences, Journal of Business and Economic Statistics, Journal of Econometrics, Strategic Information Systems, Corporate Reputation Review, and Journal of Business Research.

SERVICE

Dissertation Committees Chaired

Joseph Pancras (co-chair)	(Marketing - New York University)
Sergio Meza (co-chair)	(Marketing - New York University)
Dmitri Markovich	(Marketing - New York University)
Heonsoo Jung	(Marketing - New York University)
Jack Lee	(Marketing - New York University)
Asim Ansari (co-chair)	(Marketing - New York University)
Shahana Sen (co-chair)	(Marketing - New York University)

Dissertation Committees Served on

Kei-Wei Huang (Information Systems - New York University)
Sherrif Nassir (Marketing - New York University)
Jane Gu (Marketing - New York University)
Orkun Sak (Marketing - University of Pennsylvania)
Atanu Sinha (Marketing - New York University)
Louis Choi (Marketing - Columbia University)
Sunder Narayanan (Marketing - Columbia University)
Carol Rhodes (Ed. Psych. - Columbia University)
Rita Wheat (Marketing - Columbia University)
Robert Stinerock (Marketing - Columbia University)
Bruce Buchanan (Business Economics - Columbia University)
Chen Young Chang (Marketing - University of Pennsylvania)

Other Discipline Related Service

Chairperson, Marketing Committee, INFORMS, January 2006 – Present.

Past President, INFORMS Society on Marketing Science, January 2004 – December 2005.

Founding President, INFORMS Society on Marketing Science, January 2003 – December 2003.

President, INFORMS College on Marketing, January 2002 – December 2002.

President Elect, INFORMS College on Marketing, January 2000- December 2001.

Secretary-Treasurer, INFORMS College on Marketing, January 1998-December 1999.

Association of Consumer Research, Annual Program Committee, 1999.

Co-Organizer of 1996 Conference on Consumer Choice and Decision Making, Arden House, Harriman, New York, June 1996.

Organized Marketing Sessions at Fall 1989 TIMS/ORSA Joint National Meetings, New York, October 1989.

Other University Related Service

Chair, Statistical and Quantitative Reasoning Task Force, Stern School of Business, September 2005 - Present.

Member, Specialization Committee, Stern School of Business, September 2004 - Present.

Member, PhD Oversight Committee, Stern School of Business, January 2006 – Present.

Member, Executive Committee, Digital Economy Initiative, Stern School of Business, January 2000 - Present.

Member, Board of Directors, Center for Information Intensive Organizations, Stern School of Business, September 1998 - Present.

Member of MBA Committee, Stern School of Business, New York University, 1989-December 1998. Committee was responsible for supervising redesign of MBA programs in 1991 and 1995, Chairman September 1997-August 1998.

Member of Stern MBA Curriculum Review Committee, September 1997-December 1998. Committee redesigned MBA Core.

Member of Stern School Committee on Improving Consulting Activities, July 1998-December, 1998.

Member of Building Committee, Stern School of Business, New York University, 1990-1992.

Member of Research Committee, Stern School of Business, New York University, 1990-91.

Elected member of Columbia University Senate. Served on Budget Review and Alumni Relations Committees; 1986-1988.

AWARDS

Awarded the J. Parker Bursk Memorial Prize as the outstanding student participating in the Department of Statistics, University of Pennsylvania, 1979.

Dissertation was awarded Honorable Mention in the 1982 American Marketing Association Dissertation Competition.

Dissertation was named Winner of the 1983 Academy of Marketing Science Dissertation Competition.

Invited speaker at the J. Parker Bursk Memorial Prize Luncheon, Department of Statistics, University of Pennsylvania, 1992.

Invited speaker at American Marketing Association Doctoral Consortium, University of Southern California, 1999.

Cited for outstanding editorial support, Fordham University Pricing Center, September 2002.

Named one of the inaugural winners of the Best Reviewer Award for the *Journal of Retailing*, 2003.

SELECTED CONSULTING AND OTHER PROFESSIONAL ACTIVITIES

Albert Elovitz, Inc., New York, NY. Served as litigation expert witness on survey research in *The City of New York v. Albert Elovitz, Inc.* (Deposed June 2005; United States District Court, Case No. 04 CV 02787 (DC) Southern District of New York).

AOL MovieFone, Inc., New York, NY. Performed general consulting on analyzing caller data for telephone movie information service; Consulted as expert in conjunction with damage assessment in legal proceedings.

AT&T. Expert services in legal matter involving customer communication and survey methodology (Testified at trial, November 2001 – United States District Court – Northern District of California, *Ting vs. ATT*, Case No. C-01-2969-BZ).

Avon Products Foundation, New York, NY. Served as expert witness on marketing strategy, research, and branding issues (Testified in Arbitration November, December 2003, *Palotta Teamworks v. Avon Products Foundation, Inc.* Case No. 1420011424 (JAMS New York).

Citicorp, New York, NY. Built choice model for bank services. Gave lectures on Marketing Strategy to CitiCards executives.

Constantine & Partners, New York, NY. Served as expert witness on branding issues in antitrust matter *Wal Mart et al v. Visa and Mastercard*. (Deposed May 2000; United States District Court, Case No. CV-96-5238, Eastern District of New York).

CooperVision, Rochester, NY. Served as expert witness on branding issues in *Dioptics Medical Products, Inc. vs. The Cooper Companies, Inc., Coopervision, Inc., A. Thomas Bender*, (Deposed September 2002, United States District Court, Northern District of California, San Jose Division, No. C01-20356 JW).

Directions for Decisions, Inc., New York, NY and Jersey City, NJ. Consulted on segmentation study of sports apparel market, designed and implemented "Construction Test", a concept design decision tool. Performed general consulting on marketing research practice on an ongoing basis.

Dyson Technology Limited and Dyson Inc., Chicago, ILL. Served as expert witness on forecasting and general marketing issues in false advertising in *Dyson Technology Limited and Dyson Inc. vs. Maytag Corporation*, (Deposed February 2007, United States District Court, Delaware, Civil Action No. 05-434-GMS).

eComplaints.com, New York, NY. Member board of advisors.

Federal Trade Commission, Washington, D.C. Served as consultant on branding strategies in antitrust investigation.

Gerber Products, Inc., Fremont, MI. Served as expert witness on statistical analyses of market response. Reviewed damages analysis. Testified.

Gibson Piano Ventures, Inc., Nashville, TN. Served as expert witness on survey research in *The Estate of Mercer K. Ellington v. Gibson Piano Ventures, Inc., Baldwin Piano, Inc., Ellington Pianos, et. al.*, (Deposed June 2005; United States District Court, Case No. 1:03-CV-0804DFH-WTL, Southern District of Indiana).

GMT Corporation, Tenaflly, NJ, Served as expert witness on forecasting and branding issues in *Quiksilver, Inc. v. GMT Corporation*, (Deposed, March 2003, United States District Court, Case No. SACV 02-148 DOC, Central District of California).

J.C. Penney Co., New York, NY. Performed sales-advertising response analysis. Work was done on request for Management Decision Systems, Inc., Weston, MA.

Jafora-Tabori, Israel. Served as expert witness on damages in contract dispute, *Laish, Ltd. v. Jafora-Tabori, Ltd.*, (Deposed, February 2004, United States District Court, Case No. CV 02322, Eastern District of New York).

K-Swiss, Westlake Village, CA. Served as survey expert in trademark Act matter, *K-Swiss v. Payless Shoesource, Inc.*, (Deposed May 2006, United States District Court, Case No. CV04-0779 RJK (RCx), Central District of California, Western Division).

Lincolnshire Management, Inc., New York, NY. Served as expert witness on direct marketing in litigation, *CSI Investment Partners, L.P. et. al. v. Cendant Corporation, et al.* (Deposed July 2006, United States District Court, Case No. 00 Civ. 1422 (DAB), Southern District of New York).

Microsoft, Inc., Redmond, Washington. Served as expert witness on survey research in Patent matter.

Monster Cable Products, Brisbane, CA. Served as expert witness in trademark dispute *Monster Cable Products, Inc. v. Discovery Communications, Inc.*, (Deposed August 2004, Testified at trial December 2003, United States District Court, Case No. 03-CV-3250 (WHA), Northern District of California)

The Open Center, New York, NY. Consulted on marketing strategy and direct marketing practices.

Pfizer Pharmaceuticals, New York, NY. Conducted seminar on conjoint analysis.

Playtex Products, Inc., Delaware. Served as expert witness in Lanham Act matter, *Playtex Products, Inc. v. Procter & Gamble Company*, (Deposed April 2003, Testified at trial May 2003, United States District Court, Case No. 02 Civ. 8046 (WHP) Southern District of New York).

Playtex Products, Inc., Delaware. Served as expert witness in trademark matter, *Playtex Products, Inc. v. Georgia Pacific Company and Ft. James Holding Co.*, (Deposed June 2003, United States District Court, Case No. 02 Civ. 7848 (HB) Southern District of New York).

Union Carbide Corp., Danbury, CT. Built econometric system for price forecasting.

Warnaco, Inc., New York, NY. Served as expert witness on apparel branding and retail placement. (Deposed, December 2000, *Calvin Klein Trademark Trust and Calvin Klein, Inc. v. Linda Wachner, et. al.*, United States District Court, Case No. CV-00-4052, Southern District of New York).

Wyoming West Designs, LLC, Jackson, Wyoming. Served as survey expert in Lanham Act matter. (Deposed November 2004, United States District Court, Case No. Civ.-F03-5280 AWIDLB, Eastern District of California).

MEMBERSHIPS

American Marketing Association

American Statistical Association

Association for Consumer Research

The Institute for Operations Research and Management Science (INFORMS)

International Trademark Association

Society for Consumer Psychology

American Association for Public Opinion Research

EXHIBIT B

Testimony from the prior four years

Depositions

Monster Cable Products v. Discovery Communications, Inc., Case No. 03-3250 (WHA), (N.D. of California);

Rodeo Cold Marketing Company and Wyoming West Designs LLC v. Coors Brewing Company, Case No. Civ-F-03-5280 AWIDLB (E.D. of California);

The Estate of Mercer K. Ellington v. Gibson Piano Ventures, Inc., Baldwin Piano, Inc., Ellington Pianos, *et. al.*, Case No. 1:03-CV-0804DFH-WTL (S.D. of Indiana);

The City of New York v. Albert Elovitz, Inc. Case No. 04 CV 02787 (DC) (S.D.N.Y.);

K-Swiss v. Payless Shoesource, Inc., Case No. CV04-0779 RJK (RCx), (Central District of California, Western Division);

CSI Investment Partners, L.P., *et al.* v Cendant Corporation, *et al.* Case No. 00 Civ. 1422 (DAB), (S.D.N.Y);

Dyson Technology Limited and Dyson, Inc. v. Maytag Corporation, Civil Action No.: 05-434-GMS, United States District Court (Delaware);

Monster Daddy, LLC. v. Monster Cable Products, Inc., Civil Action No. 6:06-CV-000293, United States District Court (South Carolina, Greenville Division);

Funeral Consumers Alliance, Inc., *et. al.* v. Service Corporation International, *et. al.*, Civil Action No. 4:05-CV-03394, United States District Court (Southern District of Texas, Houston Division).

Citizens Banking Corporation v. Citizens Financial Group, Inc., *et. al.*, Case No. 2-07-cv-11514, United States District Court (Eastern District of Michigan, Southern Division).

Doctor's Associates, Inc. v. QIP Holder, LLC, and IFilm Corp., Civil Action No. 3:06-cv-01710(VLB), United States District Court, District of Connecticut.

Convolve, Inc. and Massachusetts Institute of Technology v. Compaq Computer Corp. and Seagate Technology LLC, Case No. 00 Civ. 5141 (GBD) (JCF), United States District Court (Southern District of New York)

Trial

Monster Cable Products v. Discovery Communications, Inc., Case No. 03-3250 (WHA), (N.D. of California);

Arbitration

Palotta Teamworks v. Avon Products Foundation, Inc. Case No. 1420011424 (JAMS New York).

EXHIBIT C

Enviga 3 Can

Beverage Partners

Stimuli Presented

Enviga 1



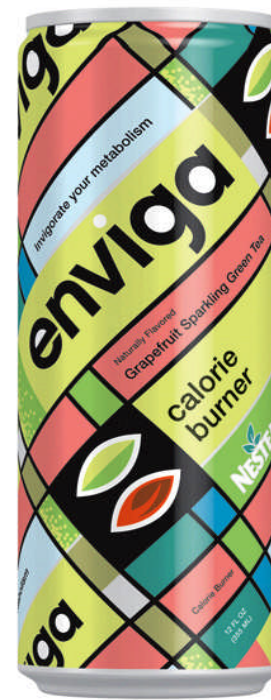
Enviga 2



Enviga 3



Enviga 4



Route 2

