

## **Pavithra Kumar, Ph.D., CFA**

Principal

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### **Professional Summary**

Dr. Kumar has 15 years of experience in economic consulting and specializes in the application of economic and financial theory to questions arising in complex securities and finance litigation. She has expertise in damages quantification, valuation models, securities, and structured finance litigation, and is proficient in the use of sophisticated statistical modeling and econometric techniques. She has been engaged several times as an expert. Dr. Kumar's work has contributed to several high-profile wins, including a multibillion-dollar hotel acquisition dispute in which she led teams supporting academic experts in their assessments of the post-transaction performance of the acquired hotels and the resultant decline in value. In other matters, she has led teams in the preparation of economic, financial, and statistical analyses through all stages of the litigation process – including deposition and trial testimony.

In previous consulting roles, Dr. Kumar led cross-office teams in cases spanning securities class action, M&A and valuation-related matters, damages estimation in a variety of contexts, including trademark infringement, securities class actions, private equity valuation, and ERISA suits. She has supported industry experts in fields including sports and entertainment and fiduciary process, and academic experts in areas including corporate governance, class certification and market efficiency, securities lending, banking and solvency. Earlier in her career, in a U.S. government fraud investigation into a major credit rating agency after the 2008 financial crisis, she led a team that provided evidence that key inputs in the agency's risk models inflated ratings of collateralized debt obligation (CDO) tranches, culminating in a multibillion-dollar settlement.

Dr. Kumar has published articles on hedge fund performance persistence and the nature and impacts of high-frequency trading in multiple academic journals. She previously worked in the global technical strategy group of a major securities brokerage and financial advisory services firm, where she built an online tool to back-test complex trading strategies based on a selection of technical signals.

## Education

- Ph.D., finance, MIT Sloan School of Management
- B.Sc., mathematics and economics, London School of Economics and Political Science, United Kingdom

## Testifying Expert Engagements

- ***Nancy Taylor vs. Service Corporation International (SCI) Direct Inc. (formerly Neptune Society)*** Engaged as plaintiffs' damages expert in suit alleging that Neptune cremation services misled plaintiffs by not placing the required percentage of their prepaid funds into trust and refusing to provide 100 percent refunds upon request (as required by Florida law). Case settled shortly after expert engagement.
- **Securities class action matter (settled shortly after expert engagement)** Assisted counsel in performing event studies and quantifying damages.
- **Probate litigation matter (settled shortly after expert engagement)** Evaluated the reasonableness of investments made by a family trust and calculated damages to the trust beneficiaries due to lack of diversification by the trustees.

## Selected Consulting Engagements

### ***Structured Finance and Securities***

- **Securities class action (10b-5) suit vs. COVID vaccine manufacturer:** Assisted counsel in quantifying damages and estimating potential settlement payments. Supported external expert in rebutting plaintiffs' class certification report and through to deposition. Case settled successfully for our client.
- **Breach of contract suit based on complex structured finance transactions:** Drove eventual victory (in Feb. 2023) of client Cerberus in ~ \$1 billion breach of contract suit against the Canadian Imperial Bank of Commerce, based on two complex structured finance transactions. Managed NY-based team of 6 people supporting Professor Allen Ferrell in estimating damages resulting from the breach of contract. Professor Ferrell testified in 2022 that damages owed to Cerberus ranged from ~ \$800 mm - \$1 billion.
- **Government investigation into rating agency fraud:** Following the 2008 economic collapse, successfully pitched for and assisted the US government in major fraud investigation supporting two external academic experts, demonstrating that key modeling inputs used by the credit rating agency S&P deliberately inflated CDO ratings. Culminated in a multibillion-dollar, headline-generating settlement.
- **Class action suit involving claims of misrepresentations:** Led a team representing a Silicon Valley startup in a shareholder class action suit to successfully deny plaintiffs' class

certification. Retained on behalf of a Silicon Valley startup that was alleged to have made misrepresentations about its business prospects to shareholders. Supported an in-house expert to assess whether the alleged misrepresentations impacted the prices of the company's privately sold securities on a class-wide basis, and if the claimants would thus be entitled to damages as a class.

- **Alleged insider trading matter involving consumer credit card transactions:** Led a team supporting an in-house expert before a Pennsylvania federal jury on behalf of a former Capital One analyst accused by the Securities and Exchange Commission (SEC) of insider trading. The analyst allegedly used proprietary data about consumer credit card transactions to trade ahead of revenue releases from major retail companies. Led a statistical analysis demonstrating that this credit card purchase data could not have been used to accurately predict stock performance.
- **Probate litigation matter:** Led a team that supported an external expert, evaluating the reasonableness of investments made by a family trust and calculating damages to the trust beneficiaries due to lack of diversification by the trustees. The matter was settled privately.

#### ***Business Valuation, Corporate Governance and M&A***

- **Assessment of fairness of exchange ratio in various stock transactions:** Supported valuation/damages and industry experts in parallel shareholder litigations involving the merger of two media companies with a controlling shareholder.
- **Confidential litigation regarding corporate governance in a limited partnership:** Supported corporate governance expert in preparing expert rebuttal report regarding limited partnership agreements in the context of a complex organizational structure.
- **Hotel acquisition dispute involving analysis of MAE:** Led a team that supported Professor Daniel Fischel's expert testimony, assessing the occurrence of a Material Adverse Event (MAE) on behalf of MAPS Hotels and Resorts (the buyer and defendant), and prevailing in a \$5.8 billion hotel acquisition dispute with the seller, AB Stable. This was the first post-COVID-19 judicial ruling allowing a buyer to avoid closing a previously agreed transaction.
- **Quantified damages stemming from insurance company bankruptcy:** Led a team supporting an in-house testifying expert on behalf of the liquidation trustee for a leading title insurance company. Calculated losses due to alleged failures of the company's auditors relating to the financial implications of certain risky investments. Led a team that computed damages from a fire sale of the company's two major subsidiaries, including calculating a "but-for" value for the sold units based on comps and detailed discounted cash flow (DCF) modeling, and comparing this counterfactual value against the actual, heavily discounted sale price. The matter was settled privately.
- **Hotel transaction dispute involving valuation analysis:** Led a team supporting an in-house valuation expert in a litigation matter regarding the related-party sale of a hotel portfolio. In addition to valuation, the analysis addressed related claims regarding the efficacy of the M&A sales process and impact on valuation of a right of first refusal on real estate assets.

- **Arbitration matter relating to Puerto Rican investments:** Led a team supporting an in-house testifying expert in arbitration hearings relating to the reasonableness of Puerto Rican claimants' investments in closed-end municipal bond funds offered by a major broker-dealer in Puerto Rico.

### ***General Commercial Disputes***

- **Contractual payment dispute:** Led a team supporting Rajiv Gokhale in the preparation of expert reports and deposition testimony. Mr. Gokhale's damages estimate was relied upon in the successful summary judgment ruling on behalf of clients D.E. Shaw Composite Holdings and Madison Dearborn Capital Partners IV.

### ***Tax and Transfer Pricing***

- **Internal Revenue Service (IRS) tax dispute:** Led a team that assisted a US manufacturer in an IRS tax dispute – and supported a prominent finance academic in developing an expert opinion – in a dispute involving claims that the manufacturer improperly classified its intercompany loans as debt to take interest deductions. The manufacturer reached a favorable settlement with the IRS.
- **Nortel Network allocation and claims proceeding:** Led a team supporting a transfer pricing and allocation expert on behalf of the pension claimants of Nortel's UK subsidiary. In May 2015, two judges simultaneously, but independently called for an allocation of Nortel's liquidation proceeds largely proportional to its global creditor claims. This pro rata allocation was proposed by Dr. Coleman Bazelon, whom Dr. Kumar supported.

### ***Selected Publications and Articles***

- "Latest SEC Report on Rating Agencies Resurrects Questions Concerning Conflicts of Interest," Pavitra Kumar, *ABA's Practice Points* (February 2016)
- "Correct Application of Event Studies in Securities Litigation," Pavitra Kumar and Torben Voetmann, *Event Study Tools* (November 2015)
- "Hedge Fund Characteristics and Performance Persistence: Evidence from 1996-2006," Pavitra Kumar, *Quarterly Journal of Finance*, Vol. 5, No. 2 (June 2015)
- "High-Frequency Trading Litigation Presents Complex Issues for Experts," Zachary Ziliak, Pavitra Kumar, and Torben Voetmann, *Law360* (June 2014)
- "Computerized and High-Frequency Trading," Michael A. Goldstein, Pavitra Kumar, and Frank C. Graves, *The Financial Review*, Vol. 49, No. 2 (May 2014)
- "Estimating the Cost of Equity for Regulated Companies," by Bente Villadsen, Paul R. Carpenter, Michael J. Vilbert, Toby Brown and Pavitra Kumar, prepared for the Australian Pipeline Industry Association, *The Brattle Group, Inc.* (17 February 2013)

- “Economic Considerations in Litigation Against the Credit Rating Agencies,” Bin Zhou and Pavitra Kumar, *The Brattle Group, Inc.* (April 2012)

### **Presentations and Speaking Engagements**

- “This Talk Isn’t Cheap,” ABA Women.Connected and Diversity.Advanced (June 27, 2023)
- “High-Frequency Trading in Litigation,” The Knowledge Group (March 26, 2015)

### **Certifications/Accreditations**

- Chartered Financial Analyst (CFA) charterholder
- Securities Training Corporation (STC): Series 7 (90%) and Series 63 (86%)

### **Selected Honors and Awards**

- MIT Sloan School of Management Graduate Fellowship, 2005–2008
- Advanced Music Scholar (piano) in the ‘Emerson Music Fellowship Program’ at the MIT Sloan School of Management, 2004–2007
- Fellow of the UK Royal Schools of Music, 2005
- MIT Sloan School of Management Presidential ‘Provost’ Fellowship, 2004
- Joint Winner of Cyril Offord Prize, awarded at the London School of Economics and Political Science (LSE) for the most outstanding overall undergraduate performance in mathematics, 2004
- UK Regional Keyboard Finalist in the National BBC Young Musician of the Year competition, 2004
- Winner of CS Mactaggart Scholarship Prize, awarded at the LSE for best undergraduate performance in first- and second-year examinations, 2003

### **Professional Associations**

- ABA Diversity Advanced Section
- CFA