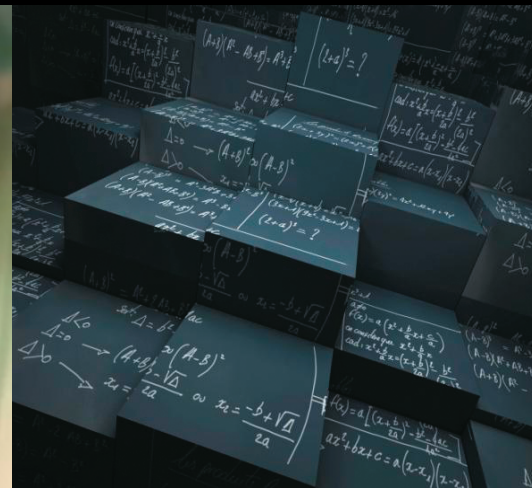
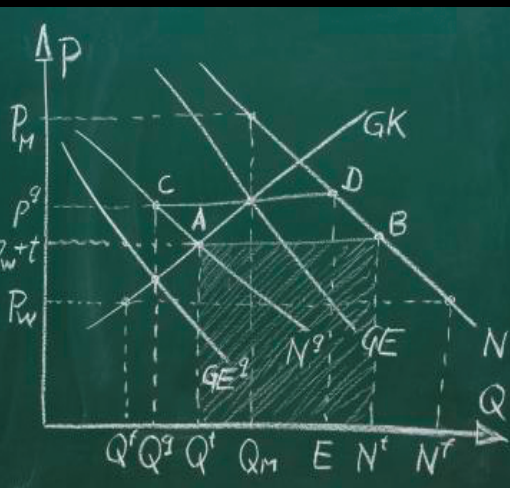


Labor, Employment, Statistics & Sampling



Where Powerful Ideas Work

ADVANCED ANALYTICAL

CONSULTING GROUP

About Advanced Analytical Consulting Group (AACG)

Founded by former Senior Managers and national leadership of the Economics and Statistical Consulting Group of Deloitte's Financial Advisory Services in 2009, AACG provides economic, statistical, and computing consulting for business decisions and litigation. AACG assists business clients with strategic and operational consulting based on in-depth quantitative analysis of corporate data and the client's position in the market. AACG provides expert testimony, support for academic experts, and assistance in identifying the right expert from academic and business settings. AACG has served clients in Afghanistan, Australia, Belgium, Britain, Canada, Cambodia, India, Indonesia, Kazakhstan, South Korea, Malaysia, Mexico, New Zealand, Peru, Qatar, Russia, Singapore, Thailand, Trinidad and Tobago, United Arab Emirates, and the United States.

Labor, Employment, Statistics & Sampling

The Equal Employment Opportunity Commission (EEOC) receives hundreds of complaints daily alleging some form of discrimination. The Department of Labor (DOL) enforces federal laws for issues related to overtime pay and classification of employees as exempt or non-exempt. The Office of Federal Contract Compliance Programs (OFCCP) investigates the employment practices of federal contractors for compliance with the relevant laws and regulations. Employees face many different types of potential employer violations. Employers face a barrage of employment-related class action suits and single-plaintiff litigations. Labor and employment attorneys, human resource executives and employee groups have relied on the experts at Advanced Analytical Consulting Group (AACG) when faced with a variety of challenging circumstances that require incisive analysis.

The nature of labor and employment claims continues to evolve. For example, the functional definition of non-exempt employees continues to be refined, often surprising defendants with class claims that may not have been viable in prior years. This evolution of employment and labor litigation calls for experts who understand the fundamental principals of labor and employment disputes and can apply them in this evolving landscape.

How We Can Help

Economists at AACG have over 30 years of experience performing labor-related research and assisting clients in labor and employment disputes and litigations. Among its experts, AACG has Ph.D. economists with extensive backgrounds in labor and employment matters who have produced objective, scientific estimates of damages and assisted counsel with innovative research and insightful liability arguments in single plaintiff, multi-plaintiff, and class action litigations. We have authored research relied upon by government agencies in setting policies and regulations, expert reports, and provided deposition and expert testimony in labor and employment matters. AACG's unique offering includes careful analysis by experienced Ph.D. economists; deep experience working with voluminous, complex data; and an extensive network of subject-matter experts who provide case-critical, industry-specific knowledge.

Litigation

Discrimination A response to a discrimination claim may require a thoughtful review of a company's employment practices and a precise model of the firm's decision-making process. We work with clients and subject experts to first develop an accurate modeling approach and then apply our extensive knowledge and labor expertise, using rigorous economic analysis and state-of-the-art statistical techniques, to assess the merit of discrimination claims and to quantify any potential monetary damages.

We have experience in a variety of settings, including the following:

- Failure to hire
- Failure to promote
- Equal Pay Act/Title VII violations
- Wrongful termination

In addition to expert testimony, our litigation team has provided economic and statistical advice during the certification, discovery and/or settlement stages of the process, and assisted companies and counsel in responding to OFCCP and EEOC notices and investigations.

Wage & Hour (FLSA) Economists at AACG have assisted companies and counsel to address wage and hour class action suits brought under the Fair Labor Standards Act (FLSA) or the California Labor Code. We provide assistance throughout the litigation process, from discovery and class certification to damage estimation. Our experience in these matters includes:

- Statistical sampling
- Survey design and implementation
- Data coding, processing, and analysis
- Analysis of claims, depositions, and court testimony
- Regression and statistical modeling

In some of our class certification analyses, AACG economists have responded to wage and hour claims by quantifying the variation in worker responsibilities, effectively demonstrating that, at times, workers have discretion in fulfilling job requirements. Our innovative statistical methodologies have shown that individual decisions actually impact performance and outcome. In response to liability issues, we have estimated the percentage of time workers spent performing exempt tasks, utilizing a variety of company data sources. AACG economists' access to a network of industry-specific expertise allows us to identify relevant data sources that otherwise would not have been analyzed. These unexpected data sources are often particularly valuable in understanding employee activity in FLSA claims.

Compliance/Business Advisory

Economists at AACG proactively review clients' employment and pay practices, helping them establish employment procedures and workforce reorganizations that satisfy EEOC and OFCCP criteria. Specifically, we apply statistical techniques to examine salary and promotion plans to identify whether members of a protected class may be adversely impacted. In addition, we monitor hiring practices for compliance with consent decrees and conduct adverse impact studies of planned layoffs and reorganizations for prima facie evidence of protected-group bias.

Our Experience

Research

For the U.S. Department of Labor, economists at AACG have produced research in the areas of pensions, securities, and annuities. We have presented research to the DOL's economists and lawyers about fee sharing arrangements in 401(k) plans, computer models that advise 401(k) participants on asset allocations, metrics to quantify securities risks, target date funds, annuities, health insurance for retired workers, exposure of defined benefit plans to hedge funds, and many other topics. AACG economists have also written reports to the U.S. Congress analyzing why firms choose to self-insure employee health benefits or purchase external insurance. Our reports help improve draft legislation and regulation and assist the DOL with its regulatory impact analyses.

Sample Cases and Analyses

Dissecting Determinants of Pay Economists at AACG were asked by Counsel for a major online university to determine whether enrollment advisors' salary adjustments were driven entirely by the number of students each advisor secured or whether other factors also played a role. We analyzed the allegation that student enrollments were the sole driver of salary adjustments through simple counterexamples. We also used intuitive visualizations and scientific multiple regression analysis to show that factors other than student enrollments independently contributed to salary adjustments. Economists at AACG further presented conclusive evidence to rule out that managers had manipulated the university's compensation plan.

Discrimination Litigation Economists at AACG assisted an expert in writing a report in an age discrimination matter against a major retailer. We identified relevant comparator groups and conducted regression analysis to determine the impact of age on termination likelihood. A unique aspect of the litigation was that the defendant utilized three performance measures in selecting which employees would be targeted, two of which may have been construed as potentially not age neutral while the third was entirely objective. We performed an econometric analysis showing that the presence of the two questionable performance measures did not affect the statistical impact of the objective performance measure.

OFCCP Investigation Economists at AACG assisted a client in the agriculture industry to respond to an OFCCP investigation involving allegations of racial discrimination in hiring. We designed relevant statistical tests using historical data from the client to determine whether the hiring practices appeared to be discriminatory. The nature of the claim, combined with the client's record-keeping methods, required us to perform extensive data collection, data manipulation and data analysis. We helped the client estimate damages based on our calculations. Our analysis and methods were critical in helping the client negotiate outstanding issues with the OFCCP.

Wage and Hour Class Action Economists at AACG assisted a client in the fast food industry to calculate damages related to an FLSA wage and hour matter with regards to missed meal and rest breaks. We worked closely with the client to understand their various time-keeping systems, including some legacy systems, so as to accurately calculate damages owed. Issues such as manual managerial overrides on automated systems, seemingly irregular time-stamp entries, and missing data required creative problem solving. Our calculation of damages helped the client to settle.

Setting Wage Bands Economists at AACG assisted a retailer in setting minimum starting wages to ensure that members of a protected class are not offered lower starting wages. The analysis accounted for various business factors such as geographic differences and store size to determine proper starting salaries and created salary bands (salary floors) for individual stores. Narrowing the salary reduced a manager's discretion but also imposed a higher cost. The analysis provided the client with a quantitative measurement of the tradeoff between the increased labor costs due to the salary floor and the reduction in the likelihood of an adverse impact on protected class members.

Statistical Sampling AACG has served as the statistical and sampling expert on some of the largest litigation matters in U.S. courts. This experience spans many different areas of litigation. AACG experts understand that while there are a core set of underlying principles driving scientific sampling and related statistics, the requirements for an individual statistical sample and analysis will depend on the questions and level of precision needed to answer the issues in each individual case. Our deep understanding of these statistical sampling principles allows us to develop innovative sampling approaches that fit the nature and magnitude of the disputed issues, while maintaining the scientific properties of statistical sampling.

Statistical Modeling and Analysis At the center of many labor related litigations is the statistical analysis used in determining both liability and damages. AACG experts have extensive experience designing, performing and delivering powerful statistical analyses to courts and businesses. Statistical models by AACG have been used in state and federal courts and are relied upon by the U.S. Department of Labor. Statistical work by AACG helped the Court in the Graniterock wage and hour matter to determine that work by the opposing expert was not reliable. In other matters, AACG experts have been able to assist the triers of fact to determine the limits to which other experts' testimony could be relied upon based on analyses of where those studies departed from statistical science or were not grounded in the evidence or facts in the particular case. AACG experts are also experienced in presenting often complicated statistical models clearly and concisely so that the critical fundamentals of those techniques can be understood by juries and judges.

Selected Expert

Dr. Daniel S. Levy specializes in applications of economics and statistics in the study of corporate structures related to industrial organization/antitrust, damages issues, and corporate performance. He has studied economic, statistical, and computing issues in a number of industries, including airlines, environment, oil and gasoline, healthcare, labor markets, pharmaceuticals, telecommunications, and high technology markets, among others. Dr. Levy's work includes detailed analyses and valuations of corporate functions, risks, and assets for international corporations for use in business decision and litigation. He has testified in state and federal court and before government agencies. He was the economic and statistical expert for Defendants in the Graniterock wage and hour litigation. He has a Ph.D. in Economics from The University of Chicago.

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