

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Case No. 2014ALJ170285CC
Appellate Case No. 2016-001642

Dish DBS Corporation, f/k/a EchoStar DBS Corp., and Affiliates,.....Appellant,

v.

South Carolina Department of Revenue,Respondent.

AMICUS CURIAE BRIEF
ON BEHALF OF THE SOUTH CAROLINA
CHAMBER OF COMMERCE

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INTEREST OF THE AMICUS

The South Carolina Chamber of Commerce (the “Chamber”) is a tax-exempt organization under Section 501(c)(6) of the Internal Revenue Code organized to further the common interests of South Carolina business. The Chamber is a leading advocacy organization for business in the state, including the advocacy of a balanced and predictable tax and spending system. The Chamber strives to create prosperity for the state’s citizens through increased economic productivity and competition and to promote the positive impact of a successful business community, in both the private and public sectors, on citizens of this state.

The Chamber is a non-profit, non-partisan organization which represents businesses, industries, professions, and associations throughout the State. The Chamber aims to serve South Carolina’s broad based business interests using a unified voice. Specifically, the Chamber protects South Carolina’s business by identifying and addressing issues facing businesses, lobbying at both the state and federal level, providing management training and program development, offering employer benefits programs, seeking a balance between environmental responsibility and economic success, addressing educational policy to ensure a work force for the future, and providing meaningful business communications.

The Chamber often files amicus briefs in appellate cases that address important issues that relate to the common interests of South Carolina businesses. The Chamber submits this amicus curiae brief to stress the overall importance of this case and to aid the court in understanding how the decision of the ALC – denying the Appellant’s motion in limine and numerous objections and allowing the South Carolina Department of Revenue to introduce the testimony of Dr. Glen Harrison – undermines the fairness of the courts by failing to apply an appropriate standard for the admission of expert testimony. Dr. Harrison has testified for the South Carolina Department of Revenue in six other cases (outlined below). It is the court’s responsibility to act as a gatekeeper

over the reliability of expert testimony by carefully evaluating whether the testimony is based on sound scientific or legal principles. The Chamber has an interest in preventing testimony from unqualified experts from being entered into evidence to uphold the Department's assessment of taxation over companies doing business in South Carolina. The Chamber therefore respectfully submits this amicus curiae brief in support of the Appellant to provide the Court with further guidance regarding the ALC's improper exercise of its gatekeeping responsibility to exclude unreliable expert testimony, and its opinion on the proper standard for introducing experts in ALC cases.

STATEMENT OF ISSUES UNDER APPEAL

A. Did the ALC err in denying Appellant's motion in limine and numerous objections and allow the testimony of Dr. Glen Harrison?

ARGUMENT

I. General.

This matter was before the South Carolina Administrative Law Court ("the ALC") pursuant to a Request for a Contested Case Hearing filed by Dish DBS Corporation, f/k/a Echostar DBS Corp., and Affiliates ("Petitioner") challenging the South Carolina Department of Revenue's ("Respondent's," "the Department's" or "the DOR's") final determination, in which the Department assessed Petitioner taxes, interest, and understatement penalties following an audit for tax years 2004-2010. In its determination, the Department assessed Petitioner a total of \$1,364,682.00 in taxes, interest, and related penalties. Appellant filed a Motion in Limine prior to trial to exclude the testimony of Dr. Glen Harrison, which the ALC denied. Subsequently, a hearing was held on the merits of the case on September 23-25, 2015. On May 20, 2016, the ALC issued its Order, and Appellant filed a Motion for Reconsideration on May 31, 2016. On July 11, 2016, the ALC issued its Amended Final Order after consideration of the Appellant's Motion for

Reconsideration, upholding the Department's entire assessment of taxes, penalties, and interest. Appellant timely appealed.

Review of the ALC's decision by this Court is warranted in this case because of the potentially widespread impact the decision could have on the consistency and reliability of South Carolina's corporate income tax laws. The importance of this case goes far beyond the application to a single taxpayer. The Chamber requests that, given Dr. Harrison's extensive testimony in state tax cases, this Court choose this case to provide guidelines regarding expert witness testimony.

The latitude that the ALC granted the Department in introducing an expert who was unqualified on state tax matters will have a significant impact on taxpayers across South Carolina.

The Chamber takes no position on the substance of the tax dispute. It submits this Brief to express that the Administrative Law Court, in this case and in others like it, has misinterpreted South Carolina law and rules of evidence in holding that Dr. Glen Harrison's training, experience, and methodology qualify him as an expert witness on the issues of the sort presented in this case. That error of law by the Administrative Law Court to properly understand its gatekeeper function with respect to expert opinion testimony has at least probably affected the outcome of the case.

II. Income-Producing Activities and Their Role in This Case.

The applicable apportionment statute in South Carolina provides:

If the principle profits or income of a taxpayer are derived from sources other than those described in Section 12-6-2252 or Section 12-6-2310, the taxpayer shall apportion its remaining net income using a fraction in which the numerator is gross receipts from this state during the taxable year and the denominator is total gross receipts from everywhere during the taxable year. For purposes of this section, items included in gross receipts are provided in Section 12-6-2295.

S.C. Code Ann. § 12-6-2260 (2017). "Gross receipts" are defined depending on the type of business in which the corporation is engaged. S.C. Code Ann. § 12-6-2295. For corporations that

provide services, gross receipts include, among others, receipts from services if the entire income-producing activity is within South Carolina. § 12-6-2295(A)(5). It also provides that “[i]f the income-producing activity is performed partly within and partly without this State, sales are attributable to this State to the extent the income-producing activity is performed within this state.” *Id.* In addition, South Carolina courts have held that “receipts” are sourced to the place where the services are performed, or the “place of activity” method. *Lockwood Greene Eng’rs, Inc. v. S.C. Tax Comm’n*, 293 S.C. 447, 449, 361 S.E.2d 346, 347 (Ct. App. 1987).

Although “income producing activity” is not defined in the S.C. Code, the “cost of performance” test inherently looks at income producing activity as it attempts to identify the costs incurred while performing the activities. Relying primarily on the testimony of Dr. Glen Harrison, the ALC found that “[p]etitioner’s [sole] income-producing activity is [1] the delivery of its signal into subscriber’s homes and [2] onto their television screens.” Dish’s numerous other income producing activities were disregarded by the ALC pursuant to Dr. Harrison's testimony.

This case is factually and legally very similar to *DIRECTV, Inc. & Subsidiaries v. S.C. Dep’t of Rev.*, Docket No. 14-ALJ-17-0158-CC (Appellate Case No. 2015-001509) affirmed, 421 S.C. 59, 804 S.E.2d 633 (Ct. App. 2017), in which Dr. Harrison provided very similar expert testimony. The Chamber has an interest in only qualified experts testifying on what “income producing” activities are because it has a great effect on the taxation of a taxpayer’s business in the state.

The ALC, in both Dish and DIRECTV relied on Dr. Harrison’s testimony to find that (1) subscriber revenue is the simplest way to determine petitioner’s income-producing activity; and (2) it is appropriate to disregard the multiple other income-producing activities of both companies.

This, of course, raises the question of whether Dr. Harrison was qualified to opine on what income producing activities are under South Carolina state tax law.

III. The Department of Revenue's Reliance on the Expert Testimony of Dr. Harrison in Tax Cases has Been Inappropriate.

The Administrative Law Court relied heavily in this case on the testimony of Dr. Glen Harrison in deciding whether the various activities of Dish were "income-producing" under South Carolina law. It also relied on Dr. Harrison's testimony to distinguish between Dish's "intermediate or prior activities and its income-producing activities." In addition, according to the ALC, Dr. Harrison's testimony aided the court "in understanding the economic impact or significance of these necessary, but intermediate activities and how those activities may differ from the 'income-producing activities' referred to in S.C. Code Ann. § 12-6-2295(A)(5) (2014).

Dr. Harrison has testified in virtually every major state tax case for the DOR. In *ESA Services, LLC v. S.C. Dep't of Rev.*, Docket No. 08-ALJ-17-0047-CC (C.J. Kittrell, Feb. 9, 2009), he "was qualified as an expert in economics" and "testified concerning the importance of increasing per capita income as a goal of economic development incentive programs." The ALC ruled against the Department stating the RVA state contract in dispute did not contain any wage contingencies, as argued by the Department.

The next case he testified in was *Carmax Auto Superstores West Coast, Inc. v. S.C. Dep't of Rev.*, Docket No. 09-ALJ-17-0160-CC (J. Matthews, Apr. 22, 2010). The issue in the case was whether Carmax's use of the gross receipts method was fairly representative of the extent of its business dealings in South Carolina. The Department, relying on Dr. Harrison's testimony, held that the standard gross receipts statute, section 12-6-2290, did not fairly reflect CarMax's tax liability and it invoked the alternative apportionment formula under section 12-6-2320(A). In reaching its decision, the ALC heavily relied on Dr. Harrison's testimony regarding the sources of

income, and the fact that Carmax's apportionment ratio yielded a significantly lower tax than another of its subsidiaries. Specifically at issue before the ALC was "whether the Department's alternative formula reasonable," and whether the taxpayer's "financing income [was] appropriately sourced to South Carolina." (ALC Order, pg.1.) In holding that the Department's alternative formula was reasonable, the ALC quoted Dr. Harrison at length:

The Department's expert witness explained the propriety of the Department's application of § 12-6-2320 using a simile:

. . . [T]hink of the taxpayer – and so the activity, business activity in South Carolina as an apple. I mean, you see something going on. By an "apple," I mean a certain type of activity. Then you see it being mixed with a larger business that's got apples and oranges. . . . So simply recognizing that the taxpayer was an apple company and that the other companies that have been in the denominator it was being mixed with was a fruit company, an apples and an oranges company, that's – that leaps out at you . . . [T]he apples here are the franchise payments, the royalties for intellectual property and financing later on, in the last couple years; whereas, the oranges in this case were the retail sales. There were no oranges in South Carolina . . . One's an apple company; the other's a fruit company. They shouldn't be compared. (ALC Order, pg. 9.)

The ALC further quoted his testimony as follows:

The Department's expert stated this principle succinctly at trial. "From an economist's perspective . . . [i]f it weren't for the South Carolinians buying these cars, that [financing] income would not be there, and that's the end of it to an economist" (ALC Order, at pg. 13.)

On appeal, the Court of Appeals, *CarMax Auto Superstores West Coast v. SCDOR*, 397 S.C. 604, 725 S.E.2d 711 (2012) reversed, finding that the ALC erred in finding that the taxpayer had the burden of proving the Department's alternative accounting method was not reasonable.

On appeal, 411 S.C. 79, 767 S.E.2d 195 (2014) (Pleicones, concurring in part and dissenting in part), the Supreme Court rejected Dr. Harrison's testimony as a matter of law. The Supreme Court refuted Dr. Harrison's Apples/Oranges testimony first by stating:

The Department contends that because it has proved that the statutory formula did not fairly represent a taxpayer's business activity within the state, the only issue on appeal is what burden of proof to apply to the question of whether the Department's formula was reasonable. This formulation of the issue assumes that the Department made a sufficient showing regarding the first prong of the analysis. We find that it did not as a matter of law.

767 S.E.2d at 200.

The Supreme Court also explicitly refuted Dr. Harrison's testimony by stating, "the Department failed to prove the threshold issue that the statutory formula does not fairly represent CarMax West's business activity within South Carolina." *Id.* The Court also implicitly minimized Dr. Harrison's testimony by noting, "the Department merely describe[d] what it did rather than cite *any* evidence justifying what it did." *Id.* (Emp. added.) Lastly, the Court held, "Even if these [tax minimization] findings accurately characterize CarMax West's motives, they do not provide a sound evidentiary basis to support the conclusion that the statutory formula did not fairly represent CarMax West's business in South Carolina. . . . Therefore, *we find that the Department failed to satisfy its burden of proof as a matter of law.*" (Emp. added.) *Id.* at 201.

The third case Dr. Harrison testified in was *Rent-A-Center West, Inc. v. S.C. Dep't of Rev.*, 418 S.C. 320, 792 S.E.2d 280 (2017). At issue was also whether the Department was able to use an alternative apportionment formula pursuant to S.C. Code § 12-6-2320 in lieu of the normal statutory formulae contained in Section 12-6-2290. The Department's case relied on the testimony of Dr. Harrison who testified, according to the Court of Appeals, as follows:

According to testimony from Dr. Glen Harrison, the DOR's expert witness on law and economics, the gross receipts ratio did not

provide an accurate reflection of the economic connection of RAC West to South Carolina. Dr. Harrison indicated including royalty receipts in the numerator of the ratio while including both total royalty and total retail receipts in the denominator was like putting apples in the numerator and apples and oranges in the denominator. He further testified the DOR's alternative method was economically reasonable and excluding the retail operations from the calculations was essential in order to 'come up with a tax burden that fairly represented the economic nexus of South Carolina.' Additionally, Dr. Harrison indicated even if RAC West was a unitary business, it should still be able to separate its accounts. *Id.* at 323–24, 792 S.E.2d at 262.

The Court of Appeals completely rejected his testimony as follows:

Substantial evidence does not support finding the statutory apportionment method fairly reflected RAC West's business activities in South Carolina....Additionally, the DOR's expert, Dr. Harrison, indicated excluding the retail operations from the calculations was essential to "come up with a tax burden that fairly represented the economic nexus of the entity with South Carolina." *Dr. Harrison testified that using the standard apportionment method would be like having apples in the numerator, while having apples and oranges in the denominator. However, this is how the apportionment method is intended to work...A very small amount of RAC West's business comes from the royalties; therefore, this should only comprise a small amount of its taxes. (Emp. added.) Id.* at 333, 792 S.E.2d at 267 (internal citations omitted).

His next case was *Rent-A-Center Texas, LP v. S.C. Dep't of Revenue*, Docket No. 09-ALJ-17-0206-CC (filed January 6, 2012). The case involved the proper sourcing of management fees. The ALC decision does not cite Dr. Harrison's testimony, but presumably he supported the DOR's position that management fee income should be sourced to South Carolina. The ALC rejected the DOR's position and ruled in favor of the taxpayer's argument that the income should be sourced to Texas.

The next case was *Duke Energy Corp. v. S.C. Dep't of Revenue*, 415 S.C.415, 764 S.E.2d 712 (2016). The ALC and appellate court decisions do not cite his testimony. The ALC, Court of

Appeals, and Supreme Court all ruled in favor of the Department's argument that Duke was a manufacturer and not a service provider.

The next two cases were *DIRECTV, Inc. v. S. C. Dep't of Revenue*, 421 S.C. 59, 804 S.E.2d 633 (Ct. App. 2017), and the instant case, which are very similar both factually and legally. The Court of Appeals relied heavily on Dr. Harrison's interpretation of section 12-6-2290 in *DIRECTV*.

The court stated:

“Upon our review of the record, substantial evidence supports the ALC's finding that DIRECTV's IPA is the delivery of signal to its customers nationwide, and accordingly, the delivery of signal to South Carolina customers is represented by 100% of its South Carolina subscription receipts. Dr. Glen W. Harrison, the DOR's expert, determined the purchase of DIRECTV's services and the delivery of television services in the customers' homes or businesses was the activity that "actually generate[d] income" for DIRECTV.” *Id.* at 74, 804 S.E.2d at 641.

The Court also stated:

Additionally, we find Dr. Harrison correctly stated that the DOR appropriately sourced DIRECTV's subscription revenue from its South Carolina customers to the numerator of the gross receipts ratio because it directly represented DIRECTV's business activity in South Carolina and calculated DIRECTV's activity in the state. Furthermore, we agree with Dr. Harrison's statement that the proxies or approximations employed by DIRECTV were unnecessary in measuring the value of DIRECTV's services in South Carolina because the subscription fee paid by DIRECTV's subscribers directly placed a value on DIRECTV's services. *Id.* at 76, 804 S.E.2d at 642.

Because Dr. Harrison has been relied upon in numerous ALC cases – and virtually every major appellate court case -- as an expert for the Department in tax cases that have a substantial effect on South Carolina business, it is vital, in the interest of the fair application of law to South Carolina's business community, that the court rule on whether he is a qualified witness in this area under both the South Carolina Rules of Evidence and the *Daubert* standard.

IV. The ALC erred in denying Appellant's Motion in Limine and Objections and Allowing the Testimony of Dr. Glen Harrison.

DISH filed a Pre-Trial Motion in Limine opposing the testimony of the Department's expert witness Dr. Harrison and made numerous objections at trial, all of which were denied. Harrison has a Ph.D. in economics, and was qualified as an "expert in economics." His current responsibilities are "teaching and research in the field of risk management and insurance." However, he has never taken a course, taught, or published in the area of state taxation, apportionment of income for multi-state taxpayers, or the calculation of the numerator or denominator in a state tax apportionment scheme. He has also never taken a course, taught a course, or published an article on the calculation or definition of "income-producing activities" for state tax purposes.¹

Attached is Dr. Harrison's impressive 27 page curriculum vitae. He has a Bachelor's, Master's, and Ph.D. in Economics. According to his vitae, (pgs. 2-3), he has received a number of fellowships, awards, and prizes. None are in the fields of law or state taxation. None of his employment experience, (p. 3), or his miscellaneous professional experience (pgs. 3 - 5) are in the legal or state tax area with the sole exception of "Consultant, South Carolina Department of Revenue (2007 - present)." (P. 5). He has published seven working papers, none of which is in the area of law or state taxation. He has authored numerous publications, including Behavioral and Experimental Economics (104 Publications, pgs. 6 - 14), International Trade Policy (37 publications, p. 14 - 17), Resource and Environmental Economics (28 publications, pgs. 17 - 19), Law and Economics (11 publications, pgs. 19-20), and Miscellaneous (5 publications, p. 20). His law and economics publications principally dealt with several topics, including tobacco litigation, mortgage lending, and salary discrimination. Not a single one of these 185 publications dealt with

¹ See the attached Curriculum Vitae of Dr. Glen Harrison.

taxation, and specifically state taxes. He has testified across the country in some 48 cases (pgs. 21 – 23), a large number of which were tobacco litigation. Of these 48 cases, the only time he has testified in a state tax matter was for the South Carolina Department of Revenue.

It is an impressive resume, but nothing in it indicates any study, training, research, publications, or experience in state taxation. He has not been engaged by any other state's department of revenue or taxation. Yet, he has provided critical testimony in every major appellate state tax case in South Carolina.

Harrison's testimony consisted of his opinion "from an applied economics perspective" to the legal correctness of the Department's sourcing of gross receipts. At his deposition, Harrison cited two treatises on which he based his opinion, but conceded that neither treatise discussed income-producing activities. He further conceded that no economic treatise supports his testimony that Petitioner's only income producing activity was the mailing of the bill. Nonetheless, Dr. Harrison's testimony is heavily relied upon by the ALC in its Order in this case and by the Court of Appeals in DIRECTV.

A. South Carolina Rule of Evidence 702.

South Carolina Rule of Evidence 702 states:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill experience, training, or education, may testify thereto in the form of an opinion or otherwise.

Although South Carolina has declined to explicitly adopt the *Daubert* standard, South Carolina's Rule of Evidence 702 is very similar to the Federal Rule of Evidence 702. *State v. Council*, 355 S.C. 1, 515 S.E.2d 508 (1999). The South Carolina Rules of Evidence provides the proper analysis to determine admissibility of scientific evidence. *Id.* at 20, 515 S.E.2d at 518. A proposed expert witness in South Carolina must have "acquired by study or practical experience

such knowledge of the subject matter of his testimony as would enable him to give guidance and assistance to the jury in resolving a factual issue which is beyond the scope of the jury's good judgment and common knowledge." *State v. White*, 372 S.C. 364, 74, 642 S.E.2d 607, 612 (Ct. App. 2007). Additionally, South Carolina courts also refer to the standard of admissibility of expert testimony under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). See *State v. Council*, No. 24932 (S.C., Apr. 5, 1993) (noting that South Carolina Rule 702 is identical to the Federal Rules of Evidence 702, which was adopted in accordance with the *Daubert* standard). Therefore, the trial court should act as a "gatekeeper" with regard to expert testimony, and may exclude an expert's opinion if the expert is unqualified or because the opinion itself is irrelevant or unreliable. *Daubert*, 509 U.S. at 589; *Watson v. Ford Motor Co.*, 389 S.C. 434, 456, 699 S.E.2d 169, 180 (2010). South Carolina has made clear the "meaningful gatekeeper function of the trial judge" in relation to expert testimony. *Jamison v. Morris*, 385 S.C. 215, 228, 684 S.E.2d 168, 175 (2009).

South Carolina courts make three inquiries when determining the admissibility of expert testimony: (1) The court must determine whether "the subject matter is beyond the ordinary knowledge of the jury, thus requiring an expert to explain the matter to the jury." *Graves v. CAS Medical Systems, Inc.*, 401 S.C. 63, 74, 735 S.E.2d 650, 655 (2012); (2) The expert must have 'acquired the requisite knowledge and skill to qualify as an expert in the particular subject matter,' although he 'need not be a specialist in the particular branch of the field;'" *Id.* and (3) The substance of the testimony must be reliable. *Id.* The reliability of the testimony is the central feature of the three-part analysis. *Id.* "The party offering testimony has the burden of showing the witness possesses the necessary learning, skill, or practical experience to enable the witness to give opinion testimony." *White*, 372 S.C. at 375, 645 S.E.2d at 612.

B. Dr. Harrison is not a qualified expert as to matters of state taxation or income tax apportionment.

The Chamber agrees that the subject matter of income-producing activities is beyond the ordinary knowledge of the jury. It is therefore appropriate for the Court to allow expert testimony. However, Dr. Harrison is unqualified as an expert in state taxation. He has not acquired *any* requisite knowledge and skill which would allow him to opine in this field. Dr. Harrison has never taken a class, taught, or published in the area of state taxation, apportionment of income for multi-state taxpayers, or the calculation of the numerator in a state tax apportionment scheme. Additionally, he has never taken a course, taught, or published an article on the calculation or definition of “income producing activities” for state tax purposes. His testimony was as to the legal correctness of the DOR’s apportionment scheme “from an applied economics perspective.” Not only is Dr. Harrison not a state tax professional or an expert in income-producing activities, he has not acquired any skill or knowledge from his experiences which would allow him to opine in the area of state taxation on services. It is strongly in the interest of the Chamber that South Carolina businesses are utilizing the proper method to apportion their taxes, and that there is not a precedent set as to an apportionment scheme or a definition of “income producing activities” that is based on an unqualified expert witness testimony.

C. Dr. Harrison’s opinions are not based on reliable methodology.

Dr. Harrison’s testimony consisted of his opinion “from an applied economics perspective” to the legal correctness of the DOR’s sourcing of gross receipts. At his deposition, Dr. Harrison cited two treatises on which he based his opinion: *Welfare Economics* and *Advanced Economic Theory*. At trial, he conceded that neither of the treatises discussed income producing activities. He further conceded that there is no economic treatise to support his testimony that Petitioner’s only income producing activity was the mailing of the bill. His testimony was nevertheless heavily

relied upon by the ALC Order. Therefore, he is relying on a specific theory of taxation that is unsupported by the economic community, which is inappropriate under the law. The South Carolina Supreme Court has held that “although it is not a prerequisite in South Carolina that scientific evidence attain general acceptance in the scientific community before it is admitted,” it would not allow the admission of an expert’s testimony which “was rejected in the scientific community.” *Watson v. Ford Motor Co.*, 389 S.C. 434, 699 S.E.2d 169 (2010). (Strictly speaking, Dr. Harrison's testimony is not rejected by the economics profession, rather, no economics treatise or other writing that he has cited deals with or addresses the subject matter of his testimony – not one.) The Court concluded in *State v. Council* that it would consider the admissibility of scientific evidence, looking at the following factors: (1) the publications and peer review of the technique; (2) prior application of the method to the type of evidence involved in the case; (3) the quality control procedures used to ensure reliability; and (4) the consistency of the method with recognized scientific laws and procedures. 355 S.C. 1, 19 515 S.E.2d 508, 517 (1999), quoting *State v. Ford*, 301 S.C. 485, 392 S.E.2d 781. Even for non-scientific evidence, the court “must still exercise its role as gatekeeper and determine whether the proffered evidence is reliable” in non-scientific evidence challenges. *Graves*, 401 S.C. at 75, 735 S.E.2d at 656.

Daubert held that in order to determine the reliability of the testimony, the court must make a “preliminary assessment of whether the reasoning or methodology underlying the testimony is scientifically valid.” 509 U.S. at 592-93. The Chamber urges the court to use this approach in determining whether Dr. Harrison’s testimony was obtained through reliable methods. Here, Dr. Harrison does not appear to use any appropriate methodology. He did not rely on publications and peer review to support his testimony, and he conceded that there is no treatise to support his contentions. The testimony was not “based on sufficient facts or data” and was not the “product

of reliable principles and methods;” therefore, Dr. Harrison was unable to “apply the principles and methods reliably to the facts of the case.” South Carolina Rules of Evidence 702(1)-(3). If experts retained by the DOR were allowed to opine based on methods without support in the profession, then South Carolina businesses and taxpayers would not be able to rely on established and accepted methods when determining their tax liability.

CONCLUSION

The Chamber respectfully asks the Court to use both South Carolina Rule of Evidence 702 and *Daubert* when considering the admissibility of Dr. Harrison’s expert testimony. It is the Chamber’s position that Dr. Harrison’s testimony should have been excluded because Dr. Harrison is not a qualified expert in the state tax field, and his methods for applying the theory on which he opined were nonexistent. Accordingly, it is in the interest of the Chamber that the ALC does not of permitting and materially relying upon such improper testimony, as this practice has a great effect on South Carolina businesses. In matters related to the allocation of taxes based on determinations of income-producing activity, the Department should be required to rely on only qualified tax experts.

[SIGNATURE PAGE TO FOLLOW]

Dated this the 16th day of March 2018.

Respectfully submitted,

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Glenn W. Harrison

Current Academic Position:

C.V. Starr Chair in Risk Management and Insurance, and
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Citizenship: Australian (U.S. Permanent Resident)
Family: Married, one child

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Education

Bachelor of Economics (Honours), Monash University (Melbourne, Australia); 1976.
Master of Economics, Monash University; 1978.
Master of Arts, UCLA; 1980.
Ph.D. (Economics), UCLA; 1982.

Research Fields

Risk perception and management, Risk and uncertainty, Behavioral and Experimental economics,
Behavioral econometrics, Behavioral finance, Development economics

Teaching Fields

Microeconomics, Econometrics, Behavioral Finance, Game Theory, Industrial Organization,
Environmental Economics, Law & Economics, International Trade, Development Economics

Doctoral Dissertation

Title: Studies in Economic Theory and Method.
Committee: Robert W. Clower (chair), Larry J. Kimbell, Edward E. Leamer, and Axel Leijonhufvud.

Fellowships, Awards & Prizes

- Foundation for Research in Economics and Education Graduate and Dissertation Fellowships, UCLA; 1978/82.
- Center for the Study of Futures Markets Research Grant; 1981/82.
- ASEAN-Australia Economic Relations Research Project Research Grant; 1983/85.
- Social Sciences and Humanities Research Council of Canada Research Grant, "Research in Applied General Equilibrium Analysis"; 1984/85.
- Social Sciences and Humanities Research Council of Canada Research Grant, "Research in Experimental Economics" (with Michael McKee); 1986/87.
- Academic Development Fund Research Grant, University of Western Ontario, "Applications of Computational Game Theory"; 1987/88.
- U.S. Department of Energy, Waste Education and Research Consortium Research Grant, "Assessing Risk-Costs for Nuclear Waste Transportation" (with Ronald G. Cummings); 1990/91.
- Resources for the Future Research Grant, Washington, DC, "Validating the Contingent Valuation Method with Statistical Bias Functions"; 1993/94.
- Richland County Government, "An Operational Survey of Richland County Government"; 1994/95.
- Center for International Business Education and Research, USC, "The Natural Environment and International Competitiveness" (with Eugene Chewning and Maribeth Coller); 1994/95.
- Westinghouse Savannah River Corporation: "Beneficially Reusing LLRW: The Savannah River Site Stainless Steel Program" (with Maribeth Coller); 1994/95.
- Cooperative Agreement, United States Environmental Protection Agency (Office of Policy, Planning & Evaluation), "Environmental CGE Modeling"; 1996/98.
- Danish Social Science Research Council, "Estimating Risk Attitudes and Discount Rates in Denmark" (with Morten I. Lau); Project #24-02-0124, 2002/05.
- Economic Policy Research Unit, University of Copenhagen, "Charactering Entrepreneurs in Denmark" (with Morten I. Lau and Lise Vesterlund); 2006.
- National Science Foundation, PI, "Cognition in Natural Environments: Using Simulated Scenarios in Complex Decision Making Experiments," Human and Social Dynamics Program, Directorate for Social, Behavioral, and Economic Sciences (with Stephen M. Fiore, Charles E. Hughes, Elisabet Rutström and Eduardo Salas); 2006-2009.
- National Science Foundation, PI, "Naturally Occurring Noise: Experimental Economics & Stochastic Production Frontier Models," Methodology, Measurement & Statistics Program, Directorate for Social, Behavioral & Economic Sciences (with Richard Hofler and Elisabet Rutström); 2006-2008.
- Danish Social Science Research Council, co-PI, "Intertemporal Choice in Denmark: A Longitudinal Field Experiment" (with Steffen Andersen, Morten I. Lau and Elisabet Rutström); 2009-2011.
- Carlsberg Foundation, co-PI, "Eliciting Social Trust in Denmark: A Field Experiment" (with Steffen Andersen and Morten I. Lau); 2009-2010.
- United States Federal Highway Administration, co-PI, "Behavioral Sciences Approach to testing, Validating and Establishing Best Practices for Alternative Highway Revenue Collection: Experiments on Driving Under Uncertain Congestion Conditions and the Effects on Traffic Networks from Congestion Pricing Initiatives," Cooperative Agreement DTFH61-09-H-00012 (with Essam Radwan, Elisabet Rutström and Ronald Tarr); 2009-2013.
- Danish Social Science Research Council, co-PI, "Revealing Economic Behavior with Register-Based Experiments" (with Steffen Andersen and Morten I. Lau); 2012-2015.

Danish Social Science Research Council, co-PI, "The Behavioral Identification and Preferences of Pathological Gamblers" (with Morten I. Lau and Don Ross); 2012-2015.
Winner of the *Daeyang Prize* for the Best Paper of 1996: "Increased Competition and Completion of the Market in the European Union: Static and Steady State Effects," (with Thomas F. Rutherford and David G. Tarr) *Journal of Economic Integration*, 11(3), September 1996, 332-365.
Editors Award for Best Paper in Volume 12: "Expected Utility And Prospect Theory: One Wedding and a Decent Funeral" (with Elisabet Rutström) *Experimental Economics*, 12(2), June 2009, 133-158.
Best Paper Prize for 2014: "Discounting Behavior: A Reconsideration," (with Steffen Andersen, Morten Lau and Elisabet Rutström) *European Economic Review*, 71, November 2014, 15-33.
Honorary Doctorate, Copenhagen Business School, March 2017.

Employment Experience

Research Officer, Australian Treasury; 1975 - 1977.
Tutor, Department of Economics, Monash University; 1977 - 1978.
Research Associate, NSF Project "A General Equilibrium Appraisal of Property Tax Incidence" (Director: Larry Kimbell, GSM, UCLA); 1979 - 1981.
Staff Research Associate, UCLA Business Forecasting Project, GSM, UCLA; 1980 - 1982.
Reserve Bank of Australia Senior Fellow in Economic Policy, University of Western Australia; 1982.
Assistant Professor, Department of Economics, University of Western Ontario; 1983 - 1988.
Visiting Lecturer, Department of Economics, University of Canterbury (New Zealand); 1984.
Visiting Assistant Professor, Department of Economics, University of Arizona; 1985.
Visiting Fellow, Institute of Southeast Asian Studies, Singapore; 1985.
Visiting Senior Research Fellow, Department of Economics, University of Melbourne (Australia); 1986.
Visiting Professor, Department of Economics, University of Stockholm; 1988.
Associate Professor, Department of Economics, University of Western Ontario; 1988.
Associate Professor, Department of Economics, University of New Mexico; 1988 - 1990.
Erskine Fellow, Department of Economics, University of Canterbury, Christchurch, New Zealand, 1996.
Dewey H. Johnson Professor of Economics, Department of Economics, Moore School of Business, University of South Carolina; 1990 - 2003.
Senior Research Fellow, Institute for Simulation & Training, University of Central Florida; 2003 - 2005.
Professor of Economics, Department of Economics, College of Business Administration, University of Central Florida; 2003 - 2009.
Richard T. Crotty Orange County Endowed Chair, Department of Economics, College of Business Administration, University of Central Florida; 2008 - 2009.
Professor of Economics (part-time), Durham Business School, Durham University; 2007 - 2010.
Visiting Professor of Economics (part-time), Monash University; January 2011- present.

Miscellaneous Professional Experience

Assistant Editor, *Economic Inquiry*; 1979-1980.
Assistant Editor, *American Economic Review (Papers & Proceedings)*; 1980-1981.
Assistant Editor (Screening), *American Economic Review*; 1981-1982.
Associate Editor, *Journal of Regional Science*; 1989-2000.

Editorial Council, *Journal of Environmental Economics and Management*; 1990-1994, 2001-2011.
 Editorial Board, *Journal of Economic Methodology*; 2010-2016.
 Associate Editor, *Journal of Environmental Economics and Management*; 1994-1997.
 Associate Editor, *Economics Letters*; 2012-present.
 Consultant, Omniplan Corporation, "An Economic and Social Assessment of the Central Valley Irrigation Project"; Report prepared for the U.S. Department of the Interior (Water & Power Resources Service); 1979-1980.
 Consultant, California Energy Commission, "The Impact of Petroleum Shortfalls on the U.S. and California Economy"; 1980-1981.
 Consultant, Atlantic Richfield Company, "Energy Efficiency, Conservation, and Elasticity Planning Study"; 1980-1981.
 Consultant, Los Angeles Department of Water and Power, "Forecasting Energy Demand"; 1981.
 Consultant, The Windsor Data Bank Project (University of Windsor, Ontario), "Windsor and Essex County Input-Output Industrial Linkage Study"; 1986-1987.
 Consultant, Institute for Research on Public Policy, "Trade in Services and Domestic Regulation"; 1987-1987.
 Consultant, Centre for International Economics, "Global Agricultural Trade Policy Study"; 1987-1988.
 Consultant, The World Bank (Europe, Middle East and North Africa Department), "Trade Integration in Algeria, Morocco, Tunisia and Turkey"; 1988-1989.
 Consultant, The Office of the United States Trade Representative, "Reforming the Common Agricultural Policy of the European Communities: A Quantitative Evaluation of Some Negotiating Options"; 1990-1991.
 Consultant, The Office of the United States Trade Representative, "Negotiating Compensation for The Effects of Trade Policy Reform"; 1990 - 1991.
 Consultant, The World Bank (Europe, Middle East and North Africa Department), "The Impact of Completion of the Market in the European Communities and Trade Integration on Turkey and the Maghreb Countries"; 1990 - 1992.
 Consultant, The World Bank (Europe, Middle East and North Africa Department), "Free Trade Negotiations Between The European Communities and Morocco"; 1992 - 1993.
 Consultant, Tactical Warfare Studies Division, Sandia National Laboratories, "U.S. Economic Competitiveness"; 1990.
 Consultant, American Petroleum Institute, "Identifying and Measuring Non-Use Values for Natural and Environmental Resources: A Critical Review of the State of the Art"; 1991.
 Consultant, Barbara J. Goldsmith and Company, "Valuing Environmental Goods With the Contingent Valuation Method"; 1992.
 Consultant, National Commission for Employment Policy (Washington, DC), "Estimating Employment Effects of Regulatory Policy Using Computable General Equilibrium Models"; 1992.
 Consultant, Harvard Institute for International Development, "Environmental Policy Reform in Lithuania"; 1993.
 Consultant, Government of Morocco (Ministry of Foreign Trade), "Quantitative Evaluation of Trade Reform"; 1992-1993.
 Consultant, The World Bank (International Economics Department), "The Impact of the Uruguay Round on Developing Countries"; 1994.
 Consultant, The World Bank (International Economics Department), "Quantitative Evaluation of Trade Reform in Tunisia and Turkey"; 1994-1995.
 Consultant, The World Bank (International Economics Department), "Impact of Customs Union between

Turkey and the European Union"; 1995.
 Consultant, The World Bank (International Economics Department), "Trade Policy Options for Brazil"; 2001-2002.
 Consultant, The World Bank (International Economics Department), "The Effects of Trade Reform on Poverty in Less Developed Countries"; 2001-2002.
 Consultant, Westinghouse Savannah River Company, "Feasibility Study for Transfer of Radioactive Scrap Metal Recycling Technologies in Support of the Beneficial Reuse Program"; 1994-1995.
 Consultant, Swedish Treasury Department, "Carbon Taxes in Sweden"; 1995-1996.
 Consultant, North-South Center, University of Miami, "Trade Policy Options for Chile;" 1995-1996.
 Consultant, Ministry of Business and Industry, Government of Denmark, Co-Director of the *MobiDK Project*; 1996-1999.
 Consultant, United States Environmental Protection Agency, "Carbon Taxes in the United States"; 1996-1998.
 Member, Second Generation Model Advisory Panel, Science Advisory Board, United States Environmental Protection Agency; 2004-2008.
 Testifying Expert; various private counsel; 1997 - present.
 Principal and Director, *Law & Economics Consulting Group, Inc.*, 1998 - 1999.
 President, *Harrison & Rutstrom Consulting, Inc.*, 1992 - present.
 Board of Directors, *American Civil Liberties Union of South Carolina*, 2001 - 2005.
 Secretary, *American Civil Liberties Union of South Carolina*, 2002 - 2003.
 Consultant, *South Carolina Department of Revenue*, 2007 - present.
 Fellow, IZA – Institute for the Study of Labor, Bonn, 2013 - 2016.
 Adjunct Professor, Department of Economics, University of Cape Town, 2013 – present.
 Santa Claus (elected), Department of Economics Christmas Party, University of Western Ontario, 1986.

Working Papers

Available at <http://cear.gsu.edu/working-papers/>.

1. "Asset Integration and Attitudes to Risk: Theory and Evidence," (with Steffen Andersen, James Cox, Morten Lau, Elisabet Rutström, and Vjollca Sadiraj) *Working Paper 2011-17*, Center for the Economic Analysis of Risk, Robinson College of Business, Georgia State University, 2011.
2. "Risk Attitudes, Sample Selection and Attrition in a Longitudinal Field Experiment," (with Morten Lau) *CEAR Working Paper 2014-04*, Center for the Economic Analysis of Risk, Robinson College of Business, Georgia State University, 2014.
3. "Hypothetical Surveys or Incentive-Compatible Scoring Rules for Eliciting Subjective Belief Distributions," *CEAR Working Paper 2014-05*, Center for the Economic Analysis of Risk, Robinson College of Business, Georgia State University, 2014.
4. "Recovering Subjective Belief Distributions," (with Eric Ulm) *CEAR Working Paper 2016-01*, Center for the Economic Analysis of Risk, Robinson College of Business, Georgia State University, 2016.

5. "Small-Stakes Risk Aversion in the Laboratory: A Reconsideration," (with Morten Lau, Don Ross, and J. Todd Swarthout) *CEAR Working Paper 2016-04*, Center for the Economic Analysis of Risk, Robinson College of Business, Georgia State University, 2016.
6. "Cumulative Prospect Theory: A Reconsideration," (with J. Todd Swarthout) *CEAR Working Paper 2016-05*, Center for the Economic Analysis of Risk, Robinson College of Business, Georgia State University, 2016.
7. "Varieties of Paternalism and the Heterogeneity of Utility Structures," (with Don Ross) *CEAR Working Paper 2016-06*, Center for the Economic Analysis of Risk, Robinson College of Business, Georgia State University, 2016.

Publications

- I. Behavioral and Experimental Economics
- II. International Trade Policy & Public Finance
- III. Resource & Environmental Economics
- IV. Law & Economics
- V. Miscellaneous

I. Behavioral and Experimental Economics

1. "The Informational Role of Futures Markets: Some Experimental Evidence" (with Daniel Friedman and Jon Salmon) in M.E. Streit (ed.), *Futures Markets: Modelling, Managing and Monitoring Futures Trading* (Oxford: Basil Blackwell, 1983).
2. "The Informational Efficiency of Experimental Asset Markets" (with Daniel Friedman and Jon Salmon) *Journal of Political Economy*, 92, June 1984, 349-408.
3. "Monopoly Behavior, Decentralized Regulation, and Contestable Markets: An Experimental Evaluation" (with Michael McKee) *The Rand Journal of Economics*, 16, Spring 1985, 51-69.
4. "Experimental Futures Markets," in B.A. Goss (ed.), *Futures Markets: Their Establishment and Performance* (London: Croom Helm, 1986).
5. "An Experimental Test for Risk Aversion," *Economics Letters*, 21, No.1, 1986, 7-11.
6. "Risk Aversion and Preference Distortion in Deterministic Bargaining Experiments," *Economics Letters*, 22, 1986, 191-196.
7. "Risk Aversion and the Nash Solution in Stochastic Bargaining Experiments," *Economics Letters*, 24, 1987, 321-326.

8. "Experimental Evaluation of the Contestable Markets Hypothesis," in E. E. Bailey (ed.), *Public Regulation: New Perspectives on Institutions and Policies* (Cambridge: MIT Press, 1987).
9. "Coasian Solutions to the Externality Problem in Experimental Markets" (with Elizabeth Hoffman, E. E. Rutström and Matthew Spitzer) *The Economic Journal*, 97, June 1987, 380-404; reprinted in J.D. Hey and G. Loomes (eds.), *Recent Developments in Experimental Economics* (London: Edward Elgar, 1993) and J.F. Shogren (ed.), *Experiments in Environmental Economics* (Aldershot, UK: Ashgate Publishing Limited, 2002).
10. "An Experimental Evaluation of Weakest-Link/Best-Shot Models of Public Goods" (with Jack Hirshleifer) *Journal of Political Economy*, 97, February 1989, 201-225.
11. "Theory and Misbehavior of First-Price Auctions," *American Economic Review*, 79, September 1989, 749-762; reprinted in J.D. Hey and G. Loomes (eds.), *Recent Developments in Experimental Economics* (London: Edward Elgar, 1993).
12. "Experimental Evaluation of Institutions of Monopoly Restraint" (with Michael McKee and E. E. Rutström) in L. Green and J. Kagel (eds.), *Advances in Behavioral Economics* (Norwood: Ablex, 1990).
13. "Search Intensity in Experiments" (with Peter Morgan) *The Economic Journal*, 100, June 1990, 478-486.
14. "Risk Attitudes in First-Price Auction Experiments: A Bayesian Analysis," *The Review of Economics & Statistics*, 72, August 1990, 541-546.
15. "A Double-Auction Experiment", in T. Bergstrom and H.R. Varian (eds.), *Instructor's Manual for Intermediate Microeconomics* (New York: Norton, 1990); this package includes computer software.
16. "Rational Expectations and Experimental Methods," in B.A. Goss (ed.), *Rational Expectations and Efficiency in Futures Markets* (London: Routledge, 1991).
17. "Testing Noncooperative Bargaining Theory in Experiments," (with Kevin A. McCabe) in R.M. Isaac (ed.), *Research in Experimental Economics* (Greenwich: JAI Press, Volume 5, 1992).
18. "Theory and Misbehavior of First-Price Auctions: Reply," *American Economic Review*, 82, December 1992, 1426-1443.
19. "Market Dynamics, Programmed Traders, and Futures Markets: Beginning the Laboratory Search for a Smoking Gun," *The Economic Record*, 68, 1992 (Special Issue on Futures Markets), 46-62.
20. "Convergence to Nonstationary Competitive Equilibria: An Experimental Analysis," (with Douglas D. Davis and Arlington W. Williams) *Journal of Economic Behavior and Organization*, 22, 1993, 305-326.

21. "Expected Utility Theory and The Experimentalists," *Empirical Economics*, 19(2), 1994, 223-253.
22. "Stability and Preference Distortion in Resource Matching: An Experimental Study of the Marriage Problem," (with Kevin A. McCabe) in R.M. Isaac (ed.), *Research in Experimental Economics* (Greenwich: JAI Press, Volume 8, 1996).
23. "Expectations and Fairness in a Simple Bargaining Experiment," (with Kevin McCabe) *International Journal of Game Theory*, 25(3), 1996, 303-327.
24. "Methods in Experimental Economics: A Review," (with Maribeth Coller) *Journal of International and Comparative Economics*, 5, 1997, 321-334.
25. "Doing It Both Ways -- Experimental Practice and Heuristic Context," (with Elisabet Rutström) in *Behavioral and Brain Sciences*, 24(3), June 2001, 413-414.
26. "Sequential Bargaining Games," (with Elisabet Rutström) *Encyclopedia of Cognitive Science* (London: The Nature Publishing Group, 2002).
27. "Estimating Individual Discount Rates in Denmark: A Field Experiment," (with Morten I. Lau and Melonie B. Williams) *American Economic Review*, 92(5), December 2002, 1606-1617.
28. Review of Friedel Bolle and Marco Lehmann-Waffenschmidt (eds.), *Surveys in Experimental Economics: Bargaining, Cooperation and Election Stock Markets* (Heidelberg and New York: Physica-Verlag, 2002), *Journal of Economic Literature*, XLI, December 2003, 1275-1276.
29. "Experimental Methods and the Elicitation of Values," (with Ronald Harstad and Elisabet Rutström) *Experimental Economics*, 7(2), June 2004, 123-140.
30. "Field Experiments," (with John A. List) *Journal of Economic Literature*, 42(4), December 2004, 1013-1059.
31. "Field Experiments in Economics: An Introduction," (with J. Carpenter and J.A. List) in J. Carpenter, G.W. Harrison and J.A. List (eds.), *Field Experiments in Economics* (Greenwich, CT: JAI Press, Research in Experimental Economics, Volume 10, 2005, 1-16).
32. "Field Experiments and Control," in J. Carpenter, G.W. Harrison and J.A. List (eds.), *Field Experiments in Economics* (Greenwich, CT: JAI Press, Research in Experimental Economics, Volume 10, 2005, 17-50).
33. "Eliciting Risk and Time Preferences Using Field Experiments: Some Methodological Issues," (with Morten Igel Lau, E. Elisabet Rutström, and Melonie B. Sullivan) in J. Carpenter, G.W. Harrison and J.A. List (eds.), *Field Experiments in Economics* (Greenwich, CT: JAI Press, Research in Experimental Economics, Volume 10, 2005, 125-218).

34. "Bargaining Behavior, Demographics and Nationality: What Can the Experimental Evidence Show?" (with Anebel Botelho, March A. Hirsch, and E. Elisabet Rutström) in J. Carpenter, G.W. Harrison and J.A. List (eds.), *Field Experiments in Economics* (Greenwich, CT: JAI Press, Research in Experimental Economics, Volume 10, 2005, 337-372).
35. Editor (with J. Carpenter and J.A. List), *Field Experiments in Economics* (Greenwich, CT: JAI Press, Research in Experimental Economics, Volume 10, 2005).
36. "Temporal Stability of Estimates of Risk Aversion," (with Eric Johnson, Melayne McInnes and Elisabet Rutström) *Applied Financial Economics Letters*, 1, 2005, 31-35.
37. "Risk Aversion and Incentive Effects: Comment," (with Eric Johnson, Melayne McInnes and Elisabet Rutström) *American Economic Review*, 95 (3), June 2005, 897-901.
38. "Is the Evidence for Hyperbolic Discounting in Humans Just An Experimental Artefact?" (with Morten Igel Lau) *Behavioral & Brain Sciences*, 28, 2005, 657.
39. "Elicitation Using Multiple Price List Formats," (with Steffen Andersen, Morten Lau and Elisabet Rutström) *Experimental Economics*, 9(4), December 2006, 383-405.
40. "Identifying Altruism in the Laboratory," (with Laurie T. Johnson) in D. Davis and R. Mark Isaac (ed.), *Experiments in Fundraising and Charitable Contributions* (Greenwich, CT: JAI Press, Research in Experimental Economics, Volume 11, 2006).
41. "Valuation Using Multiple Price List Formats," (with Steffen Andersen, Morten Lau and Elisabet Rutström) *Applied Economics*, 39(6), April 2007, 675-682.
42. "Naturally Occurring Preferences and Exogenous Laboratory Experiments: A Case Study of Risk Aversion," (with John A. List and Charles Towe) *Econometrica*, 75(2), March 2007, 433-458.
43. "Estimating Risk Attitudes in Denmark: A Field Experiment," (with Morten Lau and Elisabet Rutström) *Scandinavian Journal of Economics*, 109(2), June 2007, 341-368.
44. "Measurement with Experimental Controls," (with Eric Johnson, Melayne McInnes and Elisabet Rutström) in M. Boumans (ed.), *Measurement in Economics: A Handbook* (San Diego, CA: Elsevier, 2007).
45. "House Money Effects in Public Good Experiments: Comment," *Experimental Economics*, 10(4), December 2007, 429-437.
46. "Experimental Evidence on the Existence of Hypothetical Bias in Value Elicitation Experiments," (with Elisabet Rutström) in C.R. Plott and V.L. Smith (eds.), *Handbook of Experimental Economics Results* (New York: Elsevier Press, 2008).
47. "Lost in State Space: Are Preferences Stable?" (with Steffen Andersen, Morten Lau and Elisabet Rutström) *International Economic Review*, 49(3), August 2008, 1091-1112.

48. "Naturally Occurring Markets and Exogenous Laboratory Experiments: A Case Study of the Winner's Curse," (with John A. List) *The Economic Journal*, 118, April 2008, 822-843.
49. "Voting Games and Computational Complexity," (with Tanga McDaniel) *Oxford Economic Papers*, 50(3), 2008, 546-565.
50. "Risk Aversion in Game Shows" (with Steffen Andersen, Morten Lau and Elisabet Rutström) in J.C. Cox and G.W. Harrison (eds.), *Risk Aversion in Experiments* (Bingley, UK: Emerald, Research in Experimental Economics, Volume 12, 2008).
51. "Risk Aversion in the Laboratory" (with Elisabet Rutström) in J.C. Cox and G.W. Harrison (eds.), *Risk Aversion in Experiments* (Bingley, UK: Emerald, Research in Experimental Economics, Volume 12, 2008).
52. "Risk Aversion in Experiments: An Introduction," (with James Cox) in J.C. Cox and G.W. Harrison (eds.), *Risk Aversion in Experiments* (Bingley, UK: Emerald, Research in Experimental Economics, Volume 12, 2008).
53. "Peter Bohm: Father of Field Experiments," (with Martin Dufwenberg) *Experimental Economics*, 11(3), September 2008, 213-220.
54. "Eliciting Risk and Time Preferences," (with Steffen Andersen, Morten Lau and Elisabet Rutström) *Econometrica*, 76(3), May 2008, 583-618.
55. "Neuroeconomics: A Critical Reconsideration," *Economics & Philosophy*, 24(3), 2008, 303-344.
56. "Neuroeconomics: Rejoinder," *Economics & Philosophy*, 24(3), 2008, 433-444.
57. "Expected Utility And Prospect Theory: One Wedding and a Decent Funeral" (with Elisabet Rutström) *Experimental Economics*, 12(2), June 2009, 133-158. Winner of the *Editors Award for Best Paper in Volume 12*.
58. "Risk Attitudes, Randomization to Treatment, and Self-Selection Into Experiments," (with Morten Lau and Elisabet Rutström) *Journal of Economic Behavior and Organization*, 70(3), June 2009, 498-507.
59. "Preference Heterogeneity in Experiments: Comparing the Field and Laboratory," (with Steffen Andersen, Morten Lau and Elisabet Rutström) *Journal of Economic Behavior and Organization*, 73, 2010, 209-224.
60. "Choice Under Uncertainty: Evidence from Ethiopia, India and Uganda," (with Steven J. Humphrey and Arjan Verschoor) *The Economic Journal*, 120, March 2010, 80-104.
61. "The Behavioral Counter-Revolution," *Journal of Economic Behavior and Organization*, 73, 2010, 49-57.

62. "Testing Static Game Theory with Dynamic Experiments: A Case Study of Public Goods" (with Anabela Botelho, Lígia M. Costa Pinto and E. Elisabet Rutström) *Games and Economic Behavior*, 67, 2009, 253-265.
63. "Behavioral Econometrics for Psychologists," (with Steffen Andersen, Morten Lau and Elisabet Rutström) *Journal of Economic Psychology*, 31, 2010, 553-576.
64. "What Do Prediction Markets Predict?" (with John Fountain) *Applied Economics Letters*, 18, 2011, 267-272.
65. "The Methodologies of Neuroeconomics," (with Don Ross) *Journal of Economic Methodology*, 17(2), June 2010, 185-196.
66. "Individual Discount Rates and Smoking: Evidence from a Field Experiment in Denmark," (with Morten Lau and Elisabet Rutström) *Journal of Health Economics*, 29, 2010, 708-717.
67. "The Methodological Promise of Experimental Economics," *Journal of Economic Methodology*, 18(2), June 2011, 183-187.
68. "Are You Risk Averse Over Other People's Money?" (with Sujoy Chakravarty, Ernan Haruvy and Elisabet Rutström) *Southern Economic Journal*, 77(4), 2011, 901-913.
69. "Experimental Methods and the Welfare Evaluation of Policy Lotteries," *European Review of Agricultural Economics*, 38(3), 2011, 335-360.
70. "Randomisation and Its Discontents," *Journal of African Economies*, 20(4), 2011, 626-652.
71. "Remarks on Virtual World and Virtual Reality Experiments," (with Ernan Haruvy and Elisabet Rutström) *Southern Economic Journal*, 78(1), July 2011, 87-94.
72. "Non-Linear Mixed Logit," (with Steffen Andersen, Arne Risa Hole, Morten Lau and Elisabet Rutström) *Theory and Decision*, 73, 2012, 77-96.
73. "Inferring Beliefs as Subjectively Uncertain Probabilities," (with Steffen Andersen, John Fountain, Arne Risa Hole and Elisabet Rutström) *Theory and Decision*, 73, 2012, 161-184.
74. "Latent Process Heterogeneity in Discounting Behavior," (with Maribeth Coller and Elisabet Rutström) *Oxford Economic Papers*, 64, 2012, 375-391.
75. "Preferences Over Social Risk," (with Morten Lau, Elisabet Rutström and Marcela Tarazona-Gómez) *Oxford Economic Papers*, 65(1), January 2013, 25-46.
76. "Inducing Risk Neutral Preferences with Binary Lotteries: A Reconsideration," (with Jimmy Martínez-Correa and J. Todd Swarthout) *Journal of Economic Behavior and Organization*, 94, 2013, 145-159.

77. "Theory, Experimental Design and Econometrics Are Complementary (And So Are Lab and Field Experiments)" (with Morten Lau and Elisabet Rutström) in G. Frechette and A. Schotter (eds.), *Handbook of Experimental Economic Methodology* (New York: Oxford University Press, 2015, 296-338).
78. "Dual Criteria Decisions" (with Steffen Andersen, Morten Lau and Elisabet Rutström) *Journal of Economic Psychology*, 41, April 2014, 101-113.
79. "Discounting Behavior and the Magnitude Effect: Evidence from a Field Experiment in Denmark" (with Steffen Andersen, Morten Lau and Elisabet Rutström) *Economica*, 80, 2013, 670-697.
80. "Estimating Subjective Probabilities" (with Steffen Andersen, John Fountain and Elisabet Rutström) *Journal of Risk & Uncertainty*, 48(3), June 2014, 207-229.
81. "Field Experiments and Methodological Intolerance," *Journal of Economic Methodology*, 20(2), 2013, 103-117.
82. "Real Choices and Hypothetical Choices," in S. Hess and A. Daly (eds.), *Handbook of Choice Modeling* (Northampton, MA: Edward Elgar, 2014).
83. "Choice Modeling and Risk Management," (with Jimmy Martínez-Correa) in S. Hess and A. Daly (eds.), *Handbook of Choice Modeling* (Northampton, MA: Edward Elgar, 2014).
84. "Estimating the Subjective Risks of Driving Simulator Accidents," (with Vinayak Dixit and Elisabet Rutström) *Accident Analysis and Prevention*, 62, 2014, 63-78.
85. "Eliciting Subjective Probabilities with Binary Lotteries," (with Jimmy Martínez-Correa and J. Todd Swarthout) *Journal of Economic Behavior and Organization*, 101, May 2014, 128-140.
86. "Impact Evaluation and Welfare Evaluation," *European Journal of Development Research*, 26, 2014, 39-45.
87. "Subjective Bayesian Beliefs," (with Constantinos Antoniou, Morten I. Lau and Daniel Read) *Journal of Risk & Uncertainty*, 50(1), 2015, 35-54.
88. "Risk and Time Preferences of Entrepreneurs: Evidence from a Danish Field Experiment," (with Steffen Andersen, Amalia Di Girolamo and Morten I. Lau) *Theory & Decision*, 77(3), October 2014, 341-357.
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Case No. 2014ALJ170285CC
Appellate Case No. 2016-001642

RECEIVED
MAR 16 2018
SC Court of Appeals

Dish DBS Corporation, f/k/a EchoStar DBS Corp., and Affiliates,.....Appellant,

v.

South Carolina Department of Revenue,Respondent.

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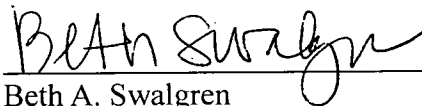
I hereby certify that I have this date served one copy of the foregoing **Amicus Curiae Brief on Behalf of the South Carolina Chamber of Commerce** on all counsel of record in the above-captioned matters by sending a copy of same by United States mail, first-class postage prepaid, and addressed as follows:

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Dated this the 16th day of March 2018.

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