

Solutions to Financial and Valuation Issues in Litigation and Tax Matters

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Kentner Sellers provides litigation consulting, valuation, and expert services to help make sense of complex financial, economic and information issues. To each assignment we bring experience, credibility, objectivity, and creative thinking to help the attorney and their client work towards the best strategies and information solutions.

We Can Help You With...

Matters Such as These in Process or Recently Completed:

- ◆ Trial testimony in defense of a claim for lost profits and lost wages after a vehicle accident.
- ◆ Estate tax reporting and support through business valuations of two family-owned corporations.
- ◆ Succession planning including recapitalization of a company's stock and valuation of the stock for transfer and buy/sell agreement purposes.
- ◆ Damages consulting in an arbitration of a breach of contract matter.
- ◆ Valuation of a distribution business to help determine property settlement and related financial issues in a divorce.
- ◆ Case analysis in defense of a claim against a lender in a failed business purchase matter.
- ◆ Calculation of potential lost profits and extra costs involved in the purchase of a business where the seller didn't disclose all the facts and issues.

In keeping current, Jon Stangel attended the American Institute of CPAs National Business Valuation Conference, and Greg Toman attended the National Association of Certified Valuation Analysts Valuation and Financial Forensics Consultants' conference.

Expert Witness Challenges Increasing in the Courts

The 1999 U.S. Supreme Court's Kumho Tire decision extended the Daubert criteria to non-scientific expert testimony. Since then, Daubert challenges to expert witnesses have increased almost 200%, according to a 2000-2006 study by PricewaterhouseCoopers of about 3,000 federal and state court challenges.

The number of Daubert challenges to all expert witnesses increased by more than one third between 2005 and 2006. Despite increases in the number of challenges in the study, the percentage of expert exclusions is remaining fairly consistent, at around 47%. Of the 519 challenges to financial experts, 30% were completely excluded, 18% were partially excluded, and 49% were admitted. About 70% of the challenges were against plaintiffs' experts, but exclusions were about equal proportion between plaintiffs' and defendants' experts.

Economists, accountants, and statisticians comprise 50% of all challenges—but they also survive the Daubert attacks more successfully than other financial experts. Notably, the study found “lack of reliability has been the leading cause of a financial expert's exclusion, followed by lack of relevance and lack of qualifications”.





KENTNER SELLERS

EXPERT ADVICE for
FINANCIAL MATTERS

**CPAs Experienced in Court, Tax, &
Financial Issues**

- ✓ Expert Witness for Financial, Valuation & Tax Matters
- ✓ Business Valuation for Buy/Sell, Divorce, Litigation, Taxes
- ✓ Damages & Lost Profits Analysis; Financial & Tax Planning

In the Courts

Family partnerships - Current trends in Tax Court cases between the IRS and taxpayers offer some guidance regarding tax issues with today's family partnerships:

- don't put a significant portion of a partner's assets in the partnership - the owner must have independent sources of cash flows;
- consider using an LLC or S corporation as the general partner of the partnership for control and creditor protection purposes;
- conduct the partnership like a business, have regular meetings, do not commingle partners' and partnership funds, and try to keep distributions as close as possible in proportion to ownership percentages.
- in starting a partnership, consider finding ways to have all future partners make some initial contributions as founding partners.

Business valuation issues - A simple business value calculation is multiplying expected earnings times a risk or capitalization rate. Complexity rears its head when defining the expected earnings and a risk rate to apply. Quantifying the risk can be difficult, considering issues such as expected earnings may not occur, the company's industry may boom or bust, and vendor or employee cost structures may change. The courts have been asking for more support for analysts' valuation assumptions such as earnings and risk.

Find our litigation and valuation resources at
www.kentnersellers.com/expert.htm

★ Valuation Solutions

Kentner Sellers delivers logical solutions to help make sense of the complex valuation issues involved with closely-held business. With years of valuation experience, we add insight into business operations and bring professional objectivity to help fairly analyze and communicate the opportunities and options involved with valuation issues.

★ Financial Expert Solutions for Litigation Matters

Kentner Sellers can help attorneys, the courts, and clients make sense of the financial and economic issues involved in legal matters and legal agreements. Our practical background in consulting and in the courtroom helps us deliver quality work when you need it.



★ Financial Experts

Greg Toman, CPA/ABV – Greg has provided litigation consulting and business valuation services for over 20 years, helping attorneys and clients in legal and tax matters with analysis, research, reports, investigations, and expert testimony. Greg earned the Accreditation in Business Valuation (ABV) from the American Institute of CPAs, and has participated in national business valuation or advanced litigation education in each of the last seven years.

Jon Stangel, CPA/ABV – Jon's work with family and closely-held businesses gives him a special knack with business valuation and ownership matters. He specializes in working with contractors' and manufacturers' issues, especially in financial damage claims and lost profits issues. Jon also is Accredited in Business Valuation. Contact Jon at jstangel@kentnersellers.com

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