

# The Case Of The Well Reasoned and Documented Opinion



### **The Value of Independent, Non-Advocacy Testimony**

In a recent case, we were deposed presenting what opposing counsel later termed “a well- reasoned report” that assisted the litigating parties and counsel to reach a pre-trial settlement. In the instant case, we estimated a range of damages to a plaintiff resulting from a contract dispute with the other shareholder. We used extensive Internet and library research to independently support our reasonable assumptions. In a second case, we participated in a twelve-hour mediation session providing technical input to both parties and tax-advantaged structuring to “close the gap” and significantly assist in the final settlement terms. While not unique, we feel that the unbiased professional opinion expressed as a non-advocate can be extremely valuable to the parties and court when assessing the range of possibilities that can result at trial.

#### **Related, a recent published court decision reported:**

“There is much detailed description of Eggers’s work in his testimony. Ex. 101 sets forth in great detail the methods and assumptions used by the ABA appraiser in arriving at his conclusion respecting the value of the subject interest. It should be noted that the opinion of the court is that the ABA appraiser is an extremely highly qualified expert, independent, and not what is traditionally known as a “hired gun.” He is frequently employed by the courts to act as a neutral expert, estimating that 20% of his practice results from requests from judges in the Bay Area to act as a neutral. His opinions in this case are given great weight.”

While flattering and gratifying, the comments also demonstrate how valuable independent non-advocacy testimony can be. The real job for a qualified expert is to assist the trier of fact, not present an advocacy opinion. In our considerable experience, a better resolution results from skilled, technically correct, complete, and well-reasoned opinion.