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COMMENTARY

The Strategic Advantage of Using Joint Valuation Experts in Legal Disputes

Employ a jointly retained valuation expert. This underused approach can pivotally shift disputes, especially where emotional entanglement clouds judgment, as in divorce or business ownership conflicts.

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Litigation

By Sean Saari | December 20, 2023 at 11:20 AM



In legal disputes involving valuation issues, antagonism can escalate rapidly, making it challenging for the parties to reach an agreement on value. Yet a strategic opportunity is often missed: employing a jointly retained valuation expert. This underused approach can pivotally shift disputes, especially where emotional entanglement clouds judgment, as in divorce or business ownership conflicts.

A Cost-Efficient Path to Settlement

The benefits of using jointly retained experts are multifaceted, beginning with cost savings. By sharing the expense of one expert, both parties essentially receive a 50% discount on appraisal fees. Moreover, agreeing to use a single valuation expert helps avoid expensive, protracted battles over competing valuations supplied by each party.

Impartiality and Credibility

The notion of a “hired gun” can undermine a party’s standing, regardless of the expert’s actual neutrality. A jointly retained expert, by contrast, embodies impartiality, easing bias concerns and fostering a more constructive atmosphere for negotiations.

Accelerating Resolution

Valuation disputes can significantly prolong legal proceedings, increasing costs and aggravation. A joint expert not only curtails expenses but can also hasten the resolution process, freeing parties from the burdensome shadow of litigation.

Collaborative Expertise in Action

The default reaction to engage individual experts for each party in legal matters requiring specialized knowledge isn’t always necessary. Joint experts can be just as effective, whether appraising a business in partnership disputes or advising on family matters in divorce proceedings. The joint expert structure also allows each party to have direct access to the valuation analyst so they can share their perspective on the issues at hand.

The Upside of Collaboration

Jointly retaining an expert encourages cooperation and strategic planning. The rewards are undeniable: lower costs, faster settlements, resource efficiency, reduced redundancy, diminished perceived bias, streamlined issue resolution, and potentially, increased trust among the parties.

Critical Steps in Joint Expert Engagement

- **Securing Client Approval**

The initial step is to secure the clients' approval. Attorneys must articulate the benefits of a joint expert in order to obtain client support and ensure a well-informed decision. A joint expert is not a perfect fit in every matter, but there are many in which it can be a useful tool.

- **Expert Selection**

Choosing the right expert is very important to the process since both parties must agree on the individual/firm that is engaged. Various methods are available to the parties to aid in selecting an appraiser, such as creating a list of candidates and identifying any overlapping individuals or having an appraiser for each party agree upon an appraiser who will perform the valuation.

- **Establishing Guidelines**

The valuation expert will issue an engagement letter to memorialize the parties' agreement to utilize a joint expert and define the engagement's scope.

- **Defining Roles and Expectations**

Setting expectations for the expert and the parties, including communication protocols, reporting methods, litigant involvement, and contingency procedures, is crucial. The more that is outlined and agreed upon on the front end, the less room for potential stumbling blocks later on.

Conclusion

Jointly retaining valuation experts in legal disputes can be an effective strategy with substantial potential benefits in the right matters. This approach can help resolve legal battles by sharing financial burdens, enhancing perceptions of impartiality and expediting dispute resolution. The effectiveness of this strategy hinges on a handful of key issues—ensuring informed parties, selecting a competent, unbiased expert and establishing clear engagement rules. When these conditions are met, jointly retained experts can help produce cost-effective and efficient resolutions for business valuation disputes.

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