

COURSE SYLLABUS ADVANCED BUSINESS VALUATION

A. OBJECTIVE

The objective of the Advanced Business Valuation Course is to enhance each student's understanding of business valuation incident to marital dissolution, strengthen each student's ability to present a business valuation into evidence, sharpen each student's ability to cross-examine a business valuation expert, and overall strengthen the trial skills associated with business valuation testimony and exhibits in a divorce trial.

B. INSTRUCTORS

Jay Fishman
Tim Madden

C. COURSE OUTLINE

1. Introduction of Faculty, Students and Discussion of Background and Experience
2. Collaborative Identity of Student's Special Goals for the Course
3. Case Study – an introduction of the case
4. Development of the theory of the case as it relates to the business valuation issue
5. Understanding How Businesses Are Valued – lectures and Q/A

D. EXERCISES

1. Closing Argument

Each student shall prepare and deliver a closing argument regarding his or her client's position regarding the value of the business (**FIVE MINUTES**). The critique of the closing argument will address substantive facts related to and arising out of the valuation, style and presentation.

2. Voir Dire and Qualification of Expert

Each student shall present the direct examination of an expert to the point of qualification and shall ask the court for the witness to be deemed an expert in the field selected by the student. The qualifications shall include not only the background and experience of the witness, but also the testimony of the witness which reflects the witness understands and can explain in simple, non-detailed terms the approaches and methods to valuation of businesses, standards of value, and the standard to be applied in the Case. Other students shall cross examine. The critiques will address substantive facts related to qualifications, style and presentation, and integration of the voir dire with the overall theory of the case and presentation of evidence.

3. Direct Testimony

Each student will present direct testimony broken into small time segment exercise **(FIVE TO EIGHT MINUTES)**. The segments will cover these topics/areas (more than one topic/area may be covered in a segment at the student's discretion):

- a. What the expert did to learn and understand the business
- b. What the expert did to gather evidence from sources outside the business
- c. How the expert used the information gained in forming an opinion of value
- d. When the expert made subjective decisions, the basis/foundation/reasons for those decisions
- e. The expert's opinion of value
- f. The reasons the expert's opinion differs from the opposing expert's opinion

4. Cross-Examination

Each student will conduct cross examination in multiple exercises **(FIVE MINUTES)**, with each student demonstrating ability to cross examine in these areas:

- a. Challenging the qualifications
- b. Highlighting the differences
- c. Attacking attention to detail
- d. Selling your theory
- e. Handling a loose ball

- f. How the expert used the information gained in forming an opinion of value

5. Opening Statement

Each student will a portion of a trial open statement which relates to the value of the business (**THREE MINUTES**).

6. Mini-Trial

On the last day of the school the students will conduct a trial on the issue of the valuation of the business using the experts. The trial will include:

- a. Opening statement (limited to valuation issue)
- b. Direct of Plaintiff's Expert
- c. Cross of Plaintiff's Expert
- d. Direct of Defendant's Expert
- e. Cross of Defendant's Expert
- f. Closing argument (limited to valuation issue)