MARCH NEWSLETTER

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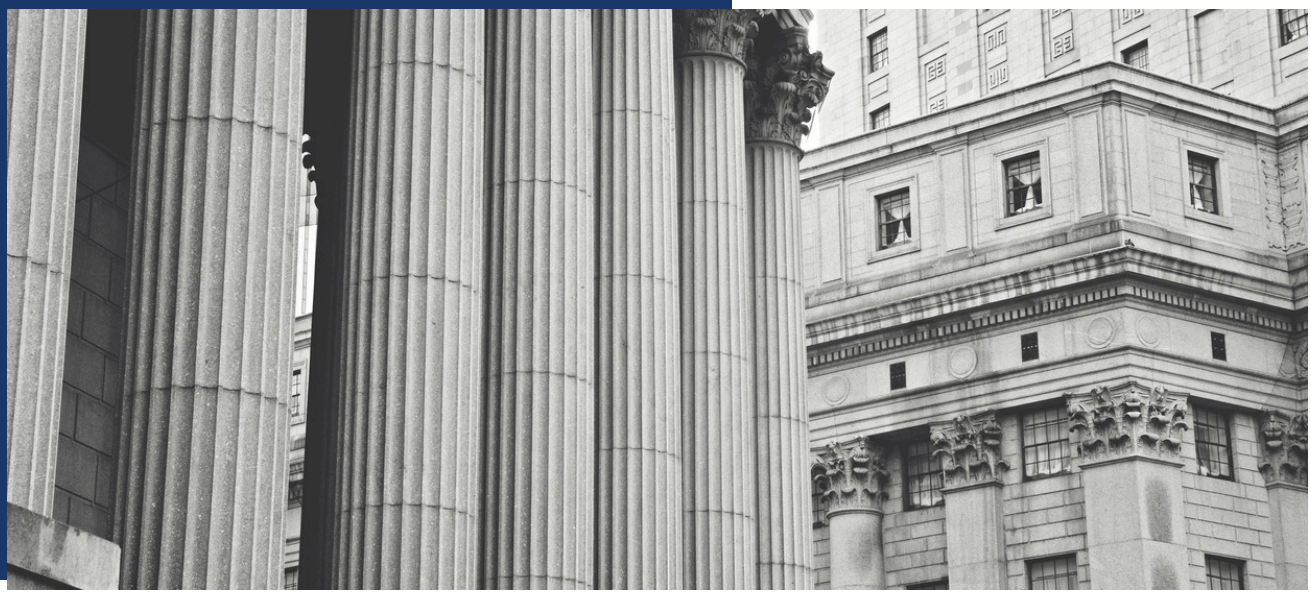
Monday, March 3, 2025



Upcoming Events

Tuesday, March 4, 2025: KLG Webinar!

- Topic: 'Unpacking Business Tax Returns: A Forensic Approach to Corporate & Partnership Filings'
- Presented By **David Gralnick** and **Louis Panariello.**
- REGISTER HERE

Thursday, March 6, 2025

- Queens Bar Association - Annual Judiciary Past Presidents & Golden Jubilarian Night (KLG Event Sponsors)

Monday, March 10, 2025

- New York Women's Bar Association - Honoring Special Guests - Newly appointed & reelected Judges (KLG Event Sponsors)

Mondays: March 10th, 24th, and 31st, 2025

- Suffolk Academy of Law - March Mondays (KLG Event Sponsors)

Thursday, March 20, 2025

- Nassau County Women's Bar - We Care Fund Dressed to Tea (KLG Event Sponsors)

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MATRIMONIAL CASE OF INTEREST

Beach v. Beach

Case Background

Bradley and Laura Beach were married in 2002 and began negotiating their separation in 2020. Their primary marital asset was SBL Enterprises, LLC, operating as Tailored Management ("TM"), where Bradley served as President and CEO. Both parties engaged financial experts to value TM and other assets, using December 31, 2020, as the valuation date. However, in March 2021, Bradley applied for a Paycheck Protection Program (PPP) loan for TM without disclosing it to Laura or the financial experts. The loan, totaling $9,398,213, was received in April 2021 and subsequently forgiven in November 2021. Laura only became aware of the PPP loan after the dissolution decree was finalized.

Court Findings

- The trial court initially granted Laura's motion for relief from judgment, finding that Bradley misrepresented TM's value by not disclosing the PPP loan.
- On appeal, the Court of Appeals reversed this decision, stating that the valuation date was clearly set as December 31, 2020, and Bradley was not obligated to disclose financial information beyond that date.
- The appellate court found no evidence of fraud or misrepresentation by Bradley, as the PPP loan did not affect TM's value as of the agreed valuation date.

Key Issues

- Business Valuation: The valuation of TM did not account for the PPP loan, as it was based on the financial state as of December 31, 2020.
- Forensic Accounting: the petitioner-appellee's expert, argued that the PPP loan would have impacted the business valuation if it had been disclosed.
- Expert Witness Testimony: The the petitioner-appellee's expert testified that the PPP loan's existence and forgiveness would significantly affect TM's value.

Conclusion/Takeaways

- Valuation Date: The agreed-upon valuation date is crucial in determining asset values in divorce proceedings.
- Disclosure Obligations: Parties must fully disclose relevant financial information up to the agreed valuation date.
- Expert Testimony: Expert witnesses play a vital role in interpreting financial data and its implications on asset valuation.
- Legal Strategy: Accurate and timely disclosure of financial changes is essential to avoid legal disputes and potential reversals of court decisions.

Importance

This case highlights the critical role of accurate business valuation and full disclosure in divorce proceedings, particularly when significant assets like a business are involved.

It underscores the importance of forensic accounting and the impact of expert witness testimony in legal disputes over asset valuation.

Read the full case here

CORPORATE LITIGATION CASE OF INTEREST

Celsius Holdings, Inc. v. Strong Arm Productions

Case Background

The case involves Celsius Holdings, Inc. (appellant) and Strong Arm Productions, USA, Inc., D3M Licensing Group, LLC, and Tramar Dillard (Flo Rida) (appellees). In 2014, Celsius and Flo Rida entered into an endorsement agreement in which Flo Rida would promote Celsius products in exchange for stock compensation, followed by a second agreement in 2016. These agreements included provisions for issuing shares of Celsius stock based on specific performance benchmarks. In 2021, Flo Rida's team demanded stock and royalties, which Celsius refused, asserting that the required benchmarks had not been met.

Key Issues and Court Findings

Business Valuation: The valuation of Celsius stock at different points in time was central to determining damages.

Forensic Accounting: The case involved detailed analysis of whether the performance benchmarks for stock issuance were met.

Expert Witness Testimony: Both parties presented evidence on the value of Celsius stock and the appropriate measure of damages.

Trial Court: Allowed the jury to determine damages based on the stock value as of the last day of trial (January 13, 2023).

Appellate Court: Found this to be an error, stating that damages should be measured as of the date of the breach (April 30, 2021). The court noted exceptions to this rule but found them inapplicable here.

Remand: The case was remanded to the trial court to determine damages based on either the date of breach or the date when the stock could first be sold (November 1, 2021).

Conclusion/Takeaways

- Measure of Damages: Damages in breach of contract cases should generally be measured as of the date of the breach.
- Valuation Date: The correct valuation date is crucial in determining fair compensation.
- Expert Testimony: Plays a vital role in establishing the value of stock and the appropriate measure of damages.
- Legal Strategy: Accurate and timely determination of stock value and clear communication of intent regarding stock transactions are essential to avoid legal disputes.

Importance

This case underscores the significance of accurately determining the measure of damages in breach of contract cases, particularly when stock compensation is involved. It highlights the complexities of business valuation and the role of expert testimony in establishing damages.

Read the full case here

ESTATE TAX CASE OF INTEREST

Barney v. Commissioner

Case Background

Carl B. Barney, through his living trust, owned 100% of five S corporations operating for-profit career colleges. In 2006, the Center for Excellence in Higher Education (CEHE), a nonprofit, was established and recognized as a tax-exempt 501(c)(3) organization in 2007. By 2011, CEHE considered merging with Barney's colleges.

To prepare for the merger, Barney hired an expert to value his S corporations. In December 2012, the boards approved the merger, with some entities donated to CEHE as charitable contributions and others sold for consideration. CEHE issued promissory notes totaling $431 million to Barney's trust. The transactions were reported on 2012 tax returns, with charitable contributions claimed based on the expert's valuations.

Key Business Valuation Issues:

Qualified Appraisal:

- The IRS argued that Barney's claimed charitable deduction was unsupported because the expert's appraisal did not qualify as a "qualified appraisal" under Treasury regulations.
- The appraisal lacked details about agreements affecting the donated property, misvalued the property by ignoring restrictions, and falsely claimed no agreements impacted the property.

Substantial Compliance:

- Barney argued that the IRS's interpretation was overly technical and that substantial compliance with the regulations was sufficient.
- He claimed the appraisal contained enough information for the IRS to evaluate the deduction, fulfilling the purpose of the substantiation rules.
- The impact of the promissory notes on valuation was a factual matter to be resolved at trial, not through summary judgment.

Importance

This case highlights the IRS's increasing enforcement of Treasury Regulation § 1.170A-13(c)(3)(ii)(D), which mandates that a qualified appraisal must include terms of any agreement related to the use, sale, or disposition of the property. The Tax Court's stance was that substantial compliance with these regulations, providing enough information for the IRS to evaluate the contribution, would suffice.

ESTATE TAX CASE OF INTEREST

Barney v. Commissioner

Court Findings

Qualified Appraisal Requirements:

- A qualified appraisal must describe the property, provide its fair market value with supporting basis, state it was prepared for tax purposes, and include appraiser qualifications.
- Substantial compliance allows for minor defects if the appraisal provides sufficient information for the IRS to evaluate the claimed deduction.
- Failure to include key details, such as agreements restricting the property's use or income, may disqualify the appraisal.

Substantial Compliance:

- The court focused on whether the omission was inadvertent and whether essential statutory requirements were met.
- Substantial compliance did not excuse omissions of critical details like fair market value or appraiser qualifications.
- The court considered whether the appraisal contained sufficient information to serve its intended purpose despite alleged deficiencies.

Conclusion

The court found genuine disputes of material fact regarding whether Barney's appraisal met the requirements of a "qualified appraisal" through substantial compliance. Disagreements remained about the treatment of the promissory notes and whether the appraisal adequately disclosed required information. As a result, the court denied the IRS's motion for partial summary judgment, reserving the issue for trial. The court emphasized that the purpose of the regulations was to provide the IRS with enough information to evaluate the deduction, which would be further examined during trial.

Read the full case here

KLG is a qualified expert in business valuations to handle any of the above three cases.
If you have a case that requires a qualified business appraisal, we can help.

Keep an eye out for next month's newsletter on April 1!