MAY NEWSLETTER

COMPANY UPDATE

This spring has been an energizing and meaningful season for KLG. From sponsoring major bar association programs to presenting educational content and connecting with colleagues across New York, our team has remained deeply engaged within the legal and professional communities we proudly serve. We have had the opportunity to participate in educational programs, networking events, and industry discussions that strengthen relationships and allow us to continue sharing insights on business valuation, forensic accounting, and litigation support topics affecting attorneys and their clients.

These interactions continue to reinforce what has always been at the core of KLG: building meaningful relationships, remaining active within the communities we serve, and creating opportunities to educate and collaborate with fellow professionals. Whether through speaking engagements, sponsorships, webinars, or industry events, we value the chance to connect with colleagues and contribute to conversations shaping our profession.

Looking Ahead: KLG's Combination with EisnerAmper

We are also excited to share an important milestone in KLG's journey. KLG is in the process of combining with EisnerAmper, one of the nation's largest and most respected professional services firms. To learn more, visit EisnerAmper.

Joining the exceptional team at EisnerAmper will significantly expand our access to national-scale resources, subject-matter expertise, and innovative tools while enhancing the personalized service and trusted relationships our clients have come to expect from KLG. This combination represents an exciting opportunity to further strengthen our capabilities and continue delivering the high-quality work and responsiveness that have always been central to our approach.

As the combination progresses, you will begin to see us exhibiting and participating alongside our EisnerAmper colleagues at events throughout the region. We view this as an exciting next chapter, one that preserves the values and client-focused approach that define KLG while creating new opportunities for growth, collaboration, and expanded services.

We are energized by what lies ahead and look forward to sharing additional updates as we continue this transition and build for the future together.

BUSTO V. ARIAS

406 So. 3d 1019 (Fla. 3d DCA 2025)

Our regular newsletter readers know that we scour our resources to find case decisions involving valuation and forensic accounting-related issues to spotlight to help them gain perspective in their cases. This month's case decision is a Matrimonial case out of Florida and addresses the rare instance of how a Court deals with the valuation of a business when no valuation expert is involved.

Case Background

The husband owned a small business, Paella 305, which both parties agreed was marital property. Neither side retained a business valuation expert. Instead, the trial court relied on testimony, financial statements, and profit-and-loss reports to:

- Value the business for equitable distribution, and
- Determine the husband's income for alimony and child support.

The husband challenged the business valuation, income calculations, and valuation of the marital residence.

Key Valuation Issues

- Whether the trial court improperly **double-counted the owner's salary** by treating it as both an expense and part of business value.
- Whether the owner's salary should have been excluded as **personal goodwill.**
- Whether business income used to pay temporary support should also be treated as income for support calculations.
- Whether the court used an equitable valuation date for the marital home.

Court's Findings and Decision

Business Valuation

The trial court valued the business by:

1. Subtracting expenses (including the owner's salary) to arrive at net income, and then
2. Adding the owner's compensation back in as part of **seller's discretionary earnings**.

Busto v. Arias (Cont'd)

Court's Findings and Decision (Cont'd)

Business Valuation

The appellate court affirmed this approach. Importantly:

- Neither party presented expert testimony on goodwill.
- Without evidence separating personal goodwill from enterprise value, the court accepted the husband's own testimony that his salary was simply compensation from the business.
- The court effectively applied an SDE-type analysis and clearly showed its math.

The appellate court emphasized that, in the absence of expert testimony, the trial court is allowed to adopt **any reasonable valuation method supported by competent evidence**.

Income for Support

The husband argued that temporary support payments should not be included in his income because they came from his personal account. The court rejected that argument, focusing instead on **source, not form.**

The profit-and-loss statement showed that support payments were treated as a business expense separate from salary. That supported the trial court's finding that the payments came from business income and were properly included when calculating the husband's income for support.

Marital Home Valuation

The trial court valued the marital home using the **most recent financial affidavit**, rather than an older estimate provided by the husband. The appellate court affirmed, reiterating that Florida law allows courts to value different assets at different dates when equity requires it.

Key Takeaways

- When parties skip experts, courts will still value the business using whatever competent evidence they have.
- Owners cannot rely on **personal goodwill** arguments without expert testimony to support them.

Busto v. Arias (Cont'd)

Key Takeaways (Cont'd)

- Seller's discretionary earnings concepts are well understood by courts, even if experts are not involved.
- Courts focus on **economic reality**, not bank accounts, when tracing income.
- If you want a different valuation method—or exclusion of owner compensation—you need evidence.
- For attorneys: leaving valuation to "common sense" may work occasionally, but you give up control over the outcome.

Importance of the Case

This Florida appellate decision is an excellent reminder that **trial judges have wide discretion in valuing closely held businesses,** especially when the parties choose not to retain valuation experts. It also highlights how courts handle **owner compensation, seller's discretionary earnings (SDE), and income determination for support,** often using relatively simple financial evidence when expert testimony is absent.

For attorneys and valuation professionals, this case shows both the **risk of proceeding without experts** and the practical ways courts fill the gap when parties leave them little to work with.

KLG Business Valuators & Forensic Accountants

Don't be left under-prepared.
Call us Today to see how we can help you.

(516)364-3232 www.goklg.com info@goklg.com