

# ADDITIONAL RESOURCES

1. LEADING BUSINESS VALUATION CASES IN FAMILY LAW
2. UNDERSTANDING VALUATIONS CHEAT SHEET
3. EXAMPLE DOCUMENT REQUEST
4. EXAMPLE APPRAISAL QUESTIONNAIRE

## *None of Your Business* Business Valuation Challenges in Family Law



Hon. Leslie Landau (Ret.)



Jennifer Magnes, CPA,  
ABV, CGMA



Hon. Stephen Pulido (Ret.)



Webinar

1 Hour General CLE Credit | 1 Hour Family Law LSMCLE Credit



August 27, 2025  
12:00 PM - 1:00 PM

Complimentary Program

# LEADING BUSINESS VALUATION CASES IN FAMILY LAW

- **REV. RUL. 59-60; 1959-1 C.B. 237**
- **FACTORS TO CONSIDER IN VALUATION**  
*In re Marriage of Hewitson* (1983) 142 Cal. App. 3d 874
- **STANDARD OF VALUE**  
*In re Marriage of Honer* (2015) 236 Cal. App.4<sup>th</sup> 687
- **DATE OF VALUE**  
*In re Marriage of Stevenson* (1993) 20 Cal. App. 4th 250, 254
- **CELEBRITY GOODWILL**  
*In re Marriage of McTiernan* (2005) 133 Cal.App.4th 1090
- **GOODWILL DEFINED**  
*In re Marriage of Foster* (1974) 42 Cal.App.3d 577
- **PERSONAL GOODWILL DEFINED**  
*In re Marriage of Lopez* (1974) 38 Cal. App. 3d 93 (disapproved of on other grounds by *In re Marriage of Morrison* (1978) 20 Cal.3d 437)
- **GOODWILL FACTORS**  
*In re Marriage of Webb* (1979) 94 Cal.App.3d 335, 344
- **SP/CP APPORTIONMENT**  
*In re Marriage of Pereira* (1909) 156 Cal. 1, 103 P. 488
- **SP/CP APPORTIONMENT**  
*In re Marriage of Van Camp* (1921) 53 Cal. App. 17
- **SP/CP APPORTIONMENT**  
*In re Marriage of Imperato* (1975) 45 Cal.App.3d 432

# UNDERSTANDING APPRAISALS

PREPARED BY

**JENNIFER MAGNES CPA/ABV, CGMA, JCA, CAC, BAC, CCC**

Co-Managing Senior Partner White Zuckerman Warsavsky Luna Hunt LLP

## 1. STANDARDS OF VALUE

Standards of Value (Circumstances of Value) – There are other's but these are the most comment referenced for family law.

### FAIR MARKET VALUE

What the business would sell for on the open market with a willing buyer and willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of relevant facts. All three must be true for this standard to apply. None of these are true in family law.

### INVESTMENT VALUE

The value of an asset or business to a specific owner. This value considers the owner's or prospective owner's knowledge, abilities, expectations of risks and earning potential, and other factors. This is appraising the business from the perspective of how this specific owner operates the business. This is sometimes referred to as marital value for our purposes.

## 2. HOW TO VALUE

Valuation Approaches for a business with going concern (How to Value) – There are three approaches and all three must be considered, but not necessarily utilized. The appraiser should have a good understanding/explanation of why one or more methods are excluded from the report. There are many methods within the three approaches and the appraiser may use more than one method within each approach when rendering an opinion. When using more than one method, there should be convergence in the conclusions. To the extent the conclusion of value rendered exceeds the net book value of the company, there is Goodwill value.

## INCOME APPROACH

Estimates the business' value by considering its ongoing benefit stream (EBITDA or normalized earnings or cash flow) and applying a capitalization rate (multiple) based on the risks associated with the business. This approach does not take into account the net assets of the company. Common methodologies are Discounted Cash Flows (not typically used in family law as this relies on projections into the future) or Capitalized Cash Flows/Earnings (most common in family law)

- **May be Applicable for companies with minimal tangible assets.**

## COST/ASSET APPROACH

- Estimates the business value by considering the net book value of all the assets/debts plus goodwill.
- Often this is accomplished using the Excess Earnings method (hybrid method between income and cost/asset approaches): Similar to the Income Approach, a capitalization rate is applied to the normalized earnings; however, this approach takes into consideration the net assets of the company.
- Goodwill is the ability to earn superior earnings due to reputation, location, unique product, years in business or some other factor as compared to other similar businesses. Mathematically, the value of goodwill is the value of the business the exceeds the net asset value.
- If the company does not have goodwill, the net asset value alone is used for the valuation of the company.
- **Applied commonly to companies with more than minimal tangible assets. Very commonly used for family law.**
- **If no goodwill, this approach is used to provide for the net book value (tangible assets less debts) in asset division.**

## MARKET APPROACH

Compares the subject business to similar businesses sold recently, using multiples or ratios derived from those transactions. This can be based on databases for public sales or private sales.

- **Applied commonly to companies that are frequently bought/sold on the open market. Also often utilized when there is not a lot of reliable financial data available for the subject company, as you can simply apply the multiples to the gross receipts.**
- **Cons – can be difficult to determine if the comps are comparable to the subject company. The databases provided may not provide important assumptions that were factored into the specific sale. There may be few data points. If that's the case, they may not provide sufficient information to reduce effects of anomalies, and the market approach may need to be disregarded.**

## 3. ART MEETS SCIENCE

Opinions are both “art” and “science” and contain subjectivity. The appraiser should have a good understanding of the business to support the subjective opinions contained in the report. Ultimately appraising a business is an assessment of risk as to the future economic benefits of the subject company. To do so, must look at:

- **Trends of the company (5 years generally acceptable)**
- **Normalizing income**
- **Comparing with industry norms**

## 4. KEY INFORMATION TO PROVIDE

Key Information that the Attorney Must Provide to the Forensic:

- Date of Value – FC 2552 – Assets are valued as close to the date of trial as practicable. If there are arguments for an alternative date of value (examples: date of separation, date of breach of fiduciary duty, date of marriage, date of gift), a motion for alternative valuation date may be necessary. Ultimately the date of value should be conveyed to the Forensic CPA by the Attorney.
- If the party has a separate property claim (examples: acquired business prior to marriage or started company with separate property funds). Will the analysis require a Periera or Van Camp apportionment, or both?
- Any other information that is relevant (example: breach of fiduciary duty claims, claims of celebrity goodwill).

## 5. FORENSIC RESPONSIBILITIES

- Provide a list of documents and information they need for their analysis (see example document requests and appraisal questionnaire).
  - Inform counsel of any issues that arise from the documents and information (or lack of documents and information) that is provided,
- Perform adequate research on the company and its industry.
- Provide solid rationale for any subjective components to the calculation.
- Assist the attorney with analysis of other experts reports.
- Assist the attorney with questions for deposition or trial (direct and cross).

**DOCUMENTS REQUIRED FOR BUSINESS VALUATION**Personal Documents

1. Individual Income Tax Returns of the parties, whether filed individually or jointly with any other person, for the year 2024.

Business Documents

Please provide the following list of documents for **ABC Company**:

2. Business Income Tax Returns for the years 2020 through 2024.
3. QuickBooks™ data file (without passwords) or any other computer software data files, which would detail the business transactions for the period January 1, 2020 through the date of production. *If this is not provided, please provide the following:*
  - a. Annual financial statements, including year-end balance sheets and annual income statements, for the years 2020 through 2024.
  - b. Interim income statements for the period January 1, 2025 through the last month completed in 2025.
  - c. Balance sheets as of the last month completed in 2025.
  - d. Detailed annual general ledgers for the year 2020 through 2024 and the period January 1, 2025 through the last month completed in 2025.
4. Detailed aged listing of accounts receivable of the business as of December 31, 2024 and as of the date of production. *Please also include an estimate of collectability of receivables with supporting documentation.*
5. Accounts payable aging detail information of the business as of December 31, 2024 and as of the date of production
6. Detail of fixed assets of the business as of December 31, 2024 and as of the date of production. *This includes, but is not limited to: a description of each asset, original cost of the asset and the date the asset was purchased. For automobiles and other vehicles, please indicate the year, make and model and whether the vehicle is for personal or business use.*
7. Form W-2's, Form 1099's, quarterly payroll tax returns, and/or any other documents (i.e. earnings statements, payroll reports) evidencing annual compensation for all employees and/or independent contractors for the period January 1, 2020 through the date of production.
8. Annual summaries of the employer portion of contributions made to any pension, profit sharing plan(s) and/or other retirement accounts for the benefit of the parties for the period January 1, 2020 through the date of production.

**DOCUMENTS REQUIRED FOR BUSINESS VALUATION***Business Documents (Continued)*

9. Copies of all business bank statements for the period January 1, 2023 through the date of production.
10. Copies of all business credit card statements (and all credit cards of the parties paid through the business) for the period January 1, 2023 through the date of production. *Please also include any workpapers or documents reconciling the company credit cards with the general ledger / QuickBooks file.*
11. Documents reflecting the balance of any other debt of the business as of December 31, 2024 and/or as of the date of production. *This includes, but is not limited to loan statements, promissory notes, amortization schedules, etc.*
12. Documents reflecting all personal expenses paid through the business for the benefit of the parties for the period January 1, 2023 the date of production. *This includes, but is not limited to automobile, residence, travel, meals and entertainment, cellular telephone, medical, vision and dental insurance, disability and life insurance.*
13. All insurance premium notices for all insurance policies, including but not limited to medical, disability, life, equipment, automobile, liability, and umbrella policies in effect during the period January 1, 2023 through the date of production.
14. All lease agreements of the business, including but not limited to office and equipment leases in effect during the period January 1, 2020 through the date of production.
15. All shareholder agreements and all amendments thereto, corporate formation documents, minutes, etc. since inception.
16. All other agreements/contracts in effect as of December 31, 2024 and/or as of the date of production.
17. Documents evidencing the sale or transfer of the business or part of the business since inception.
18. All previous valuation reports from inception through the date of production, if any.
19. Please fill out the Appraisal Questionnaire attached.
20. **Access to** paid bill files and invoices for the period January 1, 2023 through the date of production. *We may provide a detailed list after receipt of the other records requested herein.*

**\* This list is not all-inclusive. Inspection of the information may reveal items that warrant further inquiries and documentation in order to complete our assignments.**

## Appraisal Questionnaire

### **Company Background**

1. Company's Legal Structure
  - a. Company's legal name:
  - b. Address:
  - c. Phone Number:
  - d. Type of entity (corporation, S Corp, partnership, Limited Partnership, proprietorship) circle one
  - e. When was the practice/firm/company started or acquired?
  - f. Date of incorporation:
  - g. State incorporated:
2. List the major stockholders, partners, or owners of the company and their percentage of ownership or number of shares owned.
3. Have there been any changes in ownership interest during the last 5 years? If yes, give details.
4. Are any policy, management or operational changes in the organization being anticipated for the near future? If yes, give details.
5. List all known related parties (that is, subsidiaries, affiliates, or relatives) that the company does business with.
6. List each location maintained by the company and the primary activity at each, that is, executive office, plant, sales office, etc.

### **Products and Services**

7. Description of the company's products or services:
8. Breakdown of sales and gross profit by product line:
9. What are the growth rates of these products/services?
10. Are there any periodicals that describe your business? Which ones?
11. Who is your competition?
12. What are your products' advantages and disadvantages versus your competitors?
13. Are your products proprietary? Does the company have patents, technology, or expertise that prevent others from copying the products?
14. Are sales cyclical? What economic factors (inflation, interest rates, etc.) affect sales?
15. Are sales seasonal?

### **Marketing and Distribution**

16. What distribution channels does the company use (direct sales, distributors, retailers, etc.)?
17. Describe the company's customer base.
18. Are sales concentrated in a few customers? What percentage of total sales are made to the five largest customers?
19. How loyal are customers, that is, do they tend to buy from the same company or switch? How does pricing affect customer loyalty?
20. What are normal sales and credit terms? Describe a typical customer contract.
21. What type of promotion and advertising methods does the company use?

## Appraisal Questionnaire

### **Operations**

22. Describe the company's organization structure. (Attach organization chart, if available.)
23. Building, Machinery and Equipment
  - a. Are buildings and machinery owned or leased? If leased, are the leases renewable and on what terms?
  - b. If buildings and machinery are owned, what is the estimate fair market value of the rent of the building / machinery?
  - c. What is the overall condition of the company's equipment?
  - d. Is there any inefficient or obsolete equipment?
  - e. When is the machinery likely to be replaced?
  - f. What is the likelihood of major repairs?
24. How capital-intensive is the company? How labor-intensive?
25. Discuss the current labor market. How easy is it to attract qualified employees?
26. How extensively are independent contractors used?
27. What raw materials do you use in your products?
28. Where do you purchase your raw materials?
29. Discuss key suppliers. Are any suppliers the sole source?
30. Who are your major creditors? (List names and percentage of total payables they represent)
31. List regulatory agencies having jurisdiction over the company and any outstanding actions or decrees to which the company is subject.
32. Does the company have difficulties complying with environmental regulations?

### **Management**

33. List key members of management, their title, approximately how many hours each individual dedicates to the business each week, and their responsibilities and duties
34. Discuss basis of officer compensation. Also, describe employee benefits (insurance, stock options, profit sharing, etc.).
35. How many employees do you have?
36. Discuss any employment contracts.
37. How easily can officers be replaced (i.e., is there one or a few key officers on which the success of the company depends that cannot be replaced)?

### **Financial**

38. Has there been any change in accounting principles during the past five years (cash to accrual, FIFO to LIFO, etc.) or similar changes that might affect the comparability of the financial statements?
39. Describe any relevant specialized industry accounting practices or principles.
40. Have there been any nonrecurring or extraordinary income or expenses during the last five years?
41. What are the main discretionary expenses (such as bonus, profit sharing, repairs, advertising, and R&D)?
42. Describe any written or oral offers received for the company in the last five years.
43. Discuss any plans to sell all or part of the company.
44. Has the business previously been appraised? If so, when, for what purpose, and what was the valuation?
45. Discuss plans for major capital expenditures, how they will be financed, and how much represents expansion versus replacement of existing assets.
46. Discuss any contingent liabilities, including lawsuits and pending or threatened litigation.
47. Describe any non-operating assets, such as personal automobiles, aircraft, boats, and real estate investments that are reflected in the company's balance sheet.

## Appraisal Questionnaire

### **Company Expectations**

48. Describe relevant past and expected future trends for the company, such as growth patterns, expansion or cutbacks of business segments, possible spin-offs, mergers or acquisitions.
49. Describe the company's future expectations, goals, objectives, and long-range plans in the following areas:
  - a. Products and services.
  - b. Marketing and customers.
  - c. R&D and technology
50. What is the market outlook for the business (future earnings and earnings of the industry as a whole)?
51. What is happening in your industry? Is business increasing, slowing or remaining about the same?
52. Is your company following industry trends? If not, how does your company differ?

### **Accounting**

53. Who does the accounting? Please give the person's name and contact information.
54. Are the financials in cash or accrual basis?
55. Is there a pension plan, profit sharing plan and/or IRA accounts?