Economic Damages, Business Valuation and Lost Profits

EMERGING TRENDS

Co-sponsored by the Colorado Society of CPAs and Colorado Bar Association CLE

LIVE PROGRAM & LIVE WEBCAST: THURSDAY, JUNE 4, 2015
CBA-CLE Large Classroom, 1900 Grant St., Suite 300, Denver, CO 80203

PROGRAM HIGHLIGHTS:
- Cost of Capital Update - What’s New and What’s Not New
- Lost Profits and Economic Damages
- The Courts as Gatekeeper of Expert Testimony
- The Good, the Bad & the Ugly of Financial Expert Testimony
- Optimizing Relationships Between Legal Counsel and Financial Experts
- Direct and Cross Examination
- A View from the Bench

VIDEO REPLAY: JUNE 25, 2015 • Denver, Colorado Springs, and Grand Junction

CLE CREDITS: Submitted for 8 General CLE Credits

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### PROGRAM AGENDA

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<th>Time</th>
<th>Event</th>
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<tr>
<td>8:00 - 8:20 am</td>
<td>Registration and Continental Breakfast</td>
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<tr>
<td>8:20 - 8:30 am</td>
<td>Opening Remarks</td>
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<td></td>
<td>• Ronald L. Seigneur, CPA/ABV ASA, CFF CVA, Managing Partner, Seigneur Gustafson LLP</td>
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<td>• Gary Abrams, Executive Director, Colorado Bar Association CLE</td>
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<td>8:30 - 9:30 am</td>
<td>Cost of Capital Update: What’s New and What’s Not New</td>
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<td>This session will focus on the building blocks to cost of capital, together with recent changes in approach and resources. The topics covered will include:</td>
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<td>■ The evolution of the build-up model and its components</td>
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<td>■ Why you need to know what is in the new Duff &amp; Phelps 2014 Valuation Handbook</td>
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<td>■ The Implied Private Company Pricing Line 2.0</td>
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<td>■ Fannon/Sellers – adjusting cost of capital for pass thru entities</td>
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<td>■ An overview of methods and models to determine the elusive company specific risk</td>
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<td>■ Views from the bench – perspectives of the Delaware Chancery Court and beyond</td>
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<td>• Ron L. Seigneur, MBA, CPA/ABV ASA, CFF CVA, CGMA, Seigneur Gustafson LLP</td>
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<td>• Stacey D. Udell, CPA/ABV, CFF, CVA, Gold Gerstein Group LLC</td>
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<td>9:30 - 10:40 am</td>
<td>Lost Profits and Economic Damages: A Case Study Approach</td>
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<td>This session will use a real case to demonstrate the economic principles of a lost profits claim with an overlay of legal theory. The case study will address the interplay between lost profits and lost business value as well as the use and misuse of ex-ante and ex-post data in a damages claim. Those attending should gain insight from the following learning outcomes:</td>
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<td>■ Identify the appropriate measure of damages in a lost profits claim</td>
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<td>■ Understand the application of economic principles such as cash flow identification, risk and growth in the context of a damages analysis</td>
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<td>■ Ascertain the differences and applications of ex-post and ex-ante data in a damages analysis</td>
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<td>■ Recognize the strengths and weaknesses of various inputs and positions in the analysis for subsequent follow up</td>
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<td>■ Learn how to pull it all together in a cohesive manner</td>
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<td>• Neil Beaton, CPA/ABV, CFF, ASA, CFA, Alvarez &amp; Marsal Valuation Services</td>
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<td>10:40 - 10:50 am</td>
<td>Networking Break</td>
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<td>10:50 am - 12:05 pm</td>
<td>Case Law: The Courts as Gatekeeper of Expert Testimony &amp; The Good, the Bad &amp; the Ugly of Financial Expert Testimony</td>
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<td>This session will provide case law regarding the court’s role as gatekeeper of expert witness testimony and examples of cases regarding the credibility of financial expert witness testimony:</td>
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<td>■ Provide an overview of the history and evolution of the courts role as gatekeeper of expert witness testimony - Shreck and Daubert</td>
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<td>■ Provide case law examples of the good, bad and ugly financial expert witness testimony</td>
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<td>• Robert W. Levis, CPA/ABV ASA, Levis Consulting</td>
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<td>• Edward A. Gleason, Esq., Lewis Roca Rothgerber LLP</td>
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<td>• Erin M. Jensen, Esq., Howard Jensen &amp; Dulaney LLC</td>
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12:05 - 12:45 pm  | Lunch Break - Pick Up Box Lunches

12:45 - 2:00 pm  | Optimizing Relationships Between Legal Counsel and Financial Experts
This session will focus on the key elements that often define a productive and responsive working relationship between litigation attorneys and the financial experts they retain on behalf of their clients. Given recent initiatives to provide expedited access to the courts and the now, now digital world we practice in, this session will touch on tips and tactics to optimize the working relationships between professionals. Those attending should gain insight from the following learning outcomes:
- Evaluate retention alternatives for the financial expert in terms of who retains and who pays the fees
- Determine best practices for communicating deadlines, exchanging information, and reviewing draft work product
- Understand the pros and cons of using a neutrally appointed expert and tactics to optimize that relationship for all parties
- Identify the elements that often derail the timing and budget for what the financial expert has been tasked to do
- Learn what professional standards impact the financial professional based on the designations they hold

  • John Tatlock, Esq., The Harris Law Firm
  • Ron L. Seigneur, MBA, CPA/ABV ASA, CFF CVA, CGMA, Seigneur Gustafson LLP

2:00 - 3:15 pm  | Direct and Cross Examination
The direct and cross-examination of an expert at trial can often make or break a case. In this session, two attorneys and two experts will discuss the best and worst things an expert can do.
Topics will include:
- Handling errors in an expert report
- Dealing with an expert’s lack of experience
- Techniques to deal with hard questions
- Preparation for direct and cross examination
- Delivering a cogent and pithy direct

  • William J. Leone, Esq., Fulbright & Jaworski LLP, and Norton Rose Fulbright
  • Neil Beaton, CPA/ABV, CFF, ASA, CFA, Alvarez & Marsal Valuation Services
  • Stacey D. Udell, CPA/ABV, CFF, CVA, Gold Gerstein Group LLC

3:15 - 3:30 pm  | Networking Break

3:30 - 4:30 pm  | A View from the Bench
  • Honorable Ann B. Frick, 2nd Judicial District

4:30 pm  | Adjourn
Bill Leone, Esq., is a litigation partner and head of White Collar and Government Investigations with Norton Rose Fullbright in New York. Mr. Leone is a former federal prosecutor and served in the United States Department of Justice from 2001 to 2006. He served as United States Attorney for the District of Colorado from 2004 to 2006. Prior to serving in the United States Department of Justice, Mr. Leone was an experienced civil trial attorney and tried over 50 cases to verdict before judges, juries and arbitration panels. He also served on the Colorado Securities Fraud Task Force with representatives from the Colorado Attorney General’s Office and Colorado Securities Commission. Most recently, Mr. Leone has served as an advisor to clients facing complex civil, criminal and administrative exposure from various sources including whistleblowers, government subpoenas and internal reports from ethics and compliance programs. As a result of Mr. Leone’s wide range of experience, he has been a guest commentator on CNBC, CNN and Fox News and has been featured in publications including the Wall Street Journal, the San Francisco Chronicle, the Denver Post and other publications. He was appointed by the Chief Justice of the Colorado Supreme Court to, and currently serves on the Chief Justice’s Commission on the Legal Profession. In 2013 he was appointed by Colorado Governor John Hickenlooper to serve as a member of the Independent Ethics Commission for the State of Colorado. Bill continues to maintain an active presence and practice in Colorado as well as New York and represents global, national and local clients in the Colorado courts.

Robert W. Levis, CPA/ABV, ASA, CFE is President of Levis Consulting, a litigation support, forensic accounting and business appraisal practice in Colorado Springs, Colorado specializing in economic damages and business valuation and has testified numerous times in state and federal courts on economic damages. Prior to founding his current practice in 2001, Mr. Levis served as a corporate officer of public and private companies in strategic planning and mergers & acquisitions roles after starting his career in the Auditing and Consulting departments of KPMG.

Honorable Ann B. Frick, 2nd Judicial District, has served as a Judge in the Denver District Court since June 2010. Ann began her career at Holme Roberts & Owen, then went to the Denver District Attorney’s Office, and then spent several years as a partner in the litigation boutique firm of Kelly, Haglund, Gamsby & Kahn. In 1995 Ann was a founder and name partner of the Jacobs Chase firm. Her practice concentrated on complex business and real estate litigation. Ann was listed for several years as a top business litigator in The Best Lawyers in America, Chambers USA America’s Leading Lawyers for Business, and Colorado Super Lawyers. Ann was on the list of Top Ten Colorado Super Lawyers, and in 2010, she was the featured Colorado Super Lawyer. Ann is a fellow in the American College of Trial Lawyers, having served as the Colorado state chair, and is currently serving as the vice-chair of the College’s Task Force on Discovery and Civil Justice.

Ronald L Seigneur, CPA/ABV ASA, CFF CVA is Managing Partner of Seigneur Gustafson LLP CPAs, based in Lakewood Colorado, where he is responsible for financial forensics, economic damages assessments, business and intellectual property valuation, exit planning and related litigation support services. He is co-author of the 1300+ page treatise on business appraisal titled Financial Valuations: Applications and Models, published by John Wiley & Sons in 2011, and Reasonable Compensation: Applications and Analysis for Management, Valuation and Tax, published by Business Valuation Resources in 2010. Ron was the 2009-10 chair of the Colorado Society of CPAs and was inducted into the AICPA Business Valuation Hall of Fame in 2006.

Ed Gleason, Esq. is a partner in the Colorado Springs office of Lewis Roca Rothgerber LLP whose practice focuses on commercial litigation. For 35 years, he has represented individuals, businesses, nonprofit associations, and local governments in a variety of cases in state and federal trial courts throughout Colorado, during which he has tried more than 50 cases to verdict or decision as lead counsel. He is a member of the American Board of Trial Advocates and a Fellow of the American College of Trial Lawyers.

Stacey D. Udell, CPA/ABV, CFF, CVA, a Partner in Gold Gerstein Group LLC, has more than fifteen years of financial and accounting experience. Ms. Udell specializes in business valuation, forensic accounting, economic damages, and litigation support services, including: Preparation of valuation reports for businesses and professional practices for purposes of estate and gift tax planning and compliance, divorce, business succession planning, and mergers and acquisitions; preparation of damage study reports in connection with stockholder, insurance claims, and lost profits litigation, as well as reports in connection with bankruptcy proceedings utilized by the courts and trustees; accounting and tax services for closely-held and family businesses including financial statement preparation, business and personal income tax planning and compliance, estate and business succession planning.
### Economic Damages, Business Valuation and Lost Profits - EMERGING TRENDS

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#### Or FAX form to
when using VISA, MC or AmEx
FAX to: (303) 860-0624

#### Or MAIL form to
CLE in Colorado
1900 Grant St, Suite 300
Denver, CO 80203-4303

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**STEP 1 - REGISTRATION TYPE:** (Select live program, live webcast, or video replay)

- **LIVE PROGRAM: JUNE 4, 2015** - In Denver at the CBA-CLE Large Classroom, 1900 Grant St., Suite 300 (LI060415L)
- **LIVE WEBCAST: JUNE 4, 2015** - Must have access to high-speed internet (LI060415SW)
- **VIDEO REPLAY: JUNE 25 2015** - Please indicate video replay location:
  - Denver: CBA-CLE Classroom, 1900 Grant Street, Suite 300 (LI060415V)
  - Colorado Springs: 421 S. Tejon Street, Suite 100 (LI060415VCS)
  - Grand Junction: 1250 E. Sherwood Drive (LI060415VG)

**STEP 2 - REGISTRATION TUITION:**

- Non-member: .......................................................... $399
- CPA Member: .......................................................... $349
- CBA Member: .......................................................... $349
- CBA Litigation Section Member: ................................ $309
- New Lawyer (in practice 5 years or less): ........ $279
- CLE Elite Pass Holder:..................................................FREE

**STEP 3 - SELECT MATERIALS FORMAT** (Please Select One):

- Materials on Flash Drive (pick up at seminar)
- Printed Book (pick up at seminar)

**LIVE PROGRAM TOTAL $**

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- Video-On-Demand (LI060415SN)
- MP3 Audio Download (LI060415SD)
- Paper course materials & recorded homestudy on CD-Rom (LI060415SD)

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- Basic CLE Pass Holder: (MP3 and VOD ONLY) ..................FREE

**STEP 3 - COURSE MATERIALS ONLY:** (Paper Only - LI060415SC)

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- Non-member: $199
- CBA Member: $149

**HOMESTUDY TOTAL $**

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**WEBCASTING INFORMATION**

**WEBCASTING IS GREEN!**
Course materials are provided in PDF format to all webcast attendees. If you prefer to receive the materials in paper form, you must make this request at the time of registration; the materials will be shipped when available and we cannot guarantee that you will receive them prior to the program.

**WEBCASTING IS EASY!**

**THE MINIMUM SYSTEM REQUIREMENTS:**
- Your computer should have a 500 MHz or higher processor and at least 128 mb of RAM
- A connection to the Internet at least 700 kbps is highly recommended, and most people now have connections at that speed or faster. Check your speed now (or go to http://www.speedtest.net)
- Adobe Flash Player v. 11. X or higher (Free download here: http://get.adobe.com/flashplayer/)
- Tablets and iOS devices will need a web browser and a high speed wi-fi connection. Our video is encoded HTML5 compliant x264 format which will play on any contemporary device with sufficient bandwidth.
- You will also need a sound card and speakers, and a current web browser

**TIPS FOR A BETTER WEBCAST EXPERIENCE:**
http://cle.cobar.org/About/FAQs/Technical-FAQs#webcastvod
You will receive a confirmation and instructions to view the webcast via email upon registration.

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