



## *Business Valuation: The Importance of Expert Testimony*

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**When a divorcing spouse owns a business, the benefit of presenting an expert valuation almost always exceeds the cost.**

Experience has shown time and again that a divorcing spouse who owns a business should always present expert testimony valuing it. If expert testimony is not produced, the practical result is that the court will probably accept the nonowning spouse's proposed value--and that value is almost never to the owning spouse's liking.

The most recent example is *Baker v. Baker*, 861 A.2d 298, 301 (Pa. Super. Ct. 2004). The husband in *Baker* owned a veterinary practice with an annual income of \$74,100. Upon divorce, he chose to present no expert testimony, presented no income and expense statement, and admitted that he commingled business and personal expenses in his accounting. The wife, by contrast, presented testimony from an expert, who valued the practice at \$99,000. The value included not only the assets of the practice but also a significant sum for enterprise goodwill. Pennsylvania does not divide the value of individual goodwill--goodwill based only upon the owning spouse's personal reputation--but the wife's expert expressly testified that he had included only goodwill attributable to the practice's location and customer list. Location was certainly distinct from the husband's individual reputation, but the customer list may or may not have been, depending upon how many customers would follow the husband if he left, and how many would remain with the business.

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If the husband's customers had any degree of loyalty to him personally, there was room for submitting a competing valuation which would treat at least part of the customer list as a product of individual goodwill. There may well have been other ways in which the wife's expert's valuation could have been questioned as well. By failing to present his own expert testimony, however, and by failing to present such basic data as an income and expense statement, the husband gave a high degree of credibility to the wife's expert's valuation. The result, as often occurs, was an unfavorable valuation. When a divorcing spouse owns a business, the benefit of presenting an expert valuation almost always exceeds the cost.

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