



# UTILIZING EXPERTS IN SHAREHOLDER DISPUTES

By Russell Long



**Identifying the nature of the conflict is critical to an equitable outcome. However, those embroiled in the dispute are likely engaged emotionally and thus, unable to assess the situation with fresh eyes.**

Employing an expert early in the process increases the likelihood that a thoughtful, mutually beneficial resolution can be reached.

The nature of the initial response to the issues sets the tone for a resolution. An expert at the table early in any shareholder dispute focuses the parties on the resolution of the dispute as opposed to the unproductive posturing that usually results in litigation. The financial expert can assist in identifying goals, assessing risk, and allocating costs to the possible outcomes. During this process the expert draws upon experience to identify alternative resolutions that may not be readily apparent to the combatants. Those alternatives ultimately minimize or even eliminate the costs associated with litigation. An expert on both sides of a shareholder dispute in the pre-litigation phase can ensure that the focus is on the business ramifications of any given proposal.

Frequently a reasonable proposal can be crafted and fine-tuned between the two experts that the feuding parties can live with. The financial experts can offer advice regarding best practices that

protects interests and may actually obviate the need for litigation altogether. Even when litigation is unavoidable, that pre-litigation process of dispute resolution with a financial expert is instrumental in establishing a framework for a more successful litigation. The presence of a knowledgeable expert during pre-litigation negotiations transforms the relationship with the attorneys and can mitigate legal costs. The financial expert who has been part of the process from the earliest stages has a unique, and definitely valuable, perspective.

Financial experts are commonly accepted, integral voices in business litigation because they provide a realistic assessment of the damage options and manage the expectations of the various constituencies in the litigation process. When financial experts are brought into the dispute process early, their value to the business, the parties involved, and ultimately to a successful outcome increases considerably. Clearly procrastination can be an expensive strategy and one that your financial expert would advise against.