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INTERPLAY

OF CASE MANAGEMENT EXPERT EFFECTIVENESS

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Between attorney and expert fees, it is without question that a complex, commercial litigation matter can be expensive. Nevertheless, a thorough economic analysis is also required to support economic damages. As a result, the litigator is put in the position of managing his client’s fee expectations and providing the expert with relevant information needed in order to ultimately render an opinion.

Seasoned litigators and financial experts know that the financial expert needs to have a thorough background of the case in order to opine on economic damages. This means understanding the scheduling order, reviewing interrogatories and requests for production of documents, reviewing answers to legal pleadings, reviewing deposition transcripts, and obtaining relevant financial data to analyze. Of course, more time spent by a financial expert on a litigation assignment will lead to increased expert fees. Nevertheless, not doing so may limit the expert’s opinion or risk surprises in trial for which neither the litigator, the client, nor the financial expert desire. It is also beneficial for the financial expert to assist in discovery with document requests and deposition questions in order to obtain the relevant information to assist in his opinion of damages before discovery is closed.

Ultimately, the financial expert is answering the “how much” question. However, the path in terms of how the financial expert gets there is more important than the resulting number. The financial expert is not a “mouthpiece” or a “human calculator.” The financial expert is an independent, skilled professional who uses his education, experience, and skill set to assist in quantifying economic damages. The financial expert needs to be able to defend his opinion in court. Not providing certain information to the financial expert in order to lower litigation fees may inadvertently limit the expert’s opinion and not optimize receiving financial justice for the client.