

## *Digging up the facts*

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The forensic accountant's primary task is to review and report on relevant documentary evidence. Expert accountants can also add significant value by researching industry background or local factors which may affect a business, or by unearthing facts which are at variance with assertions made by a party to a case. This is important in most types of litigation, including personal injury, commercial and family law cases. This newsletter sets out salient features of cases on which we have been involved, showing that background research can have an important effect on quantum.

- We were instructed by solicitors representing a wife in relation to the valuation of the husband's assets at the date of the marriage compared with those acquired thereafter. Our research suggested that the husband's pre-marital assets should be valued at £4.5 million compared with his estimate of £9 million. Most of the difference related to share options valued by the husband at £3.5 million which we contended became valuable after the marriage. Our work helped the wife achieve a larger settlement than she would have obtained if the husband's valuation had been accepted.
- Two claimants in recent personal injury cases were independent financial advisers who sustained injuries at the start of the financial crisis in 2008/09. Our research, based on a review of trade journals, official statistics and other sources, showed that following the crisis there were significant decreases in the sales of financial products and that many financial advisers left the sector. Based on our indication to the defendants' solicitors that the claimants' projected future earnings were overstated, they settled for amounts significantly lower than their claims for loss of earnings.
- When we started work on a matrimonial assignment, information on the financial performance of a hedge fund business partly owned by the husband was outdated. Our research showed that the performance of certain parts of the business had improved significantly in recent months and that the husband's contention that the business had little value was therefore subject to critical scrutiny.
- We were instructed by solicitors representing the defendant in a personal injury case. Our research, including the use of Google Street View, led us to conclude that the claimant's hairdressing business would have been affected by the opening of a salon with street level access two doors away from the claimant's first-floor premises shortly before the incident which was the subject of the claim, and by the opening of other hairdressing salons in the local area as well as the general economic climate. On



this basis, we indicated that in our view the claimant's claim for lost earnings was overstated.

- We were instructed as single joint experts in an employment case. We found that government guidelines for the computation of pension loss in such cases appeared to have been withdrawn in March 2015 although the relevant government website was not updated to reflect this fact until December 2015. Following discussions with our instructing solicitors, we computed the claimant's loss of pension rights on the basis of the previously extant guidelines and prepared alternative calculations using an actuarially-based approach similar to that used in personal injury cases.
- In a matrimonial dispute we found that the net assets of a business as shown in its publicly available abbreviated accounts were stated at a lower amount than those shown in the full accounts circulated only to the shareholders. We were therefore able to highlight that the net assets attributed to one of the parties may have been understated.
- We considered the industry background in a loss of dependency case involving a journalist who had been working part-time while bringing up her son. Our research on behalf of the defendant's solicitors showed that projections of her future earnings may not have taken into account adequately the decline in recent years in the business model of print journalism. We were therefore able to put forward our view that the loss of dependency claim for lost earnings was overstated.
- A claimant with a wood recycling business who had sustained a back injury claimed for loss of earnings following the loss of a local authority contract to recycle wood. Our research suggested that the termination of the contract may have been related to a significant downturn in the market for woodchip rather than the claimant's alleged inability to work.

Research undertaken by forensic accountants can be crucial both in managing the expectations of claimants and in highlighting to defendants weaknesses in claimants' contentions. It is also relevant in considering critically the assets and income in family law disputes. Most importantly, research by expert accountants is a significant aspect underlying their independence in litigation.

*To obtain further details of our activities or to benefit from the firm's experience and expertise, please contact George Sim or Rakesh Kapila.*

*Please note that this newsletter has been written for the general interest of readers and is intended for guidance only. It is therefore essential to take specific professional advice before taking any action.*



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