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## **DAVID NOLTE**

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### **SUMMARY**

With over 35 years of experience, Mr. Nolte has worked with a broad range of firms and industries in both litigation and non-litigation settings. His ability to analyze and explain complex financial matters has proved useful in numerous commercial disputes.

Mr. Nolte's client work focuses primarily on valuation of businesses and intangible business assets, economic studies, royalty and fraud auditing, and litigation-related financial analysis.

### **LICENSES & CERTIFICATIONS**

Certified Public Accountant (CPA), 1979 to present

Accredited Senior Appraiser (ASA), 1995 to present

Certified Management Accountant (CMA), 1992 to present

### **EMPLOYMENT**

Fulcrum Financial Inquiry LLP (May 2002 to Present)

Founded firm. Fulcrum has approximately 15 full-time client-service professionals, plus part-time affiliations with professors and retired professionals. Actively serves as the leader for numerous client engagements, as well as remaining responsible for Fulcrum's overall growth and direction. See [www.fulcrum.com](http://www.fulcrum.com) for additional information.

Andersen LLP (1977 to 2002)

Responsible for the Southern California forensic accounting and damage analysis practice of this international accounting and consulting firm. This practice was one of the largest such groups in the western United States. In addition to leading the local group, served on the firm-wide steering committees for the litigation consulting and the bankruptcy & troubled company consulting service lines.

Prior to working as a full-time consultant, performed audits for large publicly traded and private companies, including serving as the overall audit partner for such services.

## Other Employment

Adjunct Professor at Whittier College (1981 to 1986) - Taught upper division accounting and auditing classes

Darling Wold & Agee (1975 to 1977) Performed tax, business management, and accounting work at this CPA firm.

## EDUCATION

MBA, California State University, Los Angeles, 1982

BA, Whittier College (graduated first in his class), 1977

## MEDIA COVERAGE

Mr. Nolte has been quoted in or been published in the following (most of these on multiple occasions):

The Wall Street Journal  
Los Angeles Times  
The Associated Press  
The New York Times  
The Washington Post  
Daily Journal  
Los Angeles Lawyer  
Los Angeles Business Journal  
Compliance Week  
Benefit News  
Defined Contribution News  
Plan Sponsor  
Investment News  
Legal Management magazine  
Corporate Secretary magazine  
QSR (Quick Service Restaurant) magazine  
Numerous internet and local news mentions as a consequence of the above

## OTHER PROFESSIONAL ACTIVITIES

Past Chapter President, Institute of Management Accounting  
Journal of Forensic Accounting, Editorial Board  
California Bankruptcy Journal, Past Accounting Editor  
Senior Member, American Society of Appraisers  
Member, American Institute and California Society of CPAs

## REPRESENTATIVE TESTIMONY EXPERIENCE

The following listing lists only projects where testimony was provided, and is not complete. This list does not include written reports, declarations, administrative or bankruptcy court appearances, or appearances as a special referee/master. Separate sections towards the end of this resume provide representative non-testimony experience.

	<u>Testimony on Behalf of</u>	<u>Law Firm Client</u>	<u>Nature of Testimony</u>
<b>Intellectual Property and Loss of Intangible Value</b>			
1	Plaintiff	Jones, Day, Reavis & Pogue	Damages caused by breaches of fiduciary duty and thefts of trade secrets.
2	Defendant	Gibson, Dunn & Crutcher	Copyright damages.
3	Defendant	Daniels, Barrata & Fine	Lost profits resulting from adverse publicity
4	Plaintiff	Squire, Sanders, & Dempsey	Royalty damages involving related international sales.
5	Plaintiff and Cross-Defendant	Christie, Parker & Hale	Value of a patent. Trade secret damages.
6	Defendant	Bryan Cave	Trade secret damages.
7	Defendant	Greenberg, Glusker, et al.	Royalty reporting.
8	Defendant	Nagler & Associates	Lost profits analysis involving adverse publicity and loss of customers.
9	Plaintiff	Christie, Parker & Hale	Trademark and trade dress damages.
10	Plaintiff	Pircher, Nichols & Meeks	Trademark and trade dress damages.
11	Defendant	Irell & Manella	Valuation of a classic cartoon/children's character in various entertainment markets.
12	Defendant	Proskauer Rose	Value of technology. Appropriateness of related party billings for technology and intellectual property transfers.
13	Defendant	Sherman & Sterling	Value of lost customers and other business intangibles.

**Testimony on  
Behalf of**

**Law Firm Client**

**Nature of Testimony**

**Intellectual Property and Loss of Intangible Value**

14	Plaintiff	Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro	Reasonable royalty for trade name and trademark. Investment value of a business.
15	Defendant	Proskauer Rose	Value of entertainment properties.
16	Defendant and Cross-Complainant	Stradling, Yocca, Carlson & Rauth	Damages analysis involving adverse publicity and loss of customers.
17	Plaintiff	Gordon & Silver	Patent infringement damages.
18	Defendant and Cross-Complainant	Troop, Steuber, Pasich, Reddick & Tobey	Future market size related to intellectual property. Accounting to a profit participant.
19	Defendant	Garrett & Tully	Value of a covenant not-to-compete.
20	Plaintiff	Hong & Chang	Trade secret damages.
21	Defendant	Berger Kahn	Value of a trademark and trade name.
22	Defendant	Pillsbury Winthrop	Trade secret damages.
23	Plaintiff	Horton, Barbaro & Reilly	Value of a patent; How the patent's value is changed due to additional competition and market forces.
24	Plaintiff	Sheppard, Mullin, Richter & Hampton	Reasonable royalty associated with Internet domain name
25	Plaintiff	Allen, Matkins, Leck, Gamble & Mallory	Value of lost customer relationship.
26	Plaintiff	Kutak Rock	Trade secret damages.
27	Plaintiff	Irell & Manella	Value of software; Forecast of achievable sales.
28	Plaintiff	Manatt, Phelps & Phillips	Trademark damages; reasonable royalty rate.
29	Defendant	Berger Kahn	Trade dress damages.

**Testimony on  
Behalf of**

**Law Firm Client**

**Nature of Testimony**

**Intellectual Property and Loss of Intangible Value**

30	Defendant	Fogel, Feldman, Ostrov, Ringler & Klevens	Value of a script.
31	Defendant	Sedgwick, Detert, Moran & Arnold	Copyright damages.
32	Defendant	Beach, Proctor, McCarthy & Slaughter	Trade secret damages.
33	Defendant	Berger Kahn	Trade secret damages.
34	Plaintiff	Breidenbach, Huchting, & Hamblet	Lost customers and related profits occurring with a product recall.
35	Plaintiff	Morris, Sullivan, & Vivoli	Trademark damages
36	Plaintiff	Fox Spillane Shaffer	Copyright damages.
37	Plaintiff	Jones Walker	Trade secret damages.
38	Plaintiff	Hennigan, Bennett & Dorman	Reasonable royalty rate.
39	Plaintiff	Orrick, Herrington & Sutcliffe	Value of technology.
40	Defendant	Hogan & Hartson	Valued programming rights.
41	Defendant	Lewis Brisbois Bisgaard & Smith	Copyright damages.
42	Plaintiff	Sheppard, Mullin, Richter & Hampton	Reasonable royalty patent infringement damages.
43	Defendant	Fox & Spillane	Value of copyrighted material. Effect of infringement on value of entire enterprise.
44	Defendant and Cross-Complainant	Stradling, Yoca, Carlson & Rauth	Software copyright damages.

**Testimony on  
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**Nature of Testimony**

**Intellectual Property and Loss of Intangible Value**

45	Plaintiff	O'Connor, Christensen, McLaughlin, LLP	Reasonable royalty damages involving patent infringement.
46	Defendant	Akin, Gump, Strauss, Hauer, Feld	Reasonable royalty and lost profits in a patent infringement dispute.
47	Defendant	Sheppard, Mullin, Richter & Hampton	Trademark damages.
48	Defendant	O'Connor, Christensen, McLaughlin	Trademark damages.
49	Defendant	Orrick, Harrington & Sutcliff	Trade secret damages.
50	Plaintiff	Morris & Sullivan	Trademark damages.
51	Defendant	Sidley & Austin	Trade secret damages. Trademark damages.

**Business Valuation Cases**

1	Defendant	O'Melveny & Myers	Valuation of a software company. Lost profits analysis involving lender liability allegations.
2	Plaintiff	Holland & Knight	Valuation of a business involved in international licensing.
3	Defendant	Nichols, Nichols & Andrews	Value of the plaintiff's business. Credit analysis.
4	Defendant	Dewey Ballantine	Business valuation practices. Capital structure and cash flow analyses.
5	Defendant	Shapiro, Posell, Rosenfeld & Close	Valuation principles. Damages analyses
6	Defendant	Christensen, Miller, Fink, Jacobs, Glaser, Weil, Shapiro	Valuation of a sizable entertainment company.
7	Plaintiff	Sutin, Thayer & Browne	Value of a high-tech business.
8	Defendant	Richmond, Lawrence, Mann, Greene, Arbiter & Chizever	Valuation of a company.

	<u>Testimony on Behalf of</u>	<u>Law Firm Client</u>	<u>Nature of Testimony</u>
<b>Business Valuation Cases</b>			
9	Defendant and Cross-Defendant	O'Melveny & Myers	Value of business and value of real estate. Forensic accounting analysis.
10	Defendant	DLA Piper Rudnick	Critique of fairness opinion.
11	Plaintiff	Holland & Knight	Value of "junk" bonds involved in troubled debt restructurings.
12	Defendant	Gary Reddish, Esq.	Financial analysis of a business. Determination of owner's reasonable compensation.
13	Plaintiff	Burton, Barton & Glogovac	Fair value of a business in a dissenting shareholder action.
14	Defendant	Chapin, Shea, McNitt & Carter	Valuation of a business.
15	Defendant	Kern & Wooly	Fair market value of a business.
16	Plaintiff	Miller & Holguin	Valuation of a nonprofit healthcare enterprise.
17	Defendant	White & Case	Reasonable profit potential of a business and related value of that business.
18	Defendant	Simpson, Thacher & Bartlett	Value of a portion of a business. Reasonableness of employee compensation.
19	Plaintiff	Robert Loventhal, Esq.	Value of options.
20	Defendant	Stradling, Yocca, Carlson & Rauth	Valuation of a company. Effect on such valuation of alleged inappropriate transactions /contracts.
21	Defendant	Troop, Steuber, Pasich, Reddick & Tobey	Performance and value of large portfolio of entertainment properties.
22	Plaintiff	Bingham McCutchen	Value of a business; Market analysis of internet companies.
23	Defendant	Liner, Yankelevitz, Sunshine & Regenstreif	Lost investment opportunities. Analyses of investment results.
24	Defendant	Reback McAndrews Kjar, Warford & Stockaloper	Value of a business allegedly destroyed through a wrongful death.

	<u>Testimony on Behalf of</u>	<u>Law Firm Client</u>	<u>Nature of Testimony</u>
<b>Business Valuation Cases</b>			
25	Defendant	Jones Day	Value of a business. Reasonableness of a bankruptcy filing.
26	Plaintiff	Costell & Cornelius	Value of a start-up business and comparison of same to industry-wide performance.
27	Defendant	Murphy Rosen & Cohen	Value of an enterprise. Division of such value between different classes of stock.
28	Defendant	Fulbright & Jaworski	Value of a business. Explanation of differing profit levels based on changed industry conditions
29	Seller	Pircher, Nichols & Meeks	Value of a business under California dissolution proceedings
<b>Unfair Business Practices, Antitrust, and Related Matters</b>			
1	Plaintiff	Oppenheimer, Wolff & Donnelly	Patent infringement and anti-trust damages.
2	Defendant	Ballard, Spahr, Andrews & Ingersoll	Lost Profits involved alleged unfair competitive practices.
3	Defendant	Chapin, Shea, McNitt & Carter	Analysis of competition and other reasons for business failure
4	Defendant	Dewey Ballantine	Relevant competition for a business. Value of the business.
5	Defendant	Call, Ferrell & Jensen	Appropriateness of a lender's actions in exercising a pledge agreement; analysis of plaintiff damages.
6	Defendant	Sheppard, Mullin, Richter & Hampton	Cost analyses. Damages in an unfair business practice dispute.
7	Plaintiff	Rutan & Tucker	Lost profits involving unfair competition.
8	Defendant	Sheppard, Mullin, Richter & Hampton	Lost profits involving a breach of a restrictive competition clause.
9	Plaintiff and Cross-Defendant	Snell & Wilmer	Damages analysis involving a breach of covenants not to compete and unfair business practices.
10	Defendant	Gibson, Dunn & Crutcher	Analysis of selling below cost.



	<u>Testimony on Behalf of</u>	<u>Law Firm Client</u>	<u>Nature of Testimony</u>
<b>Unfair Business Practices, Antitrust, and Related Matters</b>			
11	Plaintiff and Cross-Defendant	Miller & Holguin	Size and definition of a market in an antitrust dispute. Forensic reconstruction of records and related damages valuations.
12	Defendant	Sheppard, Mullin, Richter & Hampton	Damages involving the effect of additional competition on a business.
13	Plaintiff	Rutan & Tucker	Market size and competition. Damages involving an interrupted contract.
14	Defendant	In-house counsel	Market and competitive analysis; lost profits calculation.
15	Defendant	Morgan, Lewis & Bockius	Whether the conduct of an investment banker and certain bond holders was fair and reasonable; damages calculations.
16	Defendant	Hogan & Hartson	The effect of vertical marketing arrangements on the terms of specific transactions.
17	Plaintiff and Cross-Defendant	Miller & Holguin	Accounting of profits in a risk sharing arrangement. Damages involving breaches in competitive restrictions.
18	Plaintiff	Paul, Hastings, Janofsky & Walker	Analysis of selling below cost, and related damages.
19	Defendant	Sheppard, Mullin, Richter & Hampton	Class action damages requiring cost analysis of a particular contract provision.
20	Defendant	Buchalter Nemer	Financial assessment of whether aspects of the defendant's business model violated laws administered by the FTC
21	Plaintiff	Sonnenschein Nath & Rosenthal	Damages caused from interference with business relationships
22	Defendant	Severson & Werson	Unfair advertising damages

**Testimony on  
Behalf of**

**Law Firm Client**

**Nature of Testimony**

**Fraud Investigation and Forensic Accounting**

1	Defendant	Alschuler, Grossman, Stein, & Kahan	Analysis of alleged overcharges and related cost accounting. Test of accounting records.
2	Plaintiff	Sheppard, Mullin, Richter & Hampton	Analysis of alleged inappropriate transactions on behalf of a minority shareholder. Reasonableness of executive compensation.
3	Plaintiff and Cross-Defendant	Baker & Hostetler	Class action damages requiring cost analysis of a particular contract provision.
4	Plaintiff	Smith & Smith	Analysis of preference payments in a bankruptcy. This required significant accounting record reconstruction.
5	Defendant	Sanders, Curtis, Ginestra & Gore	Flow of funds in a money laundering matter.
6	Plaintiff	Squire, Sanders, & Dempsey	Amount of inventory stolen in a defalcation. This required a reconstruction of accounting and other records.
7	Defendant and Cross-Complainant	Buchalter, Nemer	Analysis of allocated costs. Comparison of the results achieved by different management.
8	Defendant	Proskauer Rose	Analysis of overcharges. Lost profits analysis.
9	Plaintiff	Morrison & Foerster	Fraud investigation and forensic accounting in the construction industry.
10	Defendant	Brobeck, Phleger & Harrison	Reconstruction of financial information.
11	Plaintiff	Baker & McKenzie	Forensic analysis of accounting records to determine amounts delivered and owed.
12	Plaintiff	Stephan, Oringer, Richman & Thedora	Identification of inappropriate expenditures made by controlling executive.
13	Plaintiff	Kaye Scholer	Results of fraud investigation.
14	Defendant	Paul, Hastings, Janofsky & Walker	Reconstruction of accounting records. identification of the use of invested funds and related inappropriate expenditures.

**Testimony on  
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**Law Firm Client**

**Nature of Testimony**

**Fraud Investigation and Forensic Accounting**

15	Defendant	Dewey Ballantine	Forensic reconstruction of business and accounting records, and analysis of the same.
16	Defendant and Cross-Complainant	Beck, De Corso, Daly, Barrera & Kreindler	Forensic reconstruction of accounting records, and related cost allocations.
17	Plaintiff and Cross-Defendant	Miller & Holguin	Reconstruction of accounting records to show actual impact of certain events on plaintiff's and defendant's business.
18	Plaintiff	Sheppard, Mullin, Richter & Hampton	Reconstruction of business records to determine the cause of business failure and breaches of fiduciary duty.
19	Defendant	Brobeck, Phleger & Harrison	Use of loan proceeds and interest calculations under various alternatives.
20	Defendant	Paul, Hastings, Janofsky & Walker	Accounting for inventory.
21	Plaintiff	Brobeck, Phleger & Harrison	Methods of allocating revenue and costs. Results of a large data accumulation.
22	Plaintiff	Booth, Mitchell, & Strange	Reconstruction of decades of investments and investment results.
23	Plaintiff	Rutan & Tucker	Reconstruction of accounting records involving fraudulent conveyances.
24	Plaintiff	Liner Grode Stein Yankelevitz Sunshine Regenstreif & Taylor LLP	Results of a forensic examination of computer records that demonstrated customer lists had been stolen by a departing employee. Related disgorgement damages.
25	Plaintiff	Buchalter Nemer	Large data compilation that demonstrated a multi-million dollar bank fraud.
26	Defendant	Sheppard, Mullin, Richter & Hampton	Reconstruction of accounting records. Calculation of royalties due. Estimation of royalties under different licensing circumstances.
27	Defendant	Crane Robinson & Seal	Alter-ego assessment.
28	Plaintiff	Sheppard, Mullin, Richter & Hampton	Reconstruction of accounting records spanning multiple decades

	<u>Testimony on Behalf of</u>	<u>Law Firm Client</u>	<u>Nature of Testimony</u>
<b>Real Estate and Construction</b>			
1	Defendant	Baker & McKenzie	Lost profits as a result of using non-qualifying parts in a construction project.
2	Defendant	Lewis, D'Amato, Brisbois & Bisgaard	Feasibility of obtaining financing and profits for a proposed real estate development project.
3	Defendant	Lionel, Sawyer & Collins	Value of a real estate project and a partial interest therein.
4	Defendant	Gustin, Golob & Bragin	Value of a profit's interest in several real estate ventures (both development and operating projects).
5	Defendant	Holland & Knight	Value of the profits, if any, from a foreign investment and attempted development of real estate.
6	Defendant	Proskauer Rose	Cost of constructing a facility and the use of profits from operating the facility.
7	Plaintiff	Rudin, Appel & Rosenfeld	Cost of constructing two residential real estate developments.
8	Defendant	Burke, Williams & Sorensen	Damages incurred by a contractor as a result of impairment of capital; related causation issues.
9	Defendant	Morrison & Foerster	Feasibility of achieving a cash flow forecast for a residential real estate development.
10	Plaintiff and Cross-Defendant	Tuttle & Taylor	Real estate accounting principles and practices. Damages analysis.
11	Defendant	Fierstein & Sturman	Profits earned on a real estate development and other real estate transactions.
12	Defendant	Browne & Woods	Real estate projections. Damage causation.
13	Defendant	Folger, Levin, & Kahn	Analysis of a real estate operation. Valuation principles.
14	Defendant	Munger, Tolls & Olson	Damages in connection with a failed real estate development.
15	Plaintiff	Troy & Gould	Cost allocations and accounting in the real estate industry.

	<u>Testimony on Behalf of</u>	<u>Law Firm Client</u>	<u>Nature of Testimony</u>
<b>Real Estate and Construction</b>			
16	Defendant	Lathrop & Gage	Real estate partnership accounting.
17	Defendant	Quinn, Emanuel, Urquhart & Oliver	Real estate accounting practices. Financial reporting pursuant to a contract.
18	Defendant	Morrison & Foerster	Lost profits caused by construction defects. Mitigation alternatives.
19	Defendant	Buchalter Nemer	Feasibility and advisability of exercising a right of first refusal.
20	Defendant	Gatzke, Dillon & Ballance	Consequential damages involving environmental construction and clean-up.
21	Defendant	Christensen, Miller, et al.	Damages in an inverse condemnation proceeding.
22	Defendant	Allen, Matkins, Leck, et al.	Lost profits involving breach of a master lease for office space.
23	Plaintiff	Bate & Peterson	Construction lending and related accounting of loan proceeds.
24	Defendant	Folger, Levin & Kahn	Construction accounting.
25	Plaintiff	Millbank, Tweed, Hadley & McCoy	Damages involving commercial leases.
26	Defendant	Pircher, Nichols & Meeks	Damages involving claims of delay, disruption, and loss of bonding capacity.
27	Defendant	Wasserman, Comden & Casselman	Damages in an inverse condemnation proceeding.
28	Plaintiff	Mancini, Rowland & Welch	Consequential damages involving construction defects.
29	Defendant	Skadden, Arps, Slate, Meagher & Flom	Reasonableness of construction costs and profits earned by a related party.
30	Defendant	Pillsbury Winthrop	Assessment of environmental clean-up costs.
31	Plaintiff	Weinberg, Wheeler, Hudgins, Gunn, & Dial	Damages arising from delayed performance of a construction contract.

	<u>Testimony on Behalf of</u>	<u>Law Firm Client</u>	<u>Nature of Testimony</u>
<b>Real Estate and Construction</b>			
32	Defendant	Latham & Watkins	Summary witness involving sequence of real estate transactions. Value of a real estate option.
33	Defendant	Knopfler, Smith & Pazos	Profit calculations involving real estate development and ownership.
34	Defendant	Loeb & Loeb	Fairness buyout of REIT shares.
35	Defendant & Cross-Complainant	DLA Piper	Assessment of real estate operations and management. Forecast of real estate operations under alternative conditions.
<b>Other Breach of Contract Matters</b>			
1	Plaintiff	Sidley, Austin, Brown & Woods	Breach of contract damages involving covenant not-to-compete.
2	Defendant	Howrey & Simon	UCC Breach of contract damages..
3	Plaintiff	Grant & Laubscher	Lost profits from a terminated contract.
4	Defendant	Gibbs, Giden, Locher & Turner	Damages involving a breach of a multi-year business contract.
5	Plaintiff	Roger Golden Law Offices	Damages associated with a cancelled joint venture.
6	Plaintiff	Akin, Gump, Strauss, Hauer, & Feld	Lost profits from a terminated contract.
7	Defendant and Cross-Complainant	Horton, Barbaro, & Reilly	Damages analysis involving breaches of a franchise agreement.
8	Defendant	Susman Godfrey	Damages involving breaches of an indemnity agreement.
9	Defendant	Edwards, Angel, Palmer & Dogdge	Damages involving a breached joint venture agreement.
10	Defendant and Cross-Complainant	DLA Piper	Whether a general partner and limited partner breached financing obligations.
11	Plaintiff	Dorsey & Whitney	Damages from breaches of supply and confidentiality agreements.

	<u>Testimony on Behalf of</u>	<u>Law Firm Client</u>	<u>Nature of Testimony</u>
<b>Other Breach of Contract Matters</b>			
12	Defendant	Akin, Gump, Strauss, Hauer, & Feld	Damages from breach of a supply agreement.
13	Plaintiff	Rutan & Tucker	Breach of contract damages involving a marketing joint venture.
14	Defendant	Monteau & Peebles	Damages involving a long-term management contract.
15	Plaintiff	Hogan & Hartson	Results of an audit of a complicated most favored nations clause
16	Plaintiff	Kirtland & Packard	Damages involving a broken merger agreement
17	Defendant	Chapman, Fuller & Bollard	Performance of a management company and related for-cause termination.
18	Defendant	Barton, Klugman & Oetting	Damage calculations and causation involving loan portfolio sales.
19	Defendant	Fulbright & Jaworski	Damages caused by undisclosed constraints to development and operation of a business facility.
20	Defendant	McKenna Long & Aldridge	Damages involving a cancelled long-term agreement involving advertising and endorsements
21	Defendant	Greenberg Trauig	Damages arising from the loss of a dealership.
<b>Other Commercial Disputes</b>			
1	Defendant	Sonnenschein, Nath & Rosenthal	Liability analysis and economic damages involving wrongful termination and age discrimination.
2	Defendant	Meyers, Bianchi & McConnell	Duty of care owed by an accountant to third parties.
3	Plaintiff	Howrey & Simon	Amounts owed pursuant to Partnership accounting.
4	Plaintiff	Irell & Manella	Lost earnings damages.
5	Defendant	Musick, Peeler & Garrett	Accounting malpractice liability issues. Valuation of a commercial enterprise.
6	Defendant	Sedgwick, Detert, Moran & Arnold	Adequacy of a company's capitalization. Normal financial planning and control functions employed by parent companies over their subsidiaries.

	<u>Testimony on Behalf of</u>	<u>Law Firm Client</u>	<u>Nature of Testimony</u>
<b>Other Commercial Disputes</b>			
7	Plaintiff	Katten, Muchin, Zavis & Weitzman	Determination of whether a "material adverse change" had occurred.
8	Plaintiff	Stern, Neubauer, Greenwald & Pauly	Statistical analyses in support of liability issues and damages.
9	Defendant	Sidley & Austin	Damages involving interruption to a business caused by (i) distraction of management and (ii) lack of capital.
10	Defendant	Kolod & Wagner	Lost Investment Opportunities
11	Defendant	Fox & Spillane	Critique of a statistically-based damages analysis
12	Defendant	Holland & Knight	Validity of a liquidated damages clause. Financial reasonableness of other contract provisions.
13	Plaintiff	Sonnenschein, Nath & Rosenthal	Economic damages caused from interrupting business relationships
14	Plaintiff	Susman Godfrey	Viable restructuring alternatives for a business, and the likely results achievable from these actions
15	Defendant	Booth Mitchel & Strange	Interruption and business losses caused from an environmental hazard

**REPRESENTATIVE FRAUD INVESTIGATIONS** (See above for representative testimony examples on additional engagements)

1. Founded and leads Fulcrum's service line that provides whistleblower reporting solutions to public companies (Sarbanes Oxley Section 301(4)) and non-profit organizations. Based on complaints received, regularly consults with executive management and audit committees regarding (i) the proper methods of investigating complaints, (ii) the results of investigations, and (iii) related corporate governance matters.
2. On several occasions, investigated the financial affairs of an operating enterprise on behalf of minority stockholders or partners. In each instance, inappropriate expenditures by the majority owner were identified. Resulting lawsuits provided substantial recoveries.
3. On several occasions, evaluated and documented "ponzi schemes." This work demonstrated how and why the underlying economics of the business were unsound and could not be indefinitely continued.
4. Analyzed financial statements relied upon by the purchaser of a manufacturing company. Assisted with all aspects of the discovery and deposition plan. Developed theories and helped prove that the



purchaser had been provided misstated financial information. A favorable settlement was obtained.

5. Investigated the business activities of a plaintiff in a lender liability matter. Created a database of transactions, which refuted the plaintiff's claims and demonstrated that the business failure was not due to the lender's actions. The Court found in favor of our client.
6. Analyzed the financial viability of private offerings of limited-partnership interests on behalf of a major investment banker. Demonstrated that the audited financial statements relied on by the broker contained material errors and irregularities.
7. Investigated irregularities in legal billings involving kickbacks to an in-house general counsel. Successful prosecution resulted.
8. Investigated the complex financial affairs of an officer and director of a failed thrift institution on behalf of a regulatory agency. Based on the results, a constructive trust was placed over most of the former director's assets.
9. Performed a fraud investigation in which more than \$20 million was alleged taken. The fraud was discovered and documented, allowing criminal authorities to prosecute successfully.
10. Investigated an alleged fraud by an owner of a bankrupt manufacturing entity. Discovered in excess of \$10 million of defalcations occurring prior to the bankruptcy filing
11. Investigated an alleged fraud by a former owner of a bankrupt steel processing and service company. The defalcation was discovered and quantified. Asset tracing and searches were also performed.
12. Investigated and quantified false claims submitted for processing by an insurance claims officer. (The claims were ultimately funneled to the corrupt employee.) The work resulted in termination of the employee and eventual repayment.
13. Investigated and quantified false invoices submitted and paid through the collusion of two accounting employees. The work resulted in the employees being terminated and the amount that was stolen repaid.

**REPRESENTATIVE LICENSING AUDITS AND CONSULTATION** (See above for representative testimony examples on additional engagements)

1. On several occasions, calculated and assisted with negotiation of reasonable royalty rates.
2. On numerous occasions, performed royalty audits on behalf of owners of intellectual property. In most cases, identified unpaid royalties far exceeding the cost of our work
3. Analyzed sales and costs of competing products where violation of a licensing arrangement was alleged. Our client (plaintiff) obtained a multi-million dollar settlement.

**REPRESENTATIVE BANKRUPTCY AND RESTRUCTURING SERVICES** (See above for representative testimony examples on additional engagements)

1. On several occasions, performed a broad range of services in support of a debtor-in-possession and its preparation of a plan of reorganization. Typical series included:
  - a. Assessment of restructuring opportunities, and steps necessary for such restructuring
  - b. Valuation of businesses and business interests
  - c. Assistance in selling operations or assets
  - d. Reconstruction of accounting records
  - e. Preparation of reports required under Chapter 11
  - f. Investigation of fraudulent conveyances and preferences
  - g. Financial projections
  - h. Liquidation analysis
  - i. Financial analysis demonstrating what is in the best interest of the estate
  - j. Claim objection and administration
2. On several occasions, performed appraisal, financial analysis and negotiations on behalf of unsecured creditors' committees
3. Supported the viability of the debtor's contested reorganization plan. Assisted in negotiations with secured and unsecured creditors, resulting in substantial debt reduction, yet having the existing equity holders retain entire stock ownership. Recommended operational changes that were implemented which allowed the company to reestablish profitable operations.

**SERVICE AS AN ARBITRATOR, SPECIAL MASTER OR OTHER NEUTRAL PARTY**

Prior assignments include several cases in each of the following categories:

1. Court appointed appraiser or accountant regarding the amounts that should be distributed to shareholders/partners in a liquidation. Such matters generally involve analysis and potential restatement of existing accounting records.
2. Court or party appointed appraiser to establish the purchase price of a company (e.g., California Corporations Code Section 2000).
3. Arbitrator involving the amount of a contractual purchase price adjustment relating to the sale of a company.
4. Disputes usually involved the determination of working capital, stockholders equity, profits and/or changes in these items based on generally accepted accounting principles.
5. Court appointed referee to determine the use and distribution of funds in a business.
6. Court appointed expert to assess the reliability and appropriateness of previously issued financial statements or other accounting reports.
7. Court appointed bankruptcy examiner. Each of these engagements investigated allegations of fraud, assessed the opportunities for the debtor to reorganize, and addressed other financial matters specified by the court.