Business Valuation Insights

Fourth Quarter 2017

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How and Why Financial Experts Differ

By: James A. Gravitt, CPA, CBA, ABV, CFE

At a seminar I once presented to the local bar association, a lawyer asked “How is it that when there are two experts in a case, the one who is supposed to come in with the high number is always above the one who is supposed to come in with the low number?” It was a humorous question, but generally accurate and somewhat embarrassing, since we financial experts are supposed to be objective, unbiased, and independent. Of course, one possible reason is that experts arriving at unhelpful conclusions probably never get to testify!

Are there legitimate (that is, non-biased) reasons why financial experts can arrive at significantly different conclusions when working from the same set of facts? In my experience, the answer is definitely “yes.” This article will consider how and why this happens, focusing on the following areas where differences typically occur:

- Legal guidance and assumptions
- Access to information
- Economic and financial assumptions
- Valuation/damages models, theory, and application

Legal guidance and assumptions

Experts may apply different assumptions of what is allowable recovery for damages under the law, based on guidance from the attorneys for the clients who retained them. For a damages analysis, differences can exist in the legal guidance experts receive on the recoverable measure of loss (lost net income or lost net cash flow), the length of time for which damages are recoverable, consideration of interest rates and inflation, and the use of “ex post” or “ex ante” analysis (either consideration of or no consideration of subsequent events). Business valuations can also differ due to the legal assumptions applied (for example, whether valuation discounts are allowed).

Access to information

Unfortunately, the litigation process and the timing of an expert’s participation in a case can limit the extent to which information is available, leading the experts to different conclusions. Experts may need to “take control” of the information gathering process to the extent possible, in order to obtain enough relevant data to base their work on.

Access to management for one expert may be readily provided, while for the “opposing” expert access may be limited to interrogatories or depositions. In the same vein, access to key non-financial documents may be provided to one side but not the other, leading to different interpretations. Even if both experts get the same information, differing interpretations and judgments can lead to different economic and financial assumptions – for example, in the consideration of buy-sell agreements, contracts, and correspondence.

In complex litigation, the party with the most financial resources has a built in advantage. The extent of information analyzed by financial experts may result in differences in their analysis. For instances, one expert may have been able to access economic, industry, or operational consultants as part of a damages "team." The other expert may not have access to these resources, leading to different analysis and conclusions.

As an objective provider of findings to the court, a financial expert should seek all relevant information and, if not obtained, may consider withdrawing from the engagement. An expert should not perceive their role as one of helping the plaintiff or defendant, and may not deliberately ignore information inconvenient or unhelpful to one of the parties in litigation.

Economic and financial assumptions

Experts make assumptions concerning damages models and business valuation inputs. Here are some areas of damages and valuation models where different assumptions can result in quite different outcomes:

- Rate of sales growth
- Profit margins
- Incremental versus discontinuing expenses
- Fixed and working capital expenditures
- Non-operating assets and liabilities
- Unusual and non-recurring income and expenses
- Normalizing adjustments

The different assumptions may flow from different expectations of what would have happened if the scenarios envisioned by the alternate experts had come to pass. The validity of each expert's assumptions turn on the quality of the information and the reasonableness of the informed judgments made by each expert.

An unbiased expert will not tend to resolve every judgment call in favor of one party, while apparently turning a blind eye to conflicting information. Experts should also be wary of unreasonable or implausible assumptions provided by the parties or their counsel, while seeking to maintain independence and objectivity in their assessments.

Valuation/damages theory and application

Financial experts can rely on different methodologies. A variety of models are available for a lost profits damages analysis, including "but for" models, "yardstick" analysis, "before and after" methodology, and accounting for the defendant's profits. In cases involving intellectual property infringement, experts may chose models involving lost profits or a reasonable royalty. For damages involving business valuations, appraisers decide on which approaches and methods to employ, as well as the premise of value (liquidation or going concern). In some cases, the choice of which general approach to use to measure a loss (for example, a lost-profits model or a "before and after" business valuation) can be a significant point of departure for financial experts.

Technical differences between the experts can also be an issue. For example, in discounting future cash flows, did the experts assume cash flows to occur at the beginning, at the end, or throughout the year? Do the discount and capitalization rates properly match the measure of earnings (net income or net cash flow)? What is a reasonable recovery period for a damaged business?

Conclusion

Financial experts can differ widely in their opinions and findings because of differences in legal guidance and assumptions, access to information, differences in their underlying financial and economic assumptions, and differences in the damages theory and models that are employed. Because of these differences, there are legitimate foundations for sometimes substantial departures in their opinions. Attorneys and fact finders aren't surprised that experts differ in their opinions, but they may not understand the many valid (non-biased) reasons for these differences. A financial expert's mission is to identify legitimate sources of differences in their opinion versus another expert's, and to provide support for why their own opinion is more credible.

Financial experts should not be surprised when those in advocacy roles attempt to push them over the edge of objectivity to become advocates themselves. Substantive advocacy (that is, advocacy for a client) may result from an accumulation of seemingly minor assumptions that collectively create an unbalanced position. In these situations, the expert's mission is to avoid substantive advocacy and remain firmly on the solid ground of objective and reasonable analysis, advocating only for the soundness of their opinions. Over time, experts who can sustain objective, credible positions will be the most helpful to their clients.

10 Ways Investment Bankers Provide Value When Business Owners Sell

By: John A. Mascarich, Senior Investment Banker

For most business owners, selling a company can be a daunting, complicated, emotional undertaking. Most business owners sell a company only once in a lifetime, but investment bankers sell companies for a living. Your investment banker is a key member of the team – which includes you lawyer, accountant, and other professional advisors. We are not looking to displace their services, but to work alongside them to negotiate the best deal on the best terms.

Here are ten things that a seasoned banker can help you with as you consider the sale of your business:

1. **You get a team:** You're not hiring just one person. An entire team of professionals who specialize in selling companies provide a proven process for representing sellers' interests to a marketplace of sophisticated buyers. This includes doing market research on your industry, developing marketing materials to present your company to qualified buyers, gathering years of historic company information and reducing it to an easy-to-understand story of your business, developing target lists of potential buyers, connecting with those prospects, making hundreds of phone calls, answering hundreds of questions, negotiating deal terms, and preparing the owners for a closing.

2. **They run interference for you:** Your investment banker will manage all the schedules of calls, meetings, and presentations so you can remain focused on running and growing your business. While there will certainly be some distractions to you and your team, especially during the due diligence phase, the banker will ward off unqualified "tire kickers."

3. **They connect you with buyers efficiently:** Your investment banker will leverage existing relationships, proprietary databases, and networks of industry contacts to bring you the most qualified buyers possible, creating a more competitive environment for your company. A competitive process with more than one interested party is the absolute best way to get an above-market price and more seller-friendly terms.

4. **More competition among buyers gets you a better deal:** An investment banker's job is to maximize competition to derive the highest value for the seller. This is often done by multiple rounds of bidding, forcing interested buyers to put their best deal on the table or risk losing it to another buyer. Your investment banker is compensated on a success-basis – meaning they are paid only if and when a deal closes, as a percentage of the transaction value. Thus, their incentives are aligned to get you a deal not only on the best terms but also with the highest degree of certainty to close.

5. **They add credibility:** Engaging a qualified investment banker will give the seller instant credibility in the eyes of the prospective buyers because it show the seller will be prepared and is serious about selling the company. Some prospective buyers may initially view the introduction of a banker and a competitive process as a negative for their chances to get the deal on below market terms – but is that the type of buyer you really want? Most credible buyers will underhand the disciplined approach and greater resources a qualified banker brings to the process to get the deal done.

6. **They can play "bad cop":** Sometimes, bankers need to be the designated "Bad Guy" to handle delicate parts of a negotiation. In most cases, there will be some ongoing employment period for you and your team. If directly interacting with the buyer, some sellers are hesitant to take a firm stance on issues that

can cost real dollars at the closing table, in order to preserve a positive working relationship. Your investment banker will not have such concerns, and will negotiate aggressively on your behalf.

7. **Experience matters:** A credible banker should have years of experience in numerous types of transaction. They have watched both buyers and sellers make hundreds of unfortunate mistakes. One of their goals is trying to minimize the unwitting errors of judgment and lack of awareness. A banker knows common deal killers that come up time after time – and how to navigate tricky issues that can create an impasse.

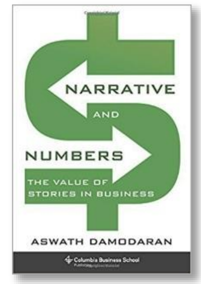
8. **They market your company:** They support the selling process by preparing information about your company, including a valuation assessment, financial summaries and analysis, review of operations practices, staffing requirements, the overall management team, sales and marketing activities, your competitors, industry trends, and much more. All of this is designed to present your company in the best possible light, in a language that sellers understand.

9. **They manage information flow:** Investment bankers help protect you from having too much information divulged too soon, and they screen out "shoppers," or those without the ability to close a transaction. Recently, more *fundless sponsors* are out looking for deals – with the goal of trying to find financing after getting the deal agreed to. These buyers rarely close deals, and the ones they do are in many cases significantly below the initially agreed upon deal terms. An experienced banker can help identify these groups and keep you from wasting countless hours with unqualified buyers.

10. **They're discreet:** They do all of these things and more in a highly confidential manner. By working closely with business owners and their advisors (attorney, accountant, financial planner), they can minimize the intrusions on your work day, and bring about an efficient close to a rewarding transaction.

Narrative and Numbers: The Value of Stories in Business By: Aswath Damodaran

By: Jason Spitz, Investment Banking MBA Intern



My first thought when assigned this book was, "Oh great! Another academic text on business valuation!" Damodaran's approach to business valuation has a reputation as being mathematically intense. Luckily for us, *Narrative and Numbers* is not an academic bore, but a fluid narrative that illustrates the importance of both the numbers and the stories behind a business's value. Although this book presumes a basic level of numeracy, Damodaran lays out a framework for valuation that anyone can apply to their business – even if you haven't taken calculus in more than a decade.

Damodaran opens the book by classifying two types of people – number crunchers and storytellers – and how each type approaches business value. Often, members of each self-selected group tend to stay near their end of the spectrum, but Damodaran illustrates the value of balancing numbers and stories:

- For *storytellers*, numbers can be used as the foundation and framework of the story, so the story stays grounded in reality.
- For *number crunchers*, stories resonate with people more than numbers. The ability to illustrate and animate calculations tend enrich a valuation that might otherwise be lost in a sea of numbers.

In the end, Damodaran builds an easy-to-follow framework (see below) that can be used to "bridge" narrative and numbers.

According to Damodaran, to convert your story into a valuation, your story must pass a couple of tests. The story must first pass the "Three P" test. This is a framework that establishes whether or not your story is **p**ossible, **p**lausible, and, finally, **p**robable. Each layer of the Three P test is intended to narrow your focus to the company's realistic financial prospects. This will prevent your story from wandering too far from the actual value.

The company's story must also have an element of *adaptability*. As information becomes available that can alter the story's narrative arc, the story must adapt accordingly. Finally, you must be willing to accept feedback on the premise of the company's story and valuation thesis. Damodaran's simple framework keeps your story in line with the value.

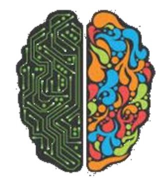
Your narrative must be true

Damodaran illustrates the dangers of a "good story" by using Theranos as an example. Theranos, the revolutionary "unicorn" blood testing company with a peak valuation of $9 billion, had all of the elements that would make it a blockbuster story. The disruptive technology, the size of the addressable market, the all-star cast of company members, and the sophisticated capital backing the company all set up Theranos's story to be both credible and plausible. Unfortunately, as we all know now, the company failed to actually develop the technology or achieve the financial success promised by the story. Its current value is near zero.[1]

Don't use numbers to manipulate

Damodaran begins the number-crunching portion of his book with a warning: Numbers often appear as objective, precise, and unbiased, but Damodaran reminds us how easy it is to manipulate data. Take the equity risk premium (ERP), one of the measures used to determine a company's cost of capital or discount rate, as an example. Depending on whether you use a geometric or arithmetic mean to calculate the ERP, your cost of capital could differ by several percent. Differences that big could produce a vast difference in potential end-values for the company. Another issue addressed is how you collect, analyze, and display data to portray the company's value. Selection bias (cherry-picking favorable data) and survivor bias (focusing on things that made it past some selection process and ignoring other things) often creep into valuations that are supposed to be objective and "clean," in order to align with story the number cruncher wants to portray. As with storytelling, numbers can easily drift into improbability and misrepresent a company's true value.

How you could use both narrative and numbers in an evaluation



Once you grasp Damodaran's pros and cons of storytelling and number crunching, you can use both elements to build a more complete, persuasive presentation of your company's valuation. First you must build your narrative. The company's narrative must be simple, it must be credible, and it must inspire action. You need to establish the history of the business and the company's current situation or operating environment. What does the competitive landscape look like? What are the potential growth, profitability, and risk factors that can affect the company's valuation? Once the narrative passes the "Three P" test, you must calculate the inputs to derive the company's value.

The three most important inputs that affect a company's value are **cash flows**, **cost of capital**, and **estimated growth rate**.

- Using historic numbers and presumption of the company's future operations, cash flows may be the easiest number to calculate or forecast.
- Cost of capital (discount rate), the expected return your company should generate based on its implied risk, may be the toughest to derive from this book. Narrative to Numbers mostly evaluates huge public companies, and uses CAPM and WACC to derive the discount rate; in turn, it uses these rates to compute a value with several different valuation models. CAPM measures a company's expected return on equity based on its relationship to the overall market. Then you take the measure derived from CAPM, the cost of after-tax debt, and weight them based on the company's capitalization structure to get cost of capital using WACC. Although CAPM and WACC may not be appropriate for small or tightly held private companies, they do provide a framework for thinking about the mechanics of discounting. For a more appropriate discount rate or multiple based valuation for your company, consider engaging with an experienced investment banker.

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[1] "Theranos' $9 Billion Evaporated: Stanford Expert Whose Questions Ignited The Unicorn's Trouble," Roomy Kahn, *Forbes*, Feb. 17, 2017.

- Finally, be careful not to overestimate your company's long term growth rate. Staying true to the premise of the book and keeping growth assumptions in the "probable" range will help keep your company's valuation from wandering into the "fairytale" arena. A good rule of thumb for long-term growth rate is to peg to the rate in which the economy is growing; otherwise, your company would theoretically outgrow the market in which it competes. Also remember, as your company grows, so do the investments needed to support that growth.

Narrative to Numbers does walk through the mechanics of some of Damodaran's previous valuations (including Amazon, Uber, Apple, Exxon, and Vale), but these examples are meant only to illustrate the relationship between the numbers and the stories behind the companies' valuations. *Narrative to Numbers* really isn't about the mechanics or the math behind value, but the book emphasizes how the changes in a company's story affects the numbers in the valuation, not the other way around. For those seeking more of an intense guide to the mechanics of valuation, Damodaran has several books and a website that will take you as deep into the math as you want to go. (See www.valuewalk.com/aswath-damodaran for starters.) Otherwise, use this book as it was intended: as an illustration that numbers and stories are joined at the hip, and one without the other isn't as rich.

Below, I have adapted Damodaran's useful framework slightly to guide your valuation process.

The story-to-numbers process

1. Develop a narrative for the business you are valuing.
In the narrative, you tell your story about how you see the business evolving over time.

2. Test the narrative to see if it is possible, plausible, and probable.
Possible narratives abound, but not all of them are plausible, and only few of them are probable.

3. Convert the narrative into drivers of value.
Take the narrative apart and look at how you will translate it into valuation inputs, starting with the potential market size and moving on to cash flows and risk. By the time you are done, each part of the narrative should have a place in your numbers, and each number should be backed up with a portion of your story.

4. Connect the drivers of value to a valuation.
Create an intrinsic valuation model that connects the inputs to an end-value in the business.

5. Keep the feedback loop open.
Listen to people who know the business better than you do and use their suggestions to fine-tune your narrative and perhaps even alter it.
Work out the effects on the value of alternative narratives for the company.

From Damodaran, A. (2017). *Narrative to Numbers: The Value of Stories in Business.* New York: Columbia University Press.

Court Case Insights

A recent Delaware case addressed various valuation issues – and neither the market price nor a blend of three other values controlled.

DFC Global Corp. v. Muirfield Value Partners, L.P., 2017 Del. LEXIS 324 (Aug. 1, 2017)

The Delaware Supreme Court recently overturned a 2016 statutory appraisal ruling in which the Chancery had blended the results of three valuation techniques to arrive at fair value. This followed the merger sale of DFC Global, a publicly traded payday lender with headquarters in the United States and operations in 10 countries. The merger closed in mid-2014, based on the buyer's final offer of $9.50 per share. Dissenting shareholders got a fair value determination from the Delaware Court of Chancery that was appealed to the Delaware Supreme Court.

On appeal, the company's main argument was that the high court should create a judicial presumption, applicable in appraisal proceedings, that, when the merger that triggered the lawsuit was an arm's-length transaction, the merger consideration was the best indicator of fair value. The Supreme Court declined, partly because the company had failed to make that argument to the Chancery. Moreover, a presumption was inappropriate under the appraisal statute.

At the same time, the Supreme Court agreed with the company that the Chancery's weighting of the results of the three methods was not supported by the record or by basic economic principles. "Market prices," the Supreme Court said, "are typically viewed [as] superior to other valuation techniques because, unlike, e.g., a single person's discounted cash flow model, the market price should distill the collective judgment of the many based on all the publicly available information about a given company and the value of its shares."

The Chancery Court had found the sales process was robust, but had expressed reservations about relying on the deal price alone because of regulatory uncertainty and because the buyer was a financial sponsor whose valuation was guided by the need to achieve an internal rate of return. According to the Supreme Court, the market "necessarily takes regulatory risk into account as it does with all the other reasonable uncertain factors that affect a company's future." Moreover, all "disciplined" buyers have in mind an internal rate of return they expect to reach in return for taking the risk of pursuing a merger or making any sizable investment. Here, there was objective evidence that the price paid was fair.

The Supreme Court seriously objected to the Chancery's post-trial perpetuity growth rate adjustment. Procedurally, this drastic change should not be based on a motion for reargument. By adopting the petitioners' argument that using those projections required increasing the perpetuity growth rate, the Chancery "compounded its reliance upon the Projections that assumed DFC could grow rapidly again through 2018," the Supreme Court said. Increasing the perpetuity growth rate meant ignoring the reality that the company and the industry had experienced nearly a generation of rapid growth. In fact, the company was facing regulatory pushback, which was affecting its ability to obtain loans the company needed to make profits.

All of these reasons required a remand and a reassessment by the Chancellor of his earlier conclusions, the Supreme Court decided. In a final bit of advice, the Supreme Court warned the Chancellor against taking every valuation method put into the record and giving the results equal weight without considering the economic facts applicable to the case and corporate finance principles. The Chancery must explain the weighting it chooses in a way that makes sense based on the record. “That did not happen here,” the Supreme Court concluded.

Another Delaware case turned on the merits of competing discounted net cash flow (DCF) projections.

ACP Master, Ltd. v. Sprint Corp. 2017 Del. Ch. LEXIS 125 (July 21, 2017)
As part of a larger plan to team up with the Japanese telecommunications giant Softbank, Sprint was eager to acquire the minority interest in Clearwire, a small telecom that owned a large block of 2.5 GHZ spectrum and in which Sprint held a majority interest. The parties agreed to a purchase price of $2.97 per share. At the last minute, a Sprint competitor, DISH, intervened with a substantially higher bid to buy 100% of Clearwire’s outstanding common stock. As the court put it, this offer “changed the negotiating landscape.”

To persuade Softbank to top any bid DISH made, Sprint created a presentation, the Full Build scenario, that outlined the cost to Sprint if it was unable to acquire Clearwire. Clearwire would be a standalone business, and Sprint would use Clearwire’s spectrum as a wholesale purchaser. As the court noted, Sprint created a full set of projections that assumed Sprint would end up paying Clearwire “staggering” amounts of money to access the latter’s spectrum and would buy the same amount of spectrum regardless of whether it owned Clearwire. Sprint ultimately acquired Clearwire for $5.00 per share. After the merger closed, a large Clearwire shareholder and related entities filed suit, claiming Sprint, aided by Softbank, had breached its fiduciary duties. The dissenters also filed a petition for statutory appraisal. The Delaware Court of Chancery consolidated the cases.

In its findings, the Chancery noted that no one argued in favor of using the deal price. Both parties’ experts relied on a DCF analysis to determine fair value. The dissenters’ expert achieved a value of $16.08 per share, whereas Clearwire’s expert arrived at a $2.13-per-share price. The dissenters’ expert used a scenario of projections that Sprint had created for the purpose of convincing Softbank to go along with Sprint’s plan to increase the offer to Clearwire. The court noted these were not the kind of forecasts that would result in a reliable DCF analysis; Clearwire’s management did not create them in the ordinary course of business, and they did not represent Sprint’s plans for Clearwire in the event the acquisition did not go through.

In contrast, Clearwire’s expert used projections that company management created in the ordinary course of business that were regularly updated. These projections were a reliable indicator of Clearwire’s reality at the time of the merger, the court said.

One other major disagreement between the experts concerned the valuation of Clearwire’s unused spectrum. While Clearwire’s expert found the net proceeds from the spectrum amounted to $1.98 billion, the dissenting shareholders’ spectrum valuation expert arrived at a total value of $8.43 billion. The court rejected the latter valuation as speculative. It adopted in full the DCF analysis by Clearwire’s expert and found that Clearwire’s fair value was $2.13 per share.

A recent New Jersey case discussed the question of goodwill in the context of valuing an interest in a law practice.

***Slutsky v. Slutsky*, 2017 N.J. LEXIS 120 (Aug. 8, 2017)**

The husband in this matter was an attorney who specialized in complex tax matters, becoming an equity partner in 1984. The attorney did not originate clients but excelled by working hard and accumulating billable hours. He was bound by a shareholder agreement that set forth a formula for buying out a partner who stopped being employed by the firm. The firm calculated the equity partner's interests in the firm by way of a Termination Credit Account (TCA). There was no mandatory retirement at 65, but the board decided whether the partner could continue to participate in the allocation of the firm's excess income system or was moved to senior status, which meant to a salaried position. Also, there was a discretionary longevity bonus. The husband was not eligible for it when the wife filed for divorce in May 2008, but qualified just before trial.

At trial, both sides presented valuation testimony. The wife's expert prepared a calculation of value and decided there was an additional goodwill interest. The husband's expert found there was no separate goodwill component to the husband's interest in the firm, and that the lower TCA amount reflected the true value of his interest.

The trial court took note of husband's objections to the finding of goodwill, but disregarded them without explanation, stating that it was "incredible" that the firm had no goodwill value. The trial court decided to award the wife one-half of the total value of the husband's interest, based on the wife's expert's valuation. The husband appealed the findings with the state court's appellate division.

The husband's appeal contended that the lower court misunderstood the facts, misapplied the law, and abdicated its responsibility to undertake "a careful and reasoned application of the law to the actual facts" by mistakenly assuming that an individual partner in a firm had to have separate goodwill simply because the firm had goodwill. The appellate court agreed with the husband's position, citing controlling case law that "intangible goodwill may attach to an attorney's interest in a professional practice."

"The determination of the amount ascribed to goodwill is a complex question of fact," the appellate court said, noting the trial court's repeated failure to support its conclusions or clarify inconsistencies. The failure to make the necessary factual findings required a remand, the appellate court decided. It said it wanted to aid the remand proceeding by providing legal guidance to the trial court on how to analyze this case. The court emphasized the need to evaluate the facts specific to this case as they differed from those in the controlling goodwill case. It also observed the trial court had misunderstood the conclusion the husband's expert had reached regarding goodwill. The expert did not say the firm had no goodwill but found there was no additional goodwill component to the husband's interest, the appellate court explained. The appellate court wanted the case reassigned to a new trial judge.

Another case involving marital goodwill is the final case we are highlighted in this issue.

***In re Marriage of Vandal*, 2017 Wash. App. LEXIS 1459 (June 19, 2017)**

Before the marriage, the husband set up a CPA firm that became the sole source of income during the marriage. In terms of goodwill, the parties' valuation experts agreed that most of the value of the business was in the form of goodwill. Both experts used an excess earnings approach, with different capitalization rates and slightly different reasonable compensation amounts. The result (surprise!) was that the valuation the husband's expert produced for the business and the goodwill was significantly lower than that of the wife's expert.

The CPA firm performed services for condominium homeowners' associations. At divorce, the husband claimed the business was separate property and, therefore, not subject to division. The trial court disagreed, finding the business had become community property because of a commingling of business and community funds. The husband also argued that any goodwill in the business was not based on his own labor but on business systems he had set up early (presumably before the marriage) and that enabled the company to run itself. The trial court determined that the husband's effort represented community labor, which gave both parties a right to the value of the goodwill.

On appeal, the reviewing court agreed with the trial court that, during the marriage, "the business lost its nature as separate property." The appeals court also rejected the husband's argument that the goodwill in the business was not based on his own labor but on "business systems." "Where goodwill is acquired during marriage, it may be community property," the court noted. The evidence showed that the creation of goodwill in this instance depended on the husband's efforts, "toil," which was community labor, the appeals court concluded. It noted the husband failed to present any records of the business's value before the marriage. In sum, both the commingling of funds and the creation of goodwill through community labor created a joint interest in the business.