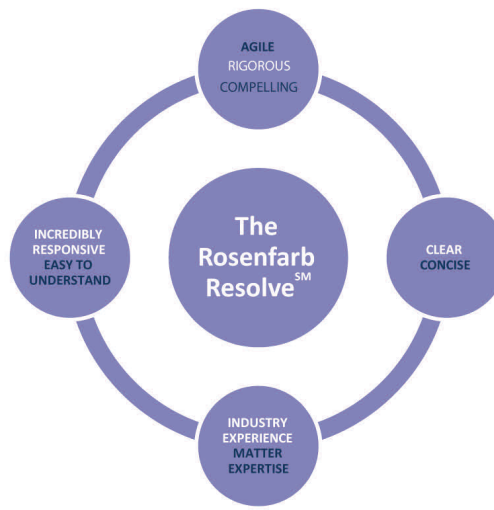


FIVE TIPS FOR LITIGATORS TO RETAIN RIGOR

1. Plead Collaboratively

Address with ardor whether and how the basic business factors of people-systems-process-product are impacted. Use your lost profits expert to gauge the economic reality of the contemplated claim. The litigant will appreciate access to financial acumen early in the matter.



2. Discover Synergy

Shift your time from synthesizing to evaluating financial demands. Direct your lost profits expert to suggest the financial demand dialect. You will also ensure accuracy and unambiguously demanded financial data and documents.



3. Exploit Demand Delays

Alter to your advantage the financial document delays which burden so many matters. Invite your lost profits expert to assess, monitor, and continuously document the inadequacy or incompetence of your opponent's production.



4. Delegate to Defend

Gain the litigant's favor by delegating financial questions. Showcase your lost profits expert who "speaks the same language" as the litigant's financial staff, and will liaison between you and your client.



5. Focus Fearlessly

Outsource financial thinking and single-task on legal strategy. Empower your lost profits expert as an accountable team-member, not a doer of tasks.

TIPS FOR EFFICIENT AND EFFECTIVE FINANCIAL INFORMATION DEMANDS

DIALECT

Financial dialect is typically used to identify what is owned, owed, and how much is “brought in” and “taken out.”

Owned

- Cash (unrestricted and restricted)
- Accounts receivable (“A/R”) (due from customers)
- Investments (stocks, bonds)
- Fixed assets (buildings, cars, and machinery)
- Intangibles (patents, trademarks, copyrights)

Owed

- Accounts payable (“A/P”) (due to vendors)
- Notes, loans, and debt

Ins

- Receipts (sales, rents, interest)
- Profitable investments
- Royalties
- Gifts
- IRS and other tax refunds
- Amounts loaned

Outs

- Disbursements (cost of sales, interest)
- Unprofitable investments
- Payments to register, develop, maintain, and defend intellectual property
- Gifts made
- Payments of income, payroll, sales, and other types of tax
- Repayments of loans and related interest

DIALECT⇒DOCUMENTS⇒DATA

Financial feud resolution begins with using financial dialect to ask focused questions. Responsive to focused questions should be relevant financial documents, which should be organized and reviewed. Gleaned from financial documents should be potent financial data to identify financial wrongdoing. Following this formula of Dialect⇒Documents⇒Data, value and vigilance is achieved.

DATA

Armed with financial dialect, developing focused questions about the following becomes easy and effective:

- Value
- Control and those in control
- Business activities
- Past and planned changes

By reviewing financial documents, it is usually simple to glean **financial data** evidencing wrongdoing, including:

- Amounts unequitably benefiting stakeholders
- Disguised dividends
- Amounts benefiting unauthorized individuals
- Mismanagement of assets
- Diminution in value
- Family-business frauds
- Lost revenues and avoided, incremental costs
- Infringer’s profits (intellectual property matters)
- Amounts fraudulently conveyed to detriment of bankruptcy estate
- Amounts transferred by insiders recoverable by bankruptcy trustee or debtor-in-possession
- Negligence by CPAs and resulting damages
- Damages resulting from malpractice by other professionals

DOCUMENTS

Typical *accounting records* include:

- Financial statements (audited, reviewed, or compiled)
- Accounting reports
 - Chart of accounts
 - General ledger
 - Subsidiary ledgers (A/R, A/P, inventory, fixed asset)
 - List of journal entries
 - Cash receipts and disbursements journals
- Cost accounting records (material, labor, overhead, allocations)
- Third-party documents (sales invoices, vendor bills, bank statements)

Typical *tax records* include:

- Income tax returns (including IRS Form 1120, 1120S, 1065, or 1041)
 - Payroll tax returns and other payroll forms (including IRS Forms 941, 940, W-3, W-2, 1096, 1099)
 - State sales and use tax returns
 - Gift tax returns (IRS Form 709)
 - Employee benefit plan reports (IRS Form 5500)
- Business-specific* documents include:
- Forecasts, projections, and business plans
 - Industry guidance, compensation studies, commission reports