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Certifications

Certified Fraud Examiner

Professional Affiliations

American Bar Association
Associate Member

Association of Certified Fraud
Examiners

Licensing Executives Society

National Association of Certified
Valuation Analysts
Practitioner Member

Education

M.B.A. with Honors: 2007
Edwin L. Cox School of Business
Southern Methodist University

B.S. – Business Administration
(Finance): 1989
Magna Cum Laude
Tennessee Technological
University

Consulting History

Echelon Analytics: 2010 – Present

FTI Consulting: 2008 – 2010

Peterson Consulting/Navigant
Consulting: 1991 – 2008

For more than 27 years, Barry Bell has focused primarily on the analysis and quantification of damages in commercial litigation matters. He is experienced in analyzing complex matters; identifying relevant issues, information and approaches and cogently communicating, via expert reports and testimony, the resulting opinions to interested parties.

Mr. Bell has provided expert testimony in matters before state and federal courts as well as in arbitration. He has provided expert opinions in matters involving allegations of breach of contract; breach of fiduciary duty; fraud; trade secret misappropriation and copyright, patent and trademark infringement, among others. Mr. Bell has also led engagements in analyzing damages related to business interruption, dealer termination, product liability, fraudulent conveyances, and professional liability, among others. He has analyzed and/or presented claims for restitution and for damages under reliance, expectancy (lost profits), unjust enrichment and statutory damages constructs.

Mr. Bell's experience includes engagements in the following industries, among others:

- Architectural Design
- Banking/Financial Services
- Chemicals
- Communication
- Energy
- Entertainment
- Fashion
- Health Care
- High Technology/Internet
- Insurance
- Manufacturing
- Media
- Medical Devices/Pharmaceuticals
- Mining
- Mobile Devices/Applications
- Oil and Gas
- Real Estate
- Retail
- Sports/Fantasy Sports
- Software
- Telecommunications
- Waste Disposal

Professional Experience

Some examples of Mr. Bell's case experience include:

Breach of Contract

- Analyzed damages (ranging from multimillion to multibillion dollar claims) allegedly arising from breaches of contract in over a dozen suits filed by savings and loan associations, their shareholders, and/or their receivers against the U.S. government relative to changes in regulations governing the calculation of regulatory capital. On these engagements, Mr. Bell performed viability assessments and extensively analyzed thrift institutions' capitalization, actual and projected operations (including underwriting, monitoring and internal controls) and profitability. He also directed and performed analyses of asset composition, sources and cost of funding, interest margin and spread, and



portfolio risk, as well as other financial performance metrics. (Retained by defendant)

- Quantified damages related to alleged breaches of contract between two providers of specialized software used by financial institutions to manage their depositor overdraft protection programs. Claims included alleged breach of an exclusive marketing agreement. Analyses included review of the parties' historical and projected revenues, customer bases, and profitability. Also included analysis of the economic and regulatory environment over the relevant time period. (Retained by plaintiff)
- Provided an expert report and arbitration testimony quantifying damages to a publisher due to a breach of contract relative to the distribution of a non-fiction book. (Retained by plaintiff)
- Quantified damages due to a breach of contract and fraud related to the failed implementation of enterprise resource planning software platform for a county government. Quantified restitution and reliance damages. (Retained by plaintiff)
- Analyzed damages related to an alleged violation of an exclusive marketing agreement in the insurance industry. (Retained by plaintiff)
- Analyzed and offered expert opinions relative to a wholesaler/retailer's claimed lost profits and increased cost damages allegedly resulting from a breach of contract by an office equipment lessor. (Retained by defendant)
- Provided expert reports and testimony on damages arising from the alleged breach of an asset purchase agreement related to a business acquisition in the transactions processing industry. The matter also encompassed claims of fraud, breach of fiduciary duty and violations of the Racketeer-Influenced Corrupt Organizations Act (RICO). Analyses and damages quantification included a calculation of lost profits, diminution in value and unjust enrichment. (Retained by plaintiffs)
- Analyzed lost profits suffered by an industrial shelving manufacturer resulting from an alleged breach of contract by a manufacturing equipment seller. Issues addressed included lost sales, increased repair and maintenance costs and increased scrap, among others. (Retained by plaintiff)

Intellectual Property

Copyright Infringement

- Analyzed damages related to a national homebuilder's alleged infringement of an architectural design firm's copyrighted floor plans. Analyses included an assessment of the residential floor plan market, including the pricing strategies of the plaintiff and its identified competitors, and a quantification/allocation of the alleged infringer's revenues, costs and profits attributable to the alleged infringement. (Retained by defendant)
- Analyzed damages related to multiple homebuilders' alleged infringement of copyrighted floor plans. Analyses included quantification of copyright owner's



actual damages as well as a critique of defendant experts' opinions related to deductible expenses and allocation of profits to factors other than the copyrighted elements. (Retained by plaintiff)

- Analyzed a software developer's claim for lost profits, infringer's profits and relief in royalty related to the defendant's alleged infringement of the developer's copyright of forecasting software used in call center management. (Retained by defendant)
- Analyzed damages due to the alleged copyright infringement of direct mail marketing materials. Analyzed revenues associated with the allegedly infringing marketing materials and quantified deductible costs associated with the identified revenue. Further, analyzed the impact of the alleged infringement on defendant's profits. (Retained by defendant)
- Quantified damages to a specialty software company due to the alleged infringement of a copyright and the breach of a licensing agreement by a *Fortune* 5 company. (Retained by plaintiff)

Patent Infringement

- Evaluated whether a reactive-liner shaped charge used in oil and gas well completions embodying the teachings of an apparatus patent was commercially successful in matter before the Patent Trial and Appeal Board. (Retained by patent owner)
- Analyzed whether a complainant met the economic prong domestic industry requirements in a Section 337 matter before the International Trade Commission. The asserted patents covered technology used in scanners and scan engines. Also evaluated factors related to complainant's request for a cease and desist order and the appropriate amount of a bond to cover its alleged harm during the Presidential review period. (Retained by respondent)
- Analyzed and quantified damages suffered by the holder of a patent covering a method of using reactive-liner charges to perform wellbore perforations in oil and gas wells. Analysis entailed a quantification of lost profits from lost sales as well as from price erosion due to the infringement. (Retained by plaintiff)
- Analyzed damages claimed by the holder of a patent covering a specific arrangement of multiple oil and/or gas wells on a single pad site. Evaluated plaintiff's reasonable royalty damages claim and performed an independent analysis to reach a reasonable royalty damages opinion. (Retained by defendant)
- Analyzed reasonable royalty damages suffered by the holder of a patent covering the organization for accessing internet searches for geographically and topically based information. (Retained by plaintiff)
- Evaluated claims for reasonable royalty damages related to claimed by the holder of a patent covering the process of reformatting an HTML (or desktop) website to an XML site to facilitate viewing and navigation on televisions and mobile devices. Defendant was a national department store retailer. Analysis



included the review of numerous license and settlement agreements. (Retained by defendant)

- Analyzed damages claimed by the holder of a patent related to duct couplers used in segmental concrete construction. (Retained by defendant)
- Evaluated damages claimed by a patent holder and its exclusive licensee related to alleged infringement of two patents covering certain aspects of laser ultrasonic testing of composite materials. Plaintiffs also claimed damages due to misappropriation of trade secrets covering certain aspects of their laser ultrasonic testing process. Analyzed claimed lost profits and reasonable royalty damages and performed independent quantification of reasonable royalty damages and trade secret misappropriation damages assuming validity and infringement/misappropriation. (Retained by defendant)
- Analyzed damages claimed by the holder of patents covering the capture and storage of visual images in multiple electronic file formats on smartphones. Issues addressed, among others, included apportionment versus entire market value. (Retained by defendant)
- Determined lost profits and reasonable royalty damages suffered by a patent holder in the technology industry. Analyses involved extensive market as well as fixed and variable cost and profitability analyses of both parties (including foreign parents) in the litigation. (Retained by plaintiff)
- Quantified damages to a medical device manufacturer as the result of alleged patent infringement by a direct competitor related to a medical device used in ACL/PCL reconstruction procedures. Calculated lost profits and royalty damages related to both U.S. and international sales of accused devices and related products. (Retained by plaintiff)
- Analyzed damages claimed by the holder of a patent allegedly covering certain components of “middleware” intended for use in complex data mining systems for the extract, transform and load (ETL) function, among others. Analyzed damages claimed against multiple defendants, who allegedly used the patented technology in disparate software products. (Retained by defendants)

Trademark Infringement

- Analyzed claims for lost profits, unjust enrichment, harm to goodwill, corrective advertising, and irreparable harm to a catering business due to trademark infringement and unfair competition under the Lanham Act and common law unfair competition. (Retained by plaintiff)
- Quantified lost profits and corrective advertising damages suffered by an information technology infrastructure solution and consulting provider due to the infringement of its trademark and unfair competition. (Retained by plaintiff)
- Quantified an e-commerce retailer's damages due to trademark infringement and violations of the Anticybersquatting Consumer Protection Act. Analyses included quantification of infringing sales and plaintiff's lost profits. (Retained by plaintiff)



Trade Secret Misappropriation

- Evaluated damages suffered by the owner of trade secrets covering the concept and development of second screen technology to facilitate audience engagement during meetings/presentations. Quantified reasonable royalty damages. (Retained by plaintiff)
- Quantified reasonable royalty damages suffered by the provider of cost containment, program integrity, and coordination of benefits solutions in the public and private health insurance market due to trade secrets misappropriation by its primary competitor (among other causes of action). (Retained by plaintiffs)
- Analyzed and prepared rebuttal analyses to a specialty chemical manufacturer's damages claim due to alleged misappropriation of trade secrets related to the manufacturing process for high-purity germane gas used in the production of high technology components such as semiconductors and solar cells. Plaintiff's claim included lost profits, increased costs, and diminution in value of the trade secrets and the business entity. (Retained by defendant)
- Analyzed damages to the operator of a free-standing emergency center and a physicians staffing company related to misappropriation of trade secrets and other causes of action, including breach of contract, breach of fiduciary duty, unfair competition, tortious interference, and fraud. Quantified damages included lost profits, increased expenses, increased advertising expenses, and unjust enrichment. (Retained by plaintiffs)
- Evaluated damages arising from the misappropriation of trade secrets related to design, pricing, sales and marketing, and customer information in the modular oil and gas processing plant industry. Quantified damages included analyzing defendants' avoided costs/head start related to the misappropriation. (Retained by plaintiff)
- Quantified damages to a commercial insurance brokerage due to the misappropriation of trade secrets and other related causes of action, including breach of contract and tortious interference. Damages included lost profits and a quantification of defendants' profits related to the misappropriation. (Retained by plaintiff)
- Evaluated claims for damages purportedly suffered by a specialty software provider related to a cash inventory optimization software tool used by financial institutions. Claimed damages included unjust enrichment. (Retained by defendants)
- Analyzed lost profits damages claimed by plaintiff related to alleged misappropriation of trade secrets (as well as additional causes of action) in the credit monitoring industry. Additionally, calculated damages related to counter-plaintiff's antitrust claims against counter-defendant. Performed extensive analyses of industry statistics and trends, market share and the parties' historical and projected sales and profitability. (Retained by defendant/counter-plaintiff)



- Reviewed and prepared rebuttal analyses to plaintiff's damages claim related to the alleged theft of trade secrets pertaining to coal cleaning technology. Analyses included quantifying the economic impact of the defendant's alleged use of the trade secrets and the lost profits allegedly suffered by the plaintiff. (Retained by defendants)
- Quantified damages related to the alleged misappropriation of trade secrets dealing with the manufacture of specialized composite materials used in the vehicle armor industry, among other applications. (Retained by defendant/counter-claimant)

Bankruptcy Matters

- Performed analyses of solvency, preference payments, and alleged fraudulent conveyances for a bankrupt international telecommunications company. Analyses included detailed review of and adjustment to the assets and liabilities of multiple subsidiaries, including international subsidiaries, within various layers of the enterprise. (Retained by trustee/plaintiff)
- Analyzed solvency of a large mining operation and whether the company received reasonably equivalent value in numerous transactions. (Retained by debtor)
- Assisted a telecommunications company debtor in implementing a reorganization plan and monitoring monthly operations. (Retained by unsecured creditors committee)

Breach of Fiduciary Duty

- Quantified damages suffered by the importer of wood flooring products due to breach of fiduciary duty (and other causes of action) related to freight forwarding and brokerage services. (Retained by plaintiff)
- Analyzed and/or quantified damages related to breach of fiduciary duty claims on numerous matters involving other claims as listed under Breach of Contract, and Trade Secret Misappropriation sections above. Breach of fiduciary damages constructs have included lost profits, diminution of value, reasonable royalty, and unjust enrichment. (Retained by plaintiffs)

Business Interruption/Dealer Termination

- Analyzed damages related to the termination of a dealer in the building supplies industry. (Retained by defendant)
- Analyzed damages related to a dealer termination in the apparel industry. (Retained by plaintiff)
- Analyzed lost profits suffered by a boutique clothing retailer in a business interruption matter. (Retained by plaintiff)



Investigations and Fraud

- In numerous cases, investigated the origination of purported unsafe/unsound loans, letters of credit, and similar transactions due to alleged negligence and/or fraud. Investigations included identification of alleged straw borrowers, self-dealing, and related-party transactions, among others. (Retained by plaintiff)
- Provided an expert report and deposition testimony relative to damages suffered by the acquirers of a specialty chemical sales company due to misrepresentation and fraud by the seller. (Retained by plaintiff)
- Investigated alleged embezzlement and expense reimbursement fraud by a former officer of a publicly traded gaming company. This investigation involved a review of company-reimbursed expenses and company credit card transactions, among other transactions. (Retained by plaintiff)

Partnership Disputes

- Provided an expert affidavit quantifying damages relative to the alleged breach of a partnership agreement involving ownership stakes in a software company. (Retained by plaintiff)
- Consulted on accounting and valuation issues in a suit involving a natural gas processing operation. Reviewed asset transfers among related entities, the accounting treatment of key transactions, the valuation methodologies used in key transactions and the allocation of partnership funds upon dissolution. (Retained by defendant)
- Analyzed alleged damages related to disputed ownership interest in business entities involved in obtaining oil and gas leases and developing sites to accommodate natural gas wells and pipelines. Analysis included a valuation of two limited liability companies and analysis of accounting records to determine potential plaintiff contributions to the companies. (Retained by defendant)

Product Liability

- Analyzed claimed damages of over \$500 million related to increased employer health insurance costs in a product liability matter. (Retained by defendants)

Professional Malpractice

- In numerous cases, determined damages suffered from avoidable transactions due to alleged accounting malpractice. (Retained by plaintiff)

Presentations and Publications

- “Intellectual Property Valuation and Damages,” guest lecturer, McCombs School of Business, The University of Texas at Austin, Management Program (Entrepreneurship Practicum), October 8, 2018
- “Intellectual Property Valuation and Damages,” guest lecturer, McCombs School of Business, The University of Texas at Austin, Management Program (New Venture Mechanics), October 9, 2018



- “Lost Profits Damages Calculations: Framework, Principles and Legal Aspects,” The Knowledge Group, co-presenter, September 25, 2018, Live Webcast
- Design Patent Damages: Hot Buttons in 2017 and Beyond,” The Knowledge Group, panelist, July 24, 2017, Live Webcast
- “The Evolving Landscape in the Calculation of Patent Damages - Reasonable Royalties,” The Knowledge Group, panelist, February 1, 2017, Live Webcast
- “A Strategic Approach to Post-Judgment Remedies: Identifying and Assessing Important Factors Influencing Ongoing Royalties,” HarrisMartin’s Intellectual Property Law Conference, June 14-15, 2012, Omni Dallas Hotel
- “Recent Trends in Patent Damages,” Spring 2011 CLE Seminar, Tennessee Intellectual Property Law Association
- Barry L. Bell and Ryan N. Herrington, “Avoiding an Open Source Licensing Trainwreck,” *Licensing Journal*, Volume 28, No. 10, November/December 2008
- Barry L. Bell, James E. Pampinella and C. Paul Wazzan, “Consideration of Design Around Solutions in Determining Patent Damages,” American Bar Association, Section of Litigation, Intellectual Property Litigation Web site, October 2007
- “Update on Patent Damages: Considerations in Determining Royalty-Based Compensation,” 12th Annual Advanced Patent Law Institute, The University of Texas School of Law, 2007
- “Recent Developments in Patent Damages,” Licensing Executives Society, Dallas/Fort Worth Chapter, 2005

Testimony (2005 – Present)

- *Dunster Live, LLC and Quorum Media Group, LLC v. LoneStar Logos Management Company, LLC, et al.*, District Court of Travis County, Texas, 98th Judicial District, Cause No. D-1-GN-17-001121 (2018) – Deposition
- *Schlumberger Technology Corporation v. Fergus Hopwood, Phillip Martin, Helmerich & Payne International Drilling Co., and Helmerich & Payne, Inc.*, District Court of Fort Bend County, Texas, 434th Judicial District, Cause No. 17-DCV-241894 (2018) – Deposition
- *glendonTodd Capital LLC v. Wade Barker, Jefe Plover Interests, Ltd., and Jefe Plover Management, L.L.C.*, JAMS Ref. No. 1310023085 (2018) – Deposition and Arbitration
- *Carol Loper and Associates, Inc. d/b/a CLA USA Property and Casualty Group v. Express Working Capital, LLC d/b/a Caprock Services, et al.*, District Court for Dallas County, Texas, 116th Judicial District, Cause No. DC-16-01131 (2017) – Deposition
- *Big B Crane, LLC, et al. v. J.B. Hunt Transport, Inc., et al.*, District Court for Dallas County, Texas, 68th Judicial District, Cause No. DC-16-05323 (2017) – Deposition



- *DynaEnergetics US, Inc., et al. v. GEODynamics, Inc.*, Patent Trial and Appeal Board, Case IPR2017-02008 (2017) – Declaration
- *Highland Park Emergency Center, LLC, et al. v. Endeavor Medical Systems, L.P., et al.*, District Court for Dallas County, Texas, 162nd Judicial District, Cause No. DC-14-08933 (2017) – Deposition
- *Effective Exploration, LLC v. BlueStone Natural Resources II, LLC*, United States District Court for the Eastern District of Texas, Marshall Division, Civil Action No. 2:16-cv-00607-RSP (2017) – Deposition
- *The Fan Expo, LLC v. National Football League and Electronic Arts Inc.*, District Court of Dallas County, Texas, 44th Judicial District, Cause No. DC-16-04875 (2017) – Deposition
- *Design Basics, LLC v. Petros Homes, et al.*, United States District Court for the Northern District of Ohio, Eastern Division, Civil Action No. 1:14-CV-01966 (2017) – Deposition
- *GEODynamics, Incorporated v. DynaEnergetics US, Inc., et al.*, United States District Court for the Eastern District of Texas, Marshall Division, Civil Action No. 2:15-cv-01546 (2017) – Trial
- *Bank of Jackson Hole v. Cook GS Investment Partners, LP; Dan Cook, III; and John Doe; North Cache Investments, LLC v. Bank of Jackson Hole*, United States District Court for the District of Wyoming, Civil Action Nos. 14-CV-234-R and 16-CV-51-R (2017) – Deposition
- *Tinker, Inc. v. Barbara Poteet and Captain Billy Whizzbang’s Hamburgers, Inc.*, United States District Court for the Northern District of Texas, Dallas Division, Case No. 3:14-CV-02878 (2016) – Trial
- *Sting Soccer Group, LP, et al. v. JPMorgan Chase Bank, N.A.*, United States District Court for the Eastern District of Texas, Sherman Division, Case No. 4:15-CV-127 (2016) – Trial
- *United States of America v. Mattias Tezock*, United States District Court for the Northern District of Texas, Dallas Division, Case No. 3:14-CR-211 (2016) – Affidavit
- *One Technologies, L.P. v. Profinity, LLC and Chad D. Ertel*, District Court for Dallas County, Texas, 14th Judicial District, Cause No. 12-03980-A (2013) – Deposition and Trial
- *Extratix.com, LLC v. James S. Kuhn*, District Court for Tarrant County, 348th Judicial District, Cause No. 348-264415-13 (2013) – Affidavit
- *PaR Systems, Inc. and Lockheed Martin Corporation v. iPhoton Solutions, LLC, et al.*, United States District Court for the Northern District of Texas, Fort Worth Division, Case No. 4:10-CV-00393 (2013) – Deposition
- *Len Rao v. Weekley Homes, LP d/b/a David Weekley Homes; Weekley Homes, LLC d/b/a David Weekley Homes; Weekley Homes Business Trust; Weekley*



Homes Business Trust; David Weekley; Randy Braden and The American Arbitration Association, County Court at Law No. 2, Dallas County, Texas, Cause No. cc-10-0167-B (2013) – Deposition

- *Doug Baughman v. CamWest Partners II, LLC, et al.*, District Court for Collin County, Texas, 296th Judicial District, Cause No. 296-05097-2011 (2013) – Deposition
- *John M. Floyd & Associates, Inc. v. Fiserv Solutions, Inc. d/b/a IntegraSys and d/b/a Summit Information Systems*, District Court for Collin County, Texas, 429th Judicial District, Cause No. 429-03652-2010 (2013) – Deposition
- *Prestonwood Tradition, LP v. Three/Architecture, Inc.*, District Court for Dallas County, 44th Judicial District, Case No. 10-15277 (2012) – Deposition
- *Solavanti Trading, LLC, et al. v. SLV Elektronik GmbH, et al.*, District Court for Dallas County, Texas, 68th Judicial District, Case No. 10-03227 (2012) – Deposition
- *Garrison Realty, L.P. v. Fouse Architecture & Interiors, P.C.*, United States District Court for the Eastern District of Texas, Marshall Division, Case No. 2:10-CV-576 (2012) – Trial
- *Voltaix, LLC v. Metaloid Precursors, Inc., et al.*, District Court of Kaufman County, Texas, 422nd Judicial District, Cause No. 80351-422 (2012) – Deposition
- *Recursion Software, Inc. v. Double-Take Software, Inc.*, United States District Court for the Eastern District of Texas, Sherman Division, Case No. 4:10-cv-403 (2012) – Deposition
- *Michael J. Kearins, as successor in interest to Pinnacle Interior Elements, Ltd. v. Panalpina, Inc.*, United States District Court for the Eastern District of New York, Case No. CV10 – 1198 (2011) – Deposition
- *Industrial Laminates/Norplex, Inc. v. Secur*Holdings, Inc.*, United States District Court for the Northern District of Texas, Dallas Division, Case No. 3:08-CV-361-M (2009) – Trial
- *Abraham Ledesma v. D.R. Horton, Inc.*, U.S. District Court for the Western District of Texas, San Antonio Division, Case No. SA-08-CA1028 (2009) – Deposition
- *TransFirst Holdings, Inc., TransFirst Merchant Services, Inc., and Payment Resources International, LLC v. Andrew M. Phillips, Dominic J. Magliarditi, John S. Blaugrund, Payment Resources International, SSF Holdings, LLC, DII Investments, Inc., and TP Investments, LLC*, U.S. District Court for the Northern District of Texas, Dallas Division, Case No. 3-06CV2303-P (2007, 2009) – Deposition and Trial
- *Christian J. Wood v. Cendant Corporation, et al.*, U.S. District Court for the Northern District of Oklahoma, Case No. 03-CV-298-K(M) (2005, 2006) – Declaration, Deposition, and Trial



- *Nationwide Bi-Weekly Administration, Inc., et al., v. Home Mortgage Services, Inc., et al.*, U.S. District Court for the Southern District of Ohio, Western Division (Dayton), Case No. 3:04cv242 (2006) – Deposition
- *Frank Betz Associates, Inc. v. D.R. Horton, Inc., et al.*, U.S. District Court for the Northern District of Georgia, Atlanta Division, Case No. 1:03-CV-2005-ODE (2005) – Deposition