

# LITIGATION, VALUATION & DISPUTE RESOLUTION

## WHY BERDON?

### INVOLVED FROM START TO FINISH

partners are active on your engagement throughout the matter

### EXPERIENCE ON A NATIONAL SCALE

pivotal roles in complex and high profile engagements

### COMPELLING TESTIMONY

formidable arguments accepted by demanding federal and state courts

### BRAINPOWER

solutions that don't just work but that are decisive in achieving a successful result

### RECOGNIZED LEADERS

earned through our work with major law firms, the Fortune 500, and government agencies

### BROAD EXPERTISE

CPAs, CFEs, CFFs, JDs, MBAs, CVAs, CFAs, ABVs, and engineers with decades of experience

### DEEP RESOURCES

access to respected tax expertise and other specialties of Berdon LLP

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business valuations business  
disputes contract disputes cor  
damage complex damage an  
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construction litigation constru  
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## FORENSIC ACCOUNTING, FRAUD INVESTIGATIONS, WHITE COLLAR CRIME

**Combining the skills of a fraud investigator with the expertise of a CPA**, Berdon quickly and thoroughly zeros in on where fraud is suspected or alleged. As Certified Fraud Examiners and CPAs with certificates in Financial Forensics, we help counsel stay a step ahead of the investigators when defending Department of Justice and Inspector General allegations. We've been retained to assist counsel in defending public company officers in Federal Court, perform internal investigations, analyze potential vendor kickbacks, examine internal controls, ferret out embezzlements, and analyze FCPA allegations. Berdon forensic experts apply sophisticated forensic techniques, including computer-aided analyses to dissect large data sets, reconstruct incomplete records, and scrutinize complex accounting treatments. We follow the cash trail to hidden assets or embezzlers' pockets and unravel improper behavior by employees. Bringing together the large amounts of raw data and all that we have learned, we synthesize it into clear, succinct analyses delivered in the form most useful for counsel.

## SECURITIES LITIGATION & ACCOUNTANTS' LIABILITY

**With credentials built on our service** on committees that set professional standards for GAAP, GAAS, and ethics, our range of experience stretches from straightforward matters to complex, high-profile engagements. Regardless of the matter's size, counsel expects, and gets, personal attention from our partners. Counsel for plaintiffs, defendants, and government agencies regularly call on Berdon for securities matters, accountants' liability cases, and regulatory and internal investigations. Skilled in electronic discovery, Berdon assists counsel throughout the entire litigation process — managing discovery requests, evaluating completeness of productions, providing detailed analyses of auditor workpapers and company accounting records, preparing for fact and expert depositions, and delivering persuasive expert reports and testimony.

## BUSINESS VALUATIONS

**Berdon valuation models step beyond the numbers** to examine the whole picture and capture the driving issues of the engagement. This allows us to consider several scenarios before selecting what is most appropriate for the specific situation. In litigation settings, this rigorous approach proves invaluable in fair market value and statutory fair value cases, and when assisting in challenging an opponent's credibility or exposing weaknesses in an adversary's position. In trust and estate matters, Berdon is recognized by attorneys for offering compelling valuation opinions and successfully representing clients before the IRS. Our seasoned valuation professionals, deep trove of specialized business sector knowledge, and dedicated trust and estate tax group offer a wealth of resources that are always on hand.

## INTELLECTUAL PROPERTY & COMPLEX DAMAGE ANALYSES

**Berdon damages professionals have a national reputation** for excellence in analyzing and quantifying damages. Before courts and juries, we deliver insightful analyses of economic, financial, and valuation information. Our affidavits, reports, testimony, and trial exhibits are recognized for their clarity and force of argument. We assist counsel at all stages of a case — from identifying and reviewing documents in discovery through calculating economic damages to providing a thorough and supported analysis — culminating in an expert report and testimony. Our damages team features professionals with engineering degrees as well as MBAs, CPAs, and JDs. In intellectual property cases, we assist many law firms with reasonable royalty determinations and infringement damages calculations and have wide experience analyzing patent, trademark, and copyright infringement.



## BERDON'S LITIGATION, VALUATION & DISPUTE RESOLUTION GROUP

Berdon cuts to the essence of what is needed in a matter and knows how to deliver it. Working side-by-side with attorneys across the litigation arena for decades, Berdon is keenly aware of the pressures attorneys face, and keeps a careful eye on costs and meeting deadlines. Led by authorities who have helped set the standards for the accounting profession, Berdon has been retained by many of the nation's most prominent law firms; multinational businesses; and the IRS, SEC, U.S. Attorney's Office, and other government agencies. Our experts' testimony has been credited by federal and state courts.

*Founded in 1917, Berdon LLP is a full-service accounting and advisory firm, ranked among the leading CPA firms in the nation, with more than 400 partners and staff.*

## SHAREHOLDER & POST-ACQUISITION DISPUTES

**Leveraging extensive experience** in large and small M&A deals, proficiency in GAAP and SEC accounting, deep expertise in tax structuring closely held ventures, and broad business knowledge, Berdon CPAs and fraud examiners step in fully armed when disputes arise. Our range encompasses advising parties tangled in family business conflicts, investigating suspected wrongdoing on behalf of passive investors, evaluating purchase price adjustments and earn-outs for large publicly held companies, and providing expert testimony on accounting issues and on our analyses of books and records. To deal with the tax implications in these matters, our deep well of tax professionals are ready to consult on business taxes, trusts and estates, state and local taxes, international taxes, and high net-worth individuals' personal taxes.

## INSURANCE DEFENSE

**Bringing to the table the expertise of the CPA, CFE, CVA, CFF, and individuals with other specialized degrees**, Berdon offers an unparalleled depth of experience in the accounting, economic, and financial analyses of insurance claims. We analyze claims involving property losses, business interruption, casualty and theft of both tangible and intellectual property, misconduct of officers and directors, and allegations of professional malpractice. We prepare critical issues analyses, help interpret insurance policy provisions, and assist with expert witness depositions. Berdon professionals are also tapped to assist with trial strategies and deliver expert trial and arbitration testimony.

## REAL ESTATE & CONSTRUCTION LITIGATION

**Recognized as one of the nation's premier real estate accounting firms** and with a deep understanding of the marketplace, its people, and practices, we bring a credible perspective to construction and real estate disputes. By drawing together our real estate, tax, and forensic accounting experts, we apply the appropriate resources to meet the specific needs of each engagement. Berdon has acted as the neutral party calculating damages in class actions relating to rent stabilization disputes involving tens of thousands of leases. Our expertise extends to investigating disagreements over lease escalation clauses and operating expense adjustments to name just a few areas.

## CLAIMS ADMINISTRATION

**Through our wholly owned affiliate Berdon Claims Administration LLC**, one of the largest providers of class action claims administration services in the nation, we fulfill class action and bankruptcy claims of every size and level of complexity — securities; antitrust; age, gender, or race discrimination; and consumer actions. Matching professionals and skills to the specific needs of each case, we manage class actions ranging into hundreds of millions of dollars.

## EXPERT WITNESS QUALIFICATIONS

**With a seasoned understanding of court procedure** and the subtleties of cross-examination, Berdon professionals provide formidable expert testimony which has been credited by courts. Our experts bring decades of experience providing expert testimony in federal and state courts, arbitrations, and administrative hearings in diverse matters, among them GAAP and GAAS issues, commercial damages, business disputes, fraud investigations, forensic accounting, real estate transactions, business interruption, intellectual property, business valuations, securities matters, and tax issues.



### AMONG THE BUSINESS SECTORS WE SERVE:

- Chemicals
- Communications
- Construction
- Energy
- Entertainment
- Finance
- Healthcare
- Insurance
- Manufacturing
- Personal Services
- Real Estate
- Retail
- Solid Waste
- Technology

# REPRESENTATIVE CASES

## DAMAGES

**CONVINCING THE NEUTRAL ARBITRATOR** In a business interruption and loss of value claim, the adversary used atypical approaches, attempting to earn its client a windfall. Berdon countered by using logic and a reasonable approach, culminating in a well-supported conclusion. Weighing each side's presentations, the neutral arbitrator granted the award based solely on the Berdon position.

## CRIMINAL DEFENSE

**RESTATEMENT EXCLUDED** Retained by a large Washington, DC law firm to consult in the defense of alleged earnings management, Berdon performed detailed analyses of a massive amount of restatement documents and uncovered myriad flaws. Counsel used our analyses and affidavit to convince the judge to exclude the restatement from the trial.

## REAL ESTATE

**PARTNER SUSPECTS PARTNER** Acting on behalf of one partner, we investigated real estate ventures in the hundreds of millions of dollars to confirm suspicions of wrongdoing by the other partner. Our probe revealed improprieties by the other partner that included an undisclosed multimillion dollar development fee and a large parcel of land that was hidden by writing off more land than was actually developed.

## SECURITIES

**WHEN CREDIBILITY IS CRITICAL** Working with the SEC, the DOJ, and prominent law firms on significant matters, Berdon expert witnesses are sought for the high degree of credibility they bring to their role. The SEC Enforcement Division tapped Berdon to serve as an expert witness in investigations into fraudulent financial reporting in the WorldCom, Waste Management, Lucent, Qwest, and other headline grabbing matters. We have also assisted counsel in defending fraudulent financial reporting allegations against public company officers of both high-profile Fortune 500 businesses and smaller companies.

## POST-ACQUISITION DISPUTES

**MULTIDISCIPLINED SOLUTION** In a post-acquisition dispute with varied issues arising from inventory purchase price adjustments and earn-out provisions, Berdon assembled a team of CPAs expert in GAAP and AICPA professional standards governing accounting services; forensic investigators; tax specialists; and damages experts. We assisted counsel in discovery requests and deposition of the opposing company's accountant. Our team performed a detailed review of records; calculated damages; and presented a succinct, understandable explanation of technical issues coupled with cogent testimony that led to a favorable settlement.

## BUSINESS DISPUTES

**COMPELLING TESTIMONY AT ARBITRATION** In a dispute over fees and costs in remediating a nuclear facility, counsel to one of the joint venture Fortune 100 partners retained Berdon. Working under tight time constraints, we mobilized a large forensic team to analyze the costs and expenses in 10 years of manual accounting records as well as in contracts and business records. We synthesized the mass of data into clear and concise demonstratives. After delivering persuasive testimony at arbitration, a well known judge acting as arbitrator ruled in favor of counsel's client.

## BUSINESS VALUATIONS

**FAIR VALUE AND A BIT MORE** Retained by a law firm representing dissenting shareholders in a proceeding pursuant to Section 623 of New York Business Corporation Law, Berdon testified on the fair value of the interest and assisted counsel in determining errors in both the initial offer made to the dissenting shareholders and the testimony by the company's valuation expert. The judge's decision resulted in the dissenting shareholders receiving a fair value price that materially exceeded the company's initial offer. Going further, the judge also awarded the dissenting shareholders 50% of their costs and legal fees.

## INTELLECTUAL PROPERTY DAMAGES

**PATENT FINALLY EARNS INVENTOR HIS DESERVED PAYDAY** Berdon was asked to determine an appropriate and reasonable royalty for a sole inventor's patent. Going up against several major tech industry players, Berdon was able to document, support, and defend its detailed analysis and royalty conclusion. The inventor enjoyed a well-earned payday after years of litigation with other parties.

To learn more, contact Frank Vitale at [fvitale@berdonllp.com](mailto:fvitale@berdonllp.com) or 212.331.7650.

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