Mediation Magic
Article by Karl J. Schulze, CPA, CVA, CFE, CFF

II. Medical Service Provider v. Regional Hospital

Our client, a major regional hospital, was sued by a physician group provider who believed it had negotiated a three-year agreement to independently operate a hospital segment.

Plaintiff's expert had prepared a preliminary assessment of lost profits and other damages, and had arrived at a sizable figure. SHL was retained to analyze and respond to these damage claims. An attempt to mediate the matter was scheduled.

SHL reviewed in detail the opposing expert's preliminary analysis, and found a number of points on which the expert had ignored available historical data, as well as market norms, that, when taken into account, not only reduced the plaintiff's damage claim, but resulted in a projected *net loss* for the three-year period, a result that was in fact consistent with the historical experience of others in that market segment.

Again, we made sure to prepare our analysis as though we were taking into trial, with appropriate presentation-ready materials.

We participated in the mediation; the opposing expert did not. The mediator asked that we explain the basis for not only our responsive analysis, but the opposing expert's as well, and to help him understand the preliminary differences. We did so, using the presentation materials we had prepared, and the mediator "got it" for the first time, thanking us for finally bringing him to an understanding of the key points of contention.

While the matter did not settle at mediation, a constructive dialogue was begun, and the parties continue to move forward toward potential resolution before trial.

What are the take-aways from these two case examples?

- First, have your financial facts fully vetted before mediation.
- Second, prepare presentation materials to the same standards that you would for trial.
- And finally, consider bringing your expert to the mediation.

Schulze Haynes Loevenguth & Co.
660 South Figueroa Street, Suite 1280 • Los Angeles, California 90017
(213) 627-8280 • Fax (213) 627-8301
www.schulzehaynes.com

SHL Schulze Haynes Loevenguth & Co.