

Thomas Neches & Company LLP
Minimum Continuing Legal Education Course Topics

The Basics

- [Introduction to financial statements](#)
- [Introduction to business valuation](#)

Damage Analysis

- [Determining damages in business litigation – lost profits and damage to goodwill](#)
- [Analyzing damages – plaintiff v. defendant](#)
- [Determining a reasonable royalty](#)
- [Critiquing economic damage claims in wrongful termination and personal injury litigation](#)

Expert Accounting Assistance

- [In intellectual property litigation](#)
- [In lender liability litigation](#)
- [In Superfund litigation](#)
- [In wrongful termination litigation](#)
- [In investigating employee defalcation](#)

Working with Accounting Experts

- [Working effectively with accounting experts](#)
- [Use of exhibits in accounting testimony](#)
- [Taking and defending an accountant's deposition](#)

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Thomas Neches & Company LLP
Introduction to Financial Statements

- **Document Request for Financial Statements**

- **Reports of Accountants**
 - **Audit**
 - **Review**
 - **Compilation**

- **Accounting Standards**
 - **Generally Accepted Accounting Principals (“GAAP”)**
 - **Generally Accepted Auditing Standards (“GAAS”)**

- **Financial Statements**
 - **Income Statement**
 - **Cash versus Accrual**
 - **Estimates**
 - **Balance Sheet**
 - **Historical Cost versus Current Value**
 - **Goodwill**
 - **Inventory Valuation**
 - **Statement of Cash Flows**
 - **Statement of Shareholders’ Equity**
 - **Notes to Financial Statements**

- **Analysis of Financial Statements**

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**Thomas Neches & Company LLP
Introduction to Business Valuation**

- **Why Value a Business?**
- **Time Value of Money**
- **Discount Rates**
- **Standards of Value**
- **Premises of Value**
- **Categories of Value**
- **Valuation Methods**
 - **Income Approach**
 - **Market Approach**
 - **Asset Approach**
 - **Industry Approach**
- **Financial Statement Adjustments**
- **Factors Affecting Sales and Earnings**
- **Discounts and Premiums**

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Thomas Neches & Company LLP
Determining Damages in Business Litigation
Lost Profits and Damage to Goodwill

- **Lost Profits**
 - **Revenue versus Profit**
 - **Actual versus But-For Sales**
 - **Factors Affecting Sales**
 - **Marginal versus Average Profit**

- **Damage to Goodwill**
 - **Goodwill versus Future Profit**
 - **Valuation Methods**
 - **Adjusting Damages to Present Value**
 - **Tax Issues**

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**Thomas Neches & Company LLP
Analyzing Damages
Plaintiff v. Defendant**

- **Lost Sales**
 - **Historical Sales**
 - **Projected Sales**

- **Marginal Profit versus Average Profit**

- **Length of Damage Period**
 - **Mitigation**

- **Adjusting Damages to Present Value**
 - **Growth Rates**
 - **Discount Rates**

- **Lost Value of the Business**
 - **Damage to Goodwill**

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**Thomas Neches & Company LLP
Determining a Reasonable Royalty**

- **Role of the Accountant**
- *Georgia-Pacific* Factors
- **Expert Testimony**

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Thomas Neches & Company LLP
Critiquing Economic Damage Claims in
Wrongful Termination and Personal Injury Litigation

- **Errors of Assumption and Methodology**
 - **Earnings and Mitigating Income**
 - **Benefits**
 - **Household and Medical Costs**
 - **Consumption**
 - **Damage Periods**
 - **Discount Rates**

- **Errors in Fact and Computation**
 - **Arithmetic Errors**
 - **Wages and Pension Benefits**
 - **Retirement/Death Date**

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Thomas Neches & Company LLP
Expert Accounting Assistance in
Intellectual Property Litigation

- **Pre-Trial Assistance**
 - **Document Production**
 - **Interrogatories**
 - **Deposition Assistance**
- **Liability Analysis**
 - **Sales Trends of Accused and Collateral Products**
- **Damage Analysis**
 - **Profitability**
 - **Marginal and Average Profit**
 - **Fixed and Variable Costs**
 - **Lost Profits**
 - **Diverted Sales**
 - **Reduced Selling Price**
 - **Diminished Market**
 - **Damage to Goodwill**
 - **Unjust Enrichment**
- **Trial Assistance**
 - **Direct and Cross-Examination**
 - **Exhibits**

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Expert Accounting Assistance in Lender Liability Litigation

- **Lender Liability Claims**
 - **Acceleration and Foreclosure**
 - **Refusal to Lend**
 - **Interest Rate Overcharges**

- **Role of the Accounting Expert**
 - **Liability Analysis**
 - **Damage Analysis**

- **Measures to Avoid Litigation**

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Thomas Neches & Company LLP
Expert Accounting Assistance in Superfund Litigation

- **Analysis of Incurred Cost Claims**
 - **Appropriateness of Indirect Cost Allocation**
 - **Adequacy of Incurred Cost Documentation**
 - **Excess Costs Due to Multiple Layers of Contractors and Subcontractors**
- **Economic Review of Alternative Remedial Cost Estimates**
- **Other Expert Assistance**
 - **Valuation of Future Liabilities**
 - **Analysis of Personal Injury and Property Damage Claims Related to Hazardous Waste Sites**
 - **Expert Testimony**

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Thomas Neches & Company LLP
Expert Accounting Assistance in
Wrongful Termination Litigation

- **Demonstrating Cause for Termination**
- **Projecting But-For, Actual and Lost Earnings**
- **Benefits**
- **Unemployment Period**
- **Damage Period**
- **Mitigation**
- **Adjusting Damages to Present Value**
- **Analyzing Plaintiff's Damage Claim**
 - **Mathematical Errors**
 - **Errors of Fact**
 - **Incorrect Assumptions**
 - **Incorrect Methodology**

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Thomas Neches & Company LLP
Expert Accounting Assistance in the
Investigation of Employee Defalcation

- **Recognizing the Symptoms**
 - **Unexplained Changes in Profits or Inventory**
 - **Irregularities in Banking Procedures**
 - **Changes in Purchasing Patterns**
 - **Unusual Purchases from Vendors**

- **Conducting the Investigation**
 - **Perform Financial Analysis**
 - **Analyze Cash Accounts**
 - **Interview Personnel**
 - **Evaluate Vendors and Vendor Transactions**
 - **Review Transfers and Pricing**
 - **Conduct Plant Inspections**
 - **Search for ‘Floating’ Debits**

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Thomas Neches & Company LLP

Working Effectively With Accounting Experts

- **Bring Experts in Early^(*)**
 - **Requests for Documents**
 - **Interrogatories**
 - **Preliminary Analysis of Damages**
- **Work in Concert on Strategy and Approach**
- **Establish and Monitor a Budget**
- **Establish a Primary Contact**
- **Confer Frequently**
- **Involve the Client or Insurance Company**
- **Understand Rules of Discovery**
- **Rehearse Testimony**

^(*) And Save Money

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Thomas Neches & Company LLP
Using Exhibits to Present Accounting Testimony

- **Methods of Presenting Financial Information**
- **Graphs, Charts and Tables**
- **Choosing the Correct Chart**
- **Presentation Tips**
 - **Simple Exhibits**
 - **Color**
 - **Explaining the Chart**
 - **Posters v. Overheads**

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Thomas Neches & Company LLP
Taking and Defending an Accountant's Deposition

- **Fundamental Rule:**
 - Ask questions, don't argue
 - Learn, don't instruct

- **Background and Qualifications**
- **Accounting Services**
 - Audit
 - Tax
 - Consulting
- **Generally Accepted Accounting Principals ("GAAP")**
- **Generally Accepted Auditing Standards ("GAAS")**
- **Accounting Standards for Litigation Engagements**
- **Accountant's Work Papers**

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