

Mark G. Filler, CPA/ABV, CVA, AM, CBA

CURRICULUM VITAE WITH PRIOR TESTIMONY

MARK G. FILLER, CPA/ABV, CVA, AM, CBA

Home Address:
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PO Box 4177
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CURRENT EMPLOYMENT

- 1981 to Present

Filler & Associates, P.A. Shareholder and Managing Director
Filler & Associates is a CPA firm in Portland, Maine that has five CPAs and three staff people.

EXPERIENCE AND QUALIFICATIONS

Mr. Filler leads Filler & Associates' Litigation and Claims Support practice in Portland, Maine. He has been in public accounting since February 1968 and has been a CPA since November 1972, a CVA since November 1994, a CBA since May 1997, an Accredited Business Valuator since January 1999 and an Accredited Member since April 2004. His experience has been entirely with small firms, and consequently his focus has been on helping small business entrepreneurs solve their tax and business problems, such as tax minimization, aid in business planning and making major business decisions, aid in obtaining financing, determining management information needs, setting up cash management tools, instituting cost reduction and budgeting techniques, and the placement of bookkeepers and controllers. A natural consequence of his intimate knowledge of how small businesses operate has been his involvement with the local legal community in the areas of acquisitions and divestitures, which in turn has led to his being recommended for various litigation support activities.

Aside from his practical experience developed over the last 30-odd years, from 1986 to 1995 Mr. Filler taught the Dale Carnegie Management Seminar some 17 times to over 250 local business owners and managers. This experience gave him a deeper awareness of how small businesses are run especially the extent of the people problems they face. Mr. Filler participates in 40 hours of continuing professional education each year, including tax, finance, statistics, forecasting, business valuation, measurement of economic damages and litigation support courses. Accordingly, the AICPA has awarded him two Certificates in Educational Achievement, one in Tax Planning and Advising for Closely Held Businesses, and the other in Business Valuation. Mr. Filler is also credentialed as a CVA (Certified Valuation Analyst), a CBA (Certified Business Appraiser) an ABV (Accredited Business Valuator) and an AM (Accredited Member).

During the past thirteen years Mr. Filler has focused on providing consulting and expert witness assistance to clients and counsel in commercial disputes, with particular emphasis on business valuations pursuant to divorces and shareholder disagreements. Mr. Filler has been retained by lawyers and claims professionals to calculate damage assessments and business interruption losses, to assist in arson and embezzlement investigations, to provide testimony in accountants'

malpractice lawsuits, and to measure damages for lost profits in personal injury cases as well as wrongful discharge and death cases, among others.

Mr. Filler has given testimony at the Maine State Legislature before the Joint Business and Economic Development Committee regarding the 150-hour requirement of the Uniform Accountancy Act, and before the Joint Judiciary Committee regarding the need for Limited Liability Partnerships.

FORMAL EDUCATION

- **BA** Degree, Boston University, Boston, MA, 1967 Major: Philosophy and Religion

PROFESSIONAL DESIGNATIONS AND CERTIFICATIONS

- **CPA**, Certified Public Accountant
Passed CPA exam in May 1972, certified in Massachusetts and Maine
Licensed by the State of Maine
- **CVA**, Certified Valuation Analyst
Awarded by the National Association of Certified Valuation Analysts
Received designation in November 1994
- **CBA**, Certified Business Appraiser
Awarded by the Institute of Business Appraisers
Received designation in May 1997
- **ABV**, Accredited in Business Valuation
Awarded by the American Institute of Certified Public Accountants
Received designation in February 1999
- **AM**, Accredited Member
Awarded by the American Society of Appraisers
Received designation in April 2004

PUBLICATIONS

- ["The Role of the Accountant as Expert"](#), *Maine Lawyers' Review*, May, 1996
- ["Measurement of Damages"](#), *Maine Lawyers' Review*, September, 1999
- ["Is There a Buy-a-Job Phenomenon in Business Valuations?"](#), *Valuation Strategies*, July/August, 2004
- ["Dark and Stormy Night..."](#) *The Value Examiner*, January/February, 2005
- Contributor to NACVA's Quarterly Marketing Newsletter, "Insights on Valuation", 2005-present

MEMBERSHIPS

- American Institute of Certified Public Accountants
- Management Services Consulting Division, AICPA
- Maine Society of Certified Public Accountants
- Institute of Business Appraisers
- American Society of Appraisers
- National Association of Forensic Economics
- American Academy of Economic and Financial Experts
- Institute of Business Forecasting

PROFESSIONAL EDUCATION

- CPA Exam Review Courses at Bentley College, 1968–1971
- Certificate of Educational Achievement in Tax Planning and Advising for Closely-Held Businesses from the AICPA, 1994, 96 Hours
- Certificate of Educational Achievement in Business Valuation from the AICPA, 1996, 64 Hours
- ABV Exam Review Course, AICPA, 1998, 16 Hours
- USPAP Review Course, ASA, 1998, 15 Hours
- Financial Modeling, AMA, 1999, 22 Hours
- BV 203 & BV 204, ASA, 2000, 54 Hours
- Litigation Support and Expert Witness Training for Business Appraisers, IBA, 2001, 40 Hours
- Litigation Workshop, NACVA, 2004, 16 Hours

CONFERENCES AND SEMINARS

- CPA's Role in Litigation, AICPA, 1989
- Business Valuation, IBA, 1990
- CPA's Role in Litigation, AICPA, 1992
- Activity-Based Costing, USM, 1992
- National Advanced Litigation Services Conference, AICPA, 1995
- National Business Valuation Conference, AICPA, 1996
- Annual Conference, IBA, 1998
- National Business Valuation Conference, AICPA, 1999
- Business Forecasting: A Tutorial, IBF, 2001
- National Business Valuation Conference, AICPA, 2002
- Annual Conference, NACVA, 2003
- Advanced Business Valuation Workshop, NACVA, 2003
- National Conference on Advanced Litigation Services, AICPA, 2003
- National Business Valuation Conference, AICPA, 2003
- Annual Conference, NACVA, 2004
- National Business Valuation Conference, AICPA, 2004
- National Business Valuation Conference, AICPA, 2005

OTHER EXPERIENCE

- 1978 to 1981 **Joseph Stillman & Company, Partner**
- 1973 to 1977 **Joseph Stillman, CPA Senior Staff Accountant** A small firm of three staff people in Portland, Maine
- 1972 to 1972 **Houde and Boucher, CPA's Senior Staff Accountant** A small firm of four staff people in Brunswick, Maine
- 1968 to 1972 **Henry J. Bornhofft Company, Accountants and Auditors. Senior Staff Accountant** A small firm of ten staff people in Boston, Massachusetts

TEACHING EXPERIENCE

- Instructor of "Fundamentals of Accounting" and "Intermediate Accounting", York County Community College, 1974-1976
- Instructor of Finance and Accounting Section, CPCU 8, AICPCU, 1976 and 1995
- Senior Instructor, Dale Carnegie Management Seminar, 1986-1995
- Instructor, Junior Achievement "Project Business", 1990

- Various Seminars on Business Valuation, Business Interruption Insurance and Measurement of Damages for Lost Profits Given to Local Attorneys, Claims Professionals and Business Appraisers, 1995–2003
- Presentations to the Mass. Chapter of NACVA, 2003 - 2005
- Maine State Bar Association CLE presentations, 2005 - 2006

BOARDS

- Treasurer, Northern New England Defense Counsel Association, 2001 -
- President, Maine Society of CPAs, 1998-2000
- Governor, Maine Society of CPAs, 1996-2001
- Member, AICPA Council, 1997-1998
- Executive Vice President, Cedars Nursing Care Center, 1993-1994
- Director, Maine Chapter, American Cancer Society, 1978-1980
- President, Temple Beth-El, 1978-1980
- Director, Jewish Federation of Portland, 1975–1981

SUMMARY OF CONSULTING ENGAGEMENTS

Since 1990 Mr. Filler has been responsible for many varied appraisal and consulting engagements. The list below summarizes by number of hours his activities in the following areas:

Concentration

Business Valuations - 4,950 Hours
 Economic Damages Measurement - 1,270 Hours
 Measurement of Damages for Lost Profits - 2,237 Hours
 Wrongful Death & Wrongful Discharge - 156 Hours

HOURLY RATE

Mr. Filler's current rate for litigation support services, including any future testimony, is \$250 per hour.

PRIOR TESTIMONY

The following is a list of all prior testimony given:

Magnum v. Homeport -----Accountants' malpractice-deposition and trial
 Brown v. Brown---- Business valuation-divorce-deposition and trial
 Fagone v. Brown---- Business valuation-shareholder dispute-deposition and trial
 Johnson v. Tamaki---- Business valuation-shareholder dispute-trial
 Gray v. Moon---- Business valuation- divorce-trial
 Capitol Shopping Center v. MacDonald Page, et. al---- Accountants' malpractice-deposition
 Penney v. Advest---- NASD customer vs. broker suit-arbitration hearing
 Hillock v. Hillock---- Embezzlement-shareholder dispute-trial
 Joseph Motors Unsecured Creditors Committee v. GM and GMAC---- Lender's liability-deposition
 Neale v. Neale---- Business valuation-divorce-trial
 Williams v. Laliberte---- Recovery of damages for lost profits - personal injury - deposition
 Frank Simon, et. al. v. Terence N. Conway---- Shareholder dispute-arbitration hearing
 Holden v. Holden---- Business valuation-divorce-deposition and arbitration hearing
 Simon v. Simon---- Business valuation-divorce-deposition and arbitration hearing
 Charter v. Prime---- NASD broker vs. broker suit-arbitration hearing

Sullivan v. Sullivan---- Analysis and valuation of financial assets-divorce-trial
Public Works Supply v. Champagne---- Collectibility of COD Income-deposition
Barnes v. Village Green Associates---- Recovery of damages for lost profits- deposition and trial
Barthelman v. Barthelman---- Business valuation-divorce-deposition and trial
MCFA v. Superior Services, Inc.---- Franchisor/Franchisee Disagreement re Maine Business
Opportunity Act-deposition
Tracy v. Tree Enterprises, Inc.---- Business valuation-minority shareholder oppression suit-
arbitration hearing
Northeast Drilling, Inc. v. Inner Space Services, Inc.---- Construction contract dispute re value of
extras-deposition and trial
Gager v. Gager---- Business valuation-divorce-trial
Dionne v. Dionne---- Business valuation-divorce-trial
Morrow v. Boutet, et. al.---- Business valuation-fraudulent transfer-deposition and trial
Tainter v. Knights of Columbus---- Recovery of damages for lost profits personal injury -
deposition
Monroe Salt Works, Inc. v. Peerless Insurance Company---- Business interruption insurance
coverage -deposition
Pelletier v. Glazier---- Recovery of damages for lost profits - personal injury - deposition
Emmons v. Deering Trust---- Beneficiary's claim of mismanagement - deposition
Pesce v. King, et. al.---- Recovery of damages for lost profits - deposition
Minott v. Minott---- Business valuation-divorce-trial
Gamache v. Kingfield Savings Bank, et. al.---- Lender liability claim-business valuation -
deposition
Church's Welding, et. al. v. Unifirst Corp.---- Recovery of damages for lost profits - deposition
John H. Shostak, Jr. et. al. v. Shostak Construction Corporation, et. al.---- Minority shareholder
oppression suit - deposition
Fuller v. Fuller---- Business valuation - divorce - deposition and trial
Tanguay v. Progressive, et. al.---- Recovery of damages for lost profits - personal injury -
deposition
Wolf v. Wolf---- Business valuation - divorce - trial
Hutchinson v. Hutchinson---- Business valuation – divorce - trial
Bookland vs. Baker Newman Noyes---- Accountant's malpractice - deposition and trial
Enclave Development v. Manset Marine & Taylor Made Products---- Recovery of damages for
lost profits - deposition
Tommy M. Bureau vs. Dave Gendron, et. al.---- Recovery of damages for lost profits - deposition
and trial
EnvisioNet vs. Howard---- Insolvency test for fraudulent transfer - deposition
Jean Destignoble vs. Guy Litalien---- Recovery of damages for lost profits - personal injury -
deposition
Jericho Bay Boatyard vs. Black & Decker (U.S.), Inc.---- Recovery of damages for lost profits -
deposition
Donovan vs. Anthem---- Recovery of damages for lost profits - personal injury - deposition
Beauregard vs. Beauregard---- Business valuation - divorce - trial
Warren vs. Warren---- Business valuation - divorce - deposition and reference
Union Mutual Fire Insurance Co. vs. James McDonald---- Business interruption claim subrogation
- trial
Pickrell vs. Pickrell---- Business valuation - divorce - mediation
Butcher vs. Butcher---- Business valuation - divorce - trial
Whitney vs. Wal-Mart---- FEMLA dispute - calculation of earnings differential - deposition
Bruce Little, et al, vs. William S. Kany, et al---- Legal malpractice - reliability of financial records -
deposition and trial
Angela Theriault vs. University of Maine System, et al---- Personal injury - calculation of earnings
differential - deposition
Robert Montgomery, et al vs. Erika Frank, Esq.---- Legal malpractice - commercial damages re
breach of contract - deposition
Frank Cusick vs. David Taylor---- Personal injury - calculation of lost profits - deposition

Turner, Trustee vs. Bolduc, et al (Crowe Rope)---- Insolvency test for fraudulent transfer - deposition
Roberge vs. Roberge----Business valuation - divorce - trial
Albert vs. Albert----Business valuation - divorce - trial
Turner, Trustee vs. Bolduc, et al (Maine Poly, Inc.)----Business valuation for test of equivalent value received in sale of assets - deposition and trial
W. Whitney Smith Jr., et. al. vs. Daniel Coyne, et. al.----Business valuation and measurement of damages for lost profits - deposition
Amy B. McGarry, et. al. vs. Robert M.A. Nadeau, et. al.----Shareholder dispute - meaning of accounting terms in a contract - deposition
Jill Piggott vs. Anthem Health Plans of Maine, Inc.----Recovery of damages for lost earnings - personal injury - deposition
Morrell vs. Morrell----Business Valuation - divorce - reference
Scarponi vs. Scarponi ----Business Valuation - shareholder oppression - trial
Charles vs. Charles----Business Valuation - divorce - reference
Fishman vs. Fishman----Business Valuation - divorce - reference
Hess vs. Hess----Business Valuation - divorce - trial
Naturally ME, Inc. vs. Alan Attridge----Recovery of damages for lost profits - trial
Peter Garsoe vs. Donald Rodrigue, et. al.----Recovery of damages for lost profits - deposition
Earth Holdings, Inc. vs. John Barbour----Business Valuation - shareholder dispute - arbitration
Johnson vs. University of Maine System, et. al.----Lost wages and benefits claim - age and gender discrimination suit - deposition