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LIST OF SUBSTANTIVE CHANGES AND ADDITIONS

PPC's Guide to Litigation Support Services

Twenty-eighth Edition (April 2023)

Highlights of this Edition

The following are some of the important new features of the 2023 Edition of PPC's Guide to Litigation Support Services:

- Amendments to Rule 702 – Testimony by Expert Witnesses. On June 7, 2022, the Judicial Conference Committee on Rules of Practice and Procedure (the Standing Committee) approved amendments to several of the Federal Rules of Evidence - including Rule 702, which governs the admissibility of expert witness testimony. If approved by the U.S. Supreme Court and Congress, the Rule 702 amendment will take effect on December 1, 2023.

Rule 702 is clarified in the following two respects:

- To clarify and emphasize that expert testimony may not be admitted unless the proponent demonstrates to the court that it is "more likely than not" that the proffered testimony meets the admissibility requirements set forth in the rule.
- To emphasize that federal judges', in exercising gatekeeping authority, assess that the testifying expert's opinion reflects a reliable application of the expert's basis and methodology to the facts of the case.

If approved, this amendment will replace the Daubert standard, which is currently used by trial judges to assess whether an expert witness' testimony is based on scientifically valid reasoning that can be properly applied to the facts at issue. It is important to note that as these are clarifications to the rule and not an actual change to the rule, these changes may be implemented before December 1, 2023.

- Updated Consulting Discussions. If you provide litigation support services on any number of the various areas covered by this Guide, you know that the legislative, rule-making, and regulatory environment is constantly changing. In addition, research references seem to revise their websites faster than you can bookmark them. This Guide delivers updated discussions on relevant issues and updated reference information for the various consulting service offerings.
- Updated Tables. We've placed the current information you need at your fingertips. The tables for employee compensation, general and wage growth, and consumer price index changes used to calculate personal damages benefits have been updated to include the most recent information. Since the information is available in your Guide, you won't waste time searching for it.
- Updated Resource Listings. This Guide provides numerous resource listings relevant to providing litigation support services. Those resources enable you to delve more deeply into a topic and stay current on important issues. Lists of resources throughout the Guide have been updated to ensure you have the most current information possible to help you deliver litigation support services.

In addition to these featured items, your Guide includes the following update items detailed below.

Chapter	Substantive Changes and Additions
General	1. Updated websites as needed throughout the text. 2. Updated the additional sources of information appendixes, if deemed necessary.
CHAPTER 2 Administering a Litigation Services Practice	1. Deleted Appendix 2A-7 due to lack of use in practice.

<u>Chapter</u>	<u>Substantive Changes and Additions</u>
CHAPTER 4 Lost Profits Analysis	2. Added discussion stressing the importance of reading an entire case quoted by the expert, as opposing counsel may ask questions about any aspect of the quoted opinion.
CHAPTER 5 Damage Studies Involving Individuals	1. Added Appendix 4C to provide quick tips on calculating damages and writing litigation reports. 1. Updated Exhibit 5-3, and the related discussion, for the most recently issued Employer Costs for Employee Compensation Survey data (U.S. Department of Labor). 2. Updated the social security tax limits. 3. Updated Appendix 5B-3, for the most recently issued “Patton- Nelson Personal Consumption Tables 2016-17,” by Michael R. Ruble, Robert T. Patton, and David M. Nelson, <i>Journal of Legal Economics</i> , 25 (2) 82-83. 4. Updated Appendix 5B-4, “Rates of General Growth in the Economy,” for the most recently published table of changes in the consumer price index (obtained from the 2022 Economic Report of the President available at govinfo@.gov). 5. Updated Appendix 5B-5, “Rates of Wage Growth,” for the most recently published table of changes in hours and earnings in private nonagricultural industries (obtained from the 2022 Economic Report of the President available at govinfo@.gov).
CHAPTER 6 Intellectual Property Damages	1. Updated discussion regarding the CPA’s role in intellectual property damages matters. 2. Added an introductory note to Appendix 5B to remind practitioners to consult with counsel on each case, noting any local laws applicable to the case.
CHAPTER 8 Bankruptcy Services	1. Revised and streamlined the chapter based on current bankruptcy services being provided in practice.
CHAPTER 9 Claims Against Accountants	1. Added a section of violations of the recordkeeping and internal control provisions of Section 13(b) of the Exchange Act of 1934 as a fourth broad type of claim against a corporate executive where an expert may be engaged to testify.
CHAPTER 10 Employee Fraud Engagements	1. Added reference to section 304 for further information on the use of technology in litigation services engagements.
CHAPTER 11 Criminal Tax Cases	1. Updated the IRS Criminal Investigation statistics on identity theft cases with the 2022 data. 2. Updated the examples of fraud indicators in the areas of income, expenses, and deductions.
CHAPTER 12 Valuing Closely Held Businesses and Professional Practices	1. Updated the AICPA’s development status of an additional Accounting and Valuation guide on business combinations. 2. Updated the discussion of the Uniform Standards of Professional Appraisal Practice (USPAP), noting that in August 2022, the Appraisal Standards Board (ASB) announced the decision to extend the 2020–2021 edition of USPAP by another year through December 31, 2023. More importantly, the next edition of USPAP would not have an effective end date and remain effective until the ASB deems it necessary to make further changes.

Chapter

Substantive Changes and Additions

CHAPTER 13
Expert Witness
Services

1. Reordered the sections in order to facilitate streamlining of the chapter.
2. Added a reference to section 304 of this Guide for further information on the use of technology and data tools in litigation services.
3. Added additional considerations when a Daubert challenge occurs.
4. Moved paragraphs from section 304 related to preparing demonstrative exhibits here to facilitate streamlining of both chapters.
5. Added a reminder that the expert should also confirm that the exhibits agree to the opposing expert's written report and are mathematically correct.

CHAPTER 15
Alternative Dispute
Resolution

1. Updated the statistics on states that have adopted the Uniform Arbitration Act (2000).
2. Added discussion of changes to the rules of the American Arbitration Association.
3. Deleted outdated information relating to remote communications due to the COVID-19 pandemic.
4. Added discussion that certain arbitration contracts have clauses specifying that arbitrators be CPAs. That specification is generally not the same for mediators,

CHAPTER 16
Insurance Claims

1. Added discussion describing the differences in handling emerging cyber environment claims (hardware replacement, business interruption loss, and internal payroll) than non-cyber claims.

CHAPTER 17
Divorce Services

1. Clarified the collaborative divorce engagement is where the parties commit to divorcing without undergoing litigation.
2. Added discussion comparing spousal support payments and child support payments in post-Tax Cuts and Jobs Act divorces.