



Michael B. Lehner, CPA/ABV, CFE, ASA
732.412.3825 | mlehner@zbtcpa.com
www.zbtcpa.com



zbt Certified Public Accounting
& Consulting, LLC

Viewpoint on Value

What can a rebuttal report do for you?

In the midst of contentious litigation and seemingly irreconcilable disputes, it can be hard to know where to turn to find an impartial, well-supported resolution to a difficult matter. That's where a rebuttal report can be helpful.

When courts or shareholders question valuation results — or the conclusions of opposing experts are widely divergent — seeking the advice of another valuator in the form of a rebuttal report can bring much-needed objectivity. An independent analysis from an experienced appraiser can be key to resolving intractable issues and finding a solution that works for everyone.

How to use a rebuttal report

Rebuttal reports can be useful in a variety of situations. For example, suppose two owners dispute the value of their restaurant. The owner hoping to dissolve her interest hires an appraiser who values the business at \$10 million. The other owner's expert estimates that the company is worth \$8.5 million.

Neither side will split the \$1.5 million difference. So, they jointly hire a third expert to compare and contrast the two valuations. After sorting through the minutiae, the rebuttal expert discovers that the appraisals are remarkably similar, except for two key differences: 1) an adjustment for excess owners' compensation, and 2) an addback for excess working capital.

As a result, the dispute evolves from an ambiguous question about the value of the business to a list of more specific questions:

- How much are each owner's day-to-day contributions worth?
- Compared with its competitors, does the restaurant have excess cash on hand?
- If there's excess cash on hand, how much?

To help the parties make an informed decision, the rebuttal expert also offers citations and reference materials on these two issues.

Simply put, rebuttal reports can facilitate settlement by pinpointing differences and putting technical appraisal issues in more user-friendly language. And, when court is unavoidable, rebuttal reports help attorneys draft pointed deposition and trial questions.

How to determine the best format

Rebuttal reports come in many forms. The appropriate length and format depend on the time and resources available, as well as the parties' strategic preferences.

For instance, some experts and attorneys prefer oral rebuttals. They argue that less formal discussions generate no tangible report for the opposition to review before court. Accordingly, oral reports preserve the element of surprise and potentially reduce client costs.

The primary downside is that oral rebuttals require attorneys to understand technical appraisal issues well enough to design salient deposition and trial questions. Incomplete testimony often misses key points and frustrates everyone involved. Oral reports also provide judges and jurors with nothing to review during deliberations.

What a rebuttal report contains

Court procedural rules and professional appraisal standards provide little guidance on how to prepare written rebuttals. Some experts issue lengthy formal rebuttal reports; others construct concise letters highlighting key findings.

Content generally includes a description of the appraiser's review procedures and a list of errors and omissions (or "findings and conclusions"), which is typically footnoted with authoritative references. When reviewing two divergent appraisals, rebuttal experts often break down the difference into its specific sources.

To demonstrate their objectivity, rebuttal experts usually disclose all errors and omissions, not just those that support their clients' financial interests. Many appraisers also attempt to quantify how errors — individually and collectively — might affect the appraiser's opinion.

In addition, rebuttal reports might respond to a rebuttal issued by the opposing expert or to an IRS inquiry. Typically, these responses clarify ambiguities in the appraiser's original report, address alleged errors and defend the appraiser's opinion with authoritative references.

Dispute resolution

You need cost-effective solutions, and the added expense of a rebuttal report might seem an unnecessary option at first glance. But a rebuttal can help fine-tune the work that has already been done by two opposing experts, add perceived objectivity and facilitate resolution of contentious legal matters.

Do you have a
Question?
or want to speak to

Michael B. Lehner
CPA/ABV, CFE, ASA



zbt Certified Public Accounting
& Consulting, LLC

Michael B. Lehner, CPA/ABV, CFE, ASA

 732.412.3825

 mlehner@zbtcpa.com

 www.linkedin.com/in/michaellehnercpa

 @MLehnerCPA

 [BusinessValuationNJ](https://www.youtube.com/channel/UC...)

 www.zbtcpa.com