



# EXPERT TESTIMONY PROFESSIONALS

We are known for our “teaching” — as opposed to “telling” — style of testimony. Rather than only providing a judge or jury with an opinion, we communicate the key facts and relevant theories in a clear and logical manner.

Our Expert Testimony professionals have industry-leading experience across all types of disputes. Our experts have provided testimony in deposition and at trial related to complex accounting, financial reporting and economic damages issues.

Our top testifying experts average over 30 years of litigation analysis experience, benefiting clients when considering the complex financial data, qualitative facts, supporting testimony, and damages-related case law. We have served as experts in federal courts, including the US Court of Federal Claims and the US Court of Appeals for the Federal Circuit, US Bankruptcy Court, the Ontario Superior Court of Justice, before the International Trade Commission, domestic and international arbitration venues, among others.



## CONTACT

### **Michelle J. Avery**

Managing Director  
+1 703.654.1479

mavery@oceantom.com

Ms. Avery provides expert witness testimony and leads major dispute resolution engagements, providing forensic accounting and expert witness services in high profile litigations. She is responsible for leading Ocean Tomo's Financial Expert services group.



### **MICHELLE J. AVERY, CPA, CFF**

Managing Director

Ms. Avery, Managing Director in the Ocean Tomo Financial Expert business unit, has over two decades of experience leading major dispute resolution engagements with an emphasis of insurance and financial services. Ms. Avery provides forensic accounting and expert witness services in high-profile domestic and international civil litigation involving complex accounting issues, financial reporting evaluations, solvency analyses, and economic damage calculations. Many of her engagements have involved highly publicized accounting and financial reporting scandals, including allegations of financial statement misstatement, and auditor malpractice requiring evaluations of US generally accepted accounting principles (GAAP) and statutory accounting principles. She has testified in matters related to auditor malpractice as well as economic damages.

Ms. Avery is recent past member of the Financial Reporting Executive Committee (FinREC), the senior technical committee of the AICPA for financial reporting and she has served on the International Association of Insurance Receivers Board of Directors. Ms. Avery combines this industry leadership and technical knowledge with nearly 25 years of working on some of the largest and highest profile accounting dispute matters.



### **KENT E. BARRETT, CPA, CFF, CFE, CLU, CHFC, FLMI**

Managing Director

Mr. Barrett, Managing Director, joined Ocean Tomo after serving several years as chief financial officer for a number of major insurance and investment companies and directing the internal audit function for American General Financial Group. Mr. Barrett leads major litigation engagements with complex financial considerations involving misstatement of financial statements, auditor conduct, revenue recognition, insurance and loan loss reserve adequacy, inadequate disclosures, internal control failures, sub-prime loan securitizations, adequacy of collateral and financial guarantees, asset misappropriations, and a variety of other disputes.

Mr. Barrett has testified regularly in deposition and at trial and has presented as an expert before arbitrators and the SEC. He also consults regularly on complex technical accounting issues and is particularly adept at constructing sophisticated financial models, identifying and communicating key underlying facts and trends, reviewing actuarial studies, performing reinsurance analyses, and evaluating auditor responsibilities and compliance with Generally Accepted Auditing Standards (GAAS) and conformity of financial statements with Generally Accepted Accounting Principles (GAAP), Statutory Accounting Principles (SAP), and International Financial Reporting Standards (IFRS).



### **EDWARD W. BUTTNER IV, CPA, CFF, CFE**

Managing Director

Mr. Buttner is a Managing Director with Ocean Tomo. Prior to joining Ocean Tomo, he co-founded Buttner Hammock & Company, P.A., a Jacksonville, Florida based accounting firm with forensic accounting, litigation support, and audit practice groups, and served as president since 1992. Mr. Buttner began his career at Ernst and Young where he spent 16 years, the last four as Partner-in-charge of the Florida Insurance Practice.

Mr. Buttner has testified in federal, state and bankruptcy courts, arbitration hearings, and depositions on a variety of accounting, financial reporting, auditing, causation, and damages issues including, among others, revenue recognition, asset valuation, loss reserving, related party transactions, financial statement disclosure, and the application of generally accepted auditing standards. Mr. Buttner has testified in matters with damages in the hundreds of millions of dollars and brings 45 years of combined accounting, auditing, consulting, and expert testimony experience to his client engagements.



### **GREG CAMPANELLA**

Managing Director

Leading Ocean Tomo's Management Services Group and is a Managing Director in the Valuation practice. Mr. Campanella's work has focused on valuations of intangible, intellectual property and tangible assets for acquisitions and divestitures, bankruptcy and restructuring, establishment of monetization strategies including licensing, mergers and joint venture/partnership formations, litigation support, and financial reporting and tax matters. Mr. Campanella also has experience performing business enterprise, equity and debt valuations.

Mr. Campanella's valuations related to intellectual property (IP) and brand assets have been presented in bankruptcy proceedings. He has provided deposition testimony related to IP risk, IP asset values and IP valuation method.



OCEAN TOMO®



## ERIC CARNICK

Senior Director

Mr. Carnick has more than 14 years of experience addressing financial, economic, licensing, and accounting issues related to intellectual property and breach of contract litigation. He has offered his expert opinions in federal court and deposition. His experience spans numerous industries including semiconductors, software, fiber optics, telecommunications, consumer electronics, pharmaceuticals, medical devices, and transportation. He has also authored several publications related to intellectual property damages and presented at graduate business and law programs. Mr. Carnick's approach involves intimately understanding the key facts of the dispute to develop the strategic direction of the damages case and eliminate the inefficiencies that can arise from a less hands-on approach, bringing considerable value to his clients.



## ANDREW W. CARTER, CPA, CLP, CFF, CGMA, FINRA 7 & 63

Co-founder

For almost 30 years Mr. Carter has focused on intellectual property infringement damages, providing expert witness testimony in excess of 80 times. He is frequently called upon to testify in large scale or complex cases, and was the damages expert for the largest patent damages award in history (\$2.5 billion). Mr. Carter has testified in both federal and state courts, in the Federal Court of Canada, and at the International Trade Commission (ITC). His testimony in court covers some of the most popular patent infringement forums in the country, including ED Texas, Delaware, SD New York, ND California, New Jersey, WD Wisconsin, and MD Florida. His clients cover a wide variety of industries, including industrial products, industrial machinery, numerous consumer products, electronics, telecommunications, transportation, internet services, medical devices, pharmaceuticals, financial services, securities, casinos/gaming, and entertainment.



## ALEXANDER CLEMONS, JD, MBA

Senior Director

Unique among Ocean Tomo's other testifying experts, Mr. Clemons holds both a JD and MBA. This background best positions him to understand, anticipate, and adapt to the ever changing legal landscape surrounding damages proof requirements, while developing creative solutions to the most challenging damages issues. He has extensive experience across numerous industries related to the assessment of economic damages in litigation matters involving intellectual property, breach of contract, and other claims. In addition, Mr. Clemons consults with clients on strategic IP management issues, licensing assistance, and IP transaction support.



## JONATHAN COUCHMAN, CPA, CFF, ABV

Managing Director

Mr. Couchman, Managing Director in Ocean Tomo's Financial Damages practice, has extensive experience providing consulting services related to every phase of the litigation process. He has testified in federal court on various accounting, economic, and financial issues in the context of damages and provided assistance to counsel in cross examining opposing expert witnesses. Mr. Couchman has prepared expert reports, performed complex financial modeling, and directed various aspects of the discovery process including cost audits. Mr. Couchman's recent experience includes evaluation of economic damages resulting from an alleged breach of contract between multiple nuclear utilities and the United States Department of Energy, analysis of claimed lost profits related to alleged interference with the operation of a retail seafood market, evaluation of a claim regarding misrepresentation of a contract for operations and maintenance services at several U.S. Naval bases, and evaluation of alleged incremental cost damages related to inspections and repairs of offshore natural gas rigs.

Mr. Couchman serves on the AICPA's Economic Damages Advisory Panel, a think-tank created to provide high-level thought leadership around current damages-related issues impacting the profession. Prior to joining Ocean Tomo, Mr. Couchman worked at Arthur Andersen in its consulting practice in Washington, DC.



## CONTACT

### Molly Keelan

Senior Director  
Client Services  
+1 312.622.3471  
mkeelan@oceantomo.com

Ms. Keelan's efforts at Ocean Tomo are concentrated in the practice of business development, sales relationship growth and maintenance within the Financial Expert group and valuation practices. In working with the firm's Managing Directors and C-level team, she successfully develops firm-wide and practice specific key account strategies, and establishes and nurtures long term client relationships. Through speaking engagements and conference participation, Ms. Keelan creates and solidifies an industry presence.



OCEAN TOMO®



## CONTACT

### **Michelle J. Avery**

Managing Director  
+1 703.654.1479

mavery@oceantomo.com

Ms. Avery provides expert witness testimony and leads major dispute resolution engagements, providing forensic accounting and expert witness services in high profile litigations. She is responsible for leading Ocean Tomo's Financial Expert services group.



### **CATE M. ELSTEN, CMA, CLP, MAB**

Managing Director

Ms. Elsten has been an intellectual property consultant for over 25 years, providing expert testimony on monetary damages, marketing and industry trends, licensing and management practices, corporate and intellectual asset valuations and plans of reorganization in over 70 matters in all nine federal districts, as well as several state and county courts. She also serves as a strategic and valuation consultant and as an AAA arbitrator. Prior to becoming a consultant, Ms. Elsten worked for over 12 years in industry, holding financial, accounting and marketing management positions for companies including Dayton-Hudson Corporation's Target Stores Division, Aveda Corporation (now a division of Estée Lauder) and others.



### **ROBERT M. HESS, CPA**

Co-founder and Managing Director

Mr. Hess concentrates his efforts in the areas of damages expert witness testimony in intellectual property infringement lawsuits and general business disputes. He has assisted counsel with respect to all litigation phases through trial including discovery and document management, deposition and cross-examination assistance, and trial testimony and exhibit preparation. For a quarter century Mr. Hess has consulted in the determination of both liability and damages issues arising from cases of patent infringement, breach of contract, reasonable royalty, misappropriation of trade secrets, price erosion, lost profits, trademark infringement, accountant's liability and antitrust claims. Mr. Hess has testified in both federal and state courts.



### **LARRY JOHNSON, CPA**

Founder, Veris Consulting

Mr. Johnson is the founder of Veris Consulting. Prior to founding Veris in 2000, Mr. Johnson co-founded the public accounting firm of Johnson Lambert & Co. where he served as Managing Partner through 2005. Mr. Johnson was also a former partner at Ernst & Young where he directed its Washington, DC audit practice and its Mid-Atlantic Region insurance practice.

Mr. Johnson has testified in over 150 matters in federal and state courts, arbitration hearings, and depositions on a variety of accounting, financial reporting, auditing, causation, and damages issues including, among others, revenue recognition, asset valuation, loss reserving, related party transactions, financial statement disclosure, and the application of generally accepted auditing standards. He has participated in numerous professional standard-setting bodies, including the Accounting Standards Executive Committee (AcSEC) of the AICPA, the highest authority in the AICPA over industry-specific accounting and reporting matters. Mr. Johnson has also served as a member of the AICPA Insurance Companies Committee and its task forces including chairing the AICPA's task force on reinsurance accounting and served on both its Relations with Actuaries Committee and its Financial Services Experts Panel. Mr. Johnson's leadership on committees that have been the source of authoritative guidance on many major accounting and financial reporting issues and his extensive accounting and insurance experience make him a highly sought-after expert.



### **JUSTIN LEWIS, CPA, CVA, CFF**

Managing Director

Justin Lewis is an experienced expert who has testified in both federal and state court. Mr. Lewis' 20+ years of consulting experience include the analysis and quantification of economic damages arising from patent, trademark, trade secrets, copyright infringement & breach of contract in over a 100 matters. Mr. Lewis holds a B.S. in Business and Economics and is a Certified Public Accountant in California and Certified Valuation Analyst. He was Chair of the Valuation and Pricing Committee of the Licensing Executives Society USA & Canada. His credentials and experience give him a broad base to understand all aspects of IP value. His industry experience is wide, covering computer hardware and software, semiconductors, fiber optics, telecommunications, biotechnology, diet supplements, gaming, retail, entertainment, wine, automotive and manufacturing.



### **JAMES E. MALACKOWSKI, CPA, CLP**

Co-founder and CEO of Ocean Tomo, LLC

Mr. Malackowski has testified by deposition in more than 100 matters, the large majority of which are intellectual property disputes. On more than 50 occasions, Mr. Malackowski has served as an expert in federal court or the International Trade Commission on questions relating to intellectual property economics, including the subject of business valuation, reasonable



OCEAN TOMO®

royalty, lost profits, price erosion, commercial success, corrective advertising, Hatch Waxman Act market exclusivity and the equities of a potential injunction. Mr. Malackowski brings a truly unique experience base to his work as an expert drawing upon his role as a Certified Public Accountant, Certified Licensing Professional, adjunct MBA instructor, inventor of numerous issued U.S. patents and investor in IP assets.



### ROBERT R. MCSORLEY, JD, CPA

Senior Director

Mr. McSorley has 30 years of experience addressing the economic, financial, and accounting issues involved in commercial litigation. During his career, Mr. McSorley has been retained in IP disputes, accounting malpractice claims, breach of contract actions, fraud investigations, among other types of litigation. Mr. McSorley has testified in deposition, at arbitration hearings, and in federal district courts around the Country. Mr. McSorley is a leader of Ocean Tomo's Hatch-Waxman practice. In connection with these cases, Mr. McSorley has addressed issues concerning commercial success, irreparable harm, and economic damages. He has also consulted on other aspects of the pharmaceutical industry, including the profitability of pharmaceutical firms, the ability to finance and recover R&D costs, the patenting strategies of branded firms, and payer/formulary practices.

### MICHAEL K. MILANI, CLP

Managing Director

Mr. Milani is an experienced damages expert, combining three decades of litigation and corporate strategy expertise. He has worked on hundreds of assignments across a wide range of industries. As a testifying expert in federal court, state court, the ITC, and in ADR proceedings, he addresses financial issues in complex commercial litigation, with an emphasis on matters involving intellectual property. Mr. Milani also enjoys teaching and has served as an adjunct professor for both graduate business and law school classes. Mr. Milani's unique blend of litigation and corporate strategy expertise allows him to apply innovative yet practical approaches to his client engagements. His "hands-on" philosophy results in quality analyses, reports and testimony, while eliminating inefficiencies that can result when experts are less involved in their cases.



### KEVIN TULLIER, CPA, CFE, CFF

Managing Director



Mr. Tullier, Managing Director of Ocean Tomo, has more than 25 years of accounting and finance experience for public and non-public entities and almost two decades of experience performing forensic accounting and litigation support services, including expert testimony. His cases involve financial statement misstatements, auditing malpractice, insurance insolvencies, and financial damages, among other issues. Mr. Tullier has provided testimony regarding a calculation of lost wages; performed an investigation of employee theft and collusion involving tens of millions of dollars; and assisted counsel for both state insurance departments and the SEC in the assessment of potential financial statement misstatements resulting from the misapplication of GAAP and/or Statutory Accounting Principles, the assessment of auditor compliance with GAAS, and the calculation of economic damages therefrom, including one matter with potential losses in the billions of dollars.

Mr. Tullier serves as Treasurer and Board Member of the International Association of Insurance Receivers. He joined Ocean Tomo after several years in finance and accounting with an international publicly-held company and an insurance company in run-off. Mr. Tullier was also an auditor with the Big 6 firm Coopers & Lybrand.



### SHIRLEY WEBSTER, CPE

Managing Director

An economist with over 30 years of experience, Ms. Webster has testified in State and Federal courts, in arbitration and at the ITC. She has directed analyses of intellectual property economic damages, including for infringement of patents, trademarks and copyrights, and trade secret misappropriation. Ms. Webster has provided consulting services, including analysis and expert testimony, on breach of contract litigation, product liability matters, franchisee/franchisor and distributor disputes, bankruptcy, fraud/misappropriations, dissident shareholder actions, ERISA matters, personal injury, business valuations, IP valuations and licensing strategy. Ms. Webster has assisted clients in numerous industries, including software, chemicals, semiconductor, medical products, energy, telecommunications, consumer products, banks and retail.



### CONTACT

#### Molly Keelan

Senior Director  
Client Services  
+1 312.622.3471  
mkeelan@oceantomo.com

Ms. Keelan's efforts at Ocean Tomo are concentrated in the practice of business development, sales relationship growth and maintenance within the Financial Expert group and valuation practices. In working with the firm's Managing Directors and C-level team, she successfully develops firm-wide and practice specific key account strategies, and establishes and nurtures long term client relationships. Through speaking engagements and conference participation, Ms. Keelan creates and solidifies an industry presence.



OCEAN TOMO®

## About Ocean Tomo

Established in 2003, Ocean Tomo, LLC provides Financial Expert, Management Consulting, and Advisory services related to intellectual property (IP) and other intangible assets; corporate accounting investigations; regulatory and reporting obligations; solvency and restructuring; and contractual or competition disputes.

Practice offerings address economic damage calculations and testimony; accounting investigations and financial forensics; technology and intangible asset valuation; strategy and risk management consulting; mergers and acquisitions; debt and equity private placement; and IP brokerage.

Our services are built upon more than three decades of experience in the most rigorous venues – state, federal, and international courts. Our financial, market, and technical experts provide a unique understanding of the contributory value of proprietary innovation. This is the cornerstone of our business. This insight permeates every practice and client engagement.

Collectively, Ocean Tomo professionals have:

- Completed over 1000 engagements, including over 300 valuation and 500 financial damages expert testimony engagements;
- Consulted and provided expert testimony on some of the highest profile matters over the past decades;
- Successfully closed hundreds of IP sale transactions with a cumulative transaction value well in excess of \$1 billion; and
- Originated more successful IP monetization solutions than any other firm, including creation of the world's oldest and most successful live patent auction.

Our track record of results spans more than 150 different industry segments. Because our past success provides the best indication of our capabilities, we are proud to serve more than 80% of the AM Law 100® and encourage potential clients to seek references from past clients.

Intangible assets comprise 90 percent of business value but are also subject to significant impairment due to enterprise and regulatory compliance risk. Ocean Tomo assists clients – corporations, law firms, governments, and institutional investors – in realizing Intellectual Capital Equity® value broadly defined.

Headquartered in Chicago, Ocean Tomo has offices in Greenwich, Houston, Jacksonville, Reston (DC Metro), San Francisco, and Shanghai. Subsidiaries of Ocean Tomo include Ocean Tomo Investment Group, LLC, a licensed broker-dealer under Federal and State securities law (brokercheck.finra.org Broker Check CRD #: 172912), OTI Data Networks, LLC and Patent Marking, LLC.



# OCEAN TOMO®