

# RANDY ELLEN ROSS

## ATTORNEY AT LAW

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Randy Ellen Ross is the Chief Executive Officer and General Counsel of the litigation consulting firm of Bruce L. Ross & Company. She has been associated with the firm since its inception in 1992. In 1976, she received a Bachelor of Arts degree in Political Studies from Pitzer College, a member of the Claremont Colleges. In 1979, she received her Juris Doctor degree, Cum Laude, from the University of San Francisco School of Law. Later that year, she was admitted to the State Bar of California. Prior to joining Bruce L. Ross & Company, Ms. Ross practiced civil litigation, estate planning and corporate law.

Ms. Ross has consulted in numerous litigation and insurance matters. She brings to Bruce L. Ross & Company extensive experience in research, writing and analysis. She has been involved in many areas of litigation, including:

- Antitrust
- Bad Faith
- Bankruptcy
- Breach of Contract
- Business Valuations
- Civil Rights
- Class Actions
- Constructions
- Criminal
- Defamation
- Entertainment/Sports
- Environmental
- Fee Disputes
- Financial Institutions
- Fraud Investigations
- Government
- Health Care
- Insurance
- Intellectual Property
- Labor and Employment
- Landlord/Tenant
- Malicious Prosecution
- Marital Dissolution
- Non-Profit
- Personal Injury/Wrongful Death
- Probate Litigation
- Product Liability
- Professional Malpractice
- Punitive Damages
- Real Estate
- Securities
- Special Master/Referee

The attached addendum describes Ms. Ross' activities on selected matters in some of the above areas.

Ms. Ross is a member in good standing of the State Bar of California, the American Inns of Court and the Los Angeles County Bar Association.

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## Resume Addendum

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Ms. Ross has consulted in numerous litigation and consulting matters while at Bruce L. Ross Company (BLRCo.) Her work involves research and analysis in the areas of damages, business valuations, professional standards and intellectual property. Prior to joining BLRCo., Ms. Ross was engaged in the practice of law in the areas of litigation, as well as business and estate planning. Listed below are brief descriptions of selected cases in which Ms. Ross has provided her expertise and assistance while at BLRCo.

### **Antitrust**

- Counsel for the defense retained BLR&Co in an antitrust action filed by a waterbed heater manufacturer against a competitor in the same field. At issue was an alleged attempt to monopolize the manufacture of waterbed heaters in Mexico. Ms. Ross translated the Spanish language business records into English to enable the BLR&Co team to compute lost profits, gross profit by product and the relative position of the Plaintiff to the total industry. The matter was ultimately decided in favor of the Defendant.
- Counsel for Plaintiff and Cross-Defendant in a federal matter retained BLR&Co when a complaint for violation of intellectual property rights was defended by the filing of an antitrust cross-claim. BLR&Co was retained to analyze the allegations of lost profits and loss in business value. Ms. Ross conducted extensive industry research which supported the opinion that no one could form a non-speculative opinion regarding damages for lost profit and loss in business value. She drafted a detailed report in rebuttal to the report submitted by Cross-Claimant's damage expert. The case was settled on terms favorable to the Plaintiff and Cross-Defendant.

### **Bad Faith**

- Counsel for the Plaintiff retained Mr. Ross in a bad faith litigation matter against an insurance carrier with a complex organizational structure. Ms. Ross researched the operations of the carrier. By analyzing the organizational structure and the way in which the carrier operated, Mr. Ross was able to testify in state court as to the appropriate organizational level for the assessment of punitive damages. After Mr. Ross' testimony, the opposing side stipulated to the insurance entity that would be subject to punitive damages.
- A corporation brought a bad faith action in federal court against a group of insurance carriers and insurance syndicates for their failure to pay a loss under a fidelity bond issued to the Plaintiff. BLR&Co was asked by counsel for the Plaintiff to opine as to the threshold of materiality to assist the trier of fact in assessing punitive damages. Ms. Ross conducted extensive research into the structure of the insurance carriers to determine the appropriate level of profits to consider in calculating punitive damages. BLR&Co then applied the punitive damage methodology developed by Bruce L. Ross to determine the threshold of materiality. Ms. Ross drafted and the firm submitted a federal report describing these matters and the case settled shortly thereafter.

## Bankruptcy

- BLR&Co was retained by counsel representing 16 municipalities, water districts and community redevelopment agencies to assist in recovering their investments in a county-run investment pool. The County lost billions of dollars through complex financial investments and ultimately declared bankruptcy. The firm was asked to analyze whether the County was solvent at the time of its bankruptcy and to determine if it was possible to trace the Plaintiffs' investments through the investment pool. Ms. Ross assisted in these tasks and drafted a report summarizing the results. The matter was settled prior to the testimony of Bruce L. Ross. The firm was then asked to participate in additional litigation brought against third parties.
- BLR&Co was retained by a creditor's committee in a nationwide bankruptcy to investigate a very complex reorganization that had occurred a little more than a year before the bankruptcy filing. The committee was interested in finding out whether or not sufficient business and accounting information was available to show possible fraudulent transfers. Among the assets involved were various interests in a professional sports team. Ms. Ross analyzed the reorganization and traced the cash and legal obligations of several individuals, partnerships and corporate entities both before and after the transaction. This information was used to determine whether to file a lawsuit against the owners and other parties.
- A large dot com company filed for bankruptcy protection. Counsel for the debtor retained Bruce L. Ross & Company to provide an opinion as to the company's solvency during the preference period. Ms. Ross researched the colocation market and participated in the going concern analysis.

## Breach of Contract

- A professional with business contacts in Asia provided funding for an Internet startup company that had developed Internet microscopy software. In exchange, she obtained shares of stock in the company as well as an option to purchase additional shares. She entered into an agreement with the company to become the exclusive agent to develop the market for the product in the People's Republic of China. Thereafter, the company was acquired by a publicly-traded company, in part based on proposals that included employment and merger agreements which it later repudiated. The professional sued, alleging damages for breach of contract. She retained Mr. Ross to calculate damages. The Ross Team calculated damages assuming that the employment agreement and merger had been consummated, including lost salary, bonus, benefits, stock options and earn out shares. It also calculated damages assuming that the professional had dissented to the merger of the companies. Ms. Ross assisted in the drafting of two federal reports detailing the damage opinions and the underlying assumptions. She also drafted a critique of the report of the opposing expert.

- Plaintiff dairy cooperative entered into a requirements contract with Defendant, a manufacturer of specialty cheese. In 2003, Defendant produced a batch of bad cheese which had to be recalled. Defendant contended that the bad cheese was the result of tainted milk provided by Plaintiff, and negotiated with Plaintiff for four years to resolve the matter. Upon learning that Plaintiff had no intention of settling, despite alleged knowledge that the milk was tainted, Defendant immediately terminated the contract and found another milk vendor, without giving the six months notice provided for in their contract. Plaintiff sued for over ten million dollars covering the notice period. Defendant cross-complained for the damages arising from the recall. The BLR&Co. team was retained by counsel for the cheese manufacturer to rebut the damage claim prepared by employees of the dairy cooperative. Ms. Ross performed industry research and assisted in the critique of the damage claim, as well as the opinions of the Plaintiff's damage expert and rebuttal witness. Her work was used by Mr. Ross in the formation of his opinion, which was testified to at deposition and trial.
- Two companies entered into a master agreement for the leasing of computer equipment. This agreement set forth the general terms of their relationship. They then entered into hundreds of separate leases. Neither the master lease agreement nor any of the underlying leases set forth the financing costs to be charged. The lessor, however, represented to the lessee that the financing costs would fall within a specified range. After millions of dollars had been paid, the lessee discovered that the financing costs actually charged were many times higher than the range given. BLR&Co was retained by counsel for the lessee to provide an opinion as to whether fraud had been committed and whether or not the interest rates charged were unconscionable. In addition, the firm was asked to determine the effective rates charged and actual yield on 196 separate leases and to calculate the damages sustained by the lessee. Ms. Ross conducted industry research and drafted several expert reports. The parties settled the matter immediately prior to trial, using Mr. Ross' testimony in their negotiations.
- A California corporation entered into a distributorship agreement with a Georgia corporation, granting the latter an exclusive right to distribute certain automotive audio products within the United States. The agreement contained a minimum annual purchase requirement, which were to increase annually over a ten-year period, after which no increase would be required. In the first year, the distributor purchased in excess of the minimum requirement, but only sold a small number of the products. In the last month of the year, it transferred the unsold inventory on the books to a related company, then alleged that the California breached the agreement by placing certain returned items in the internet marketplace. It sued for lost sales, consumer confusion and loss of goodwill. Ms. Ross participated in the drafting of a Federal Report critiquing the damage opinion offered by the Plaintiff's expert, citing lack of evidence, flawed assumptions, accounting errors and failure to comply with professional standards. The opposing expert then submitted a new report. The Defendants were able to negotiate a settlement for a nominal amount.

- A developer of wind power defaulted on certain loans made to it by its development partner. The developer pledged collateral on the loans and sought to offset amounts due by the value of the collateral. BLR&Co. was engaged to value the collateral, including an interest in proceeds from the expected sale of tax credits to investors. Ms. Ross assisted counsel in the accounting interpretation of the various contracts involved in the transaction and in the understanding of the issues involved in valuing the collateral, including the appropriate standard and premise of value. The case settled before a final opinion of value was reached.
- A medical records copy service sought damages after its competitor allegedly hacked its website. BLR&Co. was retained to evaluate a report provided by Plaintiff's expert containing a lost profits calculation. Ms. Ross assisted in the critique of the opposing expert's opinion and the alternative damage analysis. The case settled prior to trial.

## **Business Valuations**

- A bankrupt software company sought to recover damages related to training and marketing services not fully delivered by a computer products manufacturer. The software company provided warrants as consideration for the manufacturer's services. Counsel for the software company retained Bruce L. Ross & Company to address the issue of damages. Ms. Ross analyzed the report submitted by the Plaintiff's expert and participating in the drafting of a Federal Report highlighting several problems with his valuation methodology. As a result, Plaintiff's expert revised his approach to valuation and lost profits substantially.
- BLR&Co. was retained by the Defendants in a dispute after sale of a large security company, in which the buyer alleged that the purchase price was overstated because the seller had not properly paid some of its California employees the Uniform Maintenance Allowance and otherwise not included required expenses in its books and records. Ms. Ross reviewed the contract of sale as well as many of the company's California contracts and payroll records. She assisted Mr. Ross in the preparation of a written report outlining his opinions critiquing Plaintiff's damage claim.

## **Civil Rights**

- BLR&Co worked for a community organization whose members had suffered substantial losses in the Los Angeles riots. Ms. Ross assisted in designing a database and forms to enable collection of information on over 5,000 claims. The BLR&Co team then assisted in the collection of this information from the community.

## Class Actions

- A class representative brought suit against a health insurance carrier complaining that midyear modifications to benefit provisions in her contract caused her to suffer monetary damages. Liability was decided in favor of Plaintiff, but due to privacy concerns and an anticipated significant reliance on the insurer's proprietary databases, the Defendant was permitted to perform the initial calculation of damages. Bruce L. Ross & Company was engaged to evaluate Defendants' calculation algorithms and provide opinions on the reliability of Defendant's calculations. Ms. Ross, together with other members of the BLR&Co team, performed a detailed analysis of the Evidence of Coverage documents to identify midyear modifications not included by Defendant in its damage analysis and to determine those that would result in monetary damages to the plaintiff class. She also participated in many other aspects of the engagement. The matter ultimately settled.
- A class action lawsuit was filed against a medical billing company alleging various wage & hour claims, including unpaid overtime and failure to provide meal and rest breaks. Counsel for the Defendants retained BLR&Co. to determine potential damages. Ms. Ross participated in the review of company records including employee censuses, payroll registers, time clock data and keycard access data, to determine incidence of overtime/meal break violations. The case settled at mediation.
- BLR&Co was retained in a class action matter to determine whether certain categories of employee were properly classified as exempt, and therefore not subject to overtime rules. The BLR&Co team prepared a computerized model of possible damages set up in a manner to allow quick changes to key assumptions. This model was used extensively at a mediation in this matter attended by Bruce L. Ross.

## Construction

- Counsel for the Plaintiff retained BLR&Co. in connection with a lawsuit filed against a general contractor's construction company. Ms. Ross reviewed financial and other documents to ascertain the extent to which the general contractor's wife participated in and benefitted from the business and to support an application of the alter ego doctrine.

## Criminal

- The Defendant in a criminal matter pleaded guilty to a variety of felony charges. In the sentencing process, the government contended that her compensation was excessive, tending to indicate that she received additional payment in exchange for engaging in fraudulent conduct. Counsel for the Defendant retained BLR&Co to perform a compensation analysis to be included in the sentencing brief. Ms. Ross conducted industry research to assist in the formation of an opinion as to the range of compensation which would be reasonable under the circumstances. This opinion involved the valuation of a different stock options plans and other non-salary compensation. The team was able to show that the Defendant's total compensation was comparable to other similarly situated employees within the relevant industry. Ms. Ross then drafted a declaration for inclusion in the sentencing brief.

## Entertainment/Sports

- The Defendant in a criminal matter pleaded guilty to a variety of felony charges. In the sentencing process, the government contended that her compensation was excessive, tending to indicate that she received additional payment in exchange for engaging in fraudulent conduct. Counsel for the Defendant retained BLR&Co to perform a compensation analysis to be included in the sentencing brief. Ms. Ross conducted industry research to assist in the formation of an opinion as to the range of compensation which would be reasonable under the circumstances. This opinion involved the valuation of a different stock options plans and other non-salary compensation. The team was able to show that the Defendant's total compensation was comparable to other similarly situated employees within the relevant industry. Ms. Ross then drafted a declaration for inclusion in the sentencing brief.
- A writer and producer and his fiancée entered into an antenuptial agreement pursuant to which the fiancée, in return for a specific cash payment, waived her rights to all future earnings from the services of her husband. The marriage lasted over 25 years, during which time the husband earned hundreds of millions of dollars. Attached to the antenuptial agreement was a statement of the husband's assets and liabilities, which appeared to value the husband's rights in various television and movie projects at zero. BLR&Co was retained to determine the fair market value of the husband's interests as of the time of the antenuptial agreement. Ms. Ross analyzed several complex entertainment agreements and conducted extensive research in the valuation of television properties. This matter was settled on terms satisfactory to the wife.
- Bruce L. Ross was appointed as a referee by a state court judge to determine the net profits of a motion picture. The BLR&Co team examined all sources of revenue, including domestic and foreign theatrical release, videotape and cable television. They also analyzed production and distribution expenditures to determine which should be included in accordance with the terms of the contract in question. Mr. Ross presided over several days of both percipient and expert testimony, and determined the appropriate accounting interpretation of the relevant clauses in various agreements. Ms. Ross assisted in the preparation of a report indicating the net profits of the photoplay and setting forth a detailed reasoning for each decision.

## Environmental

- The owner of commercial real property sued one of its tenants for damages resulting from the tenant's contamination of the premises. Counsel for the owner retained BLR&Co to calculate the lost development profits resulting from the contamination and remediation. This calculation involved a thorough understanding of the real estate market in the area of the contamination, the other projects already developed by the Plaintiff and the capacity of the Plaintiff to develop projects. Ms. Ross performed market research and analyzed the potential impact of the contamination. The case settled on terms favorable to the Plaintiff.

- BLR&Co was retained by the Defendants in an EPA Superfund action to determine the expenditures made by these Defendants in their investigation and response to the contamination at the Superfund site. These Defendants had filed an action to recoup a portion of the expenditures from the third party defendants and the United States Air Force. In a separate matter, BLR&Co was retained by first party defendants in an action against third party defendants for reimbursement of expenditures made at a Superfund site. Ms. Ross drafted several federal reports with respect to the methodologies employed by the firms and the information uncovered. After the deposition of Bruce L. Ross, the third party defendants stipulated to his opinion on the amount of expenditures.

## Fraud Investigations

- A doctor/inventor licensed technology to a major medical device distributor and manufacturer. The medical device company sold thousands of products incorporating the doctor's technology. The doctor exercised his contractual right to audit the company's books and records and Bruce L. Ross & Company was appointed auditor under the contract. The company refused to produce some of the information requested and to make much of the data accessible in digital form. Ms. Ross assisted in the determination of what documents would be sufficient relevant data to support the audit in compliance with applicable professional standards. She assessed the position of the Defendant in connection with each production in terms of its impact on the ongoing investigation. Mr. Ross ultimately testified in a patent infringement action that the company had not made sufficient relevant data available to him to allow him to complete his audit. A jury ordered the company to pay the doctor the entire cost of the audit plus punitive damages, in addition to significant damages for patent infringement.
- A large, up-scale chain of jewelry stores retained BLR&Co to investigate a number of transactions involving one of its stores. The transactions involved shipments out of state to avoid California sales tax and multiple charges to credit cards to defraud the issuing bank. Ms. Ross examined the store's transactions over a period of time and analyzed a number of merchant service agreements. Based on this work, BLR&Co made recommendations for improving record-keeping, anti-fraud procedures and compliance with the merchant service agreement with the bank.
- An educational institution granted a biotech company certain specified rights to a portfolio of patents, which included the right to make and sell a catalyst covered by one of the patents, but not the right for the company to use the catalyst itself. Thereafter, the educational institution developed an improved process for making certain catalysts, which became the subject of a new patent which was not licensed by the company. Another start-up company licensed the new patent. The biotech company sued both the academic institution and the start-up company. They retained Mr. Ross, as a consultant, to rebut Plaintiff's expert on the issue of damages. Ms. Ross analyzed the opinion of the expert and assisted in the preparation of a rebuttal analysis addressing the issues of disgorgement and lost profits. The facts showed that the opinion proffered by Plaintiff's expert failed to meet professional standards.

## Government

- BLR&Co was retained by counsel representing 16 municipalities, water districts and community redevelopment agencies to assist in recovering their investments in a county-run investment pool. The County lost billions of dollars through complex financial investments and ultimately declared bankruptcy. The firm was asked to analyze whether the County was solvent at the time of its bankruptcy and to determine if it was possible to trace the Plaintiffs' investments through the investment pool. Ms. Ross assisted in these tasks and drafted a report summarizing the results. The matter was settled prior to the testimony of Bruce L. Ross. The firm was then asked to participate in additional litigation brought against third parties.
- A partnership entered into a variety of agreements with a city and its redevelopment agency for the development of a shopping center. In the course of the development, the city foreclosed and portions of the property were sold to third parties. The partnership retained Bruce L. Ross & Company to quantify the damages for the foreclosure, which had been found wrongful by an earlier Court. The damage claim included both loss in value of the property to the partnership, under the assumption that the foreclosure sale never should have occurred, as well as lost profits relating to the operation of the shopping center. Ms. Ross analyzed the numerous agreements involved in the engagement to clarify the damage issues as well as issues of timing. She participated in various phases of the damage analysis and trial preparation.
- An experienced real estate developer sued a city and its redevelopment agency when the City Council failed to approve his proposal for a redevelopment project after the developer decided not to hire a consultant recommended by a City Council member. It was later revealed that the mayor and two members of the Council had been involved in a scheme that involved the exchange of their votes for money, sometimes involving the same consultant. Counsel for the developer retained Bruce L. Ross & Company to calculate lost profits on two phases of the proposed redevelopment project. Based on financial projections and valuations used in connection with the proposal, the BLR&Co team calculated lost profits with respect to both phases of the project, which included an analysis of projections arising out of two different scenarios. As a member of the team, Ms. Ross assisted in drafting a Federal Report setting forth these findings.

## Health Care

- BLR&Co was retained to analyze whether Medicare fraud had been perpetrated by the Defendants and to calculate damages sustained by the U.S. Government and the lost earnings of the Plaintiff whistleblower. Ms. Ross conducted extensive research, including the standard of care for health care professionals with respect to Medicare billing. She compared the policies and procedures of Plaintiff's employer with governmental requirements. She wrote several federal reports and coordinated the efforts of the independent Medicare experts. The jury found in favor of the Plaintiff on his claim of wrongful termination and awarded substantial damages.

## Insurance

- A corporation brought a bad faith action in federal court against a group of insurance carriers and insurance syndicates for their failure to pay a loss under a fidelity bond issued to the Plaintiff. BLR&Co was asked by counsel for the Plaintiff to opine as to the threshold of materiality to assist the trier of fact in assessing punitive damages. Ms. Ross conducted extensive research into the structure of the insurance carriers to determine the appropriate level of profits to consider in calculating punitive damages. BLR&Co then applied the punitive damage methodology developed by Bruce L. Ross to determine the threshold of materiality. Ms. Ross drafted and the firm submitted a federal report describing these matters and the case settled shortly thereafter.

## Intellectual Property

- Counsel for Plaintiff and Cross-Defendant in a federal matter retained BLR&Co when a complaint for violation of intellectual property rights was defended by the filing of an antitrust cross-claim. BLR&Co was retained to analyze the allegations of lost profits and loss in business value. Ms. Ross conducted extensive industry research which supported the opinion that no one could form a non-speculative opinion regarding damages for lost profit and loss in business value. She drafted a detailed report in rebuttal to the report submitted by Cross-Claimant's damage expert. The case was settled on terms favorable to the Plaintiff and Cross-Defendant.
- The owner of a registered trademark sued the owner of a music television station alleging infringement. BLR&Co was retained by counsel for the Plaintiff to determine the profits earned by the Defendant, lost profits and royalties, the cost of corrective advertising and the threshold level for punitive damages. The engagement involved considerable industry research regarding the cable industry in order to determine a reasonable royalty rate and the level of sales of a bundled product. Ms. Ross prepared the draft of a federal report on these issues.
- BLR&Co was retained by counsel for the defense in a federal case involving a number of patents in the dental industry. Ms. Ross conducted industry research and assisted in the development of a damage model to calculate lost royalties for numerous products over a multi-year period using different assumptions regarding infringement. In addition, Ms. Ross drafted a federal report and supplements thereto, which laid out the defense approach to damages. She critiqued the opinions of the opposing expert, finding numerous errors and contradictory information, and offered numerous reasons why lost profits would not be available to the Plaintiff.

- A cosmetic company and vitamin company utilized a body-type analysis developed by a doctor and contained in the doctor's books. The companies, which both operated multi-level marketing operations, used both the doctor's name and his work in connection with booking tools sold to their consultants. The doctor filed two separate actions, designating Bruce L. Ross as the damage expert. The BLR&Co team analyzed the sales and financial records of the Defendant companies to determine what portion of their revenues were derived from use of the Plaintiff's name and work. The issue was complicated by the fact that the offending materials were used in hostess packages and did not directly generate income. The federal reports, drafted by Ms. Ross, included a punitive damage analysis to calculate the threshold amount of punitive damages. Both cases were settled after Mr. Ross' testimony at deposition.
- An educational institution granted a biotech company certain specified rights to a portfolio of patents, which included the right to make and sell a catalyst covered by one of the patents, but not the right for the company to use the catalyst itself. Thereafter, the educational institution developed an improved process for making certain catalysts, which became the subject of a new patent which was not licensed by the company. Another start-up company licensed the new patent. The biotech company sued both the academic institution and the start-up company. They retained Mr. Ross, as a consultant, to rebut Plaintiff's expert on the issue of damages. Ms. Ross analyzed the opinion of the expert and assisted in the preparation of a rebuttal analysis addressing the issues of disgorgement and lost profits. The facts showed that the opinion proffered by Plaintiff's expert failed to meet professional standards.
- A national chain of dollar stores sold a knock-off of a patented flashlight. The owner of the patent sued for patent infringement, claiming damages in excess of the revenues actually collected by the infringer. Bruce L. Ross & Company was retained to address the issues of disgorgement as well as reasonable royalties. Ms. Ross assisted in the preparation of a Federal Report describing the BLR&Co opinions regarding a reasonable royalty, stressing the economic analysis underlying the hypothetical negotiation, adjusting the result of the hypothetical negotiation for the other Georgia-Pacific factors. She also analyzed the reports submitted by the opposing experts and participated in the drafting of rebuttals thereto.
- A patent owner and manufacturer sued a large dental supplier for patent and copyright infringement in connection with the manufacture and distribution of tooth colored materials used in the making of dental crowns. Counsel for Plaintiff retained Bruce L. Ross & Company to calculate the both lost profits and a reasonable royalty. The Ross team analyzed the hypothetical negotiation, considering the economic expectations of both parties and then adjusted the result after considering the other Georgia-Pacific factors. Ms. Ross participated in the drafting of a Federal Report outlining the various opinions and findings of the BLR&Co team.

- Bruce L. Ross & Company was retained by counsel for a motion picture copyright licensor that had been sued for infringing on the copyrights of five films from the Golden Age of Mexican Cinema. Mr. Ross and his team were requested to analyze the value of licenses to distribute home videos of the films as compared to the statutory damages under copyright law. This USPAP analysis, involves issues arising from the application of multiple valuation approaches and includes an analysis of the home video market. Ms. Ross performed market research as well as research into the companies involved in the litigation. She assisted in the depositions of the executive and financial officers of the plaintiff companies. The matter settled prior to trial.
- A wholesale clothing manufacturer lost its license to a well known clothing brand. Mr. Ross testified in bankruptcy court regarding the manufacturer's unreimbursed out of pocket expenses and lost profits due to the licensor's reclamation of its brand. As part of the engagement, Mr. Ross's team designed a Microsoft Access database system that facilitated the identification of relevant out of pocket expenses. Ms. Ross analyzed the various agreements between the parties and assisted in the drafting of reports relating to the types of damages that might be available.

## **Labor & Employment**

- A high-level executive was terminated by her employer. Instead of simply getting another job, she started her own business and obtained millions of dollars in venture capital. She sued her employer for wrongful termination. At issue was whether she was entitled to damages and, if so, how to allocate income from the new venture to mitigation. Ms. Ross assisted in the evaluation of the damage claim. The case settled immediately prior to deposition testimony.
- The American subsidiary of a foreign manufacturer and supplier of automotive performance products and accessories was sued for failing to promote a female employee and for reassigning her to an undesirable position. Bruce L. Ross & Company was retained by counsel for the Defendant to determine whether Defendant's decisions were reasonable notwithstanding the gender of the Plaintiff. Ms. Ross assisted in the analysis of the company, its financial condition, the market and the background of the personnel available for executive positions. The case settled during trial.
- An airline laid off four employees. They sued for wrongful termination and discrimination. BLR&Co. was retained to analyze the lost earnings calculations submitted by Plaintiffs' expert. Ms. Ross assisted in the preparation of a federal report that identified several areas of overstatement and provided calculations to illustrate the effects of such overstatements.

## **Malicious Prosecution**

- In an action by a Hollywood studio against a cinematographer which alleged kickbacks paid by a video company, the jury found in favor of the Defendants. The Defendants then sued the studio for malicious prosecution, contending that, even if the studio had filed the action in good faith, it had received sufficient information exonerating the cinematographer prior to trial. BLR&Co team, including Ms. Ross, analyzed the financial records of the cinematographer and the video company and traced cash payments and cash deposits. They were able to show that the documents purportedly exonerating the cinematographer were unsubstantiated and that the timing of checks and deposits to cash made by the video company did not correspond. The matter was settled prior to trial.

## **Personal Injury/Wrongful Death**

- BLR&Co was retained by counsel for a large national firm whose worker had accidentally killed a 38 year-old real estate developer with a wife and two children. At issue were both the income from the developer's previous occupation and the results from his first and only housing development. The BLR&Co team, including Ms. Ross, performed industry research and analyzed the developer's history. It was able to demonstrate that the developer would have failed to earn profits even at the height of the real estate market in the late 1980s. The matter settled after the deposition of Bruce L. Ross.

## **Probate Litigation**

- A husband and wife died within a year of one another. The husband had amassed a substantial estate, mostly in real property, bank accounts, investment accounts and oil and gas leases. Title to the assets were held in a variety of forms. A dispute arose among the heirs of the wife, who died first, and the heirs of the husband, necessitating the characterization of the property as his separate property, her separate property or community property. Ms. Ross analyzed a marital agreement between the decedents and compared its terms to the actual practices of the parties. The BLR&Co team identified and traced all of the monies through the various accounts and investments over a substantial period of time. This work enabled counsel for the estate to determine which of the assets were legitimately subject to the claims of the wife's heirs.

## Punitive Damages

- A corporation brought a bad faith action in federal court against a group of insurance carriers and insurance syndicates for their failure to pay a loss under a fidelity bond issued to the Plaintiff. BLR&Co was asked by counsel for the Plaintiff to opine as to the threshold of materiality to assist the trier of fact in assessing punitive damages. Ms. Ross conducted extensive research into the structure of the insurance carriers to determine the appropriate level of profits to consider in calculating punitive damages. BLR&Co then applied the punitive damage methodology developed by Bruce L. Ross to determine the threshold of materiality. Ms. Ross drafted and the firm submitted a federal report describing these matters and the case settled shortly thereafter.

## Real Estate

- The owner of commercial real property sued one of its tenants for damages resulting from the tenant's contamination of the premises. Counsel for the owner retained BLR&Co to calculate the lost development profits resulting from the contamination and remediation. This calculation involved a thorough understanding of the real estate market in the area of the contamination, the other projects already developed by the Plaintiff and the capacity of the Plaintiff to develop projects. Ms. Ross performed market research and analyzed the potential impact of the contamination. The case settled on terms favorable to the Plaintiff.
- Bruce L. Ross was appointed as an arbitrator by a state court judge in a dispute between limited partners and a general partner. The partnership was engaged in the development of an office building. Mr. Ross found that the general partner had diverted partnership funds and commingled them with his personal assets and the assets of other limited partnerships under his control. Mr. Ross determined the amount of money that the general partner should return to the limited partnership together with prejudgment interest. Mr. Ross also made a finding that punitive damages should be awarded to the Plaintiffs. These findings were all set forth in an opinion report drafted by Ms. Ross.

## Securities

- BLR&Co was retained by counsel representing 16 municipalities, water districts and community redevelopment agencies to assist in recovering their investments in a county-run investment pool. The County lost billions of dollars through complex financial investments and ultimately declared bankruptcy. The firm was asked to analyze whether the County was solvent at the time of its bankruptcy and to determine if it was possible to trace the Plaintiffs' investments through the investment pool. Ms. Ross assisted in these tasks and drafted a report summarizing the results. The matter was settled prior to the testimony of Bruce L. Ross. The firm was then asked to participate in additional litigation brought against third parties.

## Special Master/Referee

- Bruce L. Ross was appointed as a referee by a state court judge to determine the net profits of a motion picture. The BLR&Co team examined all sources of revenue, including domestic and foreign theatrical release, videotape and cable television. They also analyzed production and distribution expenditures to determine which should be included in accordance with the terms of the contract in question. Mr. Ross presided over several days of both percipient and expert testimony, and determined the appropriate accounting interpretation of the relevant clauses in various agreements. Ms. Ross assisted in the preparation of a report indicating the net profits of the photoplay and setting forth a detailed reasoning for each decision.
- Bruce L. Ross was appointed as an arbitrator by a state court judge in a dispute between limited partners and a general partner. The partnership was engaged in the development of an office building. Mr. Ross found that the general partner had diverted partnership funds and commingled them with his personal assets and the assets of other limited partnerships under his control. Mr. Ross determined the amount of money that the general partner should return to the limited partnership together with prejudgment interest. Mr. Ross also made a finding that punitive damages should be awarded to the Plaintiffs. These findings were all set forth in an opinion report drafted by Ms. Ross.