

# FAMILY LAW

David W. Griffin, Partner at Rutkin, Oldham & Griffin, LLC



## About David W. Griffin

For the past 27 years, David has dedicated his legal career to navigating clients through complex and high-stakes divorce. Rutkin, Oldham & Griffin is a well-established boutique matrimonial law firm based in Westport, Connecticut, with an additional office in Greenwich, Connecticut. The firm provides sophisticated legal services to clients in all areas of family law and has extensive experience resolving high net worth cases with innovative solutions.

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*Divorce comes with a magnitude of concerns and complex issues that can only be resolved and fought through via the careful assistance of a well-practiced and passionate lawyer; in this case, Connecticut, US, is blessed with the skills and experience of David W. Griffin, Partner at Rutkin, Oldham & Griffin, LLC.*

Lawyer Monthly is pleased to have spoken with David, who reveals more about his work in difficult financial cases, the challenges involved in foreign jurisdictions and valuations, and about the concerns pertaining to litigation involving children.

**What are the most common cases you deal with surrounding family law and which of these are more susceptible to litigation? Please explain why.**

The most common cases I deal with are complex financial cases. While I have had my fair share of challenging custody and access cases, given our geographical proximity to New York City and the financial markets, I frequently find myself helping clients to navigate the intricacies and complexities of large asset and complicated income divorce cases.

These cases present difficult and extremely complex valuation issues particularly when private equity, hedge fund and venture capital holdings are involved, as well as direct ownership in companies generating millions of dollars of income, both domestically and internationally. The identification and valuation of these assets, which

can be held in both domestic and offshore vehicles such as trusts, limited liability entities and the like, can trigger significant discovery disputes and involve multiple valuation experts (and the related review of valuation reports), lengthy depositions and the related forensic accounting and valuation of both funds and underlying portfolio companies. Foreign jurisdictions also create an overlay of different rules, the use of local counsel and "boots on the ground" financial investigators. The same holds true of the income generated in this setting. While litigation is never the goal, all of this can quickly translate into serious litigation over document production, income testing and proof, valuation standards and issues and, despite best efforts to prevent it, the emotional reactions of clients to the positions taken by the other spouse and opposing counsel.

Litigation in this setting can involve delving into proprietary information and methods, trade secrets, (formerly) private wealth and income information, and building and working with a team of highly talented and experienced forensic accountants, valuation experts and support staff. Organization of hundreds of exhibits, creation of

complex court-mandated financial affidavits and the related litigation preparation can be time-consuming and requires real attention to detail. There can be significant variation, for example, in the positions taken by valuation professionals with regard to cap rates, discount rates, valuation methodologies, normalizing adjustments, as well as valuation premiums and discounts. Each of these variations can lead to substantial differences in overall valuation numbers—and can directly affect arguments and positions on spousal support and the issue of double dipping in the valuation and support arena. All of these issues are intellectually interesting and fascinating—but intellectual interest and fascination must give way to the practical realities of the courtroom, where direct and cross examination questions are the vehicles by which the differences are teased out, exposed and brought to the attention of the fact finder.

*“Intellectual interest and fascination must give way to the practical realities of the courtroom”*

**What challenges accompany these cases and how do you resolve them?**

As mentioned above, litigation in this setting can involve delving into proprietary information and methods, trade secrets, (formerly) private wealth and income information. A significant amount of time can be spent (appropriately) on the negotiation of a

confidentiality agreement, covering not only the parties and their counsel, but also covering forensic accountants, appraisers, valuation professionals, public relations consultants and their respective staffs. This can be a challenging but important step for parties who are confronting for the first time that their income and wealth, together with their proprietary business methods and processes, together with their customer and vendor data, developmental strategies, competitive edge and C-suite information, are all potentially at risk of being brought into the public domain by virtue of the publicly-accessible nature of the courthouse.

Another area of challenge is in identifying and pinning down the appropriate standard of value to be utilized and parsing the many components of a valuation expert's ultimate opinion of value

of an asset or business interest. What approach was utilized? What revenue stream was valued? Was it a single period capitalized income stream or was the discounted future benefits approach utilized? What are the differences between those approaches? Was income normalized for the purposes of the valuation and at what level and with what support? Was there double dipping? How readily did



the business owner provide access to the financial records? Did both spouses' experts utilize the same financial data consistently reported for the same period(s)? How does the valuation expert's work get dovetailed into a working and workable discovery timetable and order? These questions can individually and collectively lead to skirmishes and full litigation, even prior to trial.

**In family disputes involving children, to what extent do you believe children should have a say, given that the child's welfare is commonly paramount?**

Litigation involving children is especially difficult. The question of whether children are "competent" in the traditional sense of an adult client being able to identify issues, rationally assimilate the appropriate data and make a reasoned decision based on that data, is a particularly delicate and challenging question to answer. Is a very mature and balanced 12-year-old child who is