

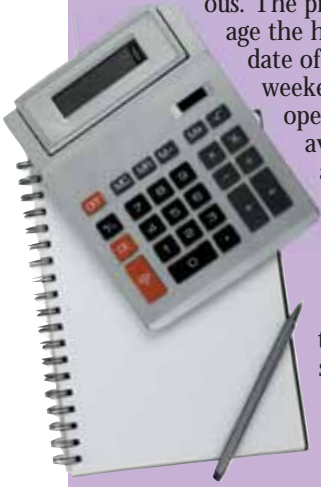
▲ **Valuing Stocks for Probate**

Obtaining date-of-death values of publicly traded stocks for probate and tax purposes can be laborious. The proper valuation method is to average the high and the low selling price on the date of death. If the decedent died on a weekend or a day the markets weren't open, you must obtain the high-low average for the previous trading day and the following trading day and average those results.

For decedents who owned a number of stocks, the work involved can be time-consuming. Added to the burden is the need to account for dividends, stock splits, and mergers.

By far, the best resource to help you get the right values quickly and easily is Estate Valuation & Pricing Systems' EstateVal ([www.evpsys.com](http://www.evpsys.com)). The software is free to download and costs about \$1.55 per security entered. Calculating date-of-death values is as easy as entering the stock's CUSIP number (frequently found on the broker's statement or via an internet search) and the number of shares. The software does the rest, including automatically accounting for dividends and stock splits. It can also handle certain types of savings bonds.

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ment being made. They are unprofessional and uncivil.

Referring personally to oneself has the same undesirable effect. "I believe that ... ." Or, "My research shows that ... ." Or, worst of all, "If I were you I'd ... ."

Let's keep our eye on the ball. It is the client's interests we are duty bound to advance. Poking at the other lawyer personally and communicating in the first person do not help the client and in fact make things worse for the client.

Depersonalize. Target arguments at the opposing party, not at the opposing lawyer. The advocacy will be more focused, mature, dignified, confident, professional, and civil—and best of all, more persuasive—all to the client's benefit.

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▲ **COBRA Subsidy**

The stimulus package enacted earlier this year (American Recovery and Reinvestment Act of 2009) offers a subsidy to employers making COBRA payments for discharged employees (See 29 U.S.C. §1162 (2009)). Under the stimulus bill, employers will be reimbursed by a payroll tax credit for COBRA payments made under the following conditions:

(a) The employee must have been involuntarily terminated between September 1, 2008, and December 31, 2009;

(b) The employer must pay 65 percent of the premium owed, with the employee paying the other 35 percent;

(c) The employee coverage extends to spouses and children who are eligible under the employee's health insurance;

(d) The program is available even for those employees who do not elect COBRA when they first lost their jobs, provided they sought to do so during a new 60-day eligibility period; and

(e) Otherwise eligible individuals cannot have access to alternative group insurance coverage such as through a spouse's employer.

Under the measure, employees must notify all employees who were involuntarily terminated during the time period, and revise COBRA notices for all those terminated after that date.

Employees also may have the opportunity to switch to different coverage, under certain circumstances, even if they are already on COBRA. The government will then reimburse the employer for the 65 percent premium owed at the nine-month period, through a payroll tax credit. Employees who earn more than \$125,000 will have a portion or all of that amount recaptured in taxes, and may want to waive the employer assistance to avoid tax recapture.

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▼ **Depersonalize Advocacy**

In litigation and in disputed transactional work, it is the clients, not the lawyers, who are adverse. Some litigation and transactional documents and arguments, however, seem to suggest otherwise. They are phrased in personal terms, as though the dispute was all about the lawyers.

We all have received letters from lawyers improperly referring to us personally, such as, "your position has no merit." In court, we hear improper

personal references like, "Plaintiff's counsel Mr. Doe is quite wrong when he contends ..." or "Defense counsel Ms. Roe would like to escape the contract's effect but she cannot because ... ." Such

*ad hominem* references hurt the cause of the lawyer's client. They misdirect the focus away from the issue at hand towards the lawyers. They betray an immature and undignified inability to be objective and not to take things personally.

They are a tacit admission that the opposing lawyer made a good point and struck a raw nerve. They are code for a lack of confidence about the argu-



Have a bit of sage advice for a newcomer to your area of practice? Send us your "tips & traps"! Your colleagues will be grateful. Email suggestions, cautions, and tales of woe to [bb@mnbar.org](mailto:bb@mnbar.org)