

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
January 7, 2009 Session

**RICHARD L. HUBBELL v. SUMNER ANESTHESIA
ASSOCIATES, INC., ET AL.**

**Appeal from the Chancery Court for Sumner County
No. 2008C-87 Tom E. Gray, Chancellor**

No. M2008-01736-COA-R3-CV - Filed April 29, 2009

PATRICIA J. COTTRELL, P.J., M.S., dissenting.

I respectfully disagree with the conclusion of the majority and would affirm the trial court's grant of summary judgment to the corporation. I agree with the majority's exposition of relevant legal principles. I disagree, however, with the conclusion that Mr. Hubbell provided any evidence regarding the value of his shares in SAA.

The corporation provided evidence, including expert testimony, as to a specific value of Mr. Hubbell's shares. Rather than presenting evidence of a different value, Mr. Hubbell gave his own opinion as to the deficiencies in SAA's evidence. His opinion did not create a dispute as to any fact. At most, he challenged the methodology used by SAA or its expert to calculate the value. This could be construed as a challenge to SAA's expert or an argument the case law regarding valuation methods was not followed. Neither is a fact or evidence of a fact.

PATRICIA J. COTTRELL, P.J., M.S.