

Overview

Alleged business damages often consist of two categories of claims: (1) direct, out-of-pocket or hard costs caused by the asserted wrongdoing, and (2) lost or foregone profits that would have been attained but for the defendant's actions. Preparing or evaluating a lost profits claim requires considerable skill and expertise, especially when the plaintiff has limited historical experience in the relevant market. To determine lost revenues and profits, many factors must be considered, including relevant market demand trends, changes in the number and quality of competitors, barriers to market entry, and market price fluctuations, as well as the plaintiff's particular managerial capabilities, fixed and variable cost behavior patterns, plant or service level capacity, capital, other resources, and efforts to mitigate damages. Market analysis and projection of lost revenues often requires detailed analysis of historical information and projection of likely future performance using quantitative techniques.

Specific Services

We analyze and compute both direct damages and lost profits claims. We understand the various damage theories available to the plaintiff and the appropriate use of hindsight to calculate damages. In performing numerous engagements, we applied and honed our technical skills for this demanding claims arena. Tasks commonly performed include:

- Relevant market price and product opportunity assessment
- Financial statement analysis before and after the alleged wrongful act
- Fixed and variable cost pattern determination
- Company resources evaluation
- Service line or plant capacity review
- Statistical modeling

Relevant Experience

Each case's facts and circumstances are critical to selection of the damages theory and calculation methodology. A few case examples demonstrate the breadth of our experience with lost profits and related business damages matters:

- Rebutted a damages claim after termination of an agreement for plaintiff to deliver defendant's medical products throughout a midwestern state.
- Responded to alleged lost profits because defendant stopped display of plaintiff's pop-up Internet advertisements.
- Analyzed direct damages and lost profits for owner of a furniture store that was destroyed by flood. Computations formed the basis of owner's insurance claim.
- Evaluated four wineries' claims for damages resulting from vineyard fires. Claims included clearing of fire damage, restoration of vineyards, unabsorbed overhead and lost profits.