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Watch that 3rd Step, it's a Doozy!

In order to be awarded damages, you and your client need to prove:

1. Liability;
2. Damages; **and**
3. that the Damages flow from the Liability.

Your client can make up any kind of damages they want, and we all know that some clients do.

However, here are three cases where the plaintiff tripped over the third step, and fell flat. You might say they fell on their "but for".*

- The Purchaser alleges that the Vendor made material misrepresentations in an agreement of purchase and sale. The Purchaser fails to lead any evidence as to what they would have done, had the Vendor not made these misrepresentations, leaving the judge without a sound basis upon which to assess the Purchaser's damages.
- The Plaintiff received negligent tax advice representing that they were entitled to a large tax refund. The Plaintiff claimed the hoped-for large tax refund as damages. If the Plaintiff had received competent tax advice, they would have been told they were not entitled to a large tax refund. They ignored the modest amount of money required to put them in the position they would have been in, had they received competent tax advice.
- The operator of a number of specialized warehouse facilities entered into an agreement to lease another specialized warehouse. The deal fell through and the warehouse operator sued the landlord for lost profits. However, none of the warehouse operator's existing facilities were consistently profitable, making it difficult for them to make a credible assertion that the facility at issue would have been.

Get my help to quantify your client's damages

*Lawyer humour for you :)