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“Sanity Check” on Damages can Highlight Important Issues

Taking the damages claim and subjecting it to a “sanity check” can highlight important issues. Both Plaintiffs and Defendants can benefit from the process.

An Example

A Retailer suffers a burglary and theft of 100 high-value items. The stolen items would normally have sold for \$5,000 each, and the Retailer cannot replace them until the next selling season. The retailer claims a loss of profit of \$500,000 (100 items at \$5,000 each).

The theft is taken as proven, the cost of the stolen items was included in the Retailer’s cost of goods sold, and the Retailer has not accrued any insurance proceeds. The Retailer’s income before tax is as follows:



The Retailer would have received \$500,000 of revenue from its customers, if it had been able to sell the items that were stolen. However, the Retailer has not received \$500,000 of revenue from its customers because it did not have the items, that were stolen, to sell. Further, the insurance company has not paid the Retailer \$500,000.

Therefore, based on the fact pattern, the Retailer sustained a \$500,000 loss, that is to say, the Retailer's income statement in the year of the theft should show a drop in income of \$500,000. However, the Retailer's income statement does not show a \$500,000 drop in income in the year of the theft. This means that the Retailer's damages claim does not pass the "Sanity Check".

Implications for Plaintiffs

Consider running your own "Sanity Check" before you make your claim. If your claim doesn't pass the "Sanity Check" then figure out why not, and be prepared to explain yourself. Perhaps Year 3 would have been a banner year, but for the theft.

Implications for Defendants

If the claim you receive doesn't pass the "Sanity Check", then: a) ask for an explanation of the apparent discrepancy, and b) ask for documentation to support the explanations provided.

To get my help with your case involving damages, please contact me.