



LEGAL Q&A

Q Are lost profits recoverable by a company as a measure of damages for a claim of breach of contract, or a claim for business interference?

A Typically lost profits are recoverable as damages from breach of a verbal or written contract, or from business interference. Lost profits are determined by quantifying the gross revenue lost minus whatever expenses or costs would have been incurred had the breach never occurred. In addition to contractual claims, where a company has a written contract or established contractual relation with a customer or client, which is knowingly interfered with by a third party, that third party may be liable for any lost profits.

In the context of business litigation, evidence of lost profit(s) requires disclosure of the contractual terms and/or identity of customers or clients interfered with. The proof of damages usually requires expert testimony by a financial professional, such as a forensic accountant. The expert serves the function to ascertain the gross revenues lost, compared to the expenses which would have been incurred, in order to establish the amount of aggregate net profits lost.



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