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**Being Involved In A Lawsuit—Applications**

**Worksheet: Plaintiff's Settlement**

Most civil litigation is resolved by some agreement to settle the dispute, and in most civil litigation, the remedy is payment of money representing the value of the claim. As a lawsuit proceeds, the parties learn the strengths and weaknesses of each other's case and develop an idea about how much the case is really worth. This worksheet is designed to help you work with your lawyer toward a good settlement. The calculations are intended to help you figure out how much money is involved, and to distinguish the value of your legal claim from other kinds of damages.

**NOTE**

**The initial calculations in this worksheet will result in a value on the high side. You must not form any firm expectations about how much you might recover in a settlement. Your lawyer will have other information, opinions, and advice about your case for you to consider as you and your lawyer develop a settlement demand.**

**Also keep in mind that in settling the case, you are relieved of the time, expense, uncertainty, and stress of trial. That is worth something, too. The worksheet guides you through placing a value on these items as well.**

1. Why did you sue the defendant?

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2. What result did you want from this lawsuit?

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4. What kinds of monetary losses did the defendant's conduct cause you?

_____	Wages for time lost from work	\$ _____
_____	Travel or lodging expenses	\$ _____
_____	Value of item covered in contract	\$ _____
_____	Cost of repairing damage to land you own or buildings on the land	\$ _____
_____	Damage to personal property, such as equipment, vehicles, furniture, etc.	\$ _____
_____	Lost profits	\$ _____
_____	Future profits (some states don't allow)	\$ _____
_____	Paying someone else to complete work described in a contract with the defendant	\$ _____
_____	The replacement cost of equipment or a product	\$ _____
_____	Amount of loan defendant did not repay	\$ _____
_____	Costs to repossess or foreclose on property pledged for a loan	\$ _____
_____	Damages or settlement in another lawsuit	\$ _____
_____	Lawyer's fees and costs in another lawsuit	\$ _____
_____	OTHER (Please explain)	\$ _____
	_____	
	_____	
	_____	
	<b>TOTAL</b>	\$ _____

5. If your case involves a contract, does the contract have a clause requiring payment of interest? (A promissory note is a contract.)

Yes \_\_\_\_\_ No \_\_\_\_\_

6. If you answered "Yes" to question 5, what rate of interest is set forth in the contract?

\_\_\_\_\_ % per year

7. If no rate is specified, or if your case involves something other than a breach of contract, enter the number 8 on the line in question 6.
8. How much time has elapsed since the defendant breached the contract or committed the act causing you monetary injury?

\_\_\_\_\_ years    \_\_\_\_\_ months

If you filled in the blank for “months,” divide that number by 12 (unless you entered a zero) and enter the result in the space below. This number represents the number of months as a fraction of a year. Use only the first three numbers after the decimals. If the fourth number is five or more, add one to the third number.

0.\_\_\_\_\_

Add this fraction to the number of years: \_\_\_\_\_  
(Use this number in the calculation below)

9. Complete the following calculation:

- a. Amount of damages (from Question 4)    \$ \_\_\_\_\_  
b. Amount of interest per year:

(i) Multiply interest rate (question 6) by 0.01  
\_\_\_\_\_ x 0.01 = \_\_\_\_\_

(ii) Multiply the result in (i) above by the amount on line (a)    \$ \_\_\_\_\_ per year

- c. Multiply result from line (b)(ii) above by the number of years calculated in Question 8.    \$ \_\_\_\_\_

10. If your case arises from a breach of contract, did the contract have a clause requiring payment of lawyer’s fees?

Yes \_\_\_\_\_                      No \_\_\_\_\_

11. If you are being billed by the hour or on a flat-fee basis, what are your lawyer’s fees to date? Do not include costs and expenses listed on your bill(s).

\$ \_\_\_\_\_

12. If you are being billed by the hour, complete the following calculation:

- a. Amount calculated in Question 4 \$ \_\_\_\_\_
- b. Amount calculated in Question 9 \$ \_\_\_\_\_
- c. Amount set forth in Question 11 \$ \_\_\_\_\_
- d. Add lines (a) through (c) \$ \_\_\_\_\_

13. If you have a contingency agreement with your lawyer (you pay lawyer's fees only if you recover some money), what is the amount of the contingency?

\_\_\_\_\_ %

14. If you have a contingency agreement, complete the following calculation:

- a. Amount set forth in Question 4 \$ \_\_\_\_\_
- b. Amount set forth in Question 9 \$ \_\_\_\_\_
- c. Add lines (a) and (b) \$ \_\_\_\_\_
- d. Multiply line (c) by 0.01  
\_\_\_\_\_ x 0.01 = \_\_\_\_\_
- e. Multiply amount on line (d) by  
the amount on line (c) \$ \_\_\_\_\_
- f. Add line (e) to line (a) \$ \_\_\_\_\_

15. What expenses has your lawyer billed to you?

- Filing fee to start lawsuit in court \$ \_\_\_\_\_
- Fees to serve the defendant court papers \$ \_\_\_\_\_
- Deposition expenses \$ \_\_\_\_\_
- Other expenses arising from discovery \$ \_\_\_\_\_
- Expert witness fee(s) \$ \_\_\_\_\_
- Photocopying charges \$ \_\_\_\_\_
- On-line computer time billed to your lawyer \$ \_\_\_\_\_

Travel, meals and lodging expenses \$ \_\_\_\_\_

Other \$ \_\_\_\_\_

**TOTAL** \$ \_\_\_\_\_

16. If you're paying your lawyer by the hour or on a flat-fee basis, add the total from Question 15 to the total from Question 12, line (d).

Amount from Question 12, line (d) \$ \_\_\_\_\_

Amount from Question 15 \$ \_\_\_\_\_

**TOTAL** \$ \_\_\_\_\_

This is the **high-end value** of your claim. Don't get hung up on it.

17. If you have agreed to pay your lawyer a percentage of your recovery, add the total from Question 15 to the total from Question 14, line (f).

Amount from Question 14 , line (f) \$ \_\_\_\_\_

Amount from Question 15 \$ \_\_\_\_\_

**TOTAL** \$ \_\_\_\_\_

This is the **high-end value** of your claim. Don't get hung up on it.

18. Unless you have a contract requiring the defendant to pay your lawyer's fees, you probably would not be allowed to recover them at trial. You may certainly ask for them as part of your settlement demand, however, but this may be the first item you will compromise in the interest in reaching a settlement. To adjust your settlement value accordingly, complete one of the following calculations.

A. If your lawyer is being paid by the hour or on a flat-fee basis, subtract the amount in Question 11 from the amount in Question 16.

Amount from Question 16 \$ \_\_\_\_\_

Amount from Question 11 \$ \_\_\_\_\_

**TOTAL** \$ \_\_\_\_\_

B. If your lawyer is to be paid a percentage of your total recovery, subtract the amount in Question 14 from the amount in Question 17.

Amount from Question 17 \$ \_\_\_\_\_

Amount from Question 14 \$ \_\_\_\_\_

**TOTAL** \$ \_\_\_\_\_

19. Now perform the same calculation for costs.

A. If your lawyer is being paid by the hour or on a flat-fee basis, subtract the amount in Question 15 from the amount in Question 18(A)

Amount from Question 18(A) \$ \_\_\_\_\_

Amount from Question 15 \$ \_\_\_\_\_

**TOTAL** \$ \_\_\_\_\_

B. If your lawyer is to be paid a percentage of your total recovery, subtract the amount in Question 15 from the amount in Question 18(B).

Amount from Question 18(B) \$ \_\_\_\_\_

Amount from Question 15 \$ \_\_\_\_\_

**TOTAL** \$ \_\_\_\_\_

20. Is the amount you calculated in Question 19 satisfactory?

\_\_\_\_\_ Yes \_\_\_\_\_ No

21. Try to place a value on the risk of going to trial and losing. Consider:

- √ trial expenses (ask your lawyer what range they'd be in)
- √ the value of time you would lose if you had to attend trial (e.g., lost wages, child-care expense if you are a stay-at-home parent, and the like)
- √ the emotional cost of being center-stage at trial and the uncertainty of the result (this can be difficult to express as a monetary value, but try)
- √ the cost of stress during trial (also difficult to value)
- √ **Suggestion:** for the emotional cost and stress of trial, use 10% of the amount in Question 19(A) or 19(B).

22. What dollar amount do you place on the risk of trial?

\$ \_\_\_\_\_

23. Subtract the amount in Question 22 from your settlement amount to reflect these savings.

Amount set forth in Question 19(A) or 19(B)      \$ \_\_\_\_\_

Amount set forth in Question 22      \$ \_\_\_\_\_

**TOTAL**      \$ \_\_\_\_\_

24. Is this amount satisfactory?

\_\_\_\_\_ Yes      \_\_\_\_\_ No