

FORENSIC ACCOUNTING CASE STUDY



Valuation of Economic Damages Sustained from Wrongful Termination Identifies Large Recovery in Lost Earnings for Plaintiff

Following his termination from employment, the chief medical officer of a large international company filed a complaint alleging the company's decision was the unjust result of his whistleblowing activities. The plaintiff's suit sought damages for compensation he would have received had his employment continued without disruption. During his tenure as chief medical officer, the plaintiff expressed concerns about the safety of some of the company's products and suggested discontinuing sales, an opinion that led to a disagreement with executives who supported the company's business interests. As the suit went to trial, the court sought an objective, unbiased determination of the full amount in lost damages sustained by the plaintiff, and called upon the forensic accounting expertise of Jim DiGabriele of DiGabriele, McNulty, Campanella & Co., LLC.

The Approach

To determine the full amount in lost compensation that would be owed to the plaintiff given a favorable outcome, DiGabriele analyzed several distinct areas of economic damages the chief medical officer sustained while equally identifying mitigating factors including consulting fees and income derived from a new employer in the years following termination by the first company.

First, DiGabriele examined areas of compensation such as income, fringe benefits, pension and stock options as well as anticipated increases in the value of those benefits as tied to historical performance. He also reviewed benefits specific to the company including bonus compensation for which the plaintiff was vested during his tenure, related dividends, lost futures (as a result of no longer being with the company) and areas of compensation lost specifically because the plaintiff was not vested yet. DiGabriele's calculations considered the amount of compensation the plaintiff would have received given the average retirement age of an industry professional in his position and the years remaining until retirement given that scenario.

He also carefully examined factors that mitigated the amount of the plaintiff's projected lost earnings including calculations related to unemployment insurance and, within a year following his termination, consulting fees the plaintiff began to earn from client work. The plaintiff eventually became employed again, generating income and additional benefits from a new employer that negated some of the projected lost earnings he would have received from his original employer.





DiGabriele examined a variety of detailed documents pertinent to the case including pay stubs, employment contracts, incentive program documents, ledger reports detailing compensation from equities, pension plan documents and a deposition of the plaintiff among others, to establish the objective basis of his findings.

The Findings

DiGabriele concluded that the above-mentioned mitigating factors related to being hired by another employer completely offset projections of lost income and fringe benefits the plaintiff would have received had he remained employed at his original employer. Nevertheless, DiGabriele also concluded that a significant amount in economic damages remained from compensation never realized as a result of a lost pension, bonus compensation, the right to receive common stock, forced vested options and lost options unvested as a result of termination, and the loss of future options, resulting in more than \$10 million in damages.

Determining the amount in lost damages for the plaintiff meant conducting a meticulous and unbiased analysis of all documents relevant to his case during and following the plaintiff's employment. It also meant incorporating actuarial projections, long-term economic projections and an understanding of employment benefits and their value in situations where an employee is no longer be in a position to receive such compensation.

DiGabriele, McNulty, Campanella & Co. has become a trusted advisor to the courts in matters regarding financial projections and is often called upon to provide forensic accounting expertise based on objective and unbiased methodologies.

The court agreed, saving the agency approximately \$6.5 million as a result of the team's work.

DMC CPAs
22 Horseneck Road
Fairfield, NJ 07007

P: 973-243-2600
F: 973-243-2646
www.dmcpa.com

