

13. Business Interruption Damages and Premises Liability

Background

The Plaintiff signed a contract to cut and sell trees from the Defendant's property. At the Plaintiff's request, the contract was backdated. In his deposition, the Plaintiff stated that the backdating was for tax purpose. While harvesting trees, the Plaintiff drove over a frozen pond, broke through the ice, and submerged a tree harvester in approximately 6 to 7 feet of water and mud. The harvester was deemed a total loss and was not repaired. The Plaintiff claimed that the Defendant should have told him about the existence and location of the pond.

Issues

The Plaintiff sued the Defendant for damages resulting from the loss of the harvester and lost profits from the Plaintiff's logging business, including inability to complete three logging contracts.

The Plaintiff first stated that he was unable to complete three logging contracts and estimated the lost net income from the three contracts to be approximately \$30,000. This claim appeared to have originated in previous claim documents. Second, the Plaintiff's Financial Losses Due to Loss statement claimed a total loss of \$600,000+ over 5 years

Outcome

Dr. Musil analyzed the Plaintiff's two claims of lost income. The case settled.

Note: Dr. Musil holds the professional designation of Certified Valuation Analyst (CVA) [*link to CVA description below*] from the National Association of Certified Valuators and Analysts [*link to NACVA home: <http://www.nacva.com>*].



According to NACVA, Certified Valuation Analyst (CVA)—The National Association of Certified Valuators and Analysts™ (NACVA®) trains and certifies CVAs to perform business valuations as a service to both the consulting community and the users of their services. Through training and rigorous testing, CVAs demonstrate they are qualified to provide capable and professionally executed valuation services. NACVA recommends specific training as a prerequisite to certification to assure that practitioners have the knowledge and understanding necessary to perform competent services, and to assure a level of consistency and continuity in their work product. Users of valuation services benefit by having greater confidence that the service they receive is professional in quality, adheres to industry standards of practice, and meets a level of expertise the Association deems credible and worthy of one of its certified members.