

Suing Someone? Five Crucial Factors to Consider Before Proceeding

April 17, 2024
By Eric Lanter



So, you think you can sue. Maybe you had a contract, and the other side breached it. Or maybe someone owes you money, and you're ready to go after them. Not so fast. Starting a lawsuit is a big step, and there are many considerations you and your attorney should discuss before you proceed. Here are five crucial things to know and understand before suing someone.

1. **Sketch Out a Cost-Benefit Analysis:**

Lawsuits are expensive. If you're looking to go after someone for a few thousand dollars, you might want to reconsider it. Attorneys' fees, court costs, and other expenses quickly add up, and there are no guarantees of success. While the desire for restitution may be strong, avoid rushing into litigation that could potentially worsen your financial position.

2. **Assess The Likelihood of Collecting (If You Win):**

Sometimes, your case is only as good as your adversary's financial resources. If the other side is going to file for bankruptcy, then it's likely that even if you win your case, you wouldn't be able to collect. If bankruptcy is not a possibility and you find yourself among numerous creditors seeking repayment, the probability of receiving the full amount owed to you is notably diminished.

3. **Evaluate Your Opponent:**

If you're going against a small company or individual, that's one thing. But if you're taking on a large corporation, you should assume that they will hire lawyers, pay them well, and make the case a battle of resources. If the amount you're owed is high enough, this may not be a deterrent, but be prepared to devote a substantial number of resources to the fight.

4. **Distinguish Principle from Damages:**

Many of the most contentious lawsuits are not even that valuable in terms of their outcome. Often, they stem from disputes over what the parties see as right versus wrong or a desire to "send a message" to the other side rather than a clear goal of obtaining damages. There are better ways to achieve these goals than going through the court system. Most lawsuits end in money changing hands rather than the court ordering parties to abide by principles. Although it may be difficult, take a step back from the dispute. Analyze whether there was actual harm for which you can pursue damages. If the dispute primarily revolves around principle, it's important to reconsider whether a lawsuit will accomplish what you want.

5. **Act Quickly:**

One thing is certain: regardless of the validity of your claims against the opposing party, the clock is ticking. The statute of limitations governing the time frame for filing such claims is running. Once you are out of time to file your claim, you forfeit your opportunity to file your claim. Courts do not make exceptions for late claims, regardless of the circumstances.

In conclusion, the decision to pursue legal action through a lawsuit should not be taken lightly. Numerous critical factors must be carefully considered before proceeding, from the financial implications to the likelihood of a successful outcome and collection.

As an experienced litigation attorney, I've seen firsthand how lawsuits can have significant and far-reaching consequences for the parties involved and their relationships. That's why it's essential to approach this decision thoughtfully and in close consultation with legal counsel. Remember, the goal is not to discourage you from seeking justice or the rightful resolution of a dispute. Rather, it's to ensure you make an informed decision that aligns with your best interests and doesn't leave you in a worse position than when you started.