

Will a Lawsuit for Breach of Contract Give You the Benefit(s) You Bargained For?

People file lawsuits for many reasons. Some of those reasons include breach of contract, personal injury, dissolving a marriage or partnership, or to stop someone such as a government agency from doing something or to make them do something that they were suppose to do but are not doing. Most litigation matters involve business related matters, such as contracts.

One of the legal theories under which people sue in a contractual context is to *receive the benefit of their bargain*. Simply put, two people entered into an agreement. Party A promises to do something, such as pay a certain amount of money or to perform a specific task, in exchange for Party B's promise to perform a specific task that is of equal value to Party B. Party A and Party B bargained with each other and each expected to received their benefits in the exchange. There is an expectation by each party that they will receive their benefit from the exchange of promises. If Party A performs according to the agreement but Party B does not, then there is a breach of contract. Party A did not receive the benefit of its bargain. If the parties cannot agree on the proper compensation to make Party A whole for the breach caused by Party B, then there is conflict and a lawsuit.

Since it is often very difficult to compensation someone for their injuries, the courts have devised a method of making monetary awards as compensation. The courts try to estimate the value of the injury in monetary terms. It is sort of like how insurance companies tell you how much you will receive if you lose a leg or a hand. Of course the money won't completely compensation you for the loss of your leg or hand, but it is the best that the court can do. So unless the court can compel the offending party to take some action that is not injurious to them, the only thing that they can award is money damages. That is the reason why you

may have seen news reports of large money awards by the courts in certain types of personal injury cases. In breach of contract cases, the award is generally money.

Before deciding whether or not to file a lawsuit for breach of contract, it is important to look at a number of factors. What is my chances of winning this lawsuit? How long will the litigation take? What will be the cost to litigation to the end? What is my exposure if I lose? What resources do I have to invest into this lawsuit to ensure that I am putting my best case forward? If I take these resources out of my business and put into the litigation, how will it affect the operation of my business? Am I prepared to face the consequences if I win? If I lose? If I win, will I be able to collect the judgment? If I am not able to collect the monetary judgment how will that affect the future viability of my business? What are the opportunity costs that I will incur by filing suit? Is this the best use of my business' limited resources? Why am I really filing a lawsuit? Is the decision to file a lawsuit a business decision or a personal one? Is the real reason for filing suit to protect the company or is it personal? Using these questions as a guideline will allow you to better understand your true motivation for filing suit and will allow you to make the decisions based on the best interest of your business and not your personal feelings.

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