

**2020 Course Objectives & Outline**

**BUS101 – Measuring Business Interruption Losses – 3rd Edition**

**20 CPE Hours**

**BUS101-3rd Edition**

**Measuring Business Interruption Losses and Commercial**

**Damages**

**Objectives**

This course is "An updated explanation of the methodology for how lost profits should be measured. Now fully revised and updated, focused on commercial litigation and the many common types of cases, this is the only course in the field to explain the complicated process of measuring business interruption damages. The course features an easy to understand and apply, step-by-step process for how losses should be measured so as to be accurate and reliable and consistent with the relevant laws." (*AccountingWEB.com*, February 1, 2010)

*Measuring Business Interruption Losses* is your blueprint for expertly analyzing business interruption losses — and, ultimately, success in your practice. The following chapters explain areas covered in this course.

**Course Outline**

**Chapter 1 – Introduction**

1. Development of the Field of Litigation Economics.
2. Development of the Field of Forensic Accounting.
3. Lost Profits Business Interruption Analysis Compared to Personal Injury and Employment Litigation.
4. Qualifications of an Economic Expert.
5. Qualifications of an Accounting Expert on Damages.
6. Interdisciplinary Nature of Commercial Damages Analysis.
7. Difference between Disciplines of Economics and Finance.
8. Finding a Damages Expert.
9. Critically Reviewing a Potential Expert's Curriculum Vitae.
10. Getting the Damages Expert on Board Early Enough.
11. Court's Position on Experts on Economic Damages.
12. Standards for Admissibility of Expert Testimony.
13. Exclusion of experts
14. Trends in Daubert Challenges to Financial Experts
15. Expert Reports
16. Defense Expert as a Testifying Expert, Not Just a Consultant.
17. Quantitative Research Evidence on the Benefits of Calling a Defense Expert.
18. Treatment of the Relevant Case Law.
19. Legal Damage Principles.
20. Other Types of Damages Cases.

**Chapter 2 – Economic Framework for the Lost Profits Estimation Process**

1. Estimation Process
2. Foundation for Damages Testimony.
3. Role of Assumptions in Damages Analysis.
4. Hearsay.
5. Approaches to Proving Damages.
6. Causality and Damages.
7. Using Demonstrative Evidence to Help the Client Understand its Losses or Lack of Losses.
8. Causality and Loss of Customers.
9. Graphical Sales Analysis and Causality.
10. Causality and the Special Case of Damages Resulting from Adverse Publicity.
11. Length of Loss Period: Business Interruption Case.
12. Length of Loss Period: Plaintiff Goes Out of Business.
13. Length of Loss Period: Breach of Contract.
14. Methodological Framework.

**Chapter 3 – Economic Analysis in Business Interruption Loss Analysis**

1. Economic Fluctuations and the Volume of Litigation.
2. Macroeconomic Analysis.
3. Definition of a Recession.
4. Measuring Economic Growth and Performance.
5. Business Cycles and the Movement of GDP Components
6. Business Cycles and Economic Damages.
7. Varying Reponses to Business Cycles Across Industries
8. Using More Narrowly Defined Economic Aggregates.
9. Quantifying the Strength of the Relationship Between Selected Economic Aggregates and Firm Performance
10. Implementing Inflationary Adjustments
11. Regional Economic Trends.
12. Quality and Timeliness of Regional Economic Data
13. International Economic Analysis.
14. Globalization of Supply and Demand

**Chapter 4 – Industry Analysis**

1. Sources of Industry Data.
2. New North American Industry Classification System.
3. Retaining an Industry Expert.
4. Conducting an Industry Analysis.
5. Relating Industry Growth to the Plaintiff's Growth.
6. Other Industry Factors.
7. Yardstick Approach and Industry Analysis.

**Chapter 5 – Protecting Lost Revenues**

1. Projections versus Forecasts: Economic Versus Accounting Terminology.
2. Using Graphical Analysis as an Aid in the Forecasting Process.
3. Methods of Projecting Lost Revenues.
4. Curve-Fitting Methods and Econometric Models.
5. Understanding Regression Output and Diagnostics.
6. Common Problems Affecting Regression Models.
7. Confidence in Forecasted Values.
8. Frequency of the Use of Econometrics Techniques in Commercial Litigation.
9. Seasonality and the Forecasting Process.
10. Capacity Constraints and Forecasts.
11. Sensibility Check for the Forecasted Values.
12. Projecting Lost Sales for a New Business.
13. Projecting Losses for an Unestablished Business.

**Chapter 6 – Cost Analysis and Profitability**

1. Presentation of Costs on the Company's Financial Statements.
2. Measures of Costs.
3. Profit Margins and Profitability.
4. Appropriate Measure of Profitability for a Lost Profits Analysis.
5. Burden of Proof for Demonstrating Costs.
6. Fixed Versus Variable Costs.
7. Using Regression Analysis to Estimate Costs as Opposed to More Basic Methods.
8. Pitfalls of Using Regression Analysis to Measure Incremental Costs.
9. Possible Nonlinear Nature of Total Costs.
10. Limitations of Using Unadjusted Accounting Data for Measuring Incremental Costs.
11. Treatment of Overhead Costs.
12. Must a Plaintiff Be a Profitable Business to Recover Damages?
13. Mitigation of Damages.
14. Cash Flows versus Net Income: Effects on Discounting Process.
15. Recasted Profits.
16. Firm-Specific Financial Analysis.
17. Cross-Sectional Versus Time Series Analysis.

**Chapter 7 – Time Value of Money Considerations**

1. Determination of Interest Rates.
2. Types of Interest Rates.
3. Financial Markets: Money Market versus Capital Market.
4. Money Market Securities and Interest Rates.
5. Capital Market.
6. Real versus Nominal Interest Rates.
7. Determinants of Interest Rates.
8. Prejudgment Losses.
9. Components of the Cost of Capital.
10. Discounting Projected Future Profits.
11. Common Errors Made in Discounting by Damages "Experts".

**Chapter 8 – Business Valuations**

1. Legal Standard for Business Valuations in Business Interruption and Business Failure Lawsuits.
2. Lost Profits Versus Lost Business Value.
3. Business Valuation Framework.
4. Public versus Private Companies.
5. Business Valuation Parameters.
6. Revenue Ruling 59-60 and Factors to Consider in Valuation.
7. Valuation Concepts.
8. Capitalization of Earnings.
9. Adjustments and Discounts.

**Chapter 9 – Intellectual Property**

1. Patents.
2. Computation of Damages for Patent Infringement.
3. Legal Requirements Necessary to Prove Lost Profits.
4. Royalty Arrangements
5. Copyrights.
6. Measurement of Damages for Copyright Infringement.
7. Trademarks.
8. Trade Secrets.

**Chapter 10 – Securities-Related Damages**

1. Key Securities Laws.
2. Damages in Securities Litigation.
3. Fraud-on-the-Market.
4. Comparable Index Approach.
5. Event Study Approach.
6. Examining the Variation in Abnormal Returns
7. Limitations of the Event Study Model
8. Broker Raiding Cases
9. Mergers-Related Damages.
10. History of Mergers in the United States.
11. Client-Broker Claims.
12. Churning.

**Chapter 11 – Antitrust**

1. Antitrust Laws.
2. Antitrust Enforcement.
3. Economics of Monopoly.
4. Interpretation of Antitrust Violations: Structure Versus Conduct
5. Changing Pattern of Antitrust Enforcement.
6. Antitrust and the New Economy.
7. Monopolization and Attempts at Monopolization.
8. Market Definition and Microeconomic Analysis.
9. Market Power.
10. Measures of Market Concentration.
11. Areeda and Turner’s Marginal Cost rule of Predatory Pricing

**Chapter 12 – The Economics of Punitive Damages**

1. Evolving Position of the U.S. Supreme Court on Punitive Damages.
2. Frequency of Punitive Damages.
3. Frequency of Punitive Damages and the Shadow Effect of Punitive Damages.
4. Purposes of Punitive Damages.
5. Compensatory Versus Punitive Damages
6. Criminal Penalties and Punitive Damages in Civil Lawsuits
7. Punishment of Corporations and Corporate Governance.
8. Spillover Effects and Punishment of Corporations.
9. Deterrence Theory and the Changing Litigation Environment.
10. Deterrence and Regulatory Processes.
11. Typical Financial Measures Used in the Determination of Punitive Damages.
12. Net Worth.
13. Market Capitalization.
14. The Uncertain Litigation Environment.