

**LOST PROFITS—QED RESEARCH, INC. INFORMATION  
CHECKLIST**

1. Date of filing \_\_\_\_\_ Plaintiff or defense? \_\_\_\_\_ Court \_\_\_\_\_ Est. trial date \_\_\_\_\_
2. Full case name \_\_\_\_\_  
\_\_\_\_\_
3. Co-counsel representing other plaintiffs or defendants \_\_\_\_\_
4. Opposing counsel \_\_\_\_\_
5. Please provide a copy of the original complaint, any amended complaints, demand letters, settlement conference or mediation statements.
6. Date or dates of the alleged wrongful acts that may create liability \_\_\_\_\_
7. Are lost profits damages limited to past lost profits, or is there the potential for future (post-trial) lost profits? \_\_\_\_\_
8. How far into the future could claimed lost profits extend? \_\_\_\_\_
9. Are the potential lost profits damages the same regardless of what causes of action the plaintiff prevailed on (a “unitary” damages situation)? Or are potential lost profits damages different for the different causes of action (“non-unitary”)?
10. Is “bifurcation” of liability and damages a possibility in this case?
11. Is “reverse bifurcation” a possibility in this case?
12. Could the testimony of a lost profits damages expert possibly extend into the areas of “causation” between the alleged liability and the alleged damages? Will there be other experts on causation issues?
13. Could the testimony of a lost profit damages expert possibly extend into issues of “custom and practice” in that industry? Will there be other witnesses on custom and practice issues?
14. Does the plaintiff claim that the business was “destroyed” by the alleged wrongful acts? If so, is it possible that damages might be measured either by lost profits or the value of the business before it was destroyed?
15. Are the causes of action such that “unjust enrichment” might be an issue in the case?

- 16. If the plaintiff is a corporation, are one or more of the owners of that corporation also listed as individual plaintiffs? If so, do they have individual lost earnings claims in addition to the business lost profits claims?**
- 17. Does this case involved “underperforming” equipment?**
- 18. Does this case involve real estate issues?**
- 19. What other expert witnesses do you expect to need in this case?**
- 20. If this is a “lost profits” from “lost revenue” case, how does each party to the case view the measurement of what revenue would have been in the absence of the alleged wrongful acts?**
- 21. If this is a “lost profits” from “lost revenue” case, how does each party to the case view the process of going from incremental lost revenue to incremental lost profits?**
- 22. In the process of going from incremental lost revenue to incremental lost profits, how does each party to the case view the issue of which categories of cost should be considered “fixed costs” and which categories should be considered “variable costs”?**
- 23. How does each party to the case treat the compensation of owner-operators?**
- 24. Has the other side disclosed a lost profits expert? Who?**
- 25. Has the other side produced a report or a summary of their lost profits approach?**