

There are No Simple Million Dollar Cases

Amundsen Davis Commercial Litigation Alert
May 1, 2017

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It seems like every week I run across a case in the legal news where a company is pursuing what seems like a very weak case. These are not small cases or small companies and presumably the decision to pursue these cases is being made by successful, smart people. How does this happen?

The answer may lie in a lesson I learned years ago from a mentor.

When I was a junior associate a long time firm client sent a matter directly to me rather than the lead partner for that client. I did a lot of work for that client and the client considered the matter uncomplicated. One of the client's business partners had defaulted on the payments on a note and they asked our firm, through me, to sue to collect on the note.

I did what firm protocol dictated, I told the lead partner that the matter had come in and asked her to open a matter. She asked what kind of case it was and I told her it was a suit on a note, nothing complicated. Then she asked, how much is the note? \$1 million I told her. She told me I could handle the case but told me to keep her in the loop, it would be complicated she said. I disagreed. It's a note. They failed to make the payments. End of story. We'll see she said. Adding, "There are no simple million dollar cases."

In fairness, the lead partner recognized one thing I didn't; the defendant probably had the \$1 million. They had failed to pay because they didn't want to pay, not because they couldn't pay. Sure enough I drew one of the other major firms as my opponent. They raised every conceivable defense and dug in on most of them. Eventually, we recovered the \$1 million and some of our attorney's fees as well but not until after a long fight.

Why?

My opponent was buying time. Paying the million with assets on hand when the note came due would have damaged their business. Maybe they need time to sell an asset or to collect a big receivable. My opponent's motive was not important to me or our client. What was important was my opponent was prepared to spend significant money and efforts to protect \$1 million.

What's the enduring lesson? It's common sense really, the more there is in controversy, the more likely your opponent is to fight vigorously, and the more likely they are to try claims or defenses even if they are long shots. Furthermore, it's a subjective standard; it's what is substantial to them, not to you. How do you deal with this phenomenon? Understand that if your opponent has the money to pay and a large sum is involved, you will need a law firm capable of standing up to a serious fight.

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