

# **ERP Failure #6: Actual Case: Plaintiff Sues for \$80 Million – We Prove It Works!**

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## The System and the Parties

Hi, this is Warren Reid. Today, I'm sharing a case where the software/developer integrator was victorious. In this case, the system would change one of the world's largest pizza chains into over 5,000 self-contained pizza manufacturing and distribution plants. This ERP software included: Automated Caller Identification, simplified Order Entry screens and personalized scripts based on each customer's history, complete Inventory and Delivery Systems, full nightly Sales Audit, Cash Control, & Management, Trend and Operations Reporting.

## The Complaint

Developer "B" acquired Developer "A" during the development phase, making "B" responsible for both completing the system and the long-term maintenance contract. The Financiers – with members from IBM, a Big Six Accounting Firm, and top U.S. business schools (call them Party "C") were in a rush to finance the systems and reap huge profits on their investments. But, well into the project, but still before Go-Live, "C" unilaterally decided "the system didn't work and was fatally flawed", and that it deserved \$80,000,000 in profits it could have made over time had the system successfully rolled out.

Party "B" initially decided to join with "C" in the lawsuit, alleging that "A" lied about the status and quality of the system-in-progress that "B" acquired.

## The Analyses, Strategies, and Opinions

To win this case required that I define and prove that "the system worked" and show that "A" didn't misrepresent the facts to "B". More importantly, the attorneys believed it was imperative to get "B" over to "A's" side regarding quality of the development efforts and the initial success of several hundred system pilot test stores. Our three-point approach defined to what extent the system "worked" by showing the Hardware worked, the Software worked, and Users liked it:

1. **The Hardware Worked** -- Comparing it to contract specifications for mean time between failure (MTBF) for the systems' hardware components: we had to teach and convince the jury that if one terminal or ticket printer was unavailable for a few hours, the system still **met the critical performance requirement** of getting a pizza out of the store two to three minutes faster than with the old system.
2. **The Software Worked** -- Combined with the facts which showed that the system contained the contracted-for functional requirements and quality control was adequate, we used statistics and trends on error correction to prove to the jury that the system was stable and just about ready for production.
3. **Users Liked It** -- "C's" own project status reports indicated many franchisees were complimentary about the system or its potential; and included letters from users specifically praising the still settling system! We showed that no user rejected the system during the entire pilot test and that, even though support of the system stopped after the lawsuit began, many customers used the system daily for up to a year. When even two to three minutes of delay could hurt reputations and guarantees of "half-hour piping hot delivery", this usage proved to me and to the jury that the system worked.

"The Turning Point" came after my 4 days of deposition regarding the above facts and opinions. Party "B" fired its expert who tried to prove that the system didn't work -- and joined forces with "A". This made sense since "B" had finished the system and performed over half of the pilot installations. Part of their arrangement to join "A" was that they be able to retain **WSR Consulting Group** as their own experts.

## The Verdict

After 4.5 weeks of deliberation (so it still wasn't an easy decision for the jury) the jury agreed that the system "worked" and they gave a stunning victory to the "A" and "B" team.

More information about WSR Consulting Group, LLC, is available at <http://wsrcg.com>  
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