

# Construction Claim Recovery Analysis

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# Construction Claim Recovery Analysis

- **Challenge:** Forecasting potential recovery of construction claims as part of developing and implementing a strategy to resolve the dispute.
- **Legal Counsel Required**
- **Strategy Options:**
  - Negotiate/Settle
  - Mediation/Arbitration
  - Litigation
- **Each Strategies involve uncertainty**
  - Favorable or Unfavorable judgments (outcomes)
  - Litigation Costs

# Construction Claim Recovery Analysis

- Complexity:** Construction disputes often involve multiple claims and multiple issues. Each claim typically must be evaluated individually and in total.

- Framework for Evaluating Each Claim**

- Claim Amount
- Complexity of Legal Entitlement
- Witness Availability
- Claim Pricing Basis
- Prior Negotiation Results
- Impact on overall Litigation Costs

# Construction Claim Recovery Analysis

## •**Stochastic Model**

- Legal Counsel Involvement
- Develop Category Weighting (Sum to 100%)
- Develop Category Score (0-5)
- Calculate Weighted Evaluation Score
- Calculate Recovery % (Score/5)
- Add Comments to Explain, Clarify and Document
- Add High and Low Range Evaluation
- Add Correlation
- Setup and Run the Model
- Review and Analyze the Results
- Communicate the Results

# Construction Claim Recovery Analysis

## Detailed Cost Recovery Forecast

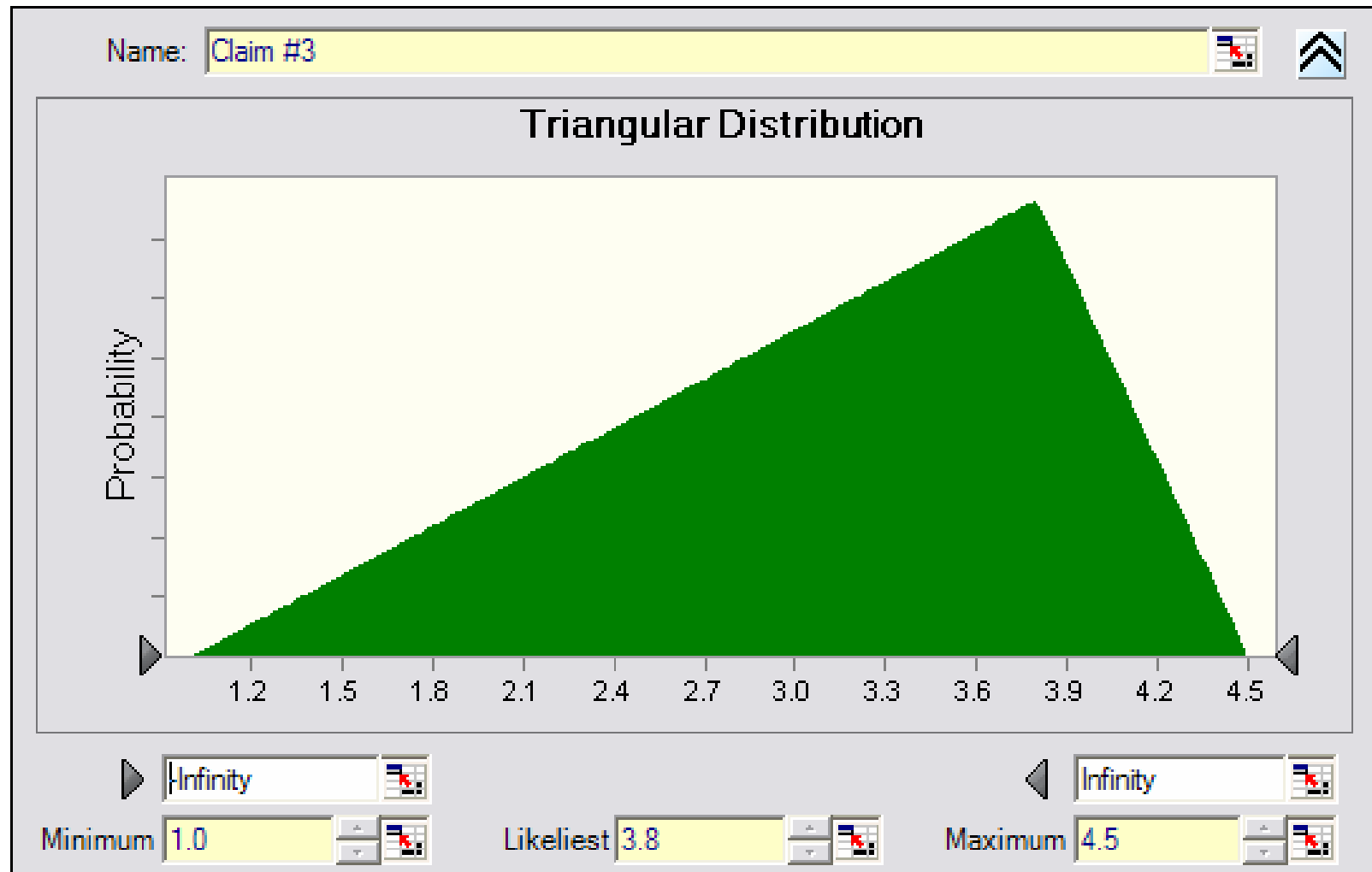
Description	Claim Amount		Recovery Analysis (All scores 0 - 5)					Overall Evaluation Score	Comments
	Amount	Time (WDs)	Entitlement Score (50%)	Witness Availability (10%)	Pricing (20%)	Prior Results (10%)	Impact on Cost of Litigation (10%)		
<b>Weight</b>			<b>50%</b>	<b>10%</b>	<b>20%</b>	<b>10%</b>	<b>10%</b>		
Claim #3	\$262,416	5	5	4	3	0	3	3.80	Lack of accurate records for changed work and other substantive factors make 100% recovery unlikely
Claim #5	\$30,895	1	3	2	2	0	3	2.40	
Claim #10	\$563,665	10	4	4	5	0	5	3.90	Low cost impact.
Claim #16	\$648,109	7	3	4	4	2	4	3.30	Entitlement has variable levels - possible to find partial entitlement for different impacts
Claim #21	\$143,443	0	4	5	4	3	4	4.00	Previous negotiated agreement on part of claim.
Claim #31	\$120,647	0	1	4	4	4	1	2.20	Entitlement not clear.
Claim #35	\$48,565	1	4	4	3	3	1	3.40	High cost impact.
<b>Subtotal</b>	<b>\$960,764</b>	<b>24</b>							

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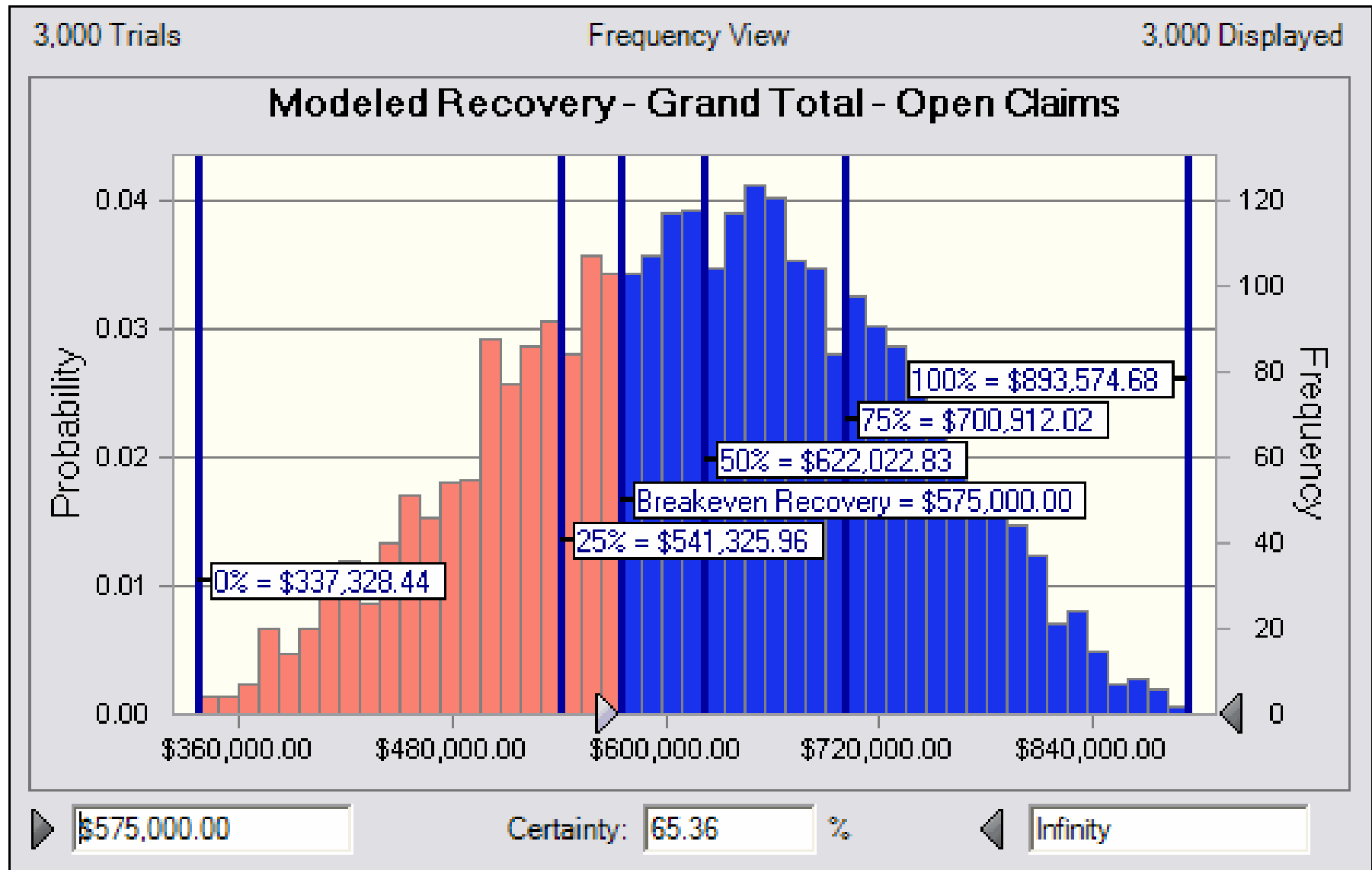
## Detailed Cost Recovery Forecast

<i>Description</i>	<i>Claim Amount</i>	<i>Contract Time Requested (WDs)</i>	<i>Overall Evaluation Score</i>	<i>High Score Possibility</i>	<i>Low Score Possibility</i>	<i>Modeled Score</i>	<i>Modeled Recovery Percentage</i>	<i>Expected Recovery Value</i>
<b>Weight</b>								
Claim #3	\$262,416	5	3.80	4.5	1.0	3.5	70.0%	\$183,691.23
Claim #5	\$30,895	1	2.40	2.9	0.0	1.9	38.0%	\$11,740.17
Claim #10	\$563,665	10	3.90	4.0	2.0	3.0	60.0%	\$338,198.84
Claim #16	\$648,109	7	3.30	5.0	1.0	3.3	66.0%	\$427,751.72
Claim #21	\$143,443	0	4.00	5.0	3.5	4.0	80.0%	\$114,754.79
Claim #31	\$120,647	0	2.20	5.0	1.0	3.7	74.0%	\$89,278.64
Claim #35	\$48,565	1	3.40	4.4	2.4	3.5	70.0%	\$33,995.25
<b>Subtotal</b>	<b>\$960,764</b>	<b>24</b>						<b>\$665,780</b>
<b>Grand Total - Open Claims</b>	<b>\$960,764</b>	<b>24</b>						<b>\$665,780.40</b>

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- **Modeling Results**

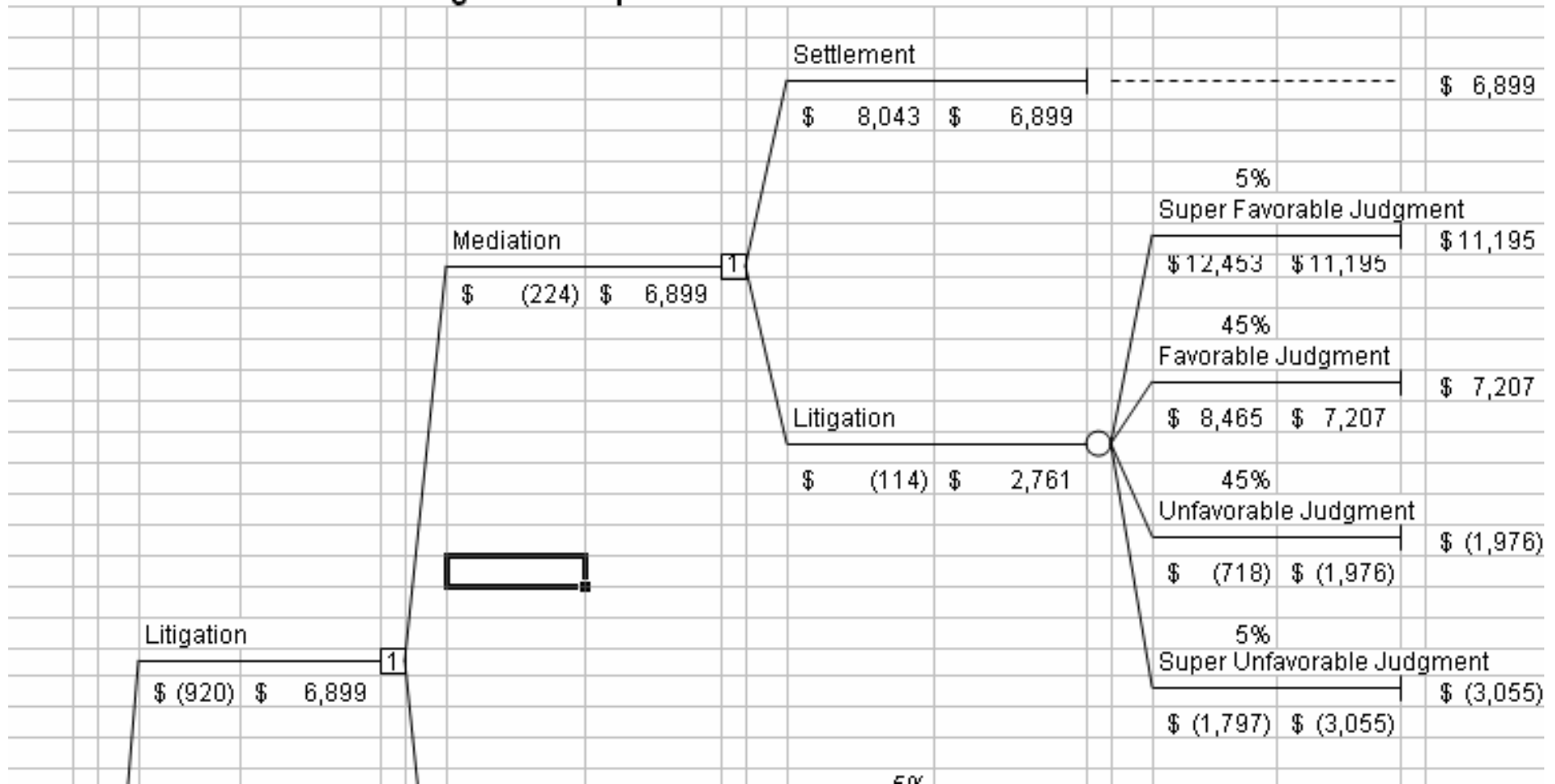
- Supports Decisions about Strategy and Settlement

- **Barriers to Implementation**

- Level of Understanding of the Financial Modeling Within the Organization
- Acceptance of the Judgment and Experience Used in the Subjective Evaluation
- Clear Communication of the Modeling Results
- Expectation of a Single Value Estimate
- Inconsistency Between Expectations and Modeling Results

# Construction Claim Recovery Analysis

Figure 2 - Dispute Resolution Decision Tree



# Construction Claim Recovery Analysis

- Summary

- Complex Construction Disputes with Multiple Claims
- Evaluation of Circumstances – Expert Judgment
  - Claim Amount
  - Complexity of Legal Entitlement
  - Witness Availability
  - Claim Pricing
  - Prior Negotiations
  - Impact on Litigation Costs
- Analysis – Simple Stochastic Model
- Communicate Results

- Thank You

## •Jon Hoogenboom

**Jon Hoogenboom is a Regional Accounting Manager for Arcadis, a global consulting firm. This presentation was based on work performed by Mr. Hoogenboom as an independent consultant prior to joining Arcadis. He has over 23 years of professional experience working in civil and environmental project delivery--from management and execution to control and reporting. He is a registered professional engineer Utah. Mr. Hoogenboom earned an engineering degree from South Dakota School of Mines and Technology, and an MBA from the University of Denver.**