

Valuing A Litigation Claim

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Law firms are increasingly using a multitude of factors to value cases. Valuation provides the parties a better means to identify the issues in litigation, discuss which ones are in dispute, and calculate a logical resolution/settlement. Factors considered during valuation include the type and severity of injury or business interruption, impact of consequential damages, involvement of other parties, indemnity sources, and chances of prevailing.

Predicting the market value of a litigation claim is an inexact science but various methodologies exist to assist legal counsel and their clients in this effort. One methodology tool is the decision tree model which develops if/then scenarios and aims to predict all possible outcomes. A publication issued by Cogent Valuation discusses this methodology and points out the difference between valuing litigation and valuing damages. [[The Valuation Of Litigation](#), Valuation Strategies, March/April 2006]

The value of litigation includes not only potential damages, but the risk of losing, legal costs and time spent waiting before damages are received. As such, the value of litigation discounts expected damages and is a lower amount.

Concepts such as “present value, discount rates, probabilities, net profit, and risk” factor into valuation methodology. These concepts may be foreign or only vaguely familiar to many attorneys, pointing out the need to work with experts in valuation who are versed in fields such as economics, statistics and financial theory when developing a valuation model for a specific case.

A detailed and thorough valuation analysis can also help support an award of damages at trial, or help to support or attack a trial award as unreasonable on appeal.

Valuing litigation claims and damages is a valuable effort that can help attorneys as they guide clients to decisions that are both legally sound and economically advantageous based on potential outcomes that are possible in a given situation.

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