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It's hard for us to believe that we are already more than halfway through 2019 -- time does fly when you're having fun working with clients on interesting cases. In addition to our casework, our team

has been focusing on improving our internal processes to help us serve our clients even better. We also launched a new affiliate program in partnership with the University of Florida faculty, and in April we hosted our version of a cocktail party at the ABA Antitrust Meeting - *our version included beer and baseball on Opening Day!* A case deadline prevented my attendance, but I understand it was a fun evening. I hope this newsletter helps you learn more about Info Tech Consulting and our top-notch team, and maybe even help you discover something new about our world of statistics, economics, and econometrics.

Dr. Jim McClave,
Founder and Co-CEO

The Role of the Econometrician in Damages Analysis

Dr. Rob Kneuper, Economist, Expert

Economists and statisticians can be particularly well-suited to serve as experts in complex damages matters. Whether one is estimating harm to consumers or lost profits to a business, econometric analysis can be used to provide reliable and defensible estimates of damages. One reason for this is damages analyses often require the expert to model prices, sales or profits in a "but for" world in which the alleged bad acts did not occur. Because of extensive training in modeling firm behavior and in econometrics, we rely upon a wide variety of well-accepted scientific methods to estimate damages in these types of situations. Econometric analysis often plays a key role in the estimation of damages. For example, in a price-fixing case, economists may use econometric analysis of benchmark markets or benchmark time periods to estimate what market outcomes would have likely been in a more competitive "but for" world. In addition, economists can use economic modeling to develop a proper theory of causation, which is an essential part of a damages analysis. Because of the importance of economic analysis in measuring damages in a litigation, counsel should work closely with the expert to:



- **ensure the expert bases opinions on sound, pertinent economic theory**
- **obtain reliable data needed to support opinions**
- **apply sound econometric models and analytical methods based on careful evaluation of available evidence**

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Don't Let Junk Science Dismantle Your Construction Defects Case

Dr. Jamie McClave Baldwin, President, Expert

On many construction defect cases, the plaintiff and the defendant both hire engineers and statisticians to consult on the contested issue. Playing the latter role, I recently sat down with my engineering counterpart on a case to discuss the details. Our introduction went something like this:



Engineer: I don't like statisticians.

Me: It's nice to meet you, too?

Pleasantries aside, we got down to brass tacks: what was this guy's problem with the stat squad? His tongue-in-cheek example concerned flat tires.

Engineer: Say I'm driving down the street and I get a flat tire. Are you going to tell me I need to take a statistically valid random sample to determine which of my tires is flat?

Me: Of course not, but let me ask you this - are you going to look at that one flat tire and draw the conclusion that all of your tires are flat?

We were, of course, tangentially referring to common trends in construction defect case litigation. The axiom I'm putting forward is nearly common sense, but it's often ignored by both sides in construction defect lawsuits.

Simply put: if you want to make a conclusion about an entire population, you need to take an appropriate, representative, statistically valid sample.

Returning to the tire example, we can break it down in several ways. Imagine that it's not a four-wheel sedan we're dealing with, but an imaginary, 10,000-wheel semi truck. There is now a lot more data we need to collect before we can conclude that the other 9,999 tires are at risk or defective.

Additionally, at that scale, the questions we need to answer grow in complexity. *Which tire is flat?* quickly becomes *Why is my tire flat?* which leads to *Do I have a systemic problem with some or all of my tires?* That line of questioning begets another - *Were all my tires purchased at the same time? Are all of my tires the same brand? Are the tires on the left side subject to different treatment than the tires on the right?* and so on. In order to capture a statistically representative sample of our defective tire, we need to fill in the blanks in the qualitative questions, and then use that information to inform the quantitative analysis, before we draw a line between the defect and its potential ubiquity.

You probably understand where I'm going with this - if there is a construction defect in a particular location, a leaking window, for example, there is no way to draw the conclusion that every window is faulty without expanding your investigation. A construction company acting in its defense has every right to accept responsibility for just one window if the plaintiff's conclusion isn't statistically sound. In the same vein, no plaintiff can expect to successfully argue their case without a statistical study to support it.

As someone who's been in and out of courtrooms my entire career, it's only natural that I examine both sides of the argument. One counterpoint I often hear references the need to capture a biased or "qualitative" sample in order to collate the most information about the problem. I'd argue that approach is similar to polling for a Presidential election outside only the DNC or the RNC - it's pretty clear ahead of time how the results will turn out. The results cannot be extrapolated to any general population due to the inherent bias in the sample.

Take stucco, for example - the fine plaster coating that's inescapable in most Florida home construction. My engineering counterparts tell me that stucco is designed to crack at pressure points to adapt to the stresses of settlement, movement, etc. Cracking is especially common at the window corners and door openings, any place the stucco is transitioning to another material. Using a

biased sampling method - taking samples only from the most damaged location - a plaintiff might draw the conclusion that the stucco on the entire house needs to be replaced when the issue is clearly with the window corners.

Another point of contention concerns the concept of statistical significance. Many argue that analyses can be manipulated to get their desired p-value. While this is true, any talented statistician can also point out the flaws in a biased study and provide more robust solutions to these analytical manipulations. Let's not throw out the baby with the bathwater. There are always bad scientists out there that will abuse tests and throw out the rules. To act like elementary disciplinarians and punish the whole class on the actions of a small subset of misfits is juvenile, reactionary, and counterproductive to our pursuit of truth.

That got a little heavy, but if you're interested in that debate, be on the lookout for my upcoming article on statistical significance this fall. Let's move on to the recap:

1. **Don't draw conclusions on construction defects without taking an appropriate and representative sample.**
2. **Understand the scope of your investigation** - what questions will you need to answer to gather a statistically valid sample?
3. **Don't be swayed by the idea of biased sampling** - you wouldn't trust a healthy soda study published by Coca-Cola.
4. **Be truthful, accurate, and detailed in your investigation** and naysayers will have nothing to stand on.
5. **Fix tires the practical way, but school your engineering friends on the value of statisticians.**

If you're in the midst of a construction defect lawsuit, an experienced statistician can help your case. The team at Info Tech Consulting has been providing expert litigation support and statistical analysis since 1977. We understand the complexities of your industry and how to best approach nuanced cases.

To learn more, visit infotechconsulting.com/services

Opioid Epidemic: What Does the Data Reveal?

Janese Nix, Statistical Consultant

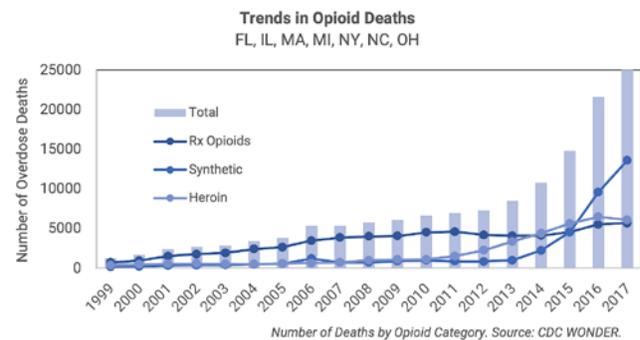
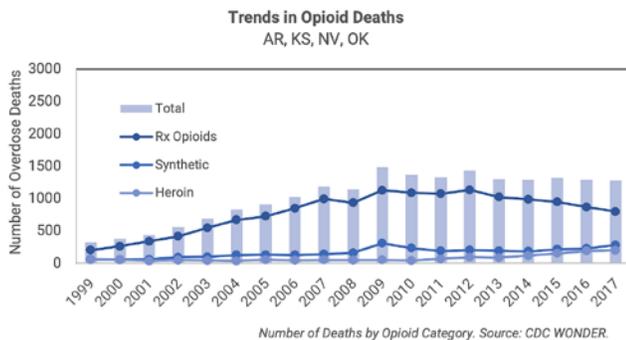
It's all over the news. Opioid addiction is killing thousands of people and costing the U.S. billions of dollars. *But, what is being done to stop it?*

Healthcare providers and patients are being educated about the risks of opioid use. Availability is being reduced and improvements are being made to reporting systems. Treatment facilities are increasing in number and better services are being offered to support those reclaiming their lives after addiction. Despite all of this, there is still much to be done.

How do we know what is working? What side effects are we creating with the implemented improvements? Like true statisticians, we turn to the data to discover and evaluate trends that the data reveals.

Here's What the Data Tell Us

Many states, like Arkansas, Kansas, Nevada and Oklahoma, have made progress in stopping and/or shifting the trend of prescription opioid deaths and have seen a decline between 2012 and 2017. However, this trend is not apparent in most other states like Florida, Illinois and New York. Reducing the effects of prescription opioid addiction involves more than reducing the number of prescriptions. The total opioid related deaths including prescription opioids, heroin and synthetic opioids are on the rise.



Important Questions Remain

Are states like Oklahoma and Kansas effectively controlling the rise in heroin and synthetic opioid use? And if so, how? Or are they simply lagging behind the trend, with increased use in these illegal drugs waiting to show up in the 2018 data?

As more data becomes available, reliable in-depth analysis will play a key role in solving the opioid crisis.

5 Tips for Working with an Expert

Jodie Newman, Director, Case Development

Our goal is to serve our clients by providing reliable, honest work at every stage of a case. To help us get started quickly and efficiently on your case, here are five tips for clients to help us best help you.

1. An early start helps in the end.

Let us dive in early and help you put the pieces together in your pre-complaint investigation. Our industry research experience and expertise using publicly-available resources for preliminary analysis can play a vital role in drafting a complaint and discovery requests.

2. If a document seems important, share it.

While every case is different, experience has taught us certain key documents help us advance the ball. For example, while sales invoices are often absent or scarce in production, they can be gold in deciphering fields in the transaction data. And industry reports can be a critical resource for us to start getting a handle on a case.

3. The more data, the better!

Because our analysis is dependent on reliable data, data management is intense work that can be most efficient when done in collaboration with our clients. Particularly during negotiations for electronic data, our participation in helping draft data requests and addressing data questions can shortcut data production issues and limit last-minute challenges.

4. Keep us posted.

Whether the changes or developments are in the theory of your case or in the scheduling order, keeping us in the loop will help us remain on track and efficient. Whether through routine calls or email updates, we can help you cross the finish line when we know all of the details.

5. Collaborate with an industry expert.

Partnering with someone who has deep industry knowledge, including the products at issue, production processes and pricing, is beneficial. We recommend having an initial interview to kick off the collaboration and begin ongoing access to make our work valuable to you and the case.

Following these five tips will set us up to do our best work on your behalf. We can't wait to support you on your next case!

Introducing the Next Generation to the World of Consulting

Info Tech Consulting offers a unique internship experience for upcoming economists, statisticians and attorneys. Once the initial week of orientation is complete, our interns immediately become part of a project team. This experience allows interns to work side-by-side with several mentors, participate in brainstorming meetings and contribute to the end product.

To create the best internship experience, we tailor interns' assignments to provide a wide variety of litigation support activities customized to their areas of strength and interest. For example, an intern who enjoys the data processing aspect of this work may be given challenging data to incorporate into a database but will also be exposed to data analytics for producing and interpreting price plots from that same data. While another intern whose strength is in case research and discovery may be given data processing activities but

also spend significant time doing research, document reviews and industry summaries.

This summer economics major Tirza Angerhoffer is digging into a mountain of online documentation for a large national case, while economics graduate student Michael Smith is primarily processing large amounts of data and researching industry details for a different case. Erin Connors, a statistics major, is reviewing and cleaning data along with summarizing litigation reports and doing research for two different cases.

The Info Tech Consulting Intern Program offers both hands-on career experience along with a variety of entertaining team building events to give our next generation of economists, statisticians and attorneys a glimpse into the world of consulting possibilities to consider.



Getting Social!

Info Tech Consulting carved out a little time during a busy spring to socialize with colleagues. At the ABA's Antitrust Spring Meeting, we hosted our first annual Baseball & Brews cocktail party at City Tap in D.C. The following week, we invited faculty from our neighbor, the University of Florida, to our headquarters for a roof-deck cocktail reception to learn more about our Affiliate Program that launched this year. We look forward to seeing everyone at repeat performances next year!

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