



# Round Table Exercise

SCOTT OLDHAM – ICRMP CLAIMS MANAGER

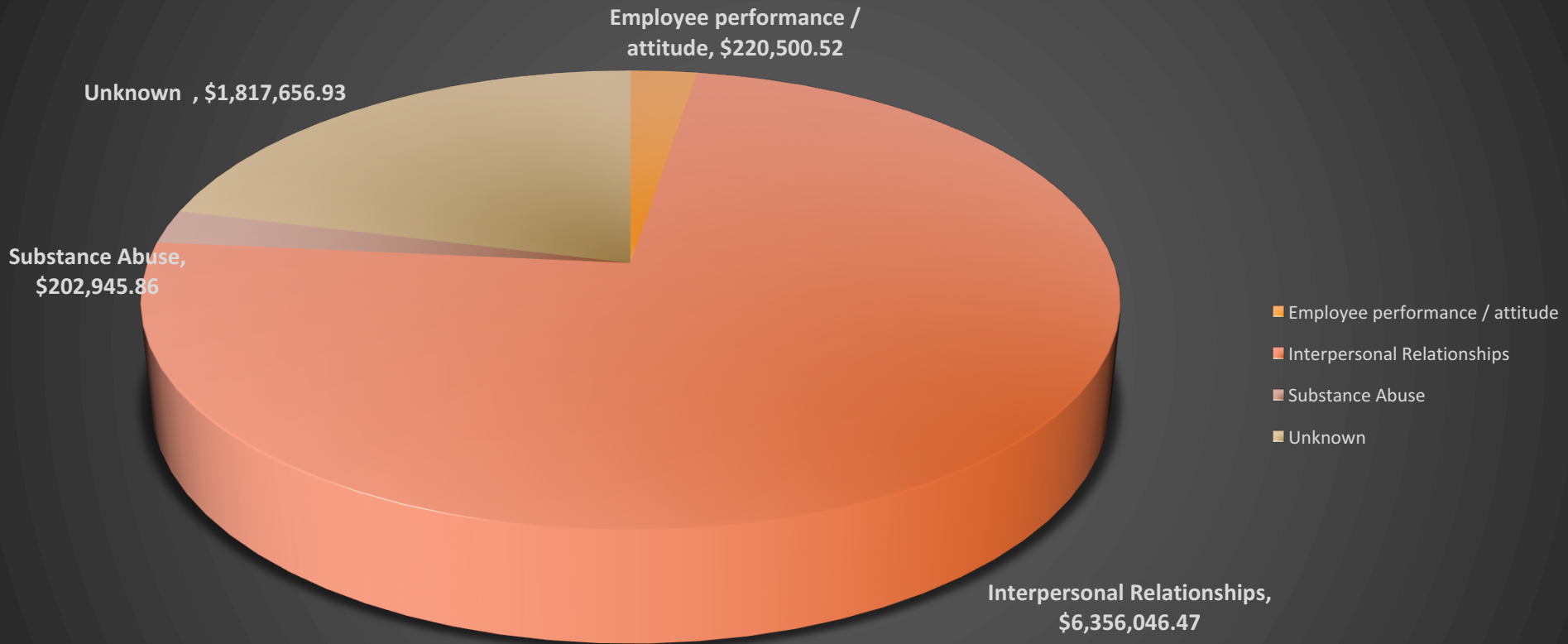
BRUCE CASTLETON – DEFENSE PANEL ATTORNEY

# Claims Data Analysis

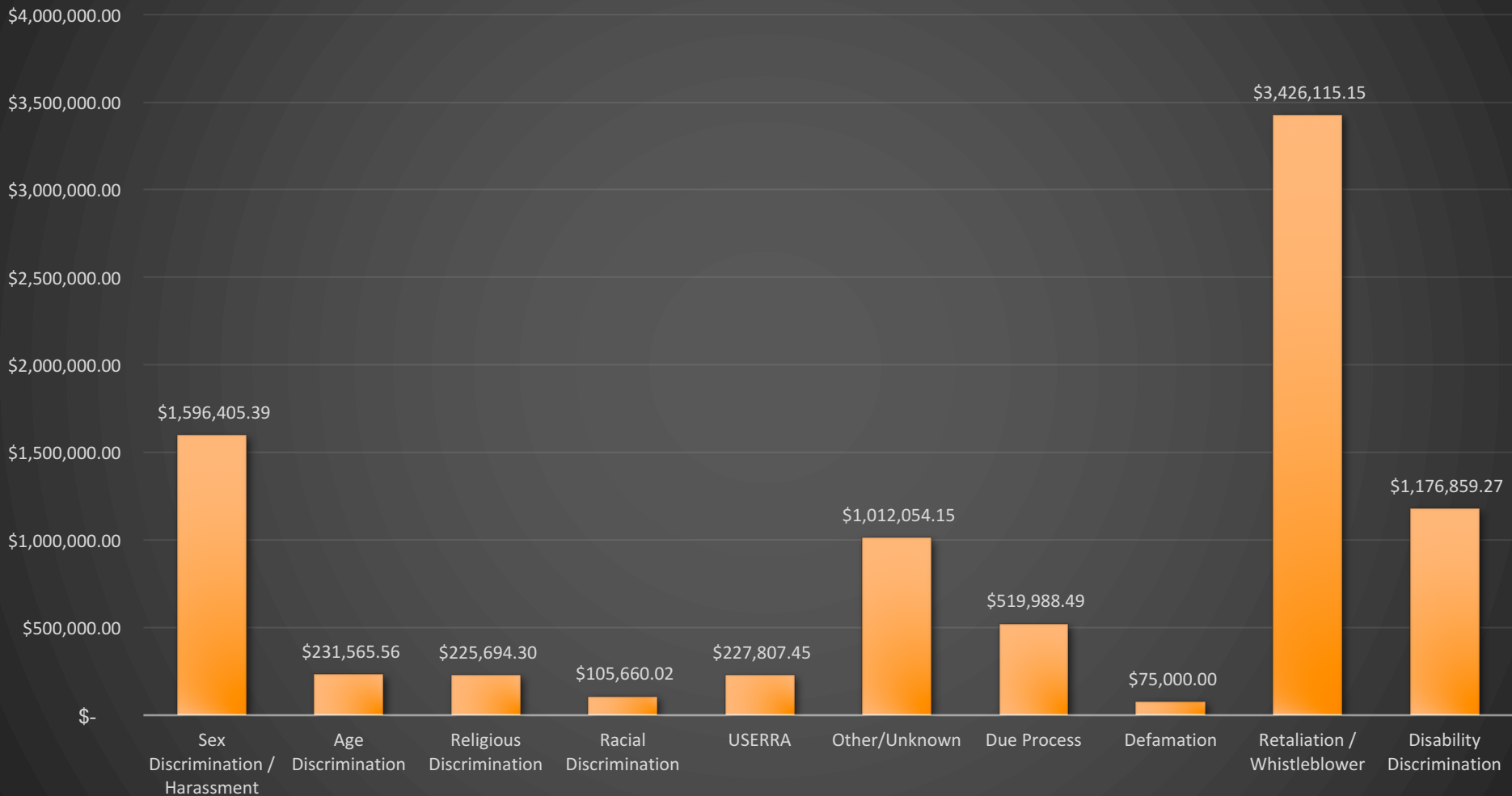
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- 2013-2016
- 167 Employment Practices Liability Claims
- Avg. of 42 claims/year
- Total Incurred = \$8,597,149.78

## Total Employment Claims = \$8.6M



## Employment Claims 2013-2016



# Life of an Employment Claim

Phase 1:

Pre-Termination

- Loss Control?
- Documentation, such as annual reviews, steps to train, etc.,
- FMLA or ADA or Whistleblower?
- **Decision Point\***- terminate or retain, severance?



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Fired!**



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FIRED!**

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# Life of an Employment Claim

Phase 2:

The Commissions

- Equal Employment Opportunity Commission--or--
- Idaho Human Rights Commission
- Further Interviews and Investigation
- Commission Decision & Right to Sue Letter
- >75% of claims knocked out here
- **Decision Point\***
  - Did we see something the commissions missed?
  - How good is plaintiff's attorney?

# Life of an Employment Claim

Phase 3:

Litigation

- Plaintiff's Fees??
- Depositions
  - **Decision Point\*** Witnesses Strength, Risk and Lowest Ultimate Cost?
- Motion Practice
  - Another 5% of claims get knocked out
- **Decision Point\*** Claim Narrowed?  
Feedback on Judge? Court Assigned ADR?
  - ADR- Alternative Dispute Resolution, lowers court caseload
- TRIAL!
  - Up to Jury, Out of Your Hands





# What is The Claims Roundtable ?

Structured way to make decisions

1

- Identify Potential Jury Award

2

- Identify Risk of Losing

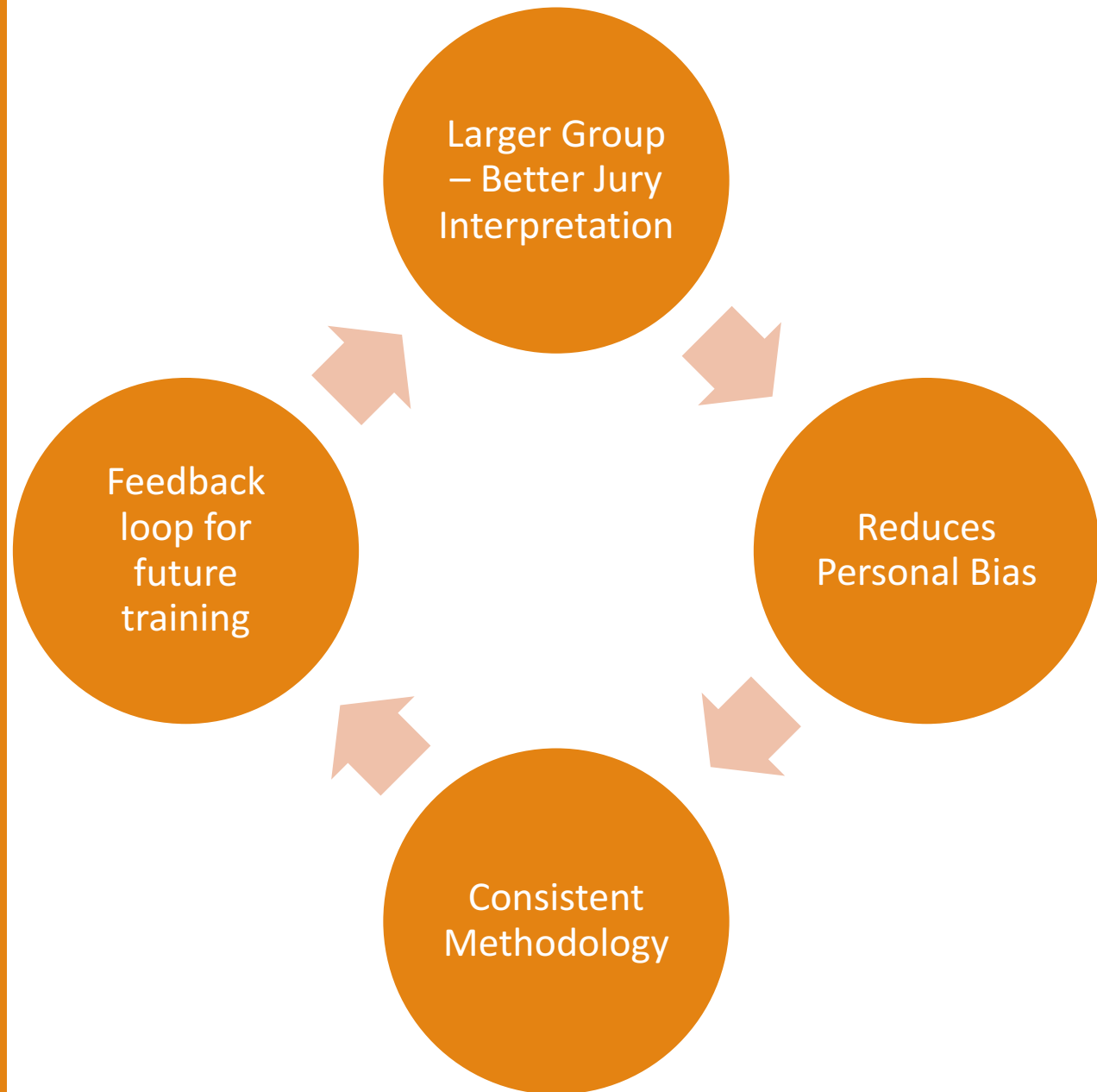
3

- Determine Reserve

4

- Decide whether to offer \$\$ (If yes, how much?)

# Advantages of the Round Table



# Decision Points Assessing Risk

Part 1-

Damage Value

## Economic Damages

- *Lost Wages*
- *Doctor Bills*

## General Damages

- *Emotional Distress*
- *Pain and Suffering*

## Other Costs to consider

- *Attorney costs, experts, depositions, etc.*

# Decision Points Assessing Risk

Part 2-  
Liability

## Odds of Losing?

- Facts of the case
- Witnesses
- Unusual emotional factors

## Informed Best Guess

- Experience and Precedent

# Roundtable Exercise- Questions to Answer

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1

1. What is the probable amount that a jury would award if Plaintiff prevails?

2

2. How many times will Plaintiff prevail if tried to 10 different juries?

3

3. Should this case go to trial or settle (for what amount)?