

## **Discovering Picture It Settled®, Breakthrough Predictive Analytics Software for Negotiation**

*By Will Pryor, Mediator, Arbitrator and Adjunct Professor of SMU Law School, Dallas*

As a lawyer, a district judge and now as a mediator for many years now, I have always sought out useful technology tools to make the process work better. I have seen parties use static Excel spreadsheets and midpoint analysis to try to project settlement numbers, but the negotiation process is much more sophisticated than that.

At SMU Law School in Dallas, I teach a survey course on alternative dispute resolution (“ADR”). The course includes segments on negotiation, mediation and arbitration. Our textbook for the negotiation segment referred to software and the internet as negotiation tools, but the tools referenced were merely common sense driven or only superficially useful.

Enter Don Philbin, a lawyer-mediator based in San Antonio who is a highly skilled negotiator. Don had seen a need for technology that could accurately predict negotiation moves and settlements, and he set about building that solution. Enlisting the help of lawyers, statisticians and probability experts, Don created a web-based application called Picture It Settled® which was officially launched at LegalTech New York in late January 2013.

Picture It Settled® is predictive analytics for negotiation, and it derives its power to predict moves and outcomes because Don collected deep data from over 10,000 cases and had them entered into the system. And the more cases that Picture It Settled® learns from, the smarter and more powerful it will become.

Having known Don for years and being intrigued by Picture It Settled®, I invited Don into my classroom to show us how the technology worked. Coincidentally, I had recently mediated an IP case in the Eastern District of Texas in which the Plaintiff’s original demand had been \$29 million and the Defendant’s original offer was \$450,000. The case settled at 7pm for \$8 million after 17 painstaking rounds of negotiation.

Don entered the negotiation moves from this case into the Picture It Settled® online interface live for my class and the software began to show a graphical representation of the potential settlement territory. By only the 2<sup>nd</sup> round, Picture It Settled® predicted a settlement in the \$9 million range, which was only off 3.5% of the \$28.55M spread at the time, and the software nailed it in 2 rounds instead of 17! Of course, Picture It Settled® tightened its projection even more as we entered additional offer information. It was truly magical, fascinating – I realized that this tool could be helpful for a broad spectrum of cases.

Picture It Settled® is an incredibly useful tool that will become increasingly powerful as more case data is entered to make it even more intelligent. Any negotiator who wants to be prepared needs to have a tool like this. You can rely on your instincts and experience, but that will only take you so far. This software gives you a better ability to predict which way a case is headed. Whoever uses Picture It Settled® will have a clear advantage over the other party. As a mediator, it will help me keep energy in the process and keep parties at the table longer.

Lawyers have a tendency to be concerned that technology is going to replace them, but that is an unfounded and unwarranted concern with Picture It Settled®. This is a tool to help lawyers and mediators do their jobs better and faster. The psychology of negotiation and mediation will remain the same but the software will help guide the outcome to be more streamlined and advantageous to those who use it.

I am sure that lawyers and mediators will discover the advantages of Picture It Settled®. I challenge anyone to refute that it provides more control over the negotiation process and settlement outcomes. Picture It Settled® is fascinating and very exciting technology. There will come a time when everyone will be using it!