

Case Study

Precise Advisory, LLC

Predict™

What began as a project to **measure witness credibility** ended up helping plaintiff's counsel **reshape and re-form** their **trial strategy** yielding a **highly-favorable verdict**.

CASE DESCRIPTION: The plaintiff, a box truck driver, was delivering a 3,000 lb. transformer to a construction site. The plan was to use a pallet jack to pull the transformer out of the truck bed and onto a hydraulic liftgate that would lower the transformer to the ground. During the unloading process, the plaintiff fell off the back of the liftgate while it was still elevated; a moment later, the pallet jack and transformer fell on top of him, resulting in pelvic crush injuries. The plaintiff contends that as he pulled the pallet jack, the construction supervisor got into the back of the truck to push the transformer out and pushed too hard, causing the plaintiff and the transformer to fall. The supervisor denies being on the truck and claims that the transformer fell because there was too much weight on the liftgate and it tipped downward, which caused the plaintiff and the transformer to fall.

Mr. Kwass enlisted Predict to gain insight on the likely juror response to the testimonies of the plaintiff and supervisor. Since the two witnesses had different versions of the story, Mr. Kwass initially thought the credibility of the two men would determine the outcome—a “he said, he said” case.

The Predict study included short video clips, pulled from the depositions, of the witnesses recounting what happened. The video deposition clips were shown to 16 Delphi groups, with 12 participants in each group (192 total individuals), as part of the survey analysis.

Although more groups found the plaintiff more credible than the supervisor, the survey participants assigned more fault to the plaintiff. The critical concepts extracted during the Predict process highlighted the feeling many participants had that the plaintiff, as the truck driver, was the “captain of the ship” and responsible for the control of the transformer until he safely delivered it to the final destination. Participants stated that they could not imagine a truck driver just allowing a person to jump on their truck, look around, and move a 3,000 lb. transformer without giving permission and discussing what they would do.

The Delphi participants, like actual jurors, filled in the evidence gaps using their real-life experiences; many assumed that the trucking company would have been a union shop. They determined that the plaintiff should have shut everything down once protocol was breached and called a union official until the supervisor left the truck.

In fact, the plaintiff was not driving for a union trucking company. Once his truck entered through the gates of the construction site, he was no longer the “captain of his ship.” Upon arriving at the site, he was now under the control and purview of the construction site supervisor.



David L. Kwass
Partner

FIRM

Saltz Mongeluzzi Barrett & Bendesky

CASE TYPE

Construction Site Accident

VENUE

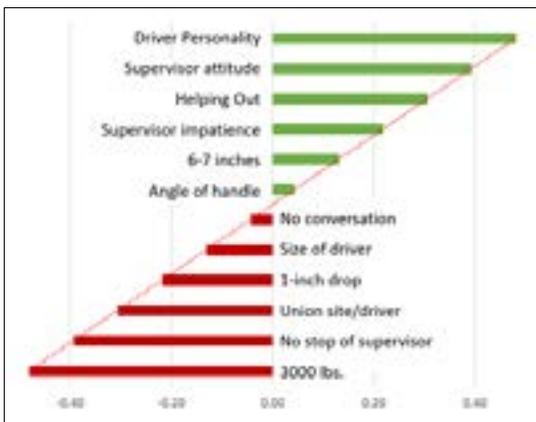
Philadelphia County Court of
Common Pleas

RESULT

Predict called attention to a false conclusion likely to be drawn by a jury that convinced Attorney Kwass to shift the focus of his case strategy. The jury voted in favor of the plaintiff and returned an \$8.52 million verdict.

Mr. Kwass and his team utilized the intelligence gained from the Predict report to adjust their case strategy and themes. Instead of a “he said, he said” case about witness credibility, they adjusted the focus to “control.” Per Mr. Kwass, “Everything we showed the jury at trial about liability focused on the control the construction company exercised over its operations, including this delivery.”

This case is one example of how Predict helped devise a powerful data-driven communication strategy and provided a competitive edge in the courtroom.



Predict's Concept Mirror identifies the critical concepts (strengths and weaknesses) extracted from the Delphi Groups' discussions

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precise-law.com/predict

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Here's what our clients are saying about Predict™ ...

I just used the Predict tool for the first time and was blown away with the product quality. I got ten times the number of participants of traditional focus group providers, with a comprehensive and easy-to-understand analysis. Predict showed me case weaknesses I hadn't seen, and alerted me to potential jurors that I needed to de-select. I will never go into trial again without Predict.

David L. Kwass, Partner | Saltz, Mongeluzzi, Barrett & Bendesky, PC

I am happy to recommend Predict with Precise. We submitted a complicated contested liability catastrophic personal injury case to Predict recently. The feedback we received from the multiple mock jury panels was extremely insightful and helped us to re-focus our liability strategy which led directly to a very successful resolution.

Thomas A. Masterson, Jr., Esquire | The Masterson Law Firm

We used Predict to get feedback on liability and damages issues in a catastrophic personal injury case. The entire process took less than three weeks and provided us with invaluable insight at a reasonable cost and helped us achieve a substantial eight-figure settlement for our clients. We intend to use it again.

Roger D. Landon, Managing Partner | Murphy & Landon

I've found Predict to be an invaluable tool for both settlement and trial preparation if settlement can't be achieved. It forces me to think concretely about trial presentation, and the feedback may be equal to a mock trial, which is far more time-consuming and expensive.

Harry S. Cohen, Esq. | Harry S. Cohen & Associates, P.C.

We used Predict in a complex case requiring analysis of how a federal jury might view the affirmative claims of both sides where each side claimed millions of dollars in damages against the other. Predict provided a quick, economical, and insightful analysis of potential juror biases that would have taken far more time, effort and money to obtain from a traditional focus group. Predict's insights strengthened our position and helped us obtain millions of dollars for our client. Given its cost-effectiveness and efficiency, Predict would be useful in every case headed to trial.

Andrew P. Baratta, Esq. | Baratta, Russell & Baratta

While preparing for a product liability case, we reached a point in which focus-group feedback was warranted, and Predict was an appealing, cost-efficient option. The approach and resulting report provided a fresh and sobering collection of perspectives, alerting me to necessary strategy adjustments. It was also instrumental in managing my client's expectations. We were more than pleased with the tool.

Daniel E. Rosner, Esq. | Rosner & Tucker, P.C.

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