



2021 Annual Conference
August 11-13, 2021
Atlanta, GA

Judging what matters in today's tri-part relationship using KPI's, BI and other emerging measures in litigation management.

I. A basic understanding of BI

There are many different definitions of legal business intelligence out there. “Artificial intelligence”, “business intelligence” and “analytics” are all used interchangeably. More than 87 percent of organizations are classified as having low business intelligence (BI) and analytics maturity, according to a survey by Gartner, Inc.¹

Business intelligence is a critical tool for corporations and insurers to monitor trends, detect significant events and get the full picture of what's happening inside an organization. With the advent of data-driven software and analytics platforms, the answers to those questions can be illuminated via litigation analytics as a result of machine learning.

The purpose of BI for law firms is to sort through data to find the most effective ways to analyze our clients and customers demand's so to solidify relationships and drive a profitable business. BI for law firms allows a partnership to sort, manipulate and analyze data to uncover new opportunities they may not have considered in a profitable and efficient manner.

The degree of risk and odds for/against a successful outcome are now more visible than ever, and they'll be even more visible as litigation analytics tools become increasingly more sophisticated and accessible. The very definition of success in litigation and litigation management has evolved dramatically with new analytical tools available.

Analytics is not a threat to the legal community, rather, just like any other sector, it allows for more targeted efficiency and predictive results. This collective information doesn't disregard intuition, experience or common practice. It simply gives a broader picture of what works and what target success.

What are the advantages of BI

¹ <https://www.gartner.com/en/newsroom/press-releases/2018-12-06-gartner-data-shows-87-percent-of-organizations-have-low-bi-and-analytics-maturity>

BI offers three primary benefits that enable claims leadership to improve efficiencies and optimize the effectiveness of their relationships with Counsel, and even legal support vendors.

First, BI provides greater transparency into activities, milestones and trends

Secondly, BI allows users to make better and more informed business decisions

Thirdly, BI improves collaboration between claims professionals, law firms and other constituents.

The result is more accurate reporting, valuable business insights, better data quality, improved decisions and better outcomes.

II. Why should I care about BI

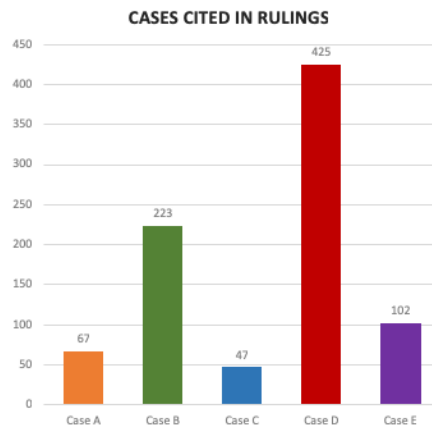
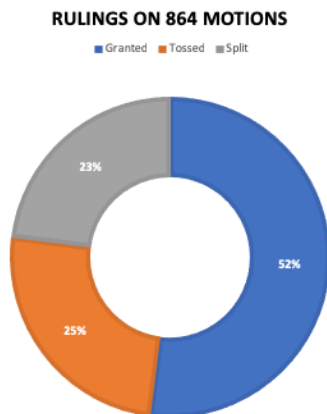
Insurance companies and corporate claims departments are demanding litigation managers to reduce legal expenses, increase business intelligence, and improve case outcomes. The way to achieve these objectives is through actionable insurance claims litigation analytics.

What exactly does BI look like to the end-user

To the end user, BI culminates in a series of charts and graphs displayed on a dashboard. The dashboard often is interpretive and gives the users a summary of key data points or performance indicators. These dashboards can be built to meet the needs of the Insurance company, Corporation and or Law firm.

For example:²

² <https://www.mitrates.com/resource-hub/blog/litigation-analytics-hindsight-foresight/#:~:targetText=The%20different%20tiers%20of%20litigation,by%20Gartner%2C%20with%20four%20levels%3A&targetText=Predictive%20analytics%20combine%20machine%20learning,make%20predictions%20about%20future%20events.>



What types of analytics are most important?

There is certainly an endless amount of analytics that can become overwhelming to review in a coherent way. Fortunately, many companies have already dealt with the task of putting this information into various categories. For example, the different tiers of litigation analytics fall on an evolutionary curve, according to this classification by Gartner³, with four levels:

Descriptive analytics- readily delivers data for attorneys at a single click, using historical information to determine “*what*” happened – this is the baseline in how most attorneys use data analytics.

Diagnostic analytics- examines data or content to answer the question *Why did it happen?* and is characterized by techniques such as drill-down, data discovery, data mining and correlations.

Predictive analytics combine machine learning AI with predictive modeling, intelligent algorithms, and large volumes of descriptive data to make predictions about future events.

Prescriptive analytics suggest a specific direction to follow based on outcomes from cases and fact patterns – *what should be done?*

III. Understanding what data matters

Litigation Demographics:
Claim Amounts

³ <https://www.gartner.com/en/about>

Case Amounts
Locations
Property Details
Case Types
Key Dates

People:

Insured Representatives
Attorneys
Judges

Financials:

Estimated Losses from Both Sides
Demands
Offers and Counteroffers
Indemnity Settlements
Expense Amounts

Strategies:

Resolution Paths
Case Concerns
Motion Outcomes

IV. Defining how and why BI is used to manage litigation is a necessity

Adopting a BI plan to manage litigation leads to a more informed and improved litigation strategy at the case level as well as in the selection of counsel. It allows for a more cohesive relationship of understanding between the Corporation, Insurance company and handling attorneys.

AI is having a decided impact on legal research, and most legal research companies are now incorporating machine learning into their platforms. For example, Mitrateg, an e-billing and matter management company offers one example of how litigation analytics helps an attorney improve how they manage a case: By helping them do extensive preparation about a presiding judge. “Let’s say our attorney is considering filing a motion to dismiss – or must argue against such a motion – in front of an actual U.S. District Judge who has ruled on 864 motions to dismiss in his career. The case he cited the most in his decisions – 425 times – is a U.S. Supreme Court ruling affecting plaintiffs. That’s an invaluable insight for our lawyer, but it only scrapes the surface of what litigation analytics can already accomplish. What’s in store as this technology matures may be even more transformative.”⁴

Insurance company and Corporate access to better metrics on specific lawyers’ performance on similar matters leads to better outcomes by triggering strategic decisions on hiring the right

⁴ <https://www.mitrateg.com/resource-hub/blog/litigation-analytics-hindsight-foresight/>

lawyer for a case. This also requires law firms to develop a cohesive business strategy that must align with the corporate interests of the parties retaining their services.

Moreover, case management and overall resolution is more malleable because BI provides access to more accurate analytics that compare trends and outcomes in the jurisdiction the case was filed. For example, insight into the outcome of similar cases in the same Jurisdiction provides greater predictability of settle amounts against initial demands.

BI isn't just for making better decisions on cases

BI also supports cost-containment initiatives by aligning the expectations placed on counsel with the value of specific activities and costs associated with similar types of litigation. BI allows Claims adjusters and attorneys to shed light on past performance and focus on the trends in the industry down to a very specific area of law, jurisdiction and even a certain presiding Judge. It allows the parties to analyze information and take corresponding corrective action.

Overall, analyzing data through BI and presenting it to claims and legal professionals in a less obscure manner enables decisions to be executed more effectively.

V. Understanding trends through the application of business intelligence

BI can even lead to the identification of potential industry needs and trends. Some trends related to AI applications are as follows:

- increased acceptance of the use of data and analytics by lawyers and courts alike,
- further transformation in the way e-discovery is conducted,
- Greater use of pleading-generation platforms and solutions that pre-select the most compelling case law and arguments based on the fact-set, presiding judge, opposing counsel, and other factors,
- Judges may rule more consistently, as they apply analytics in their own work or are influenced by how it's used in the courtroom,
- Courts will become more efficient as cases are likely to be settled earlier; and
- Frivolous litigation may be reduced.

The effects of increasingly smart and simpler-to-use litigation analytics are going to be felt at nearly every level of litigation from claims evaluation through case resolution.

How do you know if you have the right insurance claims litigation data and analytics foundation?

With the analytics, you should be able to answer the following questions:

- How do I determine my strategy in a case against a plaintiffs' attorney?
- Which defense attorneys are the top performers, not just the cheapest?
- Which cases should I be paying attention to and when?

- What are the events that most often trigger settlement, and how can I use that information to achieve better outcomes?
- What should underwriting and analytics know to ensure these trends do not continue?

VI. Future trends and competing interests in the tri-part relationship

On its face it may seem that competing interests of the corporation, insurance company and law firm can be competing, however this is not the case when BI is used to analyze the tri-part relationship and each of its parties needs.

BI will improve the relationship with a better, clearer understanding of what needs to be done to define what success means to each party.