

Lawyer Confidence Is Often Not an Accurate Prediction of Trial Outcome

A new study investigated the accuracy of predictions by attorneys whose cases were headed to trial and the results may surprise you. Nearly 500 U.S. attorneys were asked to describe a minimum level of success and to predict their chances of achieving that success. The study concluded that nearly half of the lawyers overestimated their chance of success.

Interestingly, the study found that experienced lawyers expressing high confidence did not predict trial outcome any more accurately than less experienced lawyers expressing high confidence. The study did note gender differences. Male lawyers with confidence levels over 60% had a greater tendency to be overconfident, whereas female lawyers with confidence levels over 75% had a greater tendency to be overconfident.

A likely contributor to a lawyer's tendency to be overconfident is the obligation to represent the client zealously. This requirement may "skew lawyers' reasoning toward overconfidence even when they attempt to realistically assess the likelihood of success."

As a mediator, I find that decision analysis provides lawyers and their clients a clear, methodical process with which they can better assess likely trial outcomes. My article on decision analysis has been named recently by PaperChace.com as one of the top five decision analysis articles and can be found at <https://paperchace.com/decision-trees/2010/01/top-5-decision-tree-analysis-resources/>

The study, entitled, *Insightful or Wishful: Lawyers' Ability to Predict Case Outcomes*, appeared in the may issue of the American Psychological Association's Psychology, Public Policy & Law.