



United Kingdom High Courts

2014

Premonition is an Artificial Intelligence system that mines Big Data to find which Lawyers usually win before which Judges. It is a very, very unfair advantage in Litigation.



What if we hired Barristers based on how often they won their cases?

It's obvious, but nobody does it. People pick Lawyers based on recommendations from friends, online reviews, because they're friends, friends of friends, went to a particular law school, have nice offices, work for a well known firm, saw an advertisement, their name was first in the phone book, etc. Recently, using the Premonition™ system, we took a look at "Top Lawyer" lists.

11,647 Cases.

The largest study in English legal history.

Ever.

We found an overall negative correlation between popularity(re-hire rate) and performance(win rate).

This is *Peer Recognition*.

Quite simply – it is nonsense.

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Foreword

“The credence nature of legal services has made “highly effective” legal consumption a notoriously difficult task. But the continually evolving major legal consumer is creating a much savvier, and therefore, more practical and scrutinizing evaluation process. While interpersonal skills and the quality of the relationship between parties are still important factors in the purchasing equation, legal consumers are increasingly able to make decisions based on practical utility as well.”

Forbes Magazine
7 August 2015

Enter Premonition™, a software service that has the capacity to send shockwaves through the legal profession. Clever algorithms capture the results of hundreds of thousands publicly available court decisions and display amongst other things those firms and barristers that have the highest ‘win’ rates and, well, those that don’t.

Inevitably there are criticisms around methodology, taxonomy and the like but the fact remains that Premonition has the ability to shine a light as never before into the dark recesses of litigation capability in an empirical sense.

Aside from the tectonic impact on reputations and workload, my particular attraction to the potential of this capability lies in price differentiation. It can probably be taken as read that all lawyers confidently assert that they are highly capable and provide a high level of service. Historically, practitioners and firm’s reputations have been purely anecdotal. The ability to interrogate those assumptions with greater rigour will inevitably have a profound impact.

In the pricing world, there exists a large body of research and academic study around the correlation between price and quality (both real and perceived). Paradoxically, where the quality of the particular service is hard to judge, buyers of those services look to proxy indicators, one of which is price. Put simply, the way that we all process pricing information follows a predictable, if irrational line of reasoning that if what is on offer is more expensive than many of the alternatives, it is probably better than the alternatives.

In reality, there are very successful and very able practitioners who are failing to capture their full value through their pricing mechanism and there are those whose charging protocols would not withstand close scrutiny on any empirical comparison basis.

Since being invited to write the foreword for this report, my mind has been churning with the possible applications of this technology. I thought I would share just one, to illustrate the potential benefits, for some at least anyway.

Senior judiciary has correctly reminded us from time to time that the Guideline Hourly Rates promulgated under the Civil Procedure Rules are as the name makes clear, merely a guideline and not a prescriptive scale.

In reality, and with few exceptions, that is however what they have become; a scale departure from which is rare. The way remains open for any practitioner to assert that they are worth more than the guideline hourly rate but to date, such assertions have only been able to be supported by relatively subjective arguments. One can only imagine that armed with the empirical evidence, practitioners might be far better placed to argue their entitlement to something higher than the guideline rates.

From the client perspective, as with any consumer of goods and services, they are faced with a price/ quality trade-off. We all want the best of everything and would like to pay little for it. That is of course cuckoo land, hence our understanding of very old concepts such as "there are no free lunches" and "you get what you pay for" and "if the price is too good to be true, it probably is".

So following the recognised pedigree of other truly disruptive technologies, it would seem that Premonition has the capacity to completely recalibrate the way in which clients instruct legal professionals and legal professionals instruct each other.

Indeed, this also raises a number of interesting ethical and professional obligation issues, not the least of which is; given the existence of this technology, is a law firm proposing to instruct a barrister for example, obliged to lay out this information for the benefit of the client to assist them to make a price/ quality trade-off?

Of one thing we can be sure, as with so many of the tectonic changes that have impacted the profession in recent years, the emergence of this technology will produce winners and losers.

Richard Burcher
Managing Director
Validatum (UK) Limited

17th July 2015

Winning or Losing?

Courts in the UK are based on the adversarial legislative system where those representing each side rehearse their arguments and evidence, more often than not, in front of a Judge. Consequently, in the absence of a mediated or agreed settlement, this leads to there being a winner and a loser in each case.

The results of all High Court cases in England & Wales are a matter of public record yet, until now, no effort has been made to assemble, analyse and amass those results in any absolute or comparative fashion.

That might be because, until the advent of sophisticated artificial intelligence and web crawlers, it has been almost an impossible task to carry out. Those of a less generous disposition might say that it has been because some parts of the legal profession might be embarrassed by the results and some reputations might suffer.

There was some spirited opposition from the medical profession when the NHS decided that data on surgeons' success rates ought to be published. This was overcome and now such information is easily available on the relevant websites and this has contributed to the improvement in survival rates after complex surgical procedures.

So, if it's good enough for surgeons it must be good enough for barristers. Or, perhaps, as Winston Churchill said about Generals and Admirals who, *"....like members of other closed professions are conservative and resentful of interference from those who are in a position to give them direction without the same institutional background"*

That might be the case with some people. In anticipation of the results of Premonition's work on High Court cases in England & Wales being published we made contact with a number of legal professionals and regulators. This is what some of them said;

"Barristers owe more than just a duty to their client to 'win' a case. They have wider duties to the courts in the administration of justice. Success or failure in court is not necessarily indicative of good or bad advocacy in that particular case."

"Winning doesn't necessarily equate to good or poor quality or poor performance of the legal teams as someone must lose."

"Clients don't always want to win."

There is, of course, a degree of truth in the sentiment expressed in the first two quotes. The third is just crazy talk but illustrates the reluctance, if not plain fear, about the possibility of there being absolute and comparative data about the performance of barristers in some of the most important, expensive and far-reaching civil and commercial cases heard in the courts.

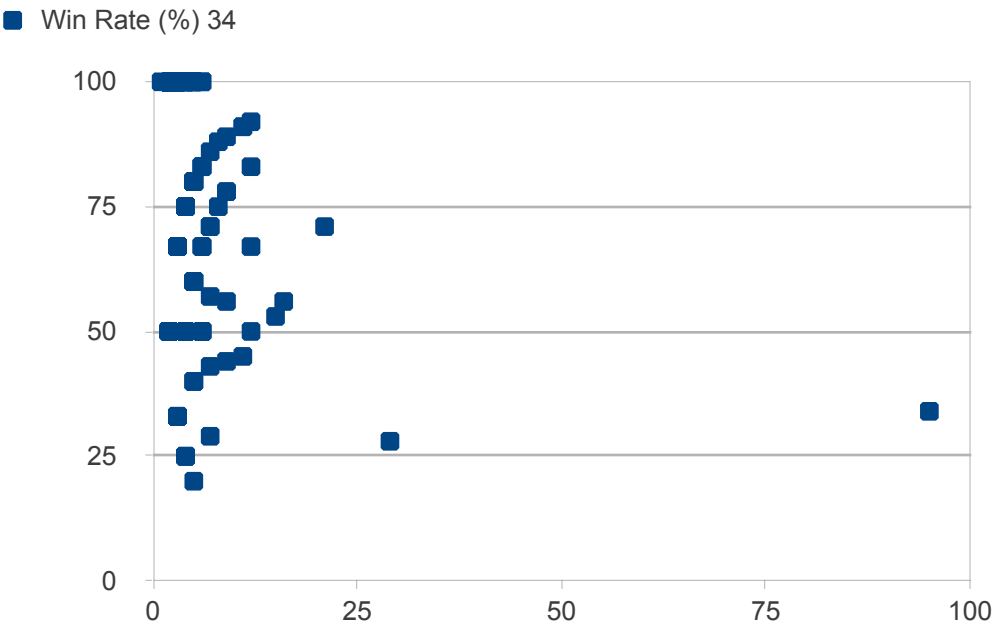
No-one can, reasonably, argue that the buyer of legal services hasn't a right to be able to choose the best person to represent them. There might be those who would argue that 'best' cannot be limited to or be defined by something as basic and transparent as winning or losing.

Those who subscribe to Premonition's services will decide that for themselves.

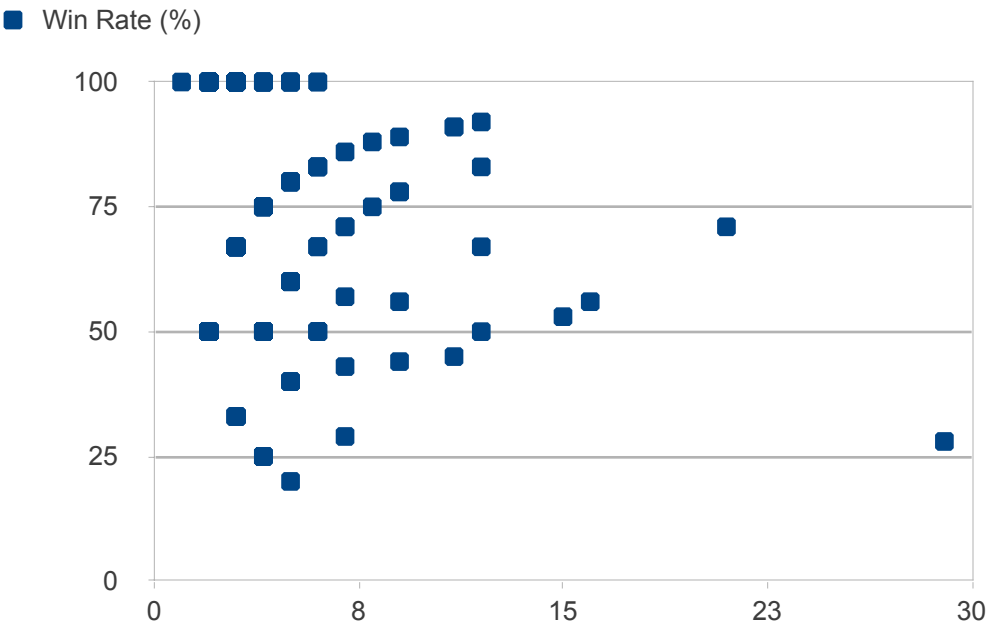
Ian Dodd, U.K. Director, Premonition

England and Wales Court of Appeal (Civil Division)

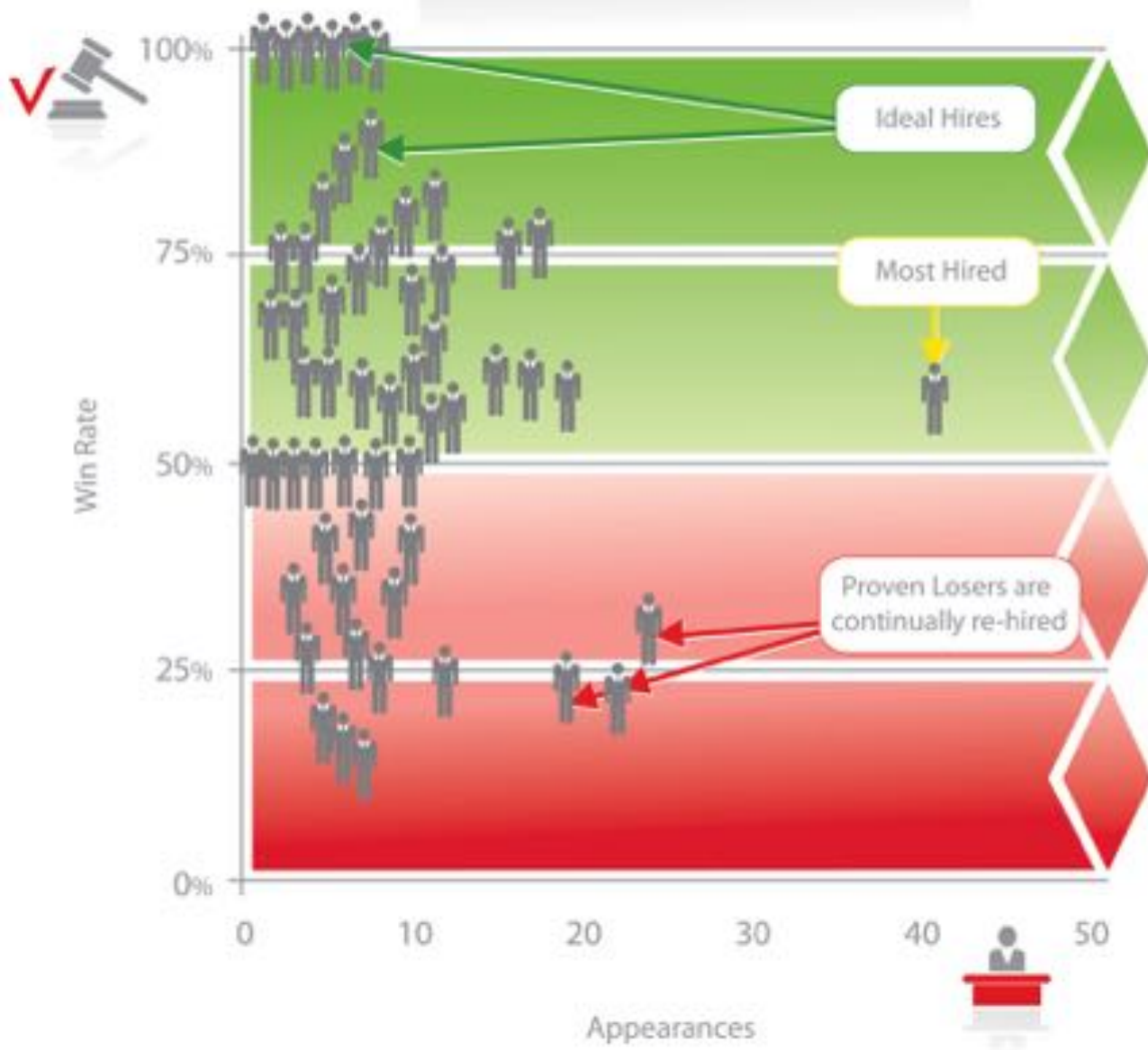
Barristers



Pro Se removed for clarity.

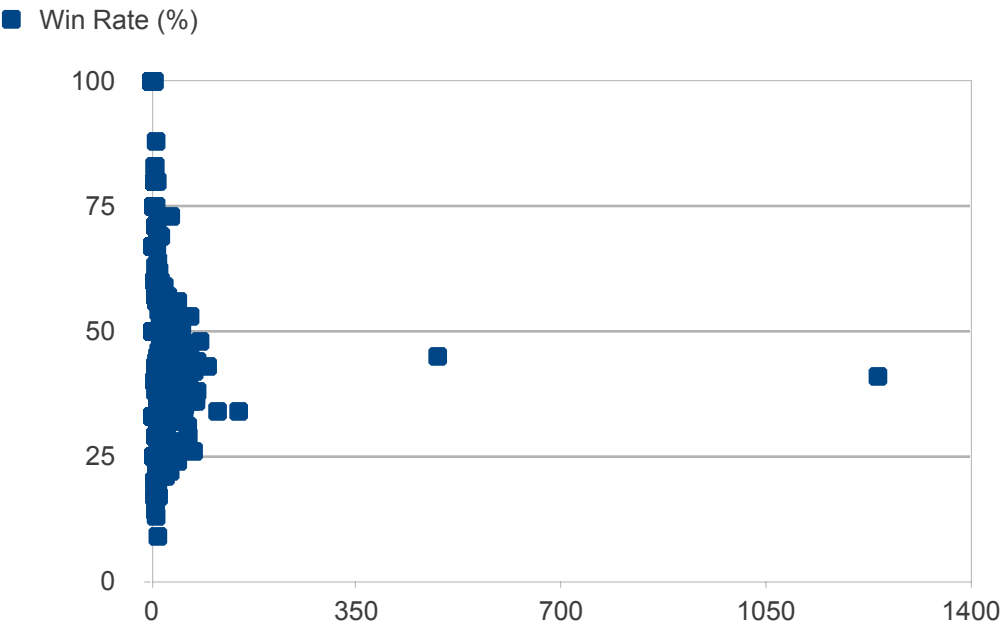


UK Court of Appeals - Barristers

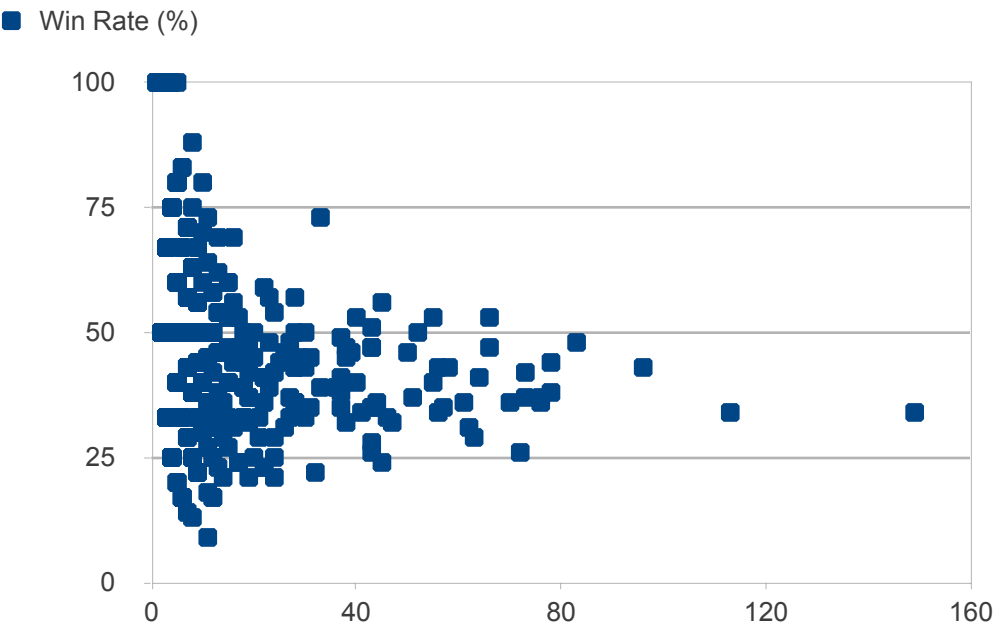


2013 Data

Law Firms

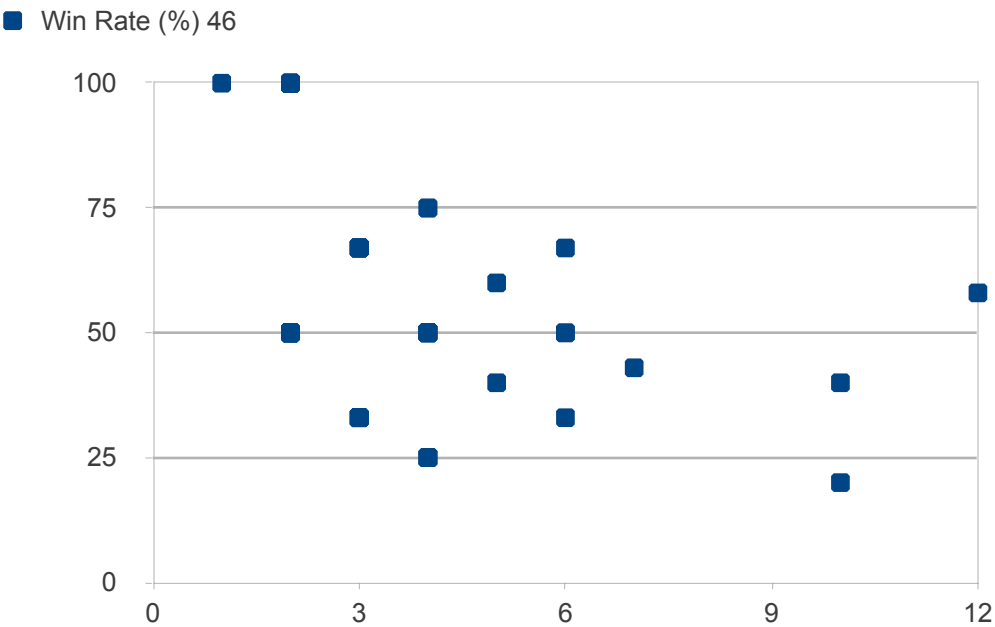


Treasury Solicitors and H.M. Revenue and Customs removed for clarity.

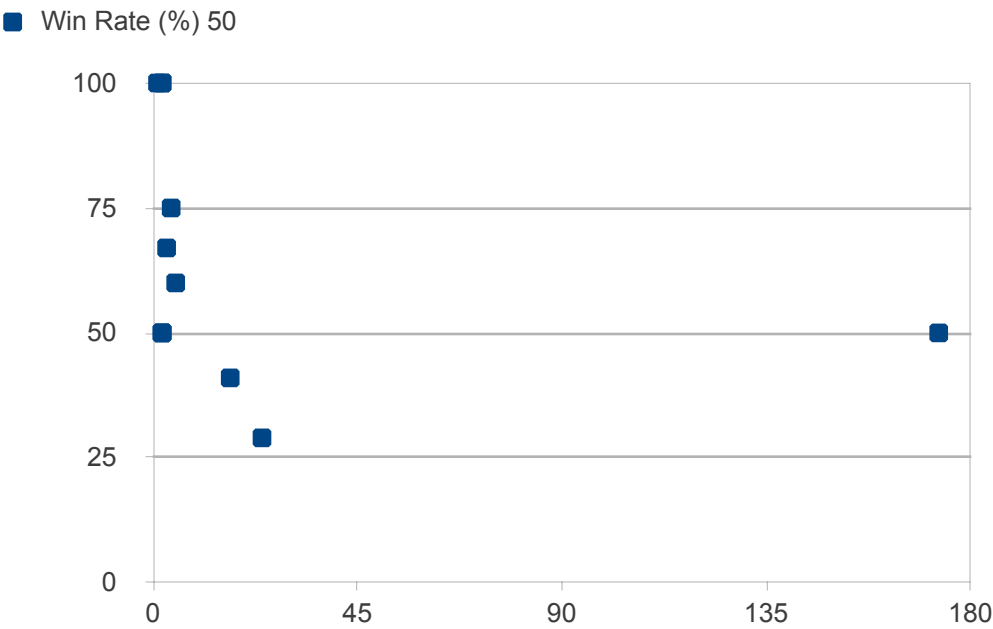


England and Wales Court of Appeal (Criminal Division)

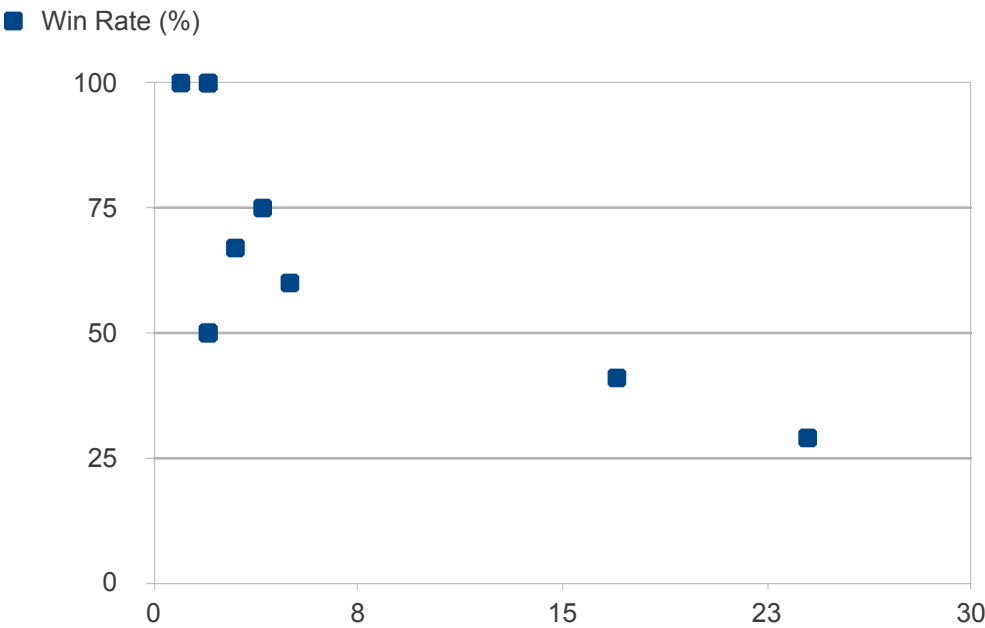
Barristers



Law Firms



Crown Prosecution Service removed for clarity.



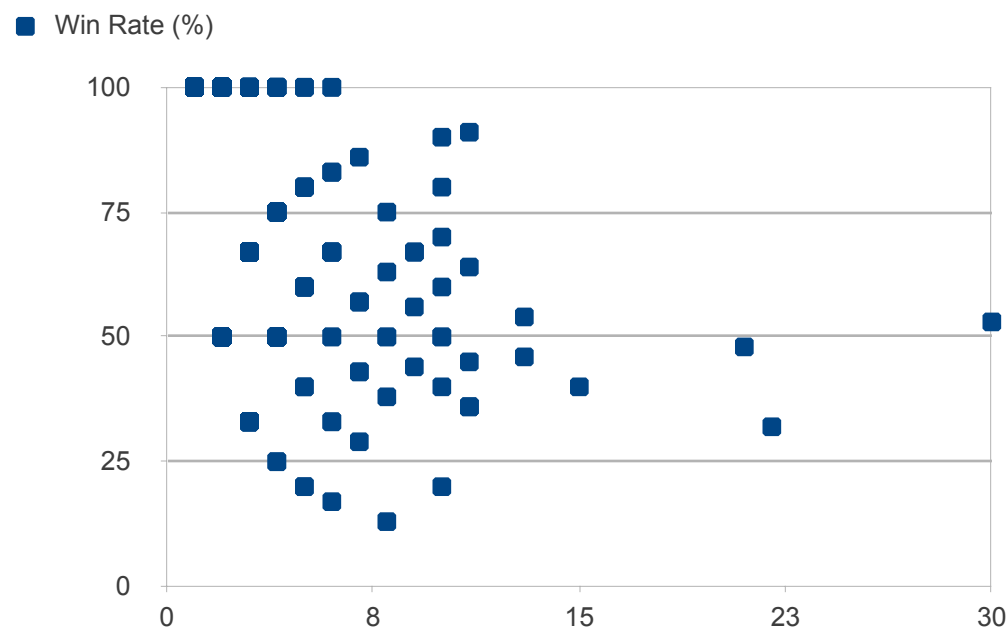


**“The more you charge,
the more people are
willing to pay, because
they feel that money
equals skill.”**

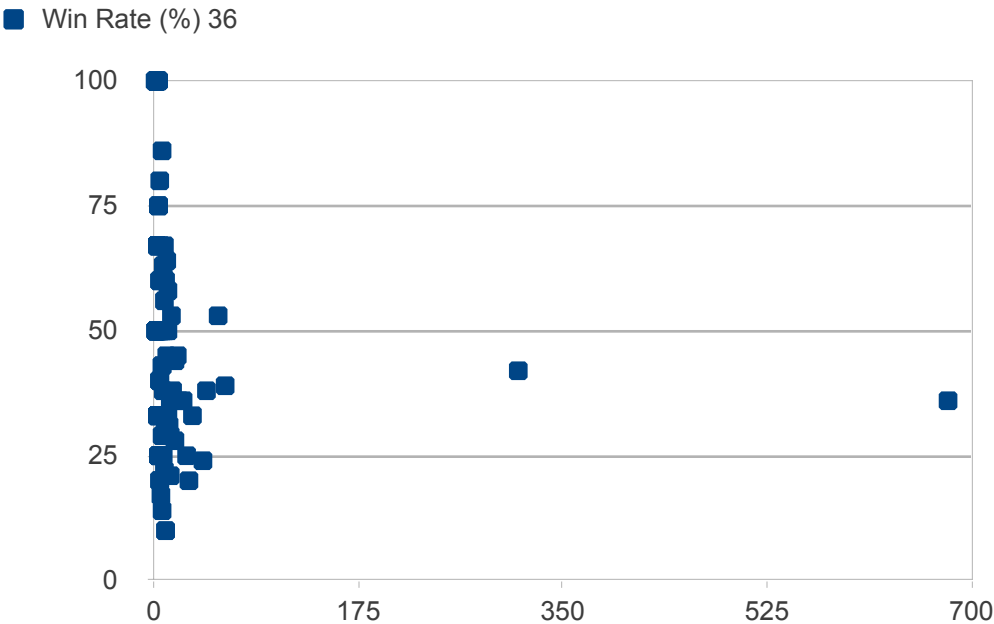
- *Doug Kepanis,
Divorce Lawyer*

England and Wales High Court (Administrative Court)

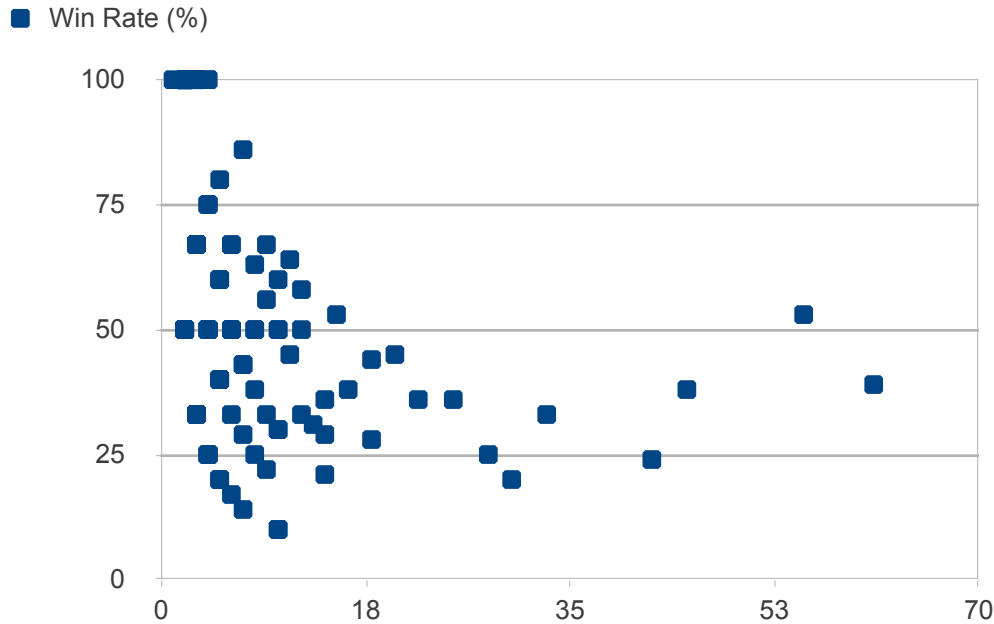
Barristers



Law Firms

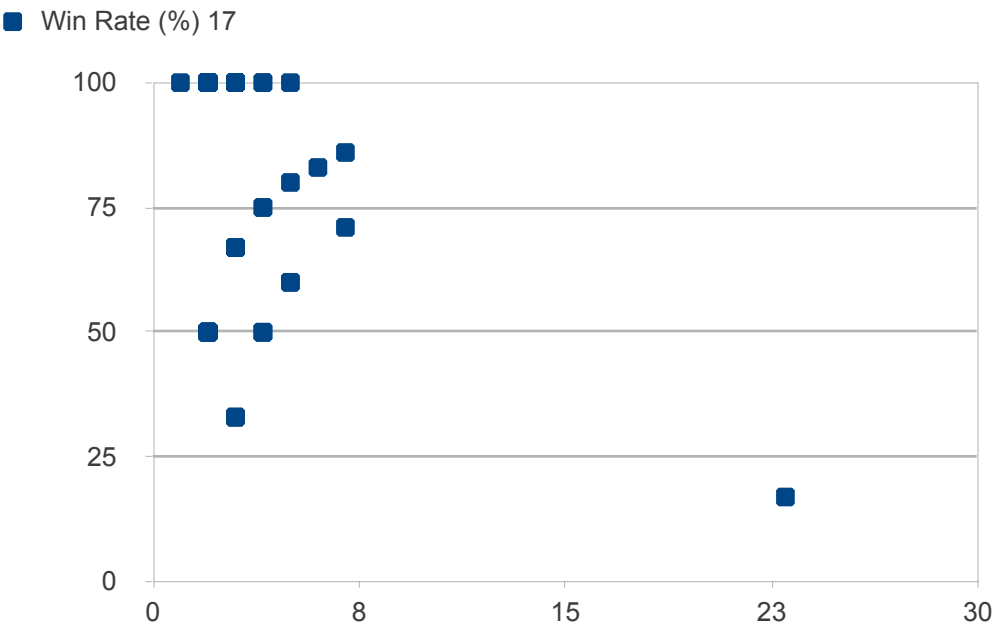


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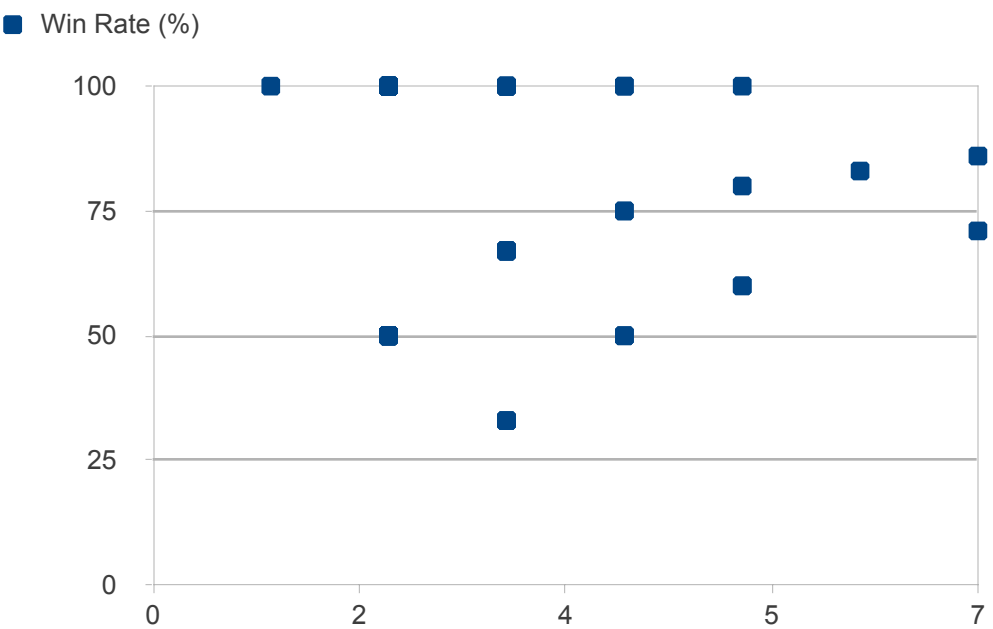


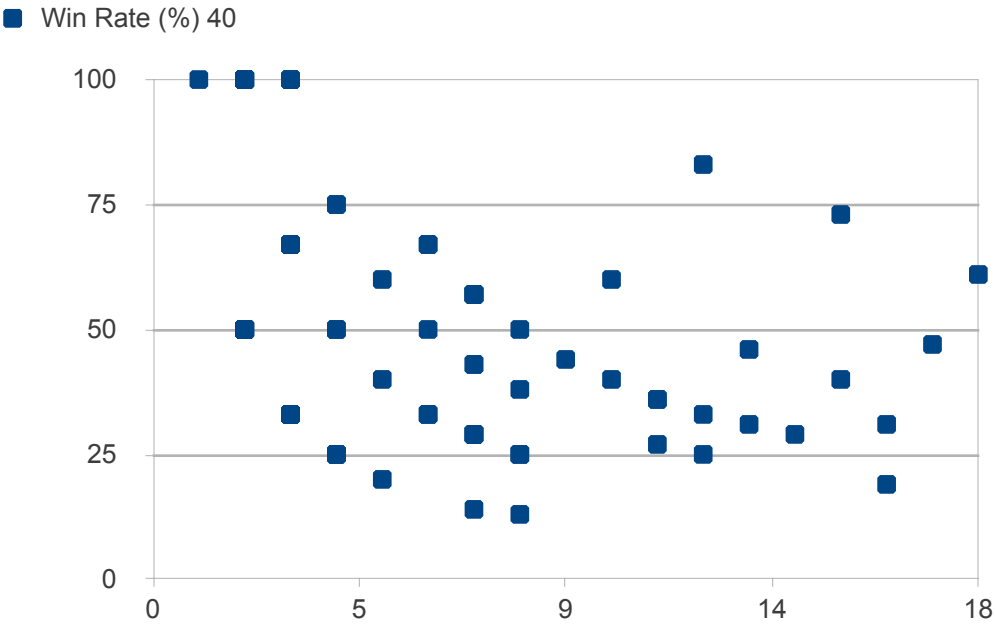
England and Wales High Court (Chancery Division)

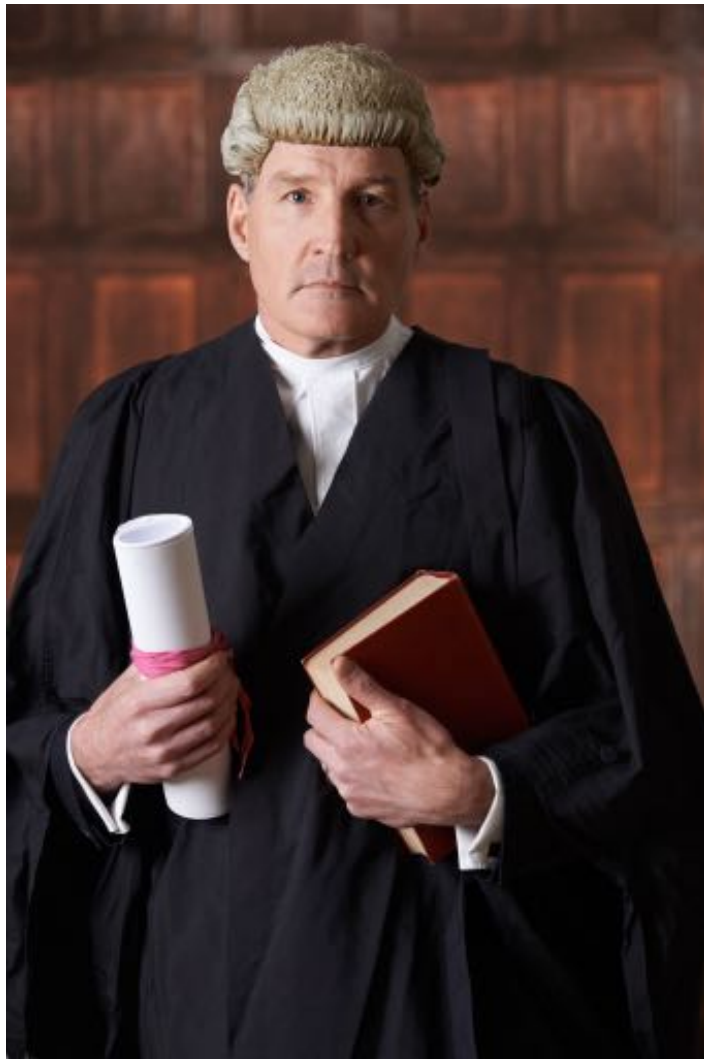
Barristers



Pro se removed for clarity.





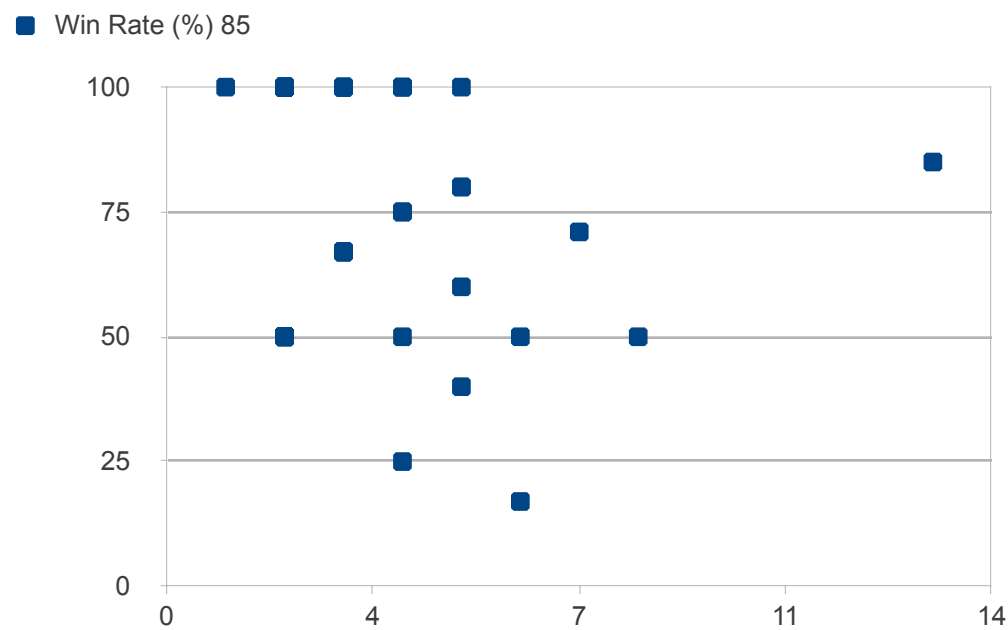


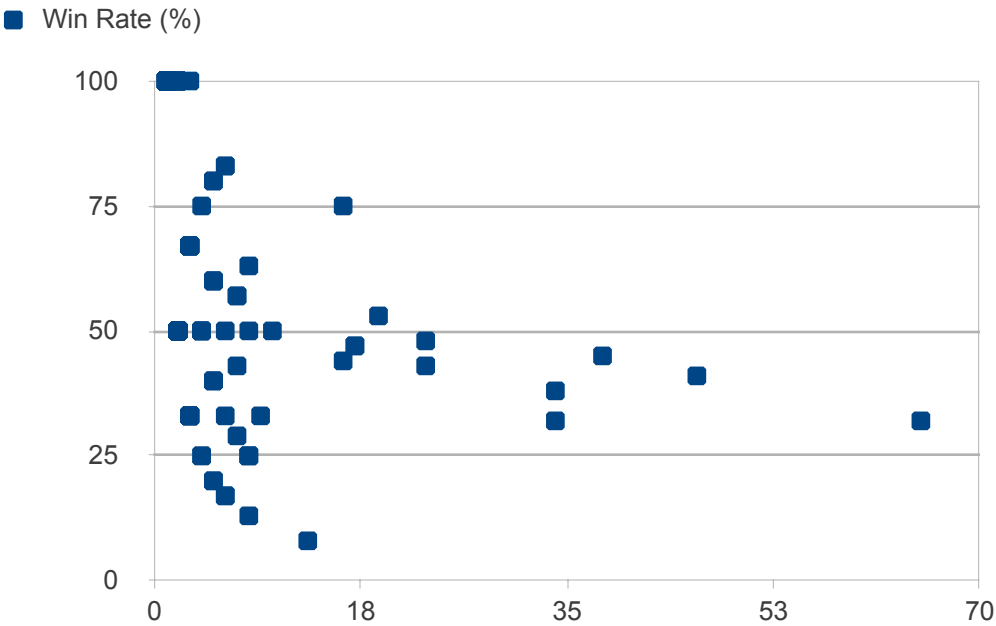
**“Law has historically
been a credence good.
This means the market
relies on elite credential
and firm reputation as a
proxy for skill.”**

*- Professor William
Henderson*

England and Wales High Court (Commercial Court)

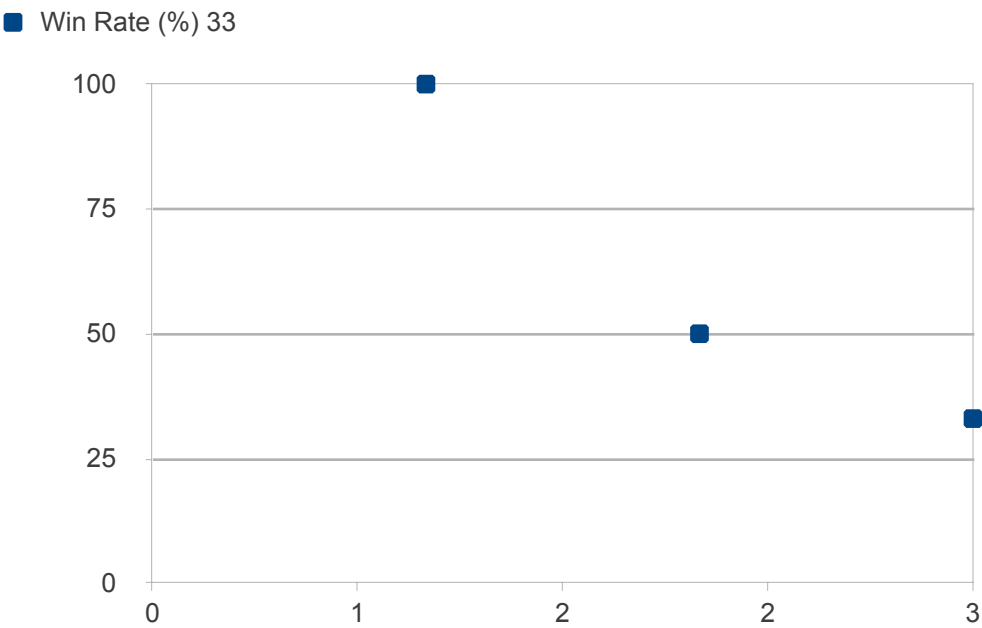
Barristers



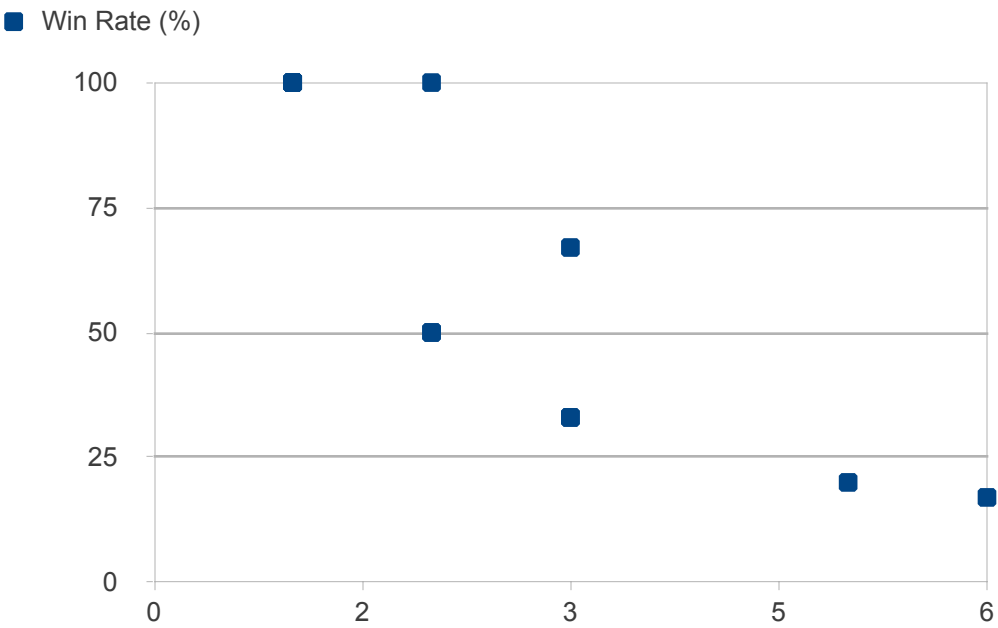


England and Wales High Court (Family Division)

Barristers

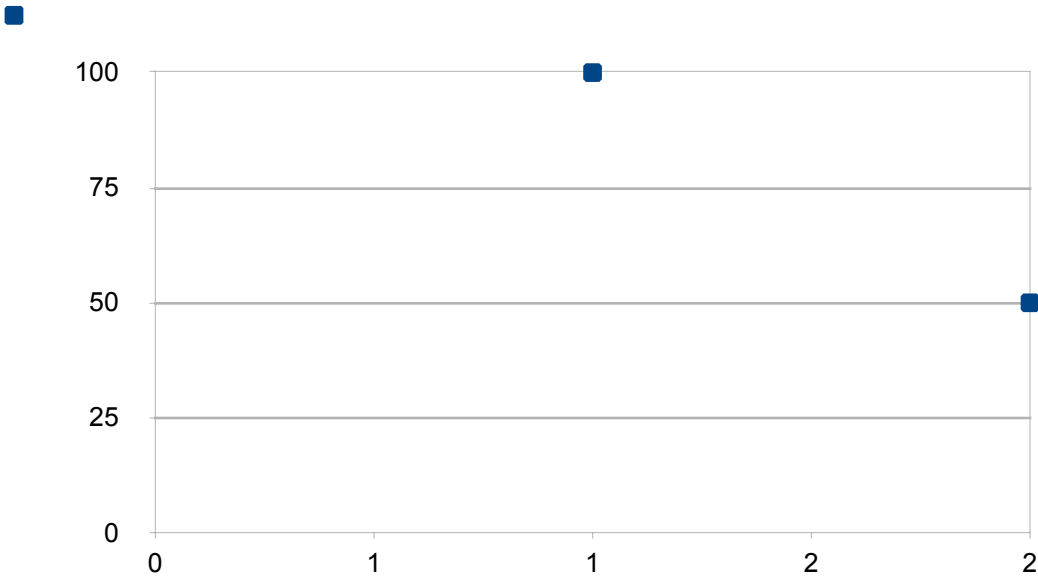


Few regular appearers.



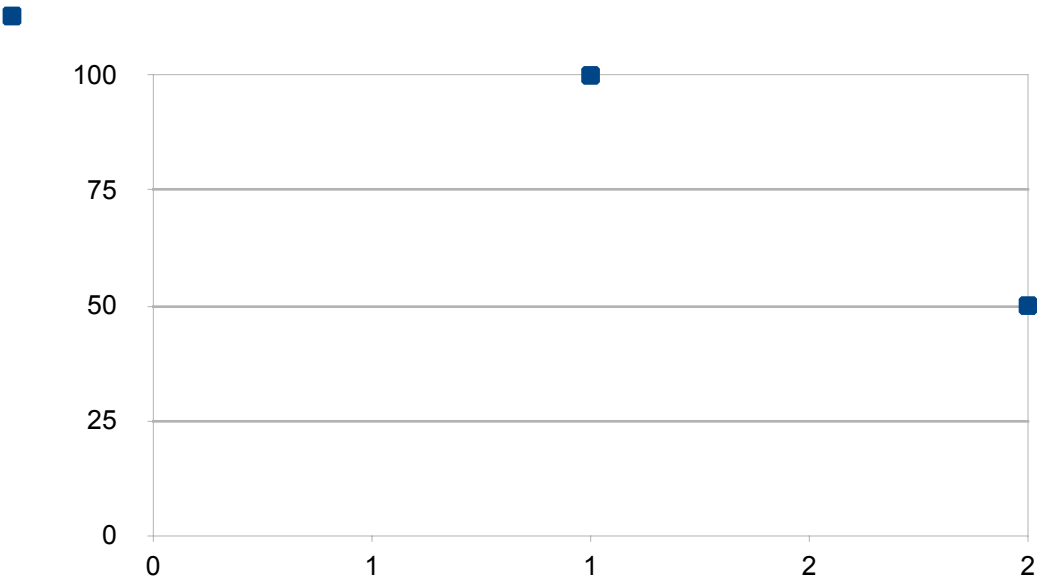
England and Wales High Court (Mercantile Court)

Barristers



Little activity.

Law Firms



Little activity.

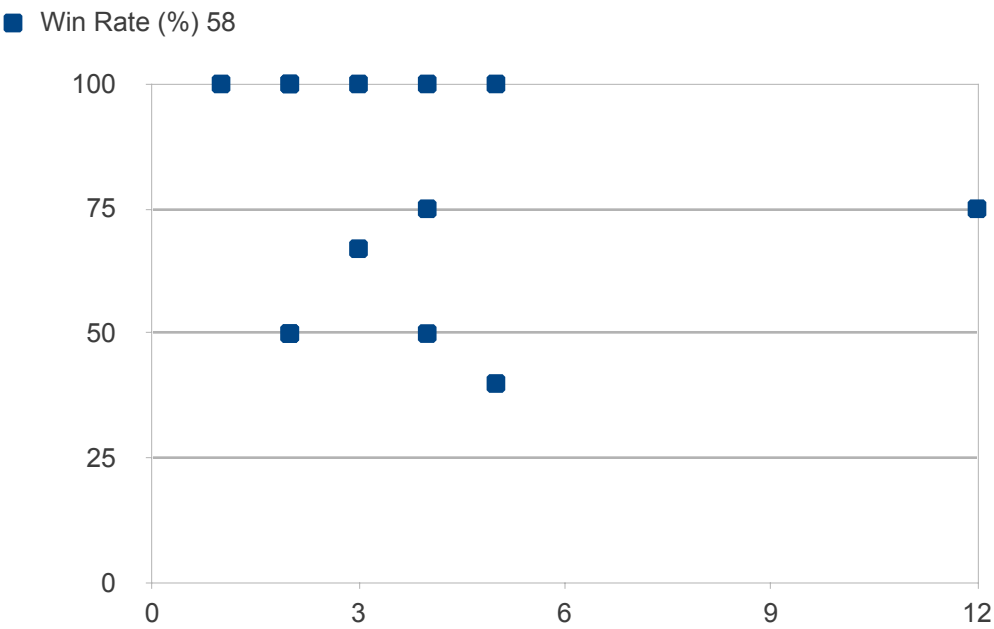


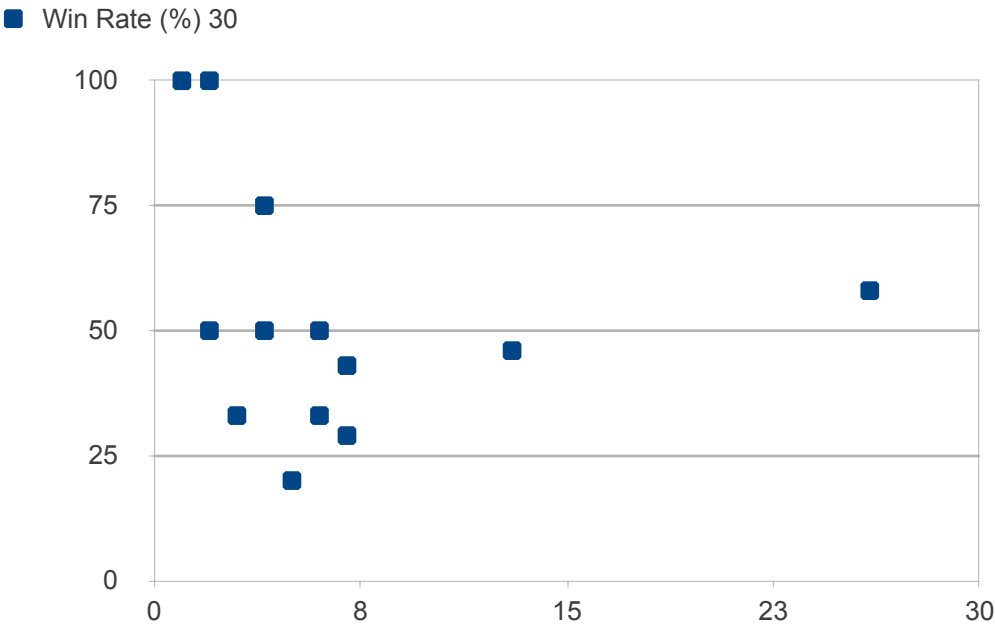
**“50% of
Queens Counsel
are below
average.”**

- Toby Unwin

England and Wales High Court (Patents Court)

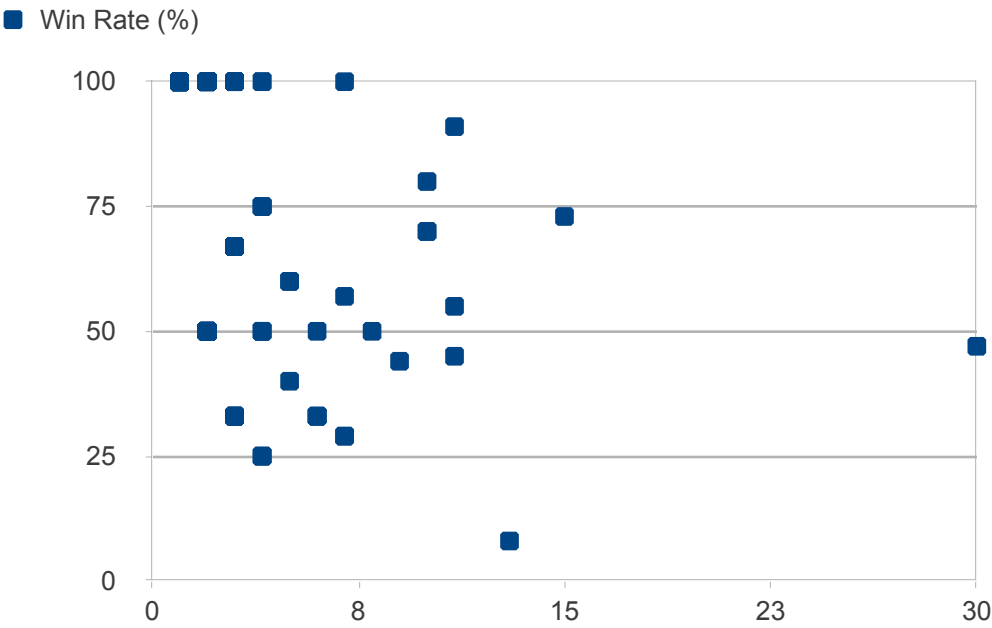
Barristers

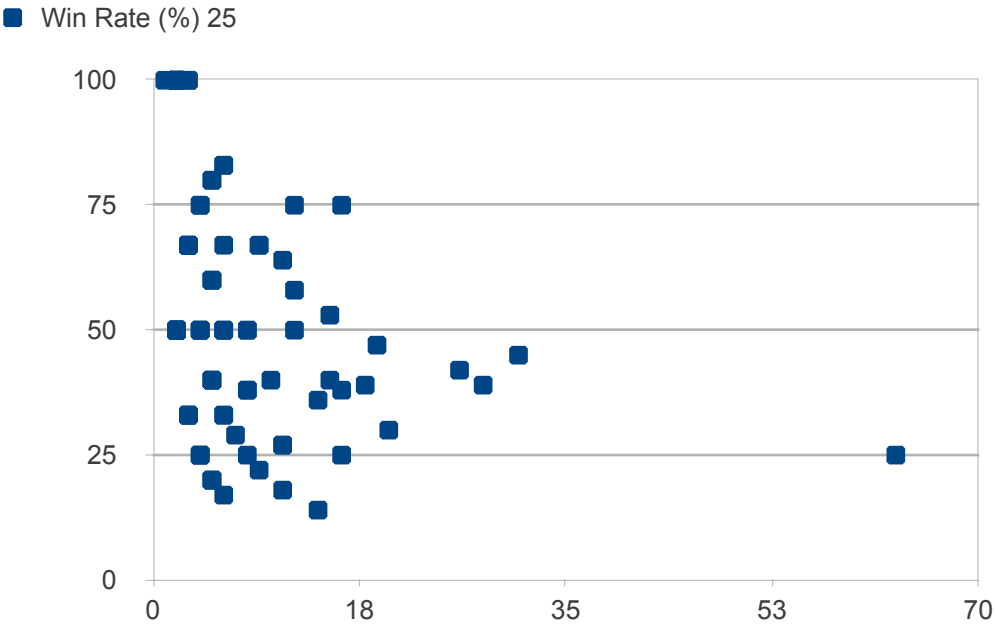




England and Wales High Court (Queen's Bench Division)

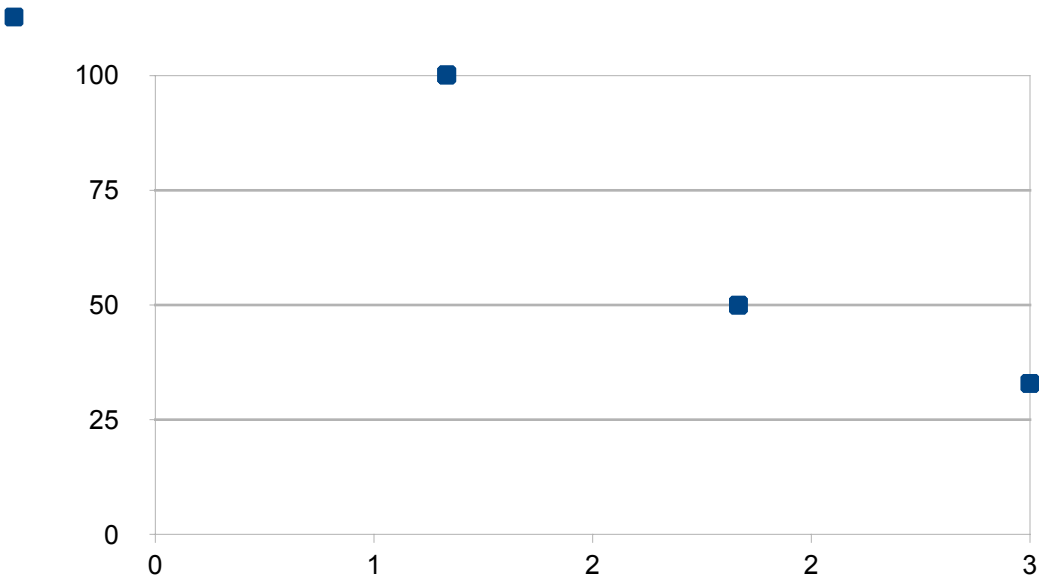
Barristers



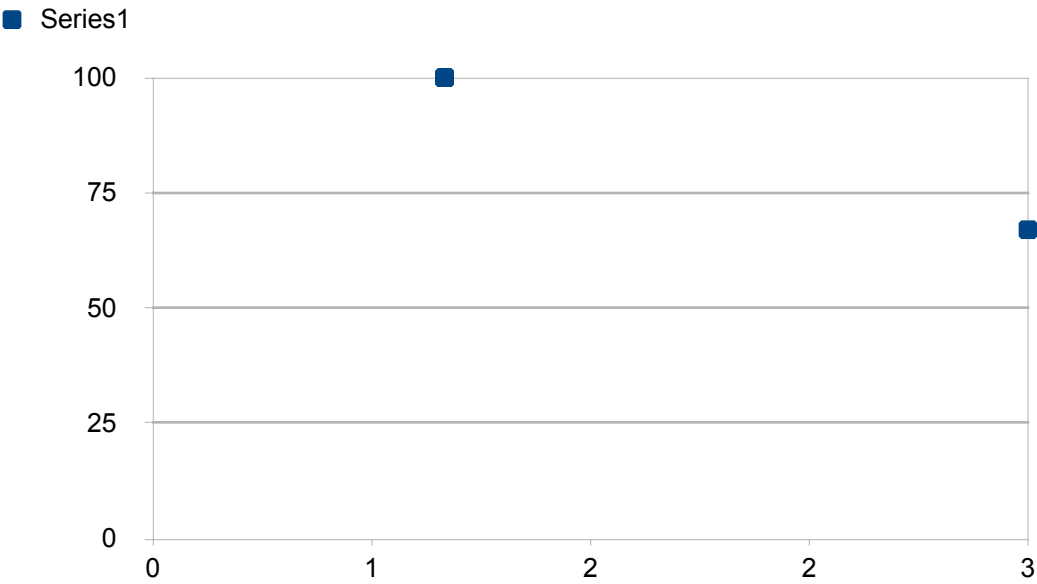


England and Wales High Court (Senior Courts Costs Office)

Barristers



Not a busy court.



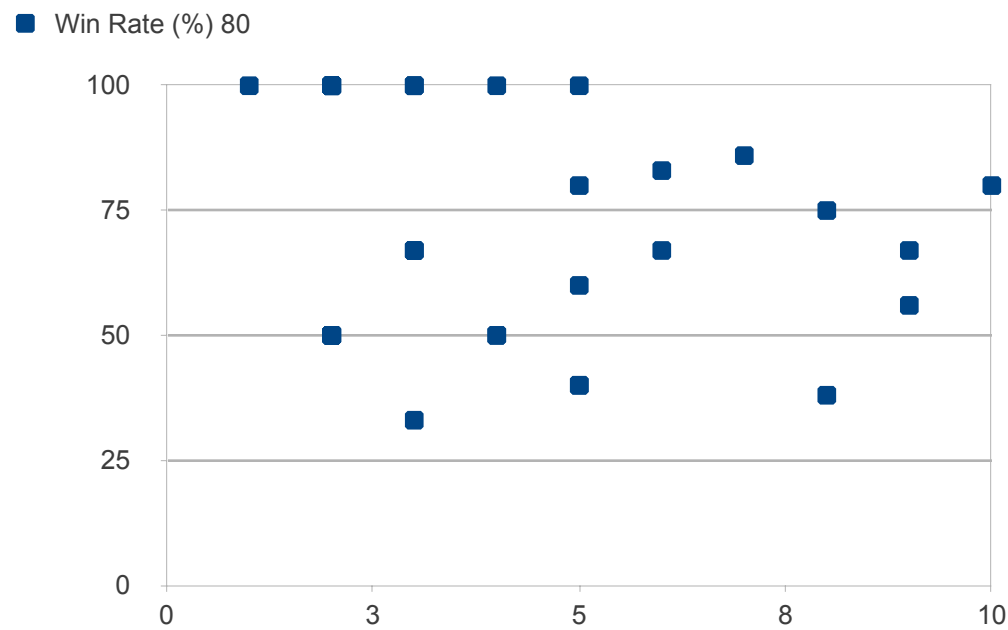


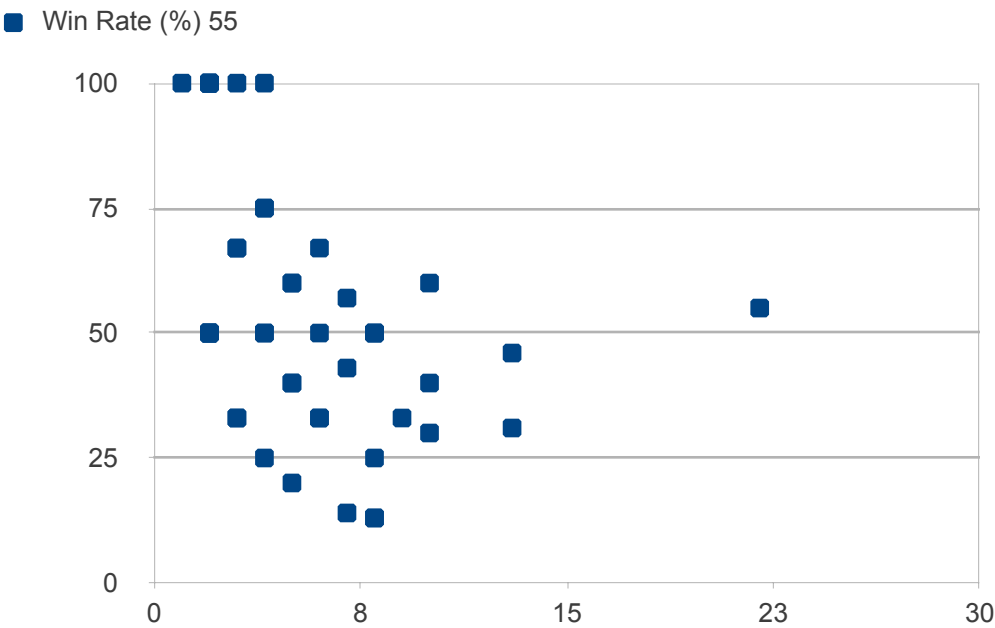
“A truly disruptive technology will invade the legal services sector. All we can say about it is that until it appears, no-one will see it coming; and it will not resemble anything people are speculating about today.”

- Bruce MacEwen, Adam Smith Esq.

England and Wales High Court (Technology and Construction Court)

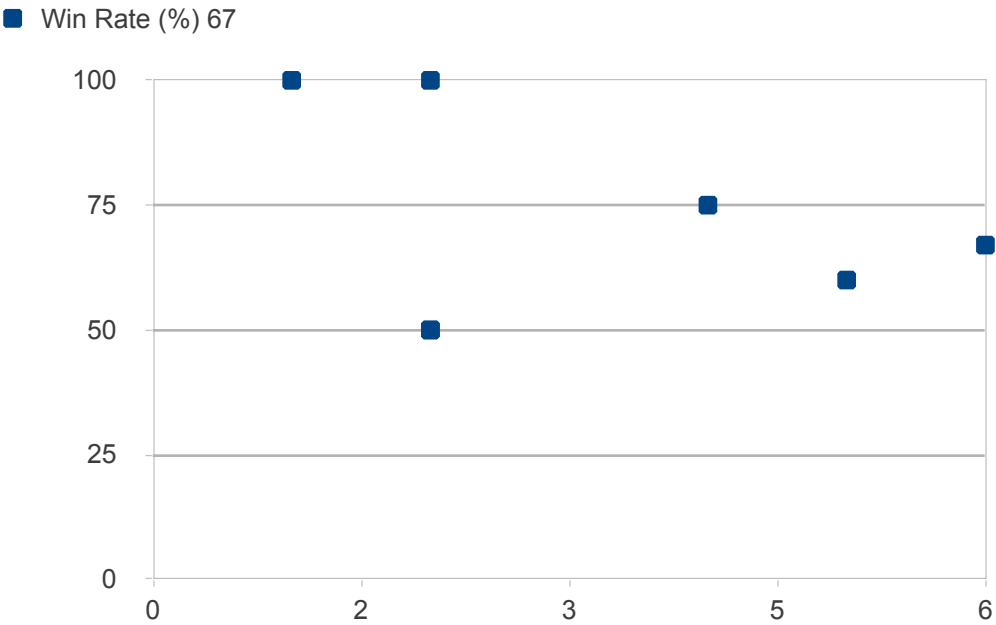
Barristers

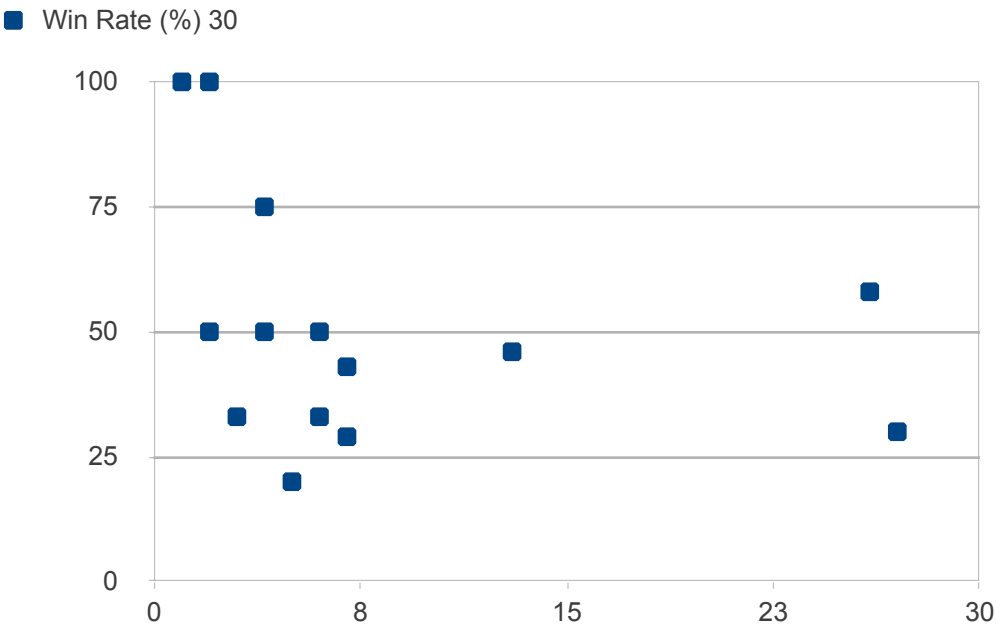




Intellectual Property Enterprise Court

Barristers

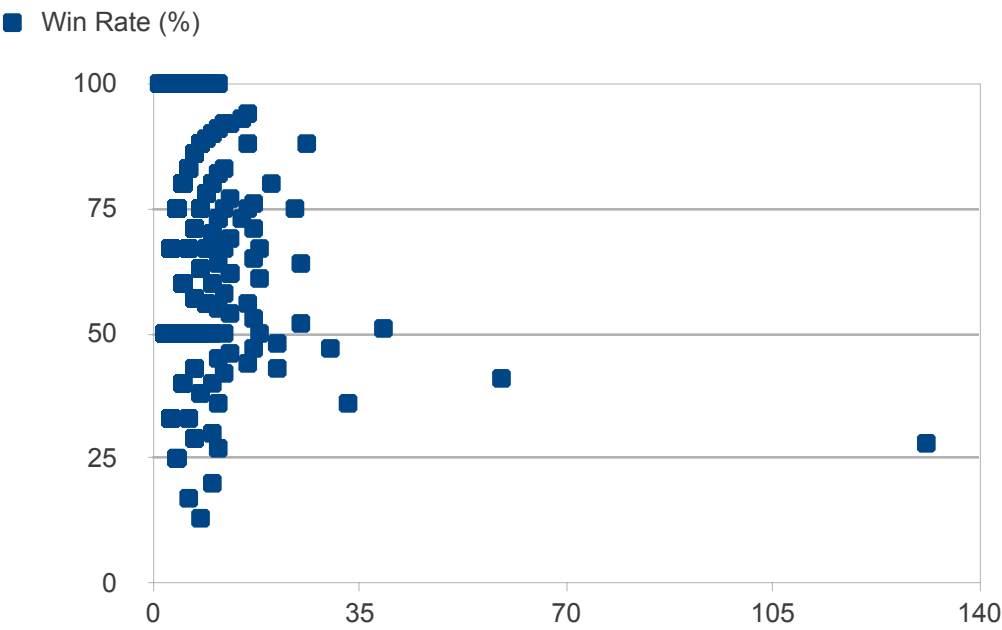




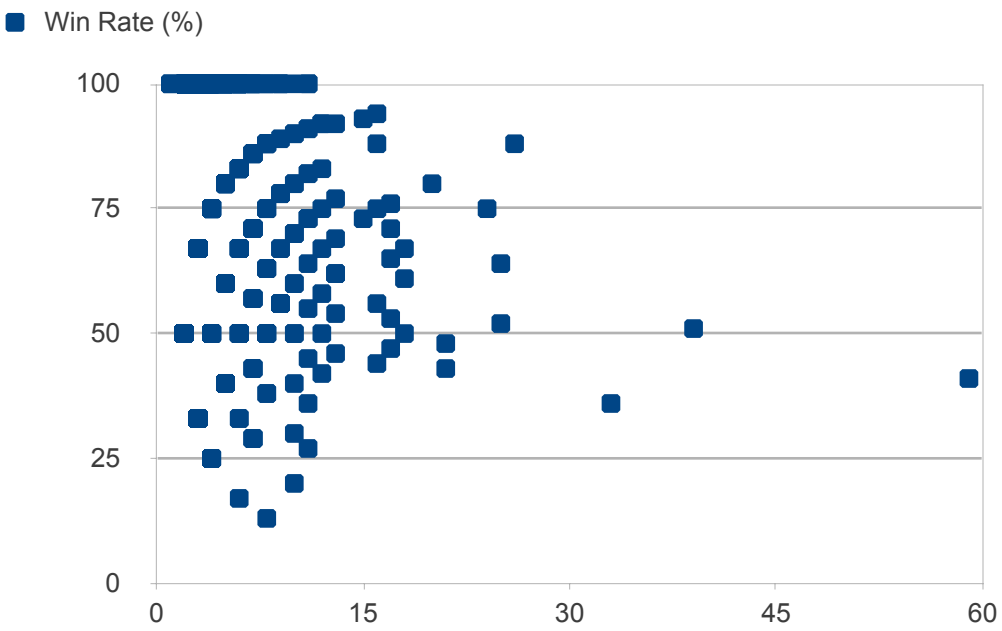


Overall Results

Barristers

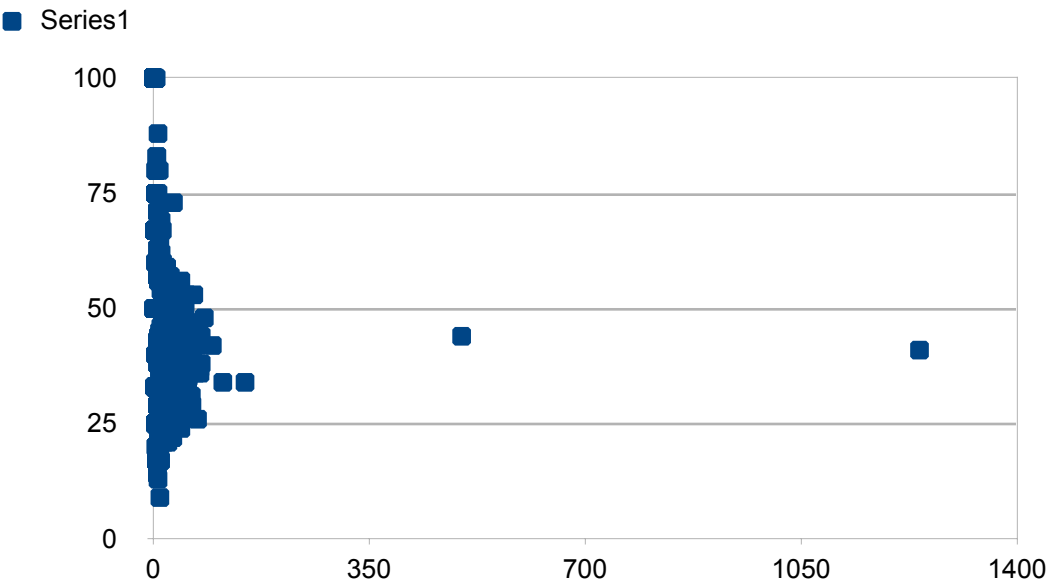


Pro-Se litigants removed for clarity.



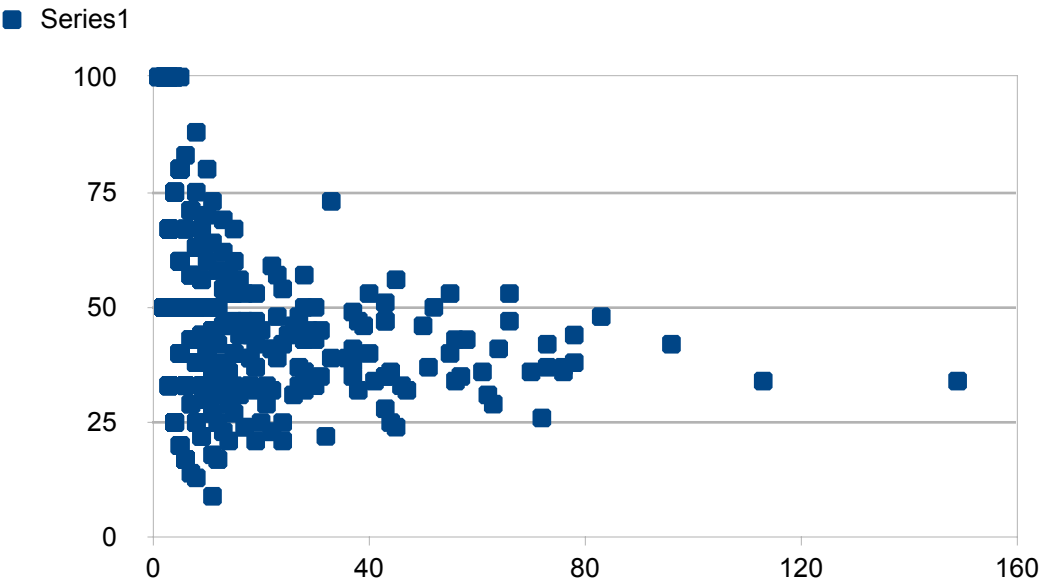
Barrister(Pro Se removed) Win Rates: Re-Hires rates have a negative correlation of -0.379.
The market is broken.
A litigant is better off choosing their Barrister at random than relying on their law firm.

Law Firms



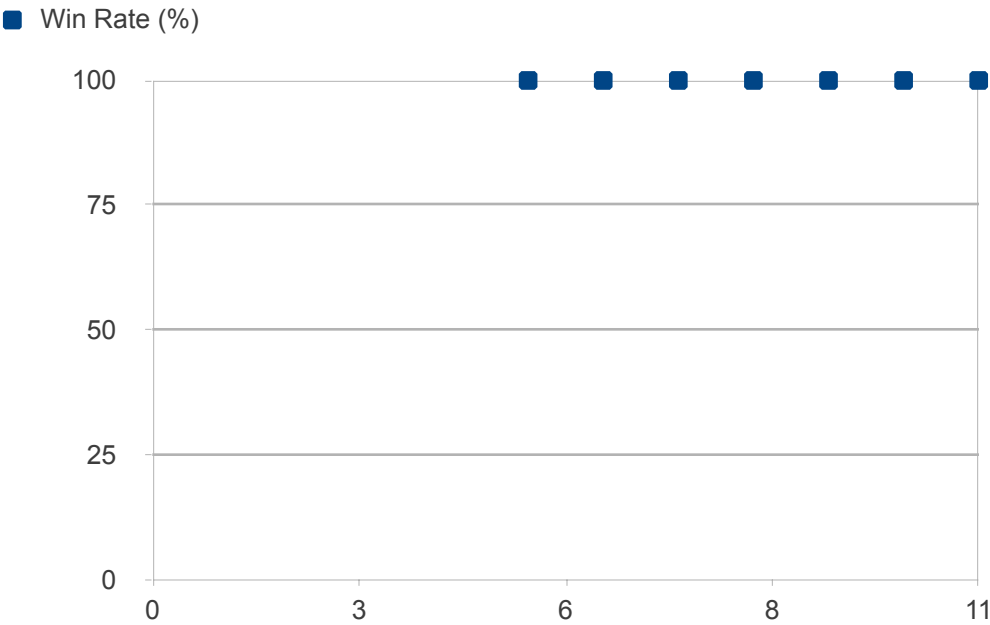
Law firms overall with The Treasury and Crown Prosecution Service removed for clarity.

Law Firm Win Rates: Re-Hires have a negative correlation of -0.180



This is due in large part to poor Barrister selection.

Best Overall Barristers - The Premonition™ 2014 Top 51



Methodology:
Minimum of 5 appearances
Minimum of 100% win rate

Premonition™ 2014 Best United Kingdom High Courts Barrister(s)

Barrister	Appearance	Win Rate
Michael Fordham Q.C.	11	100
Phillippa Kaufmann Q.C.	11	100

Top Chambers - The Premonition™ 2014 Top 35

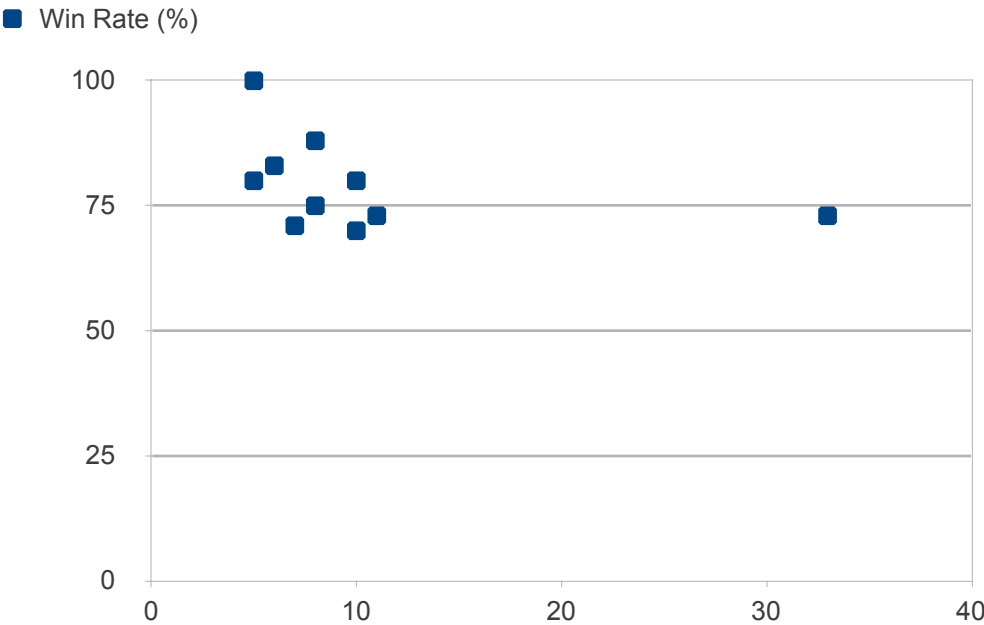
Multiple Listings

3 New Square
7 KBW
39 Essex Street
Blackstone
Fountain Court
Garden Court
Matrix
Monkton

Single Listings

1 Chancery Lane
1 Essex Court
2 Temple Gardens
4 New Square
4 PB
4 Stone Bldgs
8 New Square
11 KBW
36 Bedford Row
Arden
Atkin
Brick Court
Cloisters
Doughty Street
Erskine
Francis Taylor Bldgs
Landmark
Maitland
No 5
Old Square
Outer Temple
Quadrant
Searle Court
Tanfield
Trinity
Verulam Bldgs
Wilberforce

Best Overall Law Firm/Instructing Entity - The Premonition™ 2014 Top 24



Methodology:
Minimum of 5 appearances
Minimum of 70% win rate

Premonition™ 2014 Best United Kingdom High Courts Law Firm

Firm	Appearance	Win Rate (%)
Hewitsons Llp	8	88



Accuracy and Methodology

Shortlists

The purpose of Premonition is to provide shortlists of capable, proven Attorneys for selection by the client. It is not an absolute, it's indicative. Factors such as Attorney availability, price, personal chemistry, etc, may all affect individual selection. A client may well feel that #6 of 20 is a better fit than #1.

Determining Wins

What constitutes a win is an arguable point. If you call both lawyers on a closed case, both will claim to have "won". Every case is arguable. We consulted with a number of Lawyers and Judges asking them about the general winners and losers for various dispositions types (we have over 100 types in the system). There was broad agreement that judgements went for plaintiffs, dismissals for defendants and settlements shouldn't be counted. All cases are arguable on an individual basis. Premonition is not a "rocket science" system where we strive for 100% unarguable analysis of every case, its function is to spot trends and outliers, which it does very well as data is "smoothed out" over 1,000s of cases. Outcomes for the United Kingdom High Courts are computer read and generated to a standard comparable to human interpretation. Some verdicts are not a clear win for either side and these are excluded.

Case Difficulty

Every case differs in difficulty. Premonition does not assess the difficulty of a case. Attorneys often claim to "only take the toughest cases" when explaining low Win Rates. Occasionally this is true. The United Kingdom has a "cab rank rule" preventing Barristers from cherry picking easy cases and the results are similar to the United States, so we do not feel cherry picking is much of a factor. Premonition is not designed to identify the "surgeon" Attorneys that only work the hardest cases. However it does group cases with those of similar difficulty by using case type, sub type and parties. Tax Court is notorious for its low Win Rates against the IRS, however top performing Attorneys still stand out, not by their wins, but because they lose less. Cases group by court type, Appeals Court being a more rigorous black letter law venue than small claims, and by Judge, where certain cases, e.g. complex business claims are assigned to certain Judges. Over time case difficulty variations are also smoothed out over large numbers of cases and Attorneys who only take easy cases will de-select themselves when approached.

Multiple Attorney Cases

Premonition picks the first listed Attorney for each side and ignores the others. The system is not perfect, but brings the least overall inaccuracies. In courts where Attorneys per party are not identified specifically, it uses an algorithm to predict which Attorney represents which party, then selects the 1st one for each side to analyze. Co-Counsel are not automatically analyzed unless specifically requested by the client.

Overall data accuracy

In less than 5% of cases data entry Courthouse issues make it difficult to import every field. Premonition data cannot be more reliable than the public record.

Date Range

This report utilized data collected from the United Kingdom High Courts from 2012 to 2014, i.e. it is 2014 data with a 3 year trailing average. We find 3 years to be the ideal range for data. 1 year has insufficient data, 5 year old data gets stale as Judges change position and Lawyer's win rates improve or deteriorate.

Contact



Premonition L.L.C.
8101 Biscayne Blvd.
Miami
Florida
33138
United States
001 305 330 1056
info@premonition.ai
www.Premonition.ai

United Kingdom Representative:

Ian Dodd
07766 365 412
id@premonition.ai

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[illegible]

53

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Johnson, R. (on the application of) v NHS Shared Business Services Ltd & Anor [2012] EWHC 624 (Admin)
Johnson, R. (on the application of) v Birmingham Magistrates' Court & Anor [2012] EWHC 586 (Admin)
Leary, R. (on the application of) v The Director of Public Prosecutions [2012] EWHC 629 (Admin)
Knight v Director of Public Prosecutions [2012] EWHC 605 (Admin)
Dartford Borough Council v Secretary of State for Communities and Local Government & Anor [2012] EWHC 634 (Admin)
Sutton, R. (on the application of) v Secretary of State for Communities and Local Government & Anor [2012] EWHC 635 (Admin)
Lord Carke & Ors v Secretary of State for the Home Department [2012] EWHC 617 (Admin)
Arachchi and Peiris, R. (on the application of) v Entry Clearance Officer [2012] EWHC 640 (Admin)
Mellor Co-Operative Ltd & Ors v Tesco Stores Ltd [2012] EWHC 620 (Admin)
W v Brent Youth Court & Anor [2012] EWHC 641 (Admin)
Wright v Argentina [2012] EWHC 668 (Admin)
Mellor Co-Operative Ltd v Mads [2012] EWHC 673 (Admin)
Githorpe v General Medical Council [2012] EWHC 672 (Admin)
Eveland Farms Ltd, R. (on the application of) v Secretary of State for Environment Food and Rural Affairs [2012] EWHC 644 (Admin)
Newhaven Port and Properties Ltd v East Sussex County Council & Ors [2012] EWHC 647 (Admin)
Njoge & Anor, R. (on the application of) v Secretary of State for Foreign & Commonwealth Affairs [2012] EWHC 681 (Admin)
Taylor & Ors v Secretary of State for Communities and Local Government & Anor [2012] EWHC 684 (Admin)
Ow v The National Office of the Public Defender [2012] EWHC 697 (Admin)
The Minister for Economic Development of the State of Jersey, R. (on the application of) v Revenue and Customs [2012] EWHC 718 (Admin)
McAuley, R. (on the application of) v Crown Prosecution Service [2012] EWHC 680 (Admin)
Secretary of State for the Home Department v BM [2012] EWHC 714 (Admin)
James v General Medical Council [2012] EWHC 688 (Admin)
Munshab & Anor v Secretary of State for Communities and Local Government [2012] EWHC 686 (Admin)
Kornhauser, R. (on the application of) v Land Registry [2012] EWHC 751 (Admin)
Dinkovsk, R. (on the application of) v South Magistrates' Court & Anor [2012] EWHC 765 (Admin)
Hampshire County Council v Hampshire County Council [2012] EWHC 768 (Admin)
Simpson, R. (on the application of) v Police Medical Appeal Board & Ors [2012] EWHC 800 (Admin)
Gatehouse Council v Henderson [2012] EWHC 807 (Admin)
Key v General Medical Council [2012] EWHC 808 (Admin)
Law Society of England and Wales, R. (on the application of) v The Legal Services Commission & Anor [2012] EWHC 794 (Admin)
Nyala v General Medical Council [2012] EWHC 797 (Admin)
Nyala, R. (on the application of) v Secretary of State for the Home Department [2012] EWHC 840 (Admin)
R (SOR) v Bristol City Council [2012] EWHC 859 (Admin)
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