

# Mediation and Negotiation

## Withers LLP

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Serle Court

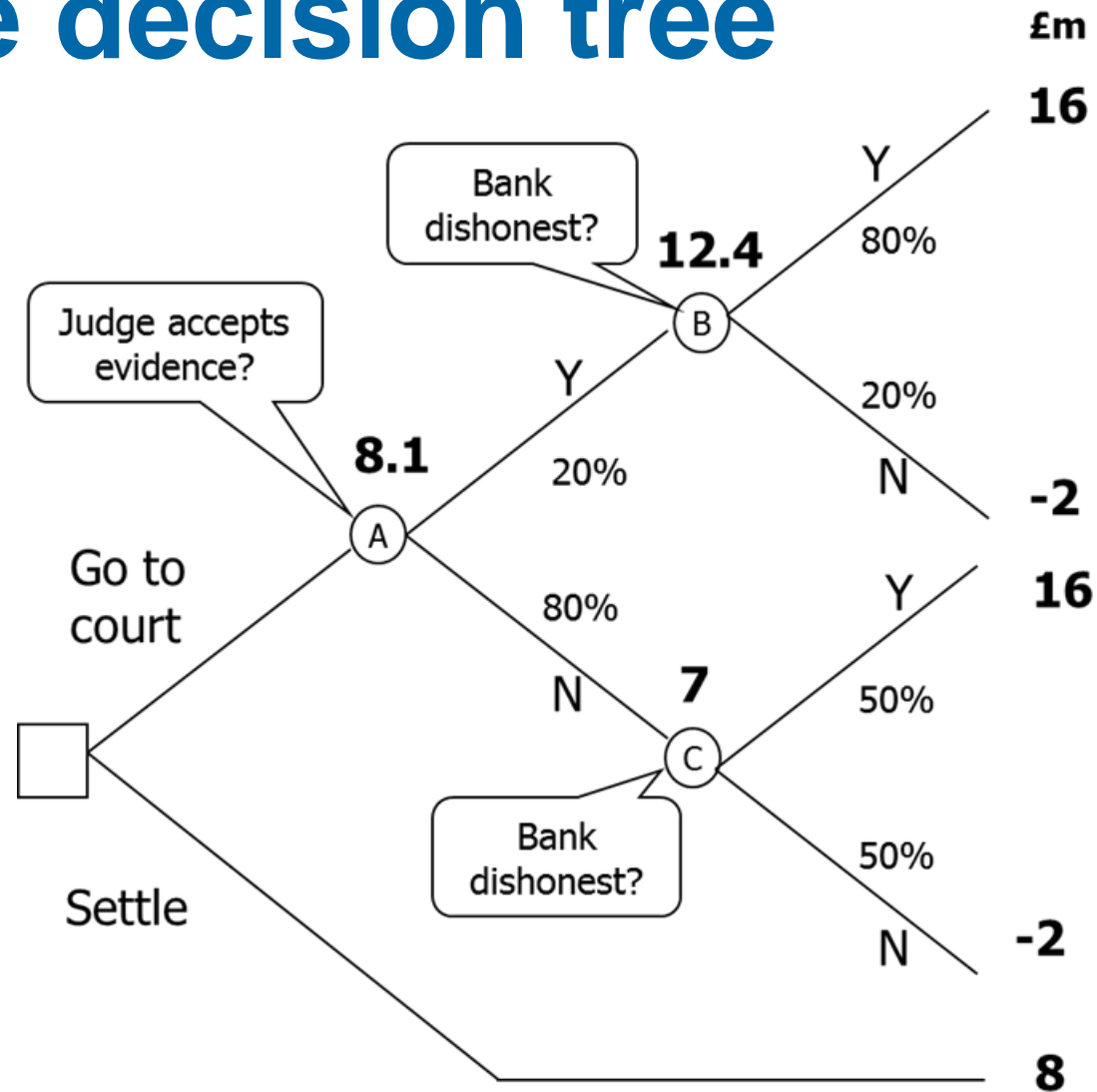
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serle court



# Example decision tree





# Deciding how to negotiate in a money claim

- Decide on walkaway figure
- Think about opponent's likely decision tree
- Develop offer pattern (taking into account pre-mediation offers)
- Consider whether to be nice



# Possible offer pattern

assume maximum recovery at trial £16m, walkaway figure £10m

Bid 1: £15.5m

Bid 2: £13.5m (-£2m)

Bid 3: £12m (-£1.5m)

Bid 4: £11m (-£1m)

Bid 5: will depend on the other side's bidding pattern, but might go £10.5m, £10.25m, £10m. Or £10.8m, £10.7m, £10.6m to see if you can get higher.



# Actual offer patterns: mediation 1

Defendant	Claimant
£500,000	£3.2m (exchanged) £2.4m
£700,000	£2m
£800,000	£1.65m
£1m final offer	£1.2m
£1m	accepted.



# Actual offer patterns: mediation 2

Defendant

Claimant

drop hands

£2m all in (exchanged)

£50,000

£950,000 (exchanged)

£150,000

£800,000 (exchanged)

£250,000

£700,000 (exchanged)

£575,000 (unilateral)

£379,000

£500,000

£440,000

accepted