

**DOUBLE-BLIND SETTLEMENT TECHNIQUES: CONFIDENTIAL SETTLEMENT BRACKETS**  
**BY JUDGE MORTON DENLOW (RET.)**

**PLAINTIFF**

Pre-Mediation Demand  
\$15,000,000

**DEFENDANT**

Pre-Mediation Offer  
\$500,000

**MOVES AT THE MEDIATION:**

**EXCHANGE OF NUMBERS**

First Move:	\$14,500,000	\$550,000
Second Move:	\$ 9,500,000	\$700,000
Third Move:	\$ 9,000,000	\$750,000

**SWITCH TO EXCHANGE OF DISCLOSED BRACKETS**

Parties Choose Their Bracket Range – I explain their midpoint is the Message

First Bracket:	\$3,000,000 - \$6,000,000	\$1,000,000 - \$1,600,000
<b>Midpoint</b>	<b>\$4,500,000</b>	<b>\$1,300,000</b>
Second Bracket:	\$2,250,000 - \$4,250,000	\$1,200,000 - \$1,800,000
<b>Midpoint</b>	<b>\$3,250,000</b>	<b>\$1,500,000</b>
Third Bracket:	\$2,250,000 - \$3,750,000	\$1,400,000 - \$1,800,000
<b>Midpoint</b>	<b>\$3,000,000</b>	<b>\$1,600,000</b>

Parties are now aware they are \$1,400,000 apart at the midpoints

**MY SUGGESTION TO THE PARTIES:**

**SWITCH TO DOUBLE-BLIND BRACKETS WITH \$200,000 SPREAD**  
**MIDPOINT OF BRACKET REPRESENTS PARTIES SETTLEMENT NUMBER**

Explain three possible messages by putting examples on Board for the parties if you are in person or explaining it to the parties if you are on ZOOM.

**Three possible messages but no disclosure of numbers**

	\$2,700,000 - \$2,900,000		\$1,600,000 - \$1,800,000
<b>Midpoint</b>	<b>\$2,800,000</b>	<b>Different Planets</b>	<b>\$1,700,000</b>
	\$2,300,000 - \$2,500,000		\$1,700,000 - \$1,900,000
<b>Midpoint</b>	<b>\$2,400,000</b>	<b>Progress/Hope</b>	<b>\$1,800,000</b>
	\$2,000,000 - \$2,200,000		\$1,800,000 - \$2,000,000
<b>Midpoint</b>	<b>\$2,100,000</b>	<b>Touching</b>	<b>\$1,900,000</b>

Mediation Continues with Parties Giving Me Confidential Brackets with \$200,000 Spread

	\$2,000,000 - \$2,200,000	\$1,500,000 - \$1,700,000
<b>Midpoint</b>	<b>\$2,100,000</b>	<b>\$1,600,000</b>

The Parties are now \$500,000 apart at the midpoint, but they do not know it.  
I tell them there is “good progress and hope.”

**ASK PARTIES TO MAKE MINIMUM DOUBLE- BLIND MOVES:**

I ask Parties if they will move their midpoint by a minimum of \$100,000.  
This is done in confidence. They both say yes.

	PLAINTIFF	DEFENDANT
	\$1,900,000 - \$2,100,000	\$1,600,000 - \$1,800,000
<b>Midpoint</b>	<b>\$2,000,000</b>	<b>\$1,700,000</b>

Parties are now \$300,000 apart but they do not know it

**ASK PARTIES TO MUTUALLY DISCLOSE MIDPOINTS:**

I ask Parties if they will mutually disclose midpoint, and they say yes.

**ASK PARTIES TO SPLIT THE DIFFERENCE ON A DOUBLE-BLIND BASIS:**

I then ask, on a double-blind basis, if Parties will split the difference at \$1,850,000

**THEY BOTH SAY YES AND THE CASE SETTLES AT \$1,850,000**