

**Insurance Times:** Insurers still assessing online arbitration for settling disputes  
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GREAT NECK, N.Y. (AP) - The woman involved in a minor auto accident demands payment for her injuries. But to save the costs of a lawsuit, she agrees to arbitration.

Her lawyer makes an initial demand to her insurance company. The company responds - without a word - with a counter-offer. After several more exchanges, the case is settled for about \$3,000.

Typical of traditional arbitration in many respects, this case had some important distinctions: It took just 16 minutes to settle and the parties never saw each other.

It also took place online.

ClickNsettle.com, the Long Island firm that handled the January case, is among a handful of companies nationwide trying to take the field of arbitration and mediation online.

Arbitration has traditionally been seen as a cheaper alternative to lawsuits because legal costs are lower. But online arbitration, entrepreneurs say, offers greater speed because cases can be settled in as few as 10 minutes, and greater ease because no travel is required.

"It's designed for people who say to themselves, 'It's going to cost me x amount of money and take this amount of time - and that doesn't make sense. Why don't we try to resolve it today?'" said Roy Israel, founder and CEO of clickNsettle.com Inc.

The company was founded in 1992 as a traditional arbitration firm, National Arbitration and Mediation Corp. But Israel and William Specht, head of the company's information technology team, started to refocus the company three years ago to market its online dispute services. They launched clickNsettle in June 1999.

The company has 47 full-time employees, and still draws upon a consulting roster of retired judges to serve as hearing officers for its traditional services. Stock in the publicly traded company was trading at around 75 cents last month; as with many online-based companies, its price was down considerably, from a 52-week high of more than \$9. The company reports 2000 annual sales of \$4 million and \$5.6 million cash on hand.

Israel acknowledged the online division of the business has yet to break even. "If we can introduce this effectively, at some juncture it'll just take on a life of its own," Israel said.

Maneesha Mithal, an attorney with the Federal Trade Commission, said she's seen a notable increase in online resolution services in the past 18 months.

It's a hot enough topic that seven top companies - America Online, AT&T, Dell Computer, IBM, Microsoft, Network Solutions, Time Warner and Visa U.S.A. - are working together to propose industry standards, Mithal said.

SquareTrade.com, a San Francisco-based firm, has handled about 35,000 online disputes from about 85 countries since it was launched in February 2000.

Squaretrade concentrates on disputes arising from online transactions; one of its clients is eBay.

"When you get both parties to participate, over 80 percent of the cases can be resolved through automation," said Steve Abernethy, a co-founder, president and CEO of SquareTrade.

At clickNsettle, cases involving insurance companies and personal injury claims

are the most commonly heard.

Rich King, a negotiator for the Suffolk County law firm Siben & Siben, said online resolution is worthwhile in cases such as the one stemming from the car accident. It prevents cases from lingering for a matter of years, he said, ultimately costing as much as the claim is worth.

"It doesn't change the value of the case. It just speeds up the process," King said.

ClickNsettle's proprietary software allows the parties, working from their own locations, to exchange offers until the figures are within 30 percent of each other.

The software computes the difference, which is then offered to both parties as a compromise. If the parties remain at a stalemate, they can choose a traditional means of settling the dispute, through the company's hearing officers.

An online case can typically be settled for \$160 to \$220, depending on the final offer and the number of bids the parties make.

#### Insurers Still Assessing

Insurers say they are interested in online resolution, but they are still assessing the process.

"We realize that these services can be another way to handle settlements," said Zoe Younker, a spokeswoman for State Farm Insurance. "The option's out there now and we're looking into it."

Despite its potential ease, online resolution doesn't work in all disputes. At clickNsettle, about 50 percent of all parties offered the online option choose to resolve their dispute via computer. And of those cases, only about 45 percent are actually settled online.

If the percentage seems low, Israel said that's because online resolution is a new tool.

"You know the trust factor hasn't built up to the point where people rely on it 100 percent," Israel said. "That number will grow as the product becomes more familiar."

Stanford Law School professor Deborah Hensler, who specializes in arbitration and mediation, said the impersonal aspect of online arbitration can be a shortcoming. Plaintiffs often want, in addition to money, an apology or a public airing of a company's "wrongdoing."

"In personal injury cases, people have very strong feelings about what might have gone wrong with (things such as) IUDs, silicone breasts," Hensler said.

"Those people frequently say they are bringing claims because they care about some non-monetary values."

ToysRUs.com was one company that decided face-to-face mediation is preferable.

"Conceptually, we were interested in the idea," said Jeanne Meyer, vice president of communications for the company's online division. "But after a short trial it became clear that the traditional face-to-face was preferable for us."

Still, online resolution can eliminate other issues, such as the difficulties in addressing international disputes.

"Litigation involving cross-border disputes is not really a viable option for consumers," said Mithal, the FTC lawyer. "So in these cases, (online resolution) could help resolve consumer disputes cheaply, timely and effectively."