THE FUTURE OF REDLINES

'HOW WILL TECHNOLOGY CHANGE THE FUTURE OF CONTRACT REDLINING?'

This was the question posed to ContractPodAi by in-house counsel and contracts expert, Nada Alnajafi. Nada developed the first and only set of uniform rules and best practices around contract redlining and negotiation. In her new book, **Contract Redlining Etiquette**, she shares 10 practical rules that will help contracts professionals leverage the power of redlines to drive contract negotiations forward.

Also in her book, Nada dedicates an entire section, chapter 10, on the future of redlines. Here's what Jerry Levine, Chief Evangelist and General Counsel at ContractPodAi, foresees about the intersection of technology and redlines in our near future.

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DIGITAL PREDICTIVE REDLINES

By Jerry Levine, Chief Evangelist and General Counsel at ContractPodAi

> **Legal departments (are expected) to increase their spending on legal technology threefold, up to 12% of the total legal department budget, by 2025.**
>
> Gartner, 2022

Whether you're a legal professional or contract manager, redlining during the contract review and negotiation process is as familiar as taking that first sip of coffee or tea in the morning. Accordingly, the importance of redlining should not be lost on anyone who interacts with an agreement, throughout its lifecycle. After all, when contract terms are called into question, a record of what was modified—before the signing and execution of a contract—is key in demonstrating when a contract change was accepted during a negotiation.

But to know the future of contract redlines is to fully understand the intersection of legal technology and agreements. To help solve some of the greatest issues legal and other professionals now face, legal tech companies—like ContractPodAi—embed collaboration tools and AI capabilities in their legal platforms. This redlining functionality is ideal to have during the negotiation process, however complex the latter may be.

But how will legal tech change redlines for contract negotiators for the better? Well, here's a vision of the future—a look at what's coming down the proverbial pipeline. These concepts were formed on the frontlines of modern contracting, which I experienced as an outside attorney, the general counsel (GC) of AI and high-technology companies, and—most recently—a chief evangelist for legal digital transformation.

MODERN-DAY NEGOTIATIONS

As mentioned earlier in this book, much of the negotiation process now consists of redlining documents — hopefully by electronic means — and, of course, brief moments of human interaction. This is when lawyers justify their position on a particular change and, perhaps, come to understand the other party's position. Although when I began practicing law, some of the partners I worked for handwrote their changes to contracts, nearly every participant in today's negotiation process expects counterparties to exchange documents in Word format. In fact, it's becoming more and more impractical—not to mention impolite—to send non-Word versions during the negotiation phase.

Because it's much easier to run comparisons (and yes, PDFs can be compared in some systems) and know what's changed within a document these days, modern courts no longer come to the rescue when there is an unmarked change — as they did in *Hand v. Dayton-Hudson* (6th Cir. 1985). More than likely, the courts will expect lawyers to know how to use appropriate technology, to confirm that a legal document wasn't "quietly revised," as the court ruled in *Cambridge North Point LLC v. Boston and Maine Corp* (Del. Ch. Ct. June 17, 2010).

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CYCLE TIMES AND COSTS

There's a clear link between negotiation cycle times and costs nowadays, too, according to World Commerce & Contracting and the Institute for the Future of Law Practice. Reducing these cycle times can add approximately 10 days—per year—of economic activity, and this represents a huge impact when it comes to cycle time savings.

Of course, completing negotiations is hardly easy. At the very least, all parties must agree on things like pricing, delivery schedules, and product fits. In fact, failing to agree on such contract terms increases the likelihood that a negotiation will be abandoned altogether.

Now, imagine streamlining this part of the contracting process—with the use of legal tech—and reducing abandonment rates by just a tenth of the current rate. Global GDP could increase by as much as half a trillion dollars, the WorldCC and the Institute for the Future of Law Practice say.

HOW LEGAL TECH HELPS

Generally speaking, legal platforms with redlining functionality accelerate the identification of problematic contract terms. This is far better than assuming terms will work out over time. Such solutions provide another level of assurance that legal terms won't be changed during the process without being called out. They also help analyze various versions of a contract and flag any missed changes, which can create unnecessary risk and pain later.

In addition to speeding up the negotiation process by eliminating manual review, AI-based software facilitates more collaborative lawyering, particularly in deal-making and more positive encounters. This means that lawyers—on both sides of a deal—will be more willing to "work together." Internal collaboration is much quicker, too, because parties can make and see changes all at once, within one application. Interestingly, the quickest reviews I've ever completed were done through ContractPodAi's own interactive collaboration tool, which allows lawyers to work together online in a private instance of a word processor.

Naturally, though, there are both positives and negatives to this collaborative redlining. It can be expeditious if the folks involved in the negotiation process have all the authority to make every decision. But if someone says, "well, I need to take this question back to the business," the negotiating lawyers need to acknowledge the same. But this is rather simple to do with contract redlining software, which allows lawyers to leave comments—concerning this and other scenarios—directly in the system. Another negative that must be overcome is the "fear of sharing." That is the inability of some lawyers to work in a collaborative fashion simply because they're afraid of losing prestige or that the software will display their internal negotiation dialog. The good news is that well-designed collaboration, redlining, and negotiation software alleviates these fears by addressing any concerns, both operationally and programmatically.

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AI is increasingly equipping negotiators with pre-approved fall-back terms that accelerate negotiations by as much as 80%.

World Commerce & Contracting's "Overcoming the 10 Pitfalls of Contracting" Report, 2021

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FURTHER BENEFITS OF REDLINING WITH LEGAL TECH

By automating the redlining process altogether, legal platforms with redlining functionality have the added value of helping lawyers meet increasing contract demands—and even exceed them—reducing attorneys' low-value, 'busy' work. What's more, AI-based redlining isn't only a tool that's beneficial to lawyers; rather, it's a great way to get other business units—like sales or procurement—to engage in the contracting process. These other departments are concerned with their company's contracts, much of the time, but must wait their turn to have their agreements reviewed by legal, typically.
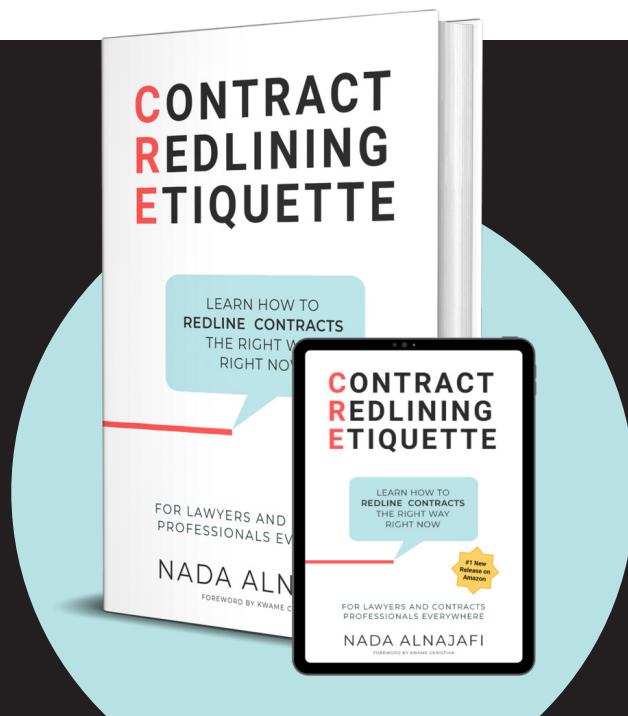
THE FUTURE OF REDLINES

The future of automated redlining looks just as cool as the present—if not more so. Think far more collaboration, with easier tools to do so. With evolving software like ContractPodAi's, you will simply click the 'collaborate button' and get your collaborative review started. AI-based approvals for redlines will assure legal teams that certain changes are accepted automatically or made public to reviewers, if they meet specific approval or analysis rules. Just imagine never needing to look at an NDA again because the system automatically makes a request to change jurisdiction clauses or even the definition of confidential information. Not only that,

but in-application comparisons are becoming more powerful, with the check-the-box-based acceptance or rejection of changes, comment review, and even automatic re-generation of documents with appropriate changes.

Potentially—and this is *very* futuristic—heuristic, AI-based document suggestions based on publicly available and, perhaps, non-public internal documents will improve the likelihood of success for certain redlines. Think of this as having a digital assistant that will say: "Hey, based on the documents that we found online and in our prior experience negotiating with Company X, they never accept a change to that particular clause. Do you have a backup suggestion?"

Quite clearly, then, legal practitioners have a growing number of digital tools at their fingertips. And with legal tech finally taking center stage—in this way—it is not only facilitating the contract redlining process, but also a variety of legal functions. We can expect to see significant gains in the contract formation and negotiation process, and the post-execution phase, as a result. After all, the high cost of *not* digitally transforming—with the help of these AI tools—only accelerates the pace of legal's digital transformation overall.

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CONTACT US HERE ABOUT AUTOMATING YOUR CONTRACT NEGOTIATIONS