Resolving Disputes

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RESOLVING DISPUTES

THEORY, PRACTICE, AND LAW

FOURTH EDITION

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To my father, Lew Folberg, the pawn broker who taught me the art of negotiation

—J.F.

To my father, Herbert Goldberg, whose inventiveness in other fields has inspired my work

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—A.J.S.

To my mother, Mary Wenska, whose love for nonviolent communication has always been my guiding light—and to my fantastic Forrest, amazing Abby, magnificent Mason, and wonderful William

—J.R.

Summary of Contents

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PREFACE

The title of this book, *Resolving Disputes*, reflects the active role of lawyers in representing clients who retain us to conclude their disputes favorably. This text is based on three key assumptions: First, in order to represent clients effectively and craft successful outcomes, the next generation of lawyers must be able to use the full spectrum of dispute resolution options and match the appropriate process to the dispute. Second, new lawyers are much more likely to encounter dispute resolution processes as advocates or advisors to clients rather than as professional neutrals. Finally, a textbook on dispute resolution should be interesting to read, should bring together the latest and best writing on the use and limits of alternative dispute resolution (ADR), and should lend itself to interactive and experiential learning.

Our book has a different emphasis from most other ADR texts. We wrote the book primarily from the perspective of a lawyer representing clients, rather than focusing on the reader's personal needs or on the role of a neutral. The text is practical while grounded in theory. The material is oriented to lawyers, but enriched by interdisciplinary knowledge. The readings are current, but they do not neglect the historical roots of ADR. Importantly, this new edition recognizes how technology has had an impact on dispute resolution in recent years, accelerated by the recent pandemic.

In this fourth edition, we are joined by two prominent new co-authors who have contributed fresh perspectives based upon their ADR teaching and practice experience. Together, we have updated each chapter, adding new insights and examples in place of some of the older material. Many of the excerpts have been shortened or summarized. Real-life disputes and literary examples are provided to illustrate vividly the readings and pique interest. Questions and problems are posed throughout the book to provoke critical thinking about the readings and stimulate class discussion. The exercises and role-plays provided in the accompanying Teachers Manual allow students to apply the readings and narratives to bring the material to life. Most of the exercises and role-plays are based on the types of disputes in which lawyers are likely to find themselves—significant legal disputes.

In an important new feature, students can now access videos on a special Web platform that show different aspects of negotiation and mediation processes. As students read, they will find multiple references to short videos that illustrate specific stages, techniques, and issues.

This edition has been reorganized in that the first section, which focuses on conflict and disputes, has been enlarged and has applicability to all the sections. We want to be sure that students and teachers have an opportunity to think about conflict and disputes more carefully before moving into the major forms of dispute resolution. So, the first chapter presents a schematic of the basic types of conflicts, then discusses how conflicts become disputes and how disputes become matters

involving attorneys. New to this edition is how the landscape of conflict is changing, including the roles of technology, social trends, historical inequities, and climate. Next in the introductory section is a chapter on the basic forms of dispute resolution and their evolution, leading to a chart and discussion of modern dispute resolution alternatives. Following an orientation to the full spectrum of dispute resolution and its context for lawyers, we introduce the lawyer's role in the four major categories of alternatives to trial—negotiation, mediation, arbitration, and stepped or hybrid processes. Finally, we explore a client-centered approach to matching the dispute resolution method to client goals. The introductory materials conclude with the roles of perceptions, emotions, and psychological factors, as these are relevant in all forms of conflict management and resolution.

After the first section, we follow the same organization as before, with successive parts providing in-depth discussions of the major forms of dispute resolution: negotiation, mediation, and arbitration. In each part we cover theory, techniques, policy, ethics, and law.

The negotiation section analyzes both competitive and cooperative styles, with a step-by-step explanation and comparison. The negotiation process and outcome-enhancing skills are covered from preparation to writing the agreement. Students are guided to explore issues of style and identity, with special emphasis on gender, culture, and race. A rich selection of readings is provided, and new notes and problems enhance the coverage of negotiation theory and approaches.

The mediation section begins with an inside look at the mediation of a prominent student death case and the Microsoft litigation. Readings and exercises highlight how lawyers can shape the mediation process to their clients' advantage. We focus on caucus-based mediation because that is the format most students will encounter in law practice, but also discuss alternative formats. In doing so we emphasize the lawyer's role representing clients and ways in which attorneys can take advantage of the mediator's presence to advance their clients' interests.

In the expanded arbitration section, we provide hands-on exercises that involve scenarios often encountered by new lawyers and narratives on what a lawyer needs to know to maximize clients' interests when drafting agreements to arbitrate, choosing arbitrators, and advocating for a client. Students also have the opportunity to deliberate on and draft arbitration awards. This practice-oriented treatment includes many recent developments, including Supreme Court cases and legislation, and insights from surveys of arbitrators and counsel. The section also includes an overview of different forms and applications of arbitration; comparisons with litigation and other dispute resolution processes; and coverage of the legal framework for arbitration. Special attention is given to problems of fairness in adhesion contracts, recent Supreme Court cases, and legislation. The emergence of online arbitration (OArb) and virtual hearings is also addressed.

The last part of the text presents ways in which multiple conflict resolution approaches have been integrated in multifaceted court programs or "mixed mode" approaches that include stepped dispute resolution processes and hybrid roles for neutrals, conflict management systems that help prevent and resolve conflicts before they ripen into litigation, and designed into systems for more efficiently resolving a flow of cases. Finally, we conclude by presenting three expanding directions in ADR practice: dispute systems design (DSD), online dispute resolution

(ODR), and human rights applications. These emergent areas are shaping the field in exciting ways, and it is our hope that students who are interested in ADR continue studying these and other areas.

Throughout the book, we are taking more advantage of technology, recognizing students' increasing preference for electronic and video formats. Items that have traditionally gone into the course book's appendix now appear on this book's Web site, including a list of references. This makes this book easier to carry without sacrificing depth and allows readers to download specific codes or standards for discussion. We are also pleased to now provide to students and professors the streaming videos of negotiations and mediations previously mentioned. In addition, there are "Arbitration Conversations" (interviews with top minds in arbitration), new arbitration games, and lively exercises on the Web site to enhance the arbitration material.

A note about form: In order to focus discussion and conserve space, we have substantially edited the readings and have converted all in-line citations of articles to endnotes. Deletions of material are shown by three dots, but omitted footnotes and other references are not indicated.

This book is the culmination of our combined decades of teaching, practicing, and shaping dispute resolution in legal contexts. Although our acknowledgments follow, we are especially grateful to the many students and lawyers we have had the pleasure of teaching. They have inspired us and guided what we have selected here to present to the next generation of lawyers.

August 2021

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A Note for Professors

A comprehensive Teacher's Manual is available only online. Professors adopting Resolving Disputes, Fourth Edition, for classroom use may download the manual at https://www.wklegaledu.com/Folberg-ResolvingDisputes4 with the appropriate password. For assistance in accessing the Teacher's Manual or other help please contact a Wolters Kluwer sales assistant at 1-800-950-5259 or email legaledu@wolterskluwer.com.

Resolving Disputes

PART 1

Overview of Dispute Resolution

CHAPTER 1

CONFLICT AND DISPUTES

Legend has it that using lawyers to resolve disputes evolved from hiring gladiators to fight battles. Lawyers are often described as "modern-day gladiators" but this does not accurately describe what happens today.

First, conventional litigation is not an exciting contest but an arduous and expensive endeavor that can take a tremendous toll on everyone involved. Indeed, it is the clients who bear most of the costs, risks, delays, stresses, and injuries of legal combat—and these can be substantial.[1]

Second, multiple formats beyond adversarial litigation have evolved to resolve legal disputes. The modern lawyer therefore must be familiar with available alternatives for dispute resolution and skillful in their use.

And third, lawyers representing clients are not the only professionals engaged in dispute resolution. Negotiators, mediators, arbitrators, facilitators, and others also assist people in conflict.

The purpose of this book is to provide you with the knowledge to counsel clients about the most appropriate process to resolve their dispute and to enhance your ability to represent them in the process chosen. We start with basic conflict literacy before moving on to more detailed discussion of disputes and the processes that have evolved to address them. The story about a carpenter with only a hammer and nails who has but one way to fix things is analogous to a lawyer who only knows how to resolve disputes in court or a gladiator who only knows how to fight. All three are limited in their ability to be flexible and responsive to the needs of an ever-changing world.

A. THE BASICS OF CONFLICT

Most of us say we do not want conflict in our lives. Few people enjoy being in tension with others around scarce resources, competing values, or incompatible interests. Conflict can create a crisis mentality that can be destructive and draining. Every day we see examples of the damage that conflict can create, from bickering neighbors to combative politicians to warring countries. And the Internet, which has created so many opportunities for community and collaboration, is often the site, if not the instigator and exacerbator, of intense conflicts.

Although conflict can cause distress, it also can function in positive ways. Conflict may motivate us to take actions that improve our lives and better fulfill our interests. Conflict may alert us to relationship problems, organizational shortcomings, or systemic inequities. In short, conflict may be difficult but it is an unavoidable aspect of human life that can teach us valuable lessons about where and how we may want to seek change.

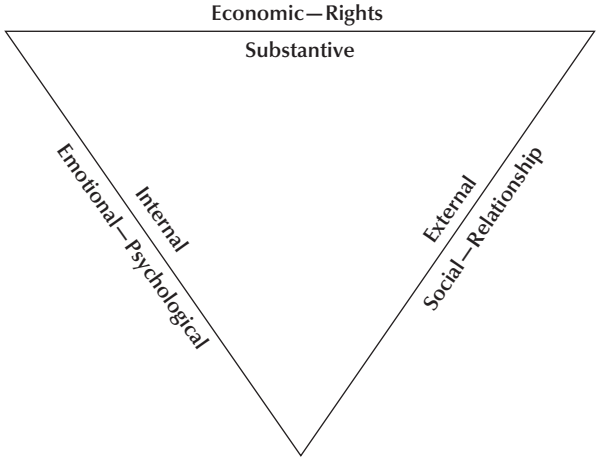
Lawyers, who often are brought in when conflict seems unmanageable to clients, can help create more constructive outcomes from conflicts or they can make a difficult situation worse. The ability to help clients better understand the conflict, reframe the issues, and realistically analyze their interests and how those interests can be advantageously represented is an important lawyering skill. As a threshold matter, lawyers must be able to assess and evaluate conflict. But lawyers need not be sociologists or psychologists to understand and appreciate basic conflict theory. There are some foundational constructs that all lawyers should know when thinking and talking about conflict.

Conflict may be divided into two categories: interpersonal (differences that arise between individuals or groups) and intrapersonal (conflicts within ourselves). Interpersonal conflict is a situation in which the parties each want something that they perceive as incompatible with what the other wants. Because the parties in an interpersonal conflict cannot both have all that they want, their interests or goals are divergent. Lawyers are retained to help resolve interpersonal conflicts between our clients and others. A client may also be conflicted internally about what it is they really want from an opponent. For example, does your client really want to return to the job from which she was fired, or does she want only to restore her self-respect and get compensation? Does the father you represent in a divorce really want custody of the children, or is he internally conflicted about the decision to divorce and trying to hold onto the marital relationship? Recognizing these two different types of conflict can be critical in achieving client goals.

Another way of thinking about conflict is distinguishing the manifest conflict, which is overt or expressed, from the underlying conflict, which is hidden or not recognized. Lawyers most often deal with manifest conflicts, which are often referred to as disputes (although the two terms are often used interchangeably). A conflict may not become a dispute if it is not communicated in the form of a complaint or claim. However, what is communicated may be only a part of or symbol of the underlying conflict. The dispute between brothers over control of a family business seems safer to contest than the underlying conflict of who was the favored son or a better child. A patent or copyright dispute may focus on lost revenue, while the fundamental conflict is over public recognition of creative accomplishment and originality. Residential development disputes may focus in court on specific environmental regulations or traffic issues, but the underlying conflict is about the changing character of the community. This dichotomy between the overt dispute and the hidden conflict can be thought of as the presenting problem and the hidden agenda.

Satisfactory resolution of a conflict requires an understanding of and attention to the emotional and relationship components, which may be the underlying bases of the conflict. Even though the dominant focus in most legal conflicts is on the trade-offs involving rights-based claims or economic considerations measured

in money damages, neglecting the non-monetary, underlying components that cause conflict can lead to an impasse or a settlement that does not hold.



The Conflict Triangle

As this diagram shows, there are three sets of factors, or interests, at work in most conflicts. They form the three sides of the conflict triangle, which represent the three sets of interests that must be addressed to reach a satisfactory settlement of a dispute. The three sides of the triangle are interrelated and have an impact on one another.

- Economic—Rights: Money issues and rights are what often bring lawyers into a conflict or dispute to litigate, negotiate, mediate, or arbitrate substantive outcomes.
- Emotional—Psychological: The emotional component refers to the internal pushes and pulls on parties created by psychological factors that affect how they feel about themselves.
- Social—Relationship: The social elements include the setting and relationship considerations, such as how others will view what is going on. Acceptance, reputation, and status are extrinsic social factors that also have an emotional impact in creating and resolving conflict.

The mix of what matters for purposes of resolving a conflict will vary depending on the subject and the sensitivities and history between the parties, as well as their attorneys. A purely commercial dispute will most heavily involve economic considerations. However, all three elements are involved to some extent in every type of dispute. A businessperson sued for breach of contract has feelings about accusations from a longtime supplier and concerns about his reputation in the business community. A divorce or employment dispute, although focused on legal rights and money, will invoke more emotional and extrinsic factors. For example, in a divorce, what will children, grandparents, and neighbors think about new parenting arrangements? In a wrongful termination case, how will acceptance of the economic offer appear to co-workers who remain friends with the terminated worker? Attention to the non-economic factors can help prevent or end an impasse and move the dispute to resolution.

Traditionally, lawyers have tended to focus primarily on the manifest conflict or dispute in interpersonal (not intrapersonal) contexts. They have been often more engaged with economic considerations than emotional or extrinsic concerns. Settlements, judgments, and awards usually involve the payment of money, now or in the future; an agreement to provide goods or services, or to change behavior; or some combination of these. Conflicts over fundamental beliefs, religion, and love are not often brought to lawyers or adjudicated by courts, even if changes in behavior or payments of money for past behavior based on religion or belief may be within the realm of lawyer representation. Of course, clients may come to change how they feel about their dispute through discussion, sharing information, and exchanging views, but these changes are typically not goals of legal representation.

That said, it is important to realize that if the agreements reached in dispute resolution resolve only the presenting problems, these agreements may be less likely to last unless legally enforced, and sometimes not even then. Surfacing the underlying conflict, along with the emotional and extrinsic issues at play, can clarify issues, focus objectives, generate new possibilities for settlement, and ultimately improve relationships. But dealing with the underlying conflicts may be emotionally difficult for clients and can stimulate internal conflict. Furthermore, many lawyers are not comfortable with opening emotional issues and may not have the capacity to address them. We will look more into the emotional aspects of conflict and psychological issues in Chapter 3.

QUESTIONS

1. What is an example of a "good" conflict? What makes it good?
2. Even though conflict is pervasive in human life, it is not always obvious how to deal with conflict productively. In *The Conflict Paradox*, Bernie Mayer lists seven familiar dilemmas that emerge in conflict situations:

   - Compete or cooperate?
   - Avoid or engage?
   - Be optimistic or realistic about the potential for resolution?
   - Rely on principles or be ready to compromise?
   - Respond with emotion or logic? Stay neutral or advocate?
   - Concern yourself with autonomy or community?

   When you find yourself involved in a conflict, which of these dilemmas is most pressing for you? Does the context matter? If so, how?
3. In Chapter 4, we discuss various conflict management styles in depth. Before looking at that chapter, how would you describe your default approach to conflict? (You can reflect on this self-assessment after you've read Chapter 4.)

B. HOW CONFLICT BECOMES A DISPUTE

In light of the discussion above about manifest and underlying conflict, what pushes some people to pursue redress with the assistance of a lawyer? A helpful response to this question comes in a classic article by William Felstiner, Richard Abel, and Austin Sarat. The authors describe the process by which harms become disputes through a sequence of "naming, blaming, and claiming."[2]

Naming occurs when people recognize they have been harmed and want to do something about it. The distinguishing factor is not awareness of the harm but rather the victims' subjective reactions to it; rather than accepting the harm as fate or one of the risks of life and moving on, they feel this particular harm is too great, or is one harm too many and cannot be ignored.

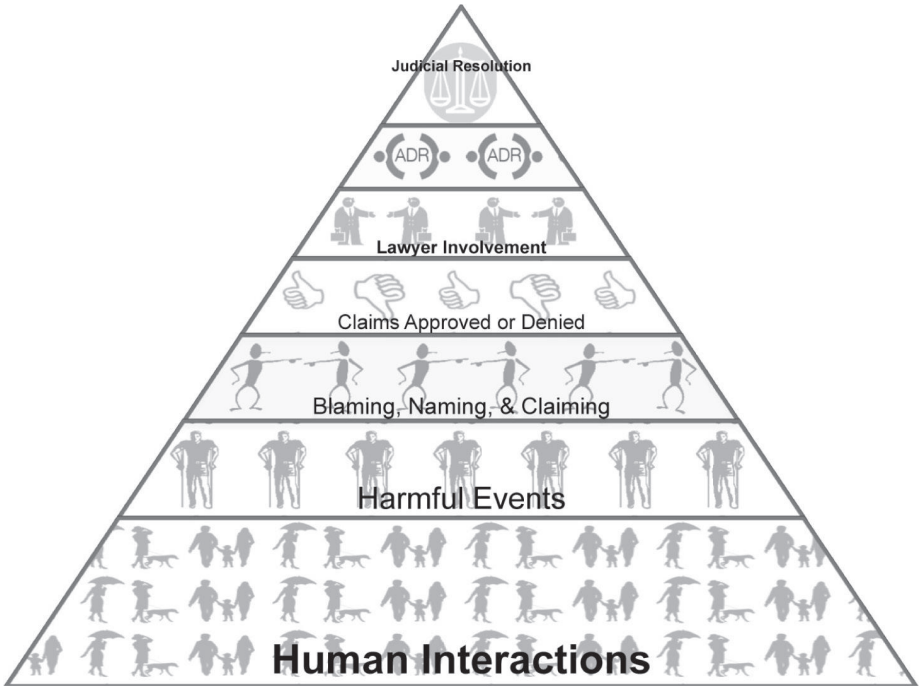
In **blaming**, the person harmed assigns fault for the injury, identifying a wrongdoer and deciding to hold that person or institution responsible for the harm. Assigning blame does not lead to a dispute until the aggrieved party decides to assert himself through **claiming**, or making a complaint against the perceived wrongdoer and asking that the wrong be remedied. If the claim is rejected or the response is not satisfactory, then the matter becomes a full-fledged dispute.

What happens then? Some claims are abandoned for reasons unique to that claimant or the situation. Others are pursued through informal mechanisms, like better business bureaus, complaint hotlines, trade association mechanisms, online resolution programs, social media posts, or government agencies, usually without the help of lawyers. A very small percentage of unmet claims are brought by clients to lawyers in the form of disputes to be resolved.

Many of the disputes that clients bring to attorneys never become court cases. Good lawyers perform an important screening function, measuring their client's grievances against the requirements of the law and, perhaps even more critically, the client's larger interests. Is there a viable legal theory on which to base a case? Will discovery produce factual evidence that supports a claim? Will the client be willing to persevere after the initial anger and frustration have died down, and does the client have the resources to do so? Is it in the client's best long-term interest to be involved in litigation? Is a court likely to side with your client, and even if it does, will the potential defendant be able to satisfy a judgment? Just as very few screenplays ever become movies, the large majority of potential legal cases fall by the wayside long before they reach a courtroom.

Assertion of the client's claim by a lawyer may result in providing the relief requested or negotiation of a mutually satisfactory outcome. If not, further cost-benefit analysis may result in a decision to drop the matter. If the claim is formalized by the lawyer into a lawsuit, there are usually further negotiations. Some lawsuits are not contested and go by default. If contested, mediation, arbitration, or other alternative dispute resolution (ADR) mechanisms may resolve the case without the need for a trial. Motions and summary proceedings may also end the case without a trial. Only a minute percentage of cases filed in court go to trial. This is the point of the triangle shown below. It is difficult to depict how small this point is, because

the number of disputes that are resolved in court is much, much smaller than the number of disputes overall. That being said, the triangle might look like this:



The Dispute Pyramid

The types of disputes that you will encounter in practice will depend in large part on your professional path.

If you become a transactional lawyer, you will help clients to evaluate and structure potential deals, and then will be called upon to negotiate terms that give them the greatest advantages and least possible risk. Clients will respect you for your ability to keep them out of disputes. They will value you most highly for your skill in bringing disparate parties together into productive agreements. Your ability to bargain well and be a problem solver will be crucial to your success as a deal maker.

If you become an inside counsel to a corporation or nonprofit organization, you will negotiate regularly as well, both with your counterparts in other entities and with colleagues in your own office. You may be surprised to learn that experienced corporate counsel often describe themselves not only as experienced negotiators, but also as "mediators with a small 'm'." What this means is that many inside counsel find that a major aspect of their work is to resolve disagreements and disputes between people within their company. Inside lawyers often find that they in fact have multiple "clients" in the form of different personalities and constituencies in their organization. Unless their constituencies can agree on a common course of action, it is very difficult for the attorney to produce a coherent legal policy or negotiate effectively with outsiders. Corporate counsel thus often find themselves playing the role of "honest broker," using mediative skills to forge a consensus among their multidimensional client. Additionally, inside counsel also

design resolution systems within companies for employment conflicts and to settle disputes with customers and others claiming harm.

If you become a civil litigator, the disputing landscape you encounter will bear little resemblance to the public perception of lawyers in courtroom dramas. The birth of civil disputes and the role of lawyers in resolving them, which is the focus of this book, can be understood by imagining a fat triangle with the bottom base composed of a vast array of human interactions. The reason the triangle narrows from its broad base is that most interaction, whether social, work related, commercial, or recreational, does not result in economic loss or harm that we perceive as due to the actions or inactions of others. As we move up the triangle, even if we experience harm and think someone is at fault, we tend to absorb the harm, particularly if minor.

Although most disputes are resolved without going to trial, note that the possibility of going to trial has an impact on the dispute resolution landscape that is out of proportion to the actual frequency of trials. A major factor motivating parties to choose settlement is their wish to avoid the risks of trial. In other words, we bargain in the "shadow of the law." Decisions about whether and how to settle a dispute are heavily influenced by predictions and concerns about what a court will do if an agreement is not reached.[3]

QUESTIONS

4. Have you experienced a personal injury or an economic loss attributable to someone against whom you did not pursue a claim? If so, why did you not assert a claim?
5. What are other reasons why someone may forgo or "lump" a valid legal claim for damages?
6. Have friends or family asked you, as a law student, if they should pursue a claim for an injury or a wrong? How did you advise them and why?
7. Are those with higher education and higher income more or less likely to pursue claims related to products they buy? Why or why not? How might considerations of class, race, gender, and power have an impact on whether and how someone moves from blaming to claiming?

C. THE CHANGING CONFLICT LANDSCAPE

When you are dealing with the details of a dispute—where the property line between two houses falls, or whether the contract should be interpreted under this or that law, or how the custody arrangement provides for summer vacation—it is easy to forget the larger setting in which disputes develop and arise.

All conflict and disputes take place in context, and having a better sense of the contextual factors that inform disputes (what we might think about as the greater "conflict landscape") will improve your ability to represent clients effectively and work toward successful resolutions. In addition, appreciating the

conflict landscape will help you think through the impacts of your own practice on larger concerns around professional responsibility, community values, and justice. Some of the major factors affecting the conflict landscape today include the following:

- **Technology.** The growth of social and persuasive technologies has had tremendous impacts on the conflict landscape, by disrupting disputing patterns and shaping attitudes toward conflict. Social media, for example, has created new spaces for expressing views and engaging in dialogue and disagreement, and has enabled protestors to find each other and organize more efficiently. Additionally, technologies employing artificial intelligence or drawing on trends supplied by Big Data are helping inform legal strategies and estimations of value around settlements. And finally, online dispute resolution processes are becoming more common, whether because of economic pressures or responses to the recent pandemic, and the applications that support these processes present new challenges and opportunities for disputants and lawyers.
- **Social trends.** Many Western societies recently have seen an uptick in populism and nationalism, which have exacerbated political divides and led to an increase in violent and nonviolent conflict. Here in the United States, commentators have noted that pronounced ideological differences and increased partisanship characterize much of our political discourse. Although we have always had political disagreement, these commentators are concerned about the current tenor and expression of these debates. In a recent example, some residents in eastern Oregon, unhappy with the prevalent liberal politics of the state, have argued for redrawing the state line between Oregon and Idaho so that they can be situated within a historically conservative state. For these residents, the political divide is so intense that they perceive separation as the only workable approach.
- **Historical inequities and oppression.** Historical inequities and oppression, economic inequality, and discrimination have created the conditions for conflict by perpetuating unfairness around opportunities, status, safety, and wealth. As the awareness around these inequities increases, this conflict has started manifesting in various ways, including widespread protesting, more litigation and political action, and louder calls for reform. Additionally, some of these proposed reforms, such as defunding the police and prohibiting confidentiality on certain kinds of settlements, have themselves engendered conflict.
- **Climate change.** Whether and how the global climate is changing has long been a source of conflict and disputes. Generally speaking, political parties have adopted different views of the science, which complicates disputes around the impacts of climate change by introducing political partisanship into these discussions. Furthermore, because addressing climate change will affect business and economic interests, many people are invested in divergent and sometimes incompatible approaches and outcomes, which can cause disputes. Finally, to the extent that climate change will lead to hotter temperatures and greater levels of carbon dioxide, people in general may become quicker to anger and less capable of rational thought.

These are just some of the contributors to the conflict landscape. Lawyers who seek to be effective agents of dispute resolution should recognize that they are working within this shifting, complex context and consider how these and other factors are affecting the parties and their view of justice. Moreover, as officers of the court and stewards of the law, lawyers should consider how possible or proposed resolutions to disputes may affect the conflict landscape going forward.

NOTE: SNAP DISPUTES AND CONFLICT SPECTACLES

Many commentators have noted the ways in which social media has changed how people engage in disputes. As Professor Jen Reynolds has written:

> Thanks to media and social media, many disputes today have a public dimension. Spectators to these disputes—people with varying levels of involvement or interest in the subject of the disputes at hand—get pulled into what is happening by way of the internet and through a kaleidoscope of news stories, comments, tweets, posts, snapchats, and other rapidly changing media. What these spectators experience is simultaneously real and imaginary. Their experiences are real insofar as they are grounded in actual events, embody institutional commitments and personal values, and lead to some measure of investment in one or more positions in the dispute. Their experiences are imaginary in that they exist largely within the mind—they take place primarily inside the space between person and screen, and to the extent that perceptions and opinions around these public disputes are shared, they are frequently shared in virtual contexts with unseen and often unknowable others, some of whom may not be real people and others of whom may seek only to exacerbate divisiveness and tensions.
>
> Elsewhere I have defined these kinds of real/imaginary disputing experiences as characteristic of "snap disputes." Snap (standing for "social networks amplifying polarization") disputes are highly charged public controversies that have a substantial online dimension. Because "being online" is at once an individual and collective experience, snap disputes are intensely personal while being constantly subject to escalation and manipulation by outside actors. Typical snap disputes involve extremely strong emotions, perceived threats to identity and values, and hotly contested claims to truth. They are characterized by anger and fear, often manifesting as exceedingly simplified us-versus-them stances and all-or-nothing rhetoric. Snap disputes are implicated in modern sociopolitical trends sometimes described as the "scissor algorithm," the "culture of outrage," the "culture of cruelty," the "vampire castle," "cancel culture," "bubbles" of divergent media sources, and the widespread disinformation and discord created by trolls and meddlers.
>
> Snap disputes play out through the media, and as such they create and are created by spectacles of conflict. Conflict spectacles are