

How People Experience Conflict and Conflict Resolution Processes: OPTION A

Inspired by the *Stone Soup Dispute Resolution Knowledge Project*
University of Missouri School of Law, Center for the Study of Dispute Resolution

Overview

The Stone Soup Dispute Resolution Knowledge Project was initiated by American law professors to promote a global collaboration of lifelong learning about dispute resolution. By participating in this exercise, we will be joining other faculty and law students across North America and beyond ~ learning about DR needs and processes by engaging in conversations beyond the classroom walls.

The task: Invite reflections from someone you know and who has been involved in a “significant negotiation” about a dispute or a transaction, OR involved in a court-based process.

Goals: (1) learn from someone's experience in negotiation or litigation; (2) reflect on how concepts we are discussing in class (in particular: psychological, procedural and substantive interests of clients) may create challenges and opportunities in the practice of law.

After the conversation, write your reflections on what you have learned. Your reflection should be up to 750 words, and is to be uploaded to the Week 5 page of the E-Portfolio, any time prior to October 18.

About the conversation

I would prefer that you speak with someone who has been involved in a case or legal dispute, as a party, since this will give you greater insight as we explore *client needs and interests*. However, if need be, you can chat with a lawyer or agent, or even a third-party neutral such as a mediator.

Some things to keep in mind:

- If you are asking for disclosures about facts and the information around a case which might be litigated (or litigated further) in the future, there is always a small risk that you could be subpoenaed to testify about what you learn in an ‘interview’. This situation is unlikely to arise, especially if you treat this as an informal conversation, and do not take notes about the details or information surrounding the dispute;
- To avoid this risk, I would suggest that you ask questions that focus on the person’s insights and experience (a reflective conversation), rather than facts about the dispute. Your learning is focused, here, on the extent to which they feel their interests were being met or not met;
- At the beginning of any conversation, make sure that the person you are talking with knows that you are asking for their reflections to help you with your study of lawyers’ roles in negotiation and court processes, and that (1) they are not obliged to chat with you (full consent is important!); and (2) you are obligated to protect confidentiality. To protect the confidentiality around the conversation, avoid bringing up names or identifying details in the case, and focus instead on general descriptions, and reflections about the process ~ and only make brief notes about your own reflections and learnings as the conversation unfolds.

What might you discuss?

In this course, you will have been doing readings about what might be motivating people who are involved in disputes. *What are you curious about?* You may want to explore:

A few descriptive facts to better understand the party's role in the case, those involved, the nature of the dispute/conflict, if/how litigation or the court process is/was engaged in the backdrop, etc.

Lawyer/agent roles to better understand the relationship between the party and lawyer(s) (if involved); what did the clients need from their lawyers, and were those needs met, during the process? How were the roles of each defined from stage-to-stage in the process?

Impact and nature of the conflict: if there were hopes/expectations of future relationships inside the conflict; what was at stake; how those goals and risks were experienced, and what was their impact

Nature of the process: Preparation for and approach during negotiation or court-based process, appearance/management of "goals/interests", "positions" and "numbers". What was the impact of the process?

Outcome: Disappointments and victories; overall satisfaction, and why.

Writing your reflections

You only have up to 750 words to summarize your thoughts. In general, the purpose of this assignment is for you to learn about people's real-life experience inside a negotiation or court-based process, focusing on the subject's assessment of it.

You do not need to write your reflections in essay form. Feel free to use point form or other thematic summaries of what you learned, what you heard from the subject, and what insights you view as transferable to your own learning and development as a lawyer.

Keep these guidelines in mind:

Be objectively descriptive, use plain English (not dispute resolution terminology), and generally avoid expressing your judgment about the parties and their actions. Use pseudonyms instead of real names: Do not include any details that could reasonably identify the subject or any parties. Do not include specific dates or dollar amounts, but use general descriptions of these types of facts.

Conclude with thoughts on how this interview affects your thinking about client interests and needs, problem-solving processes and negotiation, and the lawyer's work.

How People Experience Conflict and Conflict Resolution Processes: OPTION B

Conflict Analysis Questionnaire

Overview

The book, Lawyering with Planned Early Negotiation, by John Lande, reproduces a questionnaire developed by Ron Kelly, an experienced mediator. The questionnaire is offered as adaptable – as a way of assessing conflict, and preparing a client to move forward. The questionnaire focuses on contract disputes, but can here too be adapted to different contexts. It has already been provided to you in the EPortfolio for Week #5.

The task: Invite reflections from someone who has been or is involved in a conflict which has not yet been negotiated fully, or litigated. OR, in the alternative, you may choose to work through this questionnaire with a self-analytical approach – applying it to a conflict which has impacted you. You will not gain the opportunity to engage in communication skills with someone else if you handle it that way, but it is an option if you are unable to identify someone, or are otherwise uncomfortable reaching out.

Goals: (1) learn how to approach a conflict assessment; (2) reflect on how concepts we are discussing in class (in particular: psychological, procedural and substantive interests of clients) may create challenges and opportunities in the practice of law.

After the conversation, write your reflections on what you have learned. Your reflection should be up to 750 words, and is to be uploaded to the Week 5 page of the E-Portfolio, any time prior to October 18.

About the conversation

Some things to keep in mind:

- Use the Conflict Analysis Questionnaire as a guideline; you do not need to work through all the questions (but if you can, you will find the exercise even more helpful);
- If you are asking for disclosures about facts and the information around a case which might be litigated (or litigated further) in the future, there is always a small risk that you could be subpoenaed to testify about what you learn in an ‘interview’. This situation is unlikely to arise, especially if you treat this as an informal conversation, and do not take notes about the details or information surrounding the dispute;
- To avoid this risk, I would suggest that you ask questions that focus on the person’s insights and experience (a reflective conversation), rather than facts about the dispute. Your learning is focused, here, on the extent to which they feel their interests were being met or not met;
- At the beginning of any conversation, make sure that the person you are talking with knows that you are asking for their reflections to help you with your study of lawyers’ roles in negotiation and court processes, and that (1) they are not obliged to chat with you (full consent is important!); and (2) you are obligated to protect confidentiality. To protect the confidentiality around the conversation, avoid bringing up names or identifying details in the case, and focus instead on general descriptions, and reflections about the process ~ and only make brief notes about your own reflections and learnings as the conversation unfolds.

Writing your reflections

You only have up to 750 words to summarize your thoughts. In general, the purpose of this assignment is for you to learn about people's real-life experience so carefully decide what is most important to include, drawing upon the questionnaire. *Which questions seemed the most impactful? Which produced the most enlightening or useful answers?*

You do not need to write your reflections in essay form. Feel free to use point form or other thematic summaries of what you learned, what you heard from the subject, and what insights you view as transferable to your own learning and development as a lawyer.

Keep these guidelines in mind:

Be objectively descriptive, use plain English (not dispute resolution terminology), and generally avoid expressing your judgment about the parties and their actions. Use pseudonyms instead of real names: Do not include any details that could reasonably identify the subject or any parties. Do not include specific dates or dollar amounts, but use general descriptions of these types of facts.

Conclude with thoughts on how this interview affects your thinking about client interests and needs, problem-solving processes and negotiation, and the lawyer's work.