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## Developing Better Lawyers and Lawyering Practices: Introduction to the Symposium on Innovative Models of Lawyering

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## SYMPOSIUM

### Developing Better Lawyers and Lawyering Practices: Introduction to the Symposium on Innovative Models of Lawyering

*John Lande\**

Most people probably think of lawyers as advocates in court, perhaps the most common image of lawyers in popular culture. In law schools, students not only focus on lawyers' courtroom roles, but the vast majority of their education is based on reading reports of the work of *appellate* courts. Although law schools pride themselves on teaching students to "think like a lawyer," a recent report of the Carnegie Endowment for the Advancement of Teaching suggests that legal education is more about teaching them to "think like a judge."<sup>1</sup> It is well known that, in reality, the vast majority of lawsuits never go to trial, let alone appellate courts, and most lawyers believe that their clients are generally better off by resolving matters out of court. Although it is important that parties have access to courts, which provide important social benefits, parties more often need lawyers to help solve their problems in the shadow of the courts, well before courts adjudicate the issues.<sup>2</sup>

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1. See WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 11 (2007).

2. See generally John Lande, *How Much Justice Can We Afford?: Defining the Courts' Roles and Deciding the Appropriate Number of Trials, Settlement Signals, and Other Elements Needed to Administer Justice*, 2006 J. DISP. RESOL. 213; Robert H. Mnookin & Lewis Kornhauser, *Bargaining in the Shadow of the Law: The Case of Divorce*, 88 YALE L.J. 950 (1979).

What can be done to help lawyers better serve parties' and societies' interests in resolving legal conflicts? Unfortunately, legal education has not provided much leadership in helping new lawyers deal with the realities of legal practice. Fifteen years after the 1992 MacCrate Report's critique of legal education,<sup>3</sup> the Carnegie Report finds that law schools in the United States still rely heavily on the predominant "case-dialogue" method of instruction, which focuses on teaching legal analysis. The Carnegie report finds that this approach has "valuable strengths" but leads students to overlook important aspects of lawyering. It states:

[S]tudents are led to analyze situations by looking for points of dispute or conflict and considering as "facts" only those details that contribute to someone's staking a legal claim on the basis of precedent. . . . By contrast, the task of connecting these conclusions with the rich complexity of actual situations that involve full-dimensional people, let alone the job of thinking through the social consequences or ethical aspects of the conclusions, remains outside the method.<sup>4</sup>

Although there has been some movement in the legal academy to address the concerns expressed in the MacCrate and Carnegie reports,<sup>5</sup> these changes have been relatively modest and have not affected the predominant ethos of legal training.

In recent decades, there have been dramatic innovations in lawyering, which have been driven by lawyers and the courts themselves. Mediation and arbitration are in the mainstream of legal practice, and there are numerous variations of these and other dispute resolution processes. Since the 1990s, an enthusiastic movement of family practitioners has developed Collaborative Law as an important new dispute resolution process.<sup>6</sup> Even more recently, lawyers have developed a variation of that process, called "Cooperative Practice."<sup>7</sup>

## I. SYMPOSIUM ON INNOVATIVE MODELS OF LAWYERING

To examine innovations in legal practice, the University of Missouri Center for the Study of Dispute Resolution and the Journal of Dispute Resolution held a symposium on October 12, 2007, featuring leading practitioners and scholars to analyze innovative models of lawyering, including Collaborative Law and other processes. David Hoffman gave an outstanding keynote address, which was fol-

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3. See AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT: AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) (commonly known as the "MacCrate Report").

4. See SULLIVAN, COLBY, WELCH WEGNER, BOND & SHULMAN, *supra* note 1, at 187.

5. See SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, A.B.A., A SURVEY OF LAW SCHOOL CURRICULA: 1992-2002 34-36, 44 (2004) (describing increase in course offerings in alternative dispute resolution and pretrial skills courses).

6. In Collaborative Law, lawyers and parties sign a "participation agreement" in which they agree to negotiate in good faith, typically from the outset of the matter. The participation agreement includes a "disqualification" clause stating that if any party litigates the case, all the lawyers are disqualified from representing the parties, who must hire new lawyers if they want legal representation.

7. In Cooperative Practice, the parties agree to negotiate without a disqualification agreement.

lowed by two panels of experts. This issue of the Journal of Dispute Resolution presents papers from that symposium. Indeed, the symposium was so productive that we did not have time for presentations from some participants and do not have space for all the papers in this issue of the Journal, so some of the papers will be published in the next issue.<sup>8</sup>

David Hoffman's article gives a valuable overview of the expanding dispute resolution landscape.<sup>9</sup> Hoffman draws on his experience in offering a wide range of dispute resolution services as well as his leadership in the dispute resolution field as past chair of the ABA Section of Dispute Resolution and founding chair of the Section's Collaborative Law Committee.<sup>10</sup> He catalogs numerous tensions between practitioners promoting (and criticizing) various dispute resolution processes, and he argues that these tensions result both from economic competition and ideological commitment.<sup>11</sup> He urges members of the dispute resolution community to deal with the conflicts constructively by recognizing that their work is part of a common enterprise.<sup>12</sup> To lay the groundwork for an improved mapping of the field, he notes that dispute processes are not limited to a few pure types but rather there is a great deal of variation, cross-fertilization, and hybridization in the field.<sup>13</sup> He presents data from his firm, the Boston Law Collaborative, which offers services including "coaching from the sidelines," mediation, Collaborative Law, Cooperative negotiation, "litigotiation," and litigation.<sup>14</sup> He found that contrary to the claims in the Alternative Dispute Resolution (ADR) field regarding the general superiority of one process over another, his firm's experience suggests that many of these processes are quite similar in cost, delay, and contentiousness.<sup>15</sup> Indeed, he concludes that "the most robust predictor" of good outcomes "was not the choice of process but rather the intentions, skill, and flexibility of the parties and counsel, and the interpersonal chemistry of the parties and counsel."<sup>16</sup> He concludes by suggesting that the dispute resolution field broadly shares goals of efficient conflict resolution as well as helping people reach a deeper understanding of their values and what matters most to them personally in connection with the resolution of their disputes.<sup>17</sup>

The other articles in this symposium address two different aspects of innovation in lawyering. Some discuss the developmental process in which individual lawyers develop their skills and productively adapt to the contemporary realities of legal practice. A second set of articles focus on innovative lawyering processes. The following is a brief description of each of the articles (including those appearing in the later issue of the Journal).

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8. We appreciate the patience of Jeanne Fahey, Lawrence McLellan, and Richard Shields in having their articles published in the later issue.

9. David A. Hoffman, *Colliding Worlds of Dispute Resolution: Towards a Unified Field Theory of ADR*, 2008 J. DISP. RESOL. 11.

10. Boston Law Collaborative, LLC, David A. Hoffman, available at <http://www.bostonlawcollaborative.com/people/attorneys/david-hoffman.html> (last visited March 4, 2008).

11. Hoffman, *supra* note 9, at 15-19.

12. *Id.* at 19.

13. *Id.* at 19-25.

14. *Id.* at 27-33.

15. *Id.* at 33-35.

16. *Id.* at 35.

17. *Id.* at 40-42.

## II. TRAINING LAWYERS TO PROVIDE BETTER SERVICE

Nancy Welsh's article focuses on the challenges of changing law students' and lawyers' orientation to lawyering.<sup>18</sup> Welsh is a respected teacher and scholar who has long worried about whether law schools can train law students to fulfill the highest aspirations of the legal profession.<sup>19</sup> She describes her goal of teaching law students to "feel like a lawyer" as well as to think like one.<sup>20</sup> She reviews psychological research indicating that law students and lawyers are generally oriented to resolving problems by referring to rules and standards rather than the emotional, psychological, or moral needs of the parties.<sup>21</sup> She argues that pressures from the business of legal practice reinforce this orientation even though focusing on relationships generally leads to greater success and satisfaction.<sup>22</sup> Although much of her essay is discouraging about the potential for lawyers to undertake more humanistic approaches, she notes developments suggesting some hope that lawyers will increasingly focus on both the legal and interpersonal aspects of their work.<sup>23</sup>

Julie Macfarlane shares Welsh's concerns and is encouraged by signs of what she calls "the New Lawyer."<sup>24</sup> Macfarlane is a law professor who provides dispute resolution services and has conducted extensive empirical research, which she uses as the basis of her article.<sup>25</sup> Adapting material from her new book, she argues that a new conception of advocacy, which she calls "conflict resolution advocacy," is at the "core of the professional identity of the new lawyer."<sup>26</sup> The main difference between zealous advocacy and conflict resolution advocacy is that the latter is not organized around an adjudicatory system but, rather, is oriented to a larger system of conflict resolution that includes but is not limited to adjudication.<sup>27</sup> As compared with a more traditional conception of adversarial advocacy, conflict resolution advocacy involves a closer relationship between lawyers and clients.<sup>28</sup> Instead of the primarily rights-based approach of zealous advocacy, conflict resolution advocacy entails a more strategic approach to advocacy, including changes in the process of collection and use of information, decision-making, dealing with emotions, negotiation, and conceptions of desirable outcomes.<sup>29</sup> Her article describes the evolving partnership between lawyer and client

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18. Nancy A. Welsh, *Looking Down the Road Less Traveled: Challenges to Persuading the Legal Profession to Define Problems More Humanistically*, 2008 J. DISP. RESOL. 45.

19. For Welsh's biography, see Penn State Dickinson School of Law, Faculty Profile, Nancy A. Welsh, available at <http://www.dsl.psu.edu/faculty/welsh.cfm> (last visited March 4, 2008).

20. Welsh, *supra* note 18, at 46.

21. *Id.* at 49-53.

22. *Id.* at 53-57.

23. *Id.* at 57-59.

24. Julie Macfarlane, *The Evolution of the New Lawyer: How Lawyers are Rethinking and Reshaping the Practice of Law*, 2008 J. DISP. RESOL. 61.

25. For Macfarlane's biography, see University of Windsor Faculty of Law, Faculty Biographical Information, Julie Macfarlane, available at <http://www.uwindsor.ca/units/law/LawTop.nsf/inToc/7F3889858EE10F5F85256D87004B4434?OpenDocument#mac> (last visited March 5, 2008).

26. Macfarlane, *supra* note 24, at 65.

27. *Id.* at 65-66.

28. *Id.* at 66.

29. *Id.* at 67-71.

as clients take a more active role in negotiation and mediation processes. The increasing involvement of clients in problem-solving challenges the traditional assumption that lawyers, as the technical experts, will necessarily “drive” decision-making.

Richard Shields reports his research about the process by which lawyers undergo a paradigm shift to make a commitment to Collaborative practice.<sup>30</sup> Shields is a practitioner specializing in family law ADR, including Collaborative Law.<sup>31</sup> He received a doctorate in adult education and reports on his dissertation research in which he followed Collaborative Law trainees for a year after their initial training.<sup>32</sup> He finds that trainees make paradigm shifts toward increasing client-centeredness and use of an interest-based perspective.<sup>33</sup> He proposes a theory of a transformative learning cycle for the Collaborative paradigm shift, beginning with a pre-training disorienting experience, which provides motivation to take Collaborative training.<sup>34</sup> At the training, practitioners learn about Collaborative process and associated skills.<sup>35</sup> After the training, learners return to their pre-learning contexts, where transformative learning occurs through reflection and dialogue.<sup>36</sup> He argues that at the end of the transformation, learners who experience “distortion” (or differences) between their pre- and post-learning beliefs are ready for commitment to the new paradigm.<sup>37</sup>

### III. DEVELOPING FRAMEWORKS FOR INNOVATIVE LEGAL PRACTICE

Pauline Tesler’s article bridges the two themes in the symposium as it discusses Collaborative lawyers’ developmental processes as well as a form of Collaborative Law process.<sup>38</sup> Tesler is a pioneering practitioner and theorist of the Collaborative Law field who wrote the first book on the subject.<sup>39</sup> She describes how interdisciplinary team Collaborative family law practice can help lawyers develop deeper understandings of themselves, which helps them help clients to achieve deeper and more durable resolution of their conflicts.<sup>40</sup> She uses a metaphor of a “three-legged stool” needed for effective divorce resolution practice including (1) the parties, (2) the process, and (3) the lawyers.<sup>41</sup> She argues that many lawyers overlook the effect of the third leg—themselves—and that interdis-

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30. Richard W. Shields, *On Becoming a Collaborative Professional: From Paradigm Shifting to Transformative Learning through Critical Reflection and Dialogue*, 2008 J. DISP. RESOL. (forthcoming). In Collaborative Law, there is a signed agreement committing to negotiation and, if the parties engage in contested litigation, disqualification of the Collaborative Lawyers in the litigation.

31. For Shields’ biography, see Family Dispute Resolution, Qualifications, available at <http://www.familydisputeresolution.com/biography.php> (last visited March 5, 2008).

32. Shields, *supra* note 30.

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.*

38. Pauline H. Tesler, *Collaborative Family Law, The New Lawyer, and Deep Resolution of Divorce-Related Conflicts: An Essay and a Call for Research*, 2008 J. DISP. RESOL. 83.

39. For Tesler’s biography, see Law Offices of Tesler, Sandmann & Fishman, Lawyer Profile of Pauline H. Tesler, available at <http://www.lawtsf.com/teslerpro.html> (last visited March 4, 2008).

40. Tesler, *supra* note 38, at 122-25

41. *Id.* at 102.

ciplinary Collaborative Family Law not only provides a richer and more nuanced kind of professional support for clients in conflict resolution, but also affects the professionals as well, helping them become more self-aware and effective.<sup>42</sup> As a result, she hypothesizes that when the other two legs of the stool are properly in place (i.e., the professionals are well trained and effective in delivering the chosen process, and the clients' capacities and expectations are well-matched with the process choice) an interdisciplinary Collaborative Law process—as compared with a lawyer-only process—holds the potential for helping clients reach deeper and more durable conflict resolution than they otherwise might achieve in a settlement agreement. She calls for empirical research to test this hypothesis.<sup>43</sup>

Scott Peppet provides a thorough review of structural variations in Collaborative Law processes and analyzes the ethical implications of use of the different variations.<sup>44</sup> Peppet is an award-winning scholar who specializes in legal ethics and ADR.<sup>45</sup> Collaborative Law may involve various combinations of limited retainer agreements (i.e., defining the relationship between each lawyer and client “behind-the-table”) and/or agreements defining the process between the parties (“across-the-table”) and which are often also signed by the lawyers (i.e., “four-way” agreements).<sup>46</sup> The across-the-table agreements typically involve a disqualification agreement mandating lawyer withdrawal on termination of a Collaborative process.<sup>47</sup> Reviewing some Collaborative agreement forms, he notes that the language varies about whether they seem to be intended to be unbinding statements of principle (“hortative agreements”) or statements of binding obligations (“contractual agreements”).<sup>48</sup> Based on these distinctions, he considers whether Collaborative lawyers have the ability to withdraw from representation if the client proceeds to litigation, whether clients may enforce four-way agreements if the other side reneges, and whether lawyers may enforce four-way agreements even without their clients' consent.<sup>49</sup> Using this framework, he analyzes two recent ethical opinions about Collaborative Law and argues that they are both partially correct and partially incorrect.<sup>50</sup> He recommends that Collaborative lawyers (1) obtain and document informed consent from their clients to use Collaborative Law, (2) use separate behind-the-table and across-the-table agreements, and (3) avoid entering across-the-table contractual agreements where they are in privity with the other lawyers.<sup>51</sup>

Forrest “Woody” Mosten argues that Collaborative Law is an outgrowth of mediation and unbundled legal practice, which shape the way that parties make

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42. *Id.* at 101-04; 121-26.

43. *Id.* at 126-30.

44. Scott R. Peppet, *The Ethics of Collaborative Law*, 2008 J. DISP. RESOL. 131.

45. For Peppet's biography, see University of Colorado Law School, Tenured and Tenure-Track Faculty, Scott R. Peppet, available at <http://lawweb.colorado.edu/profiles/profile.jsp?id=1> (last visited March 5, 2008).

46. Peppet, *supra* note 44, at 132-33.

47. *Id.* at 133. An across-the-table agreement without the disqualification provision is a “Cooperative” process. *Id.* at 135.

48. *Id.* at 136-40.

49. *Id.* at 139-41.

50. *Id.* at 142-55.

51. *Id.* at 156-60.

decisions in Collaborative Law.<sup>52</sup> Mosten, a well-known mediator, Collaborative lawyer, and trainer, is considered the “father of unbundling,” which involves lawyers providing discrete services (such as advice, drafting, negotiation, or court appearances) rather than a “full service package” of legal services.<sup>53</sup> He notes that informed consent is the practical and ethical requirement for lawyers to offer unbundled services, in general, and Collaborative Law, in particular.<sup>54</sup> He describes practical implications for the process of obtaining clients’ informed consent and he offers recommendations for Collaborative lawyers in doing so.<sup>55</sup> These involve explanation of the Collaborative Law process generally, description of the benefits and risks of Collaborative Law, comparison of Collaborative Law with full service representation and other dispute resolution processes, and description of the lawyer’s practice and philosophy as well as answers to clients’ frequently asked questions.<sup>56</sup>

Jeanne Fahey describes the challenges as attorneys across the country have tried to expand Collaborative Law into other civil disputes, including employment, business, medical error, and probate matters.<sup>57</sup> Fahey is a lawyer who has devoted a great deal of time working to help develop “civil collaborative practice.” Although Collaborative Law has grown exponentially in family law practice since Minneapolis divorce lawyer Stu Webb invented the process in 1990, lawyers and parties in non-family cases have used the process only rarely despite considerable efforts to make it available.<sup>58</sup> She examines key issues and obstacles that have arisen from these attempts, what has worked and what has not, and the most promising avenues for future efforts.<sup>59</sup>

Kathy Bryan explores the potential for use of separate settlement counsel and techniques from the Collaborative Law movement to resolve business disputes.<sup>60</sup> Bryan draws on her current experience as President and CEO of the International Institute for Conflict Prevention and Resolution as well as past experience as head of worldwide litigation for Motorola Corporation.<sup>61</sup> She describes advantages of using counsel to promote settlement including Collaborative Law, Cooperative Law, and settlement counsel processes.<sup>62</sup> These include preserving relationships, reducing time and cost for resolution, and overcoming adversarial biases.<sup>63</sup> Recognizing that some parties and lawyers resist using such techniques, she suggests several strategies for overcoming these barriers. They include developing policies to routinely consider settlement counsel and Collaborative Law practices, desig-

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52. Forrest S. Mosten, *Collaborative Law Practice: An Unbundled Approach to Informed Client Decision-Making*, 2008 J. DISP. RESOL. 163.

53. For Mosten’s biography, see Forrest (Woody) Mosten, Biography, available at <http://www.mostenmediation.com/bio.html> (last visited March 5, 2008).

54. See generally Mosten, *supra* note 52.

55. *Id.* at 171-76.

56. *Id.* at 170-71.

57. Jeanne Fahey, *Adapting Collaborative Law from Family to Civil Matters: A View from the Frontlines*, 2008 J. DISP. RESOL. (forthcoming).

58. *Id.*

59. *Id.*

60. Kathy A. Bryan, *Why Should Businesses Hire Settlement Counsel?*, 2008 J. DISP. RESOL. 195.

61. For Bryan’s biography, see CPR, Kathleen A. Bryan, available at <http://www.cpradr.org/pdfs/kbryan.pdf> (last visited March 5, 2008).

62. Bryan, *supra* note 60, at 196-98.

63. *Id.*



nating in-house lawyers as settlement counsel, creating incentives to negotiate by having a parallel aggressive litigation process, exchanging information for settlement purposes only, and developing a range of desirable dispute resolution mechanisms.<sup>64</sup>

Lawrence McLellan describes the efforts by the Polk County (Iowa) Bar Association's Volunteer Lawyers Project to develop a Collaborative Law project for divorcing parties who are indigent and need legal assistance.<sup>65</sup> McLellan is a lawyer and mediator in Des Moines, Iowa, who conducted a study to assess the feasibility of this project.<sup>66</sup> The project was designed to encourage lawyers to represent poor clients and address concerns of some volunteer lawyers about not being obligated to litigate the case if the parties do not settle.<sup>67</sup> The article reports on interviews with the executive director of the Volunteer Lawyers Project and family law judges as well as the results of an online survey of Polk County Bar Association members.<sup>68</sup> The survey shows that local lawyers are open to participating in the Collaborative Law program, especially if it includes free training in family law.<sup>69</sup> Notably, lawyers said that they are more likely to accept legal aid cases if they would not have to take a case to trial if the parties did not settle.<sup>70</sup> The article discusses special ethical problems in using Collaborative Law in legal aid programs related to informed consent, the disqualification agreement, and settlement pressure, and it offers suggestions for addressing these problems.<sup>71</sup>

John Lande reports on an empirical study of a group of Cooperative lawyers in Wisconsin, the Divorce Cooperation Institute (DCI).<sup>72</sup> Lande is a scholar who has closely studied Collaborative and Cooperative Law in recent years.<sup>73</sup> His article describes the genesis of the Cooperative Practice movement in Wisconsin, focusing on how DCI members developed the practice in reaction to perceived problems of both litigation-oriented and Collaborative Practice.<sup>74</sup> DCI members expressed concerns that litigation-oriented practice involves excessively adversarial mindsets and procedures and that Collaborative Practice involves a potentially problematic disqualification agreement and cumbersome negotiation procedures.<sup>75</sup> The article documents DCI members' accounts about the goals, case characteristics, and practices in their Cooperative cases.<sup>76</sup> It concludes with recommendations for Cooperative practitioners to further develop their practice, Collaborative practitioners to consider concerns identified by DCI members, interest-

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64. *Id.* at 200-02.

65. Lawrence P. McLellan, *Expanding the Use of Collaborative Law: Consideration of its Use in a Legal Aid Program for Resolving Family Law Disputes*, 2008 J. DISP. RESOL. (forthcoming).

66. For McLellan's biography, see Sullivan & Ward, P.C., Lawrence P. McLellan, available at [http://www.sullivan-ward.com/lawrence\\_mclellan.htm](http://www.sullivan-ward.com/lawrence_mclellan.htm) (last visited March 6, 2008).

67. McLellan, *supra* note 65.

68. *Id.*

69. *Id.*

70. *Id.*

71. *Id.*

72. John Lande, *Practical Insights From an Empirical Study of Cooperative Lawyers in Wisconsin*, 2008 J. DISP. RESOL. 203.

73. For Lande's biography, see University of Missouri School of Law, Faculty and Administration, John Lande, available at <http://law.missouri.edu/faculty/landej.html> (last visited March 5, 2008).

74. Lande, *supra* note 72, at 205, 212-13.

75. *Id.* at 249-53.

76. *Id.* at 249-55.

ed lawyers to incorporate Cooperative techniques in their practice, and policy-makers and educators to address issues raised in the study.<sup>77</sup>

#### IV. CONCLUSION

Several major themes run through the symposium articles. All the contributors agree that there is a value to continued innovation in lawyering practices and that there are many difficulties in disseminating and adopting them. The legal academy and profession are large institutions that are hard to change, in part due to inertia. Getting lawyers (and parties) to seriously consider innovations is a major challenge, and innovative lawyers need to develop effective ways to overcome unwarranted skepticism and resistance.

For individual lawyers, implementing the changes discussed in the symposium requires much more than learning new legal concepts. For some, it requires a supportive legal culture and framework to enable them to enact their longstanding professional values. For some, it requires a significant re-orientation described by Collaborative practitioners as a “paradigm shift.” For most lawyers, it takes significant practice in dealing with difficult cases, sometimes learning from mental health and other professionals. New models of lawyering also require sensitivity to ethical concerns, especially the importance of eliciting clients’ informed consent to unfamiliar variations of legal practice. Innovators should also be sensitive to the needs of parties without substantial resources, including legal aid clients and much of the middle class population.

Members of the dispute resolution community should respect different processes and models, rather than denigrate some as generally inferior. We should expect that dispute resolution innovators will be attentive to perceived flaws of other processes and will highlight the potential advantages of their innovations. There certainly is some value in such efforts as they provide the motivation to continue innovating and improving the dispute resolution system. These efforts become problematic to the extent that they are oriented more to satisfying professionals’ economic or ideological interests than the interests of disputants or society.

Promoting and respecting good party decision-making should be a fundamental goal in dispute resolution. This is especially important for a movement that aspires to being “client-centered” and providing disputants with well-informed self-determination in the resolution of their conflicts. Although it is useful to fairly highlight some general differences between processes, it is unproductive and unseemly for dispute resolution professionals to engage in “debates” that boil down to “my process is better than your process” in a supposed competition for the title of “best dispute resolution process.” Proponents of various processes should remember that even if there are some general advantages of their favored process, it may not be appropriate or desired by all disputants. This points to the value of developing a variety of desirable processes from which disputants can choose. The goal of responsible lawyers and other dispute resolution professionals should be to help the parties make well-informed choices about the dispute resolution process as well as the substantive issues in their situation. Although

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77. *Id.* at 255-66.

most people in the field can readily agree to this principle, achieving it in practice is difficult, and it is important to do so effectively. This symposium provides useful directions to help continue grappling with these issues.