

The Middle Voice

The Middle Voice

Mediating Conflict Successfully

THIRD EDITION

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Lela P. Love



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For my wife, Midge, always, and our children and their families. My life has been wonderful because they are central to it. JBS

For readers who become inspired to help parties in conflict reach better understandings and outcomes; to students over the years who have inspired me; and to the many mediation parties who have taught me so much. And, finally, to my wonderful, incomparable partner, Josh Stulberg. LPL

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Preface to the Third Edition

The Middle Voice

We live in extraordinary times. They are, simultaneously, promising yet contentious.

Thanks to remarkable technological advances, we can envision a world that includes driverless cars, renewable energy, abundant food production and distribution, and unimagined space exploration. We do not think it human hubris to believe that medical research might produce treatments that minimize or eliminate devastating illnesses. And we become mesmerized at the possibility that every child might have a small device at their fingertips that gives them access to limitless sources of imagination and knowledge.

But we stumble—often by our own making. Our children and their parents feel vulnerable, wondering each day whether it is safe to be in school. Co-workers of different ethnic, religious, racial or lifestyle backgrounds openly or implicitly display disdain for one another. Community members—our fellow citizens—engage in acts that deface houses of worship or send anonymous text messages filled with hate and contempt. Political rhetoric becomes toxic. And genuine efforts by well-meaning people to work through their differences become deadlocked.

These acts polarize our communities. We must address them as constructively as possible. And we must do it together. Anyone who mediates disputes asks himself if he might contribute positively to assist community leaders in their determination to effectively use broadly inclusive, democratic dispute resolution processes to deal with such challenges. We believe, strongly, that the answer is affirmative.

In this third edition of *The Middle Voice*, we try, in a new Chapter 13, to examine why and how a mediator, using the BADGER framework presented in (newly reorganized) Part 3, can thoughtfully and effectively serve.

Except for corrections for typographical or grammatical errors, all other aspects of the second edition remain unchanged.

We remain deeply grateful to the many people from multiple countries that have shared with us their enthusiastic reaction to this text. We continue to be inspired by their own stories of adventure and service in this richly rewarding human experience of assisting others deal with differences.

JBS

LPL

February 2019

Acknowledgments

In 1987, Josh Stulberg wrote *Taking Charge/Managing Conflict*. This book updates and expands it in several important ways.

For more than thirty years, we have used the framework outlined in *The Middle Voice* when conducting mediator training programs—at both the beginning and advanced levels—for lawyer/mediators in court-annexed mediation programs, public officials serving in governmental agencies, leaders and volunteers of community organizations, and students in universities throughout the United States and Western, Central and Eastern Europe. This book considerably enriches the previous versions as a result of wonderful, helpful feedback from students and training participants, as well as our own enhanced understanding both from teaching and from mediating.

The field of “dispute resolution” and, with it, the practice and challenges of mediating, have changed importantly since the publication of earlier editions of this book. “Mediating” is part of today’s normal vocabulary—people, as citizens, family members, or participants at the workplace often “participate” in mediation sessions. The most notable changes are institutional and civic. Institutionally, the use of mediation in the United States to resolve court-annexed civil litigation of all kinds has grown exponentially, and its use by private organizations and governmental agencies to address employer-employee, interagency, or agency-citizen conflicts has seen comparable expansion. At the civic level, the design, values and implementation of mediating processes in emerging democracies, from countries in Central and Eastern Europe to those in the Far East, has become a central component of democracy-building efforts. In our view, these exciting developments require both a sharpened understanding of the basic values and goals of the mediation process—and its impact

on mediator strategies—and a searching examination of how the process can and should adapt to new settings. We hope this text meets those challenges.

Many persons have helped enrich our understanding of the mediation process. Stand outs are Robert A. Baruch Bush, James Coben, William Froehlich, Nancy H. Rogers, Sharon Press, the late Raymond Shonholtz, Andrew Thomas, and Dan Weitz. By their examples, they have taught us more about mediating than they could possibly know. Roger Deitz's attention to and persistence in editing improved this manuscript. To all these stars, and our other wonderful colleagues in dispute resolution, we are most grateful.