

THE MIDDLE VOICE

Mediating Conflict Successfully

SECOND EDITION

Joseph B. Stulberg
and
Lela P. Love

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For my wife, Midge, and my children, Jonathan, Michael, Gita, Charles and Heather, who have been unwavering in their support of my interest and activities in conflict resolution—and much beyond. My life has been wonderful because they are central to it. JBS

For my family, Peter and Nicole, who have provided a nucleus of intense energy, inspiration and love. Their presence and support have kept this—and every other—endeavor vital. LPL

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Preface to the Second Edition

THE MIDDLE VOICE

We live in a connected world.

Thanks to extraordinary technological advances in transportation and communication, we can readily interact with persons from throughout the world who embrace living habits and speak languages that differ from our own. Those differences are instantly visible or apparent to us.

But we do not need to travel the world, either physically or electronically, to encounter differences. Each of us grows up as a member of an identifiable general culture. And as we live our lives, our personal identity becomes woven with and enriched by the distinctive practices of other groups of which we become members, be they professional, recreational, religious, or geographical. Medical doctors have their own cultural norms, as do bikers or movie actors or political activists; and the list goes on.

On many occasions, when people engage in conduct that generates misunderstanding and conflicts, their actions are importantly shaped by the distinctive practices and values of their various identity groups. Whether a dispute involves allegations of human rights abuses, a failed commercial business venture, or the sounds of an apparently non-stop fiesta celebration at the house of one's next door neighbor, if a mediator wants to help those disputing parties better understand their concerns, identify multiple ways to address them, and generate mutually acceptable resolutions, then he must be acutely attuned to how the backgrounds, practices and beliefs of all participants in the mediation conference, including his own, impact the process.

In this second edition of *The Middle Voice*, we try, in a new Chapter 12, to explicitly identify the challenges that human diversity dynamics present to a mediator for constructively dealing with differences, and how a mediator, using the BADGER framework presented in (newly reorganized) Part III, can thoughtfully and effectively embrace them.

Except for corrections for typographical or grammatical errors, all other aspects of the first 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 enrich our own understanding of, and love for, this activity by their thoughtful

suggestions. More important, their excitement about, and appropriate confidence in, using these mediation skills in settings ranging from mediating multiparty public policy disputes to controversies among co-workers at the worksite or among volunteer Board members of a not-for-profit agency reaffirms for us that mediating skills are importantly useful—and deployed—in multiple settings in our lives. And that mediating well is a richly rewarding human experience for each of us.

JBS

LPL

January 2013

Acknowledgments

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

For twenty five 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 first version 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 the first edition 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, inter-agency, 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, Nancy H. Rogers, the late Raymond Shonholtz, Andrew Thomas, Sharon Press 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.