



GINI NELSON'S ENGAGING CONFLICTS TODAY

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John Lande, exploring innovative lawyering

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EXPLORING INNOVATIVE LAWYERING: JOHN LANDE

John Lande is Director of the LL.M. Program in Dispute Resolution and Associate Professor at MU. He began mediating in 1982 in California. He teaches courses on Mediation and Non-Binding Methods of Dispute Resolution. His scholarship focuses on institutionalization of mediation in the legal system and how lawyering and mediation practices affect each other.

A Personal Career Path

Gini: Good morning, John. Thank you for taking the time to share your thoughts and experiences with us. What attracted you to the field of conflict management in the first place?

John: I came of age in the 1960s and 1970s and, like many others at that time, I wanted to help solve major social problems. Although the slogan "if you are not part of the solution, you are part of the problem" was obviously an oversimplification, it reflected a sense of duty I felt to make a positive contribution to society. I thought that many of the debates of the time distorted reality and were designed to gain political advantage rather than to incorporate the merits of the various perspectives. Although I thought that various forms of conflict were sometimes necessary and productive – including legislative, electoral, and legal battles and public demonstrations – I had a strong intuition that the optimal solutions would ultimately be devised through quiet negotiation rather than high-volume clashes. I was disappointed that many people – including many who shared my particular views -- seemed uninterested in understanding others' perspectives, which I thought would be important to understand the problems and build political support for any resolutions.

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I was concerned about problems of social justice and decided to go to law school as a way to study the legal system from the inside. I thought that Daniel Ellsberg had greater credibility as a critic of the Vietnam War because he had initially been sympathetic to it and he had detailed knowledge about it. I thought that I might use legal training to do legislative policy work. I correctly anticipated that I wouldn't like the adversarial approach in law school. As I graduated in 1980, I realized, however, that I needed to get some practice experience much like doctors do internships, so I decided to practice law for a while. In 1982, I attended a CLE program about mediation sponsored by the San Francisco Bar Association and immediately felt that this would fit my interests and personality much better than traditional practice. Gary Friedman was one of the panelists and I participated in several trainings that he conducted. In a short time, I quit my job and opened my own practice so that I could mediate.

G: If you knew earlier what you know now, would you still have pursued the same career path?

J: Absolutely. I have been fortunate to find a series of

opportunities that have allowed me to do work that I enjoy. In 1982, the "field" didn't really exist as such and I have had the wonderful chance to live through the exciting period of great growth. In my first article, I anticipated many of the issues we would face and I think it is still worth reading. It is

Mediation Paradigms and Professional Identities: Can Mediators Activate a New

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Helping People Handle Conflict

I suggest that people do a candid analysis of their abilities, interests, and limitations. Then, take a long view, listen to others, volunteer to help in the field, be patient, persistent and open to changing their perspective, and have a sense of humor.

Movement for Justice?, *Mediation Quarterly*, June 1984 (Issue 4), at 19. Fortunately, our field still has many problems. I think that's fortunate because grappling with these problems makes it interesting and worthwhile to be in our field.

G: What is the best advice you have been given, and what advice would you give a budding conflict specialist?

J: A lawyer I worked for noticed that I worried a lot about national and international problems that I couldn't affect very much and he encouraged me to focus on things I could influence more. I am keenly aware of my limited time and energy and so I try to focus my efforts on things that I think can actually make a difference and that I find stimulating.

For my advice to others, I suggest that people do a candid analysis of their abilities, interests,

and limitations. Then, take a long view, listen to others, volunteer to help in the field, be patient, persistent and open

to changing their perspective, and have a sense of humor. Although the field has grown tremendously since I took my first mediation training, it is still hard to make one's place in our field because there are a limited number of specifically-designated "dispute resolution" work opportunities. Such opportunities do exist but they typically require extensive education, training, and experience – and good fortune to be in the right place at the right time. It's important to recognize that much "alternative" dispute resolution activity is done by people who don't specialize in it, such as lawyers, police, employees in government, business, and non-profit organizations, teachers, etc. People may want to look at the University of Missouri-Columbia Law School website with frequently asked questions about developing careers in dispute resolution, at <http://law.missouri.edu/llm/faq.html>.

For advice specifically geared to law students and lawyers, I recommend a won-

derful article written by my colleague, Steve Easton, which I assign to students in a course I teach, "Lawyering: Problem Solving and Dispute Resolution." The article is *My Last Lecture: Unsolicited Advice for Future and Current Lawyers*, 56 *South Carolina Law Review* 229 (2004).

Conflict Resolution Heroes

G: Who are your "conflict resolution role models" and why?

J: There are many people in our field who I greatly admire and enjoy. I have had the good fortune to know Jim Alfini, Bob Bailey, Lisa Bingham, Jim Coben, Jonathan Cohen, Tim Hedeem, Tim Heinsz, David Hoffman, Chris Honeyman, Ron Kelly, Michelle LeBaron, Lela Love, Julie Macfarlane, Bernie Mayer, Bobbi McAdoo, Craig McEwen, Michael Moffitt, Woody Mosten, John Phillips, Sharon Press, Len Riskin, Peter Salem, Jean

Institutionalization is difficult and presents the challenge of how to tailor principles and processes to fit the institutions and still maintain the integrity of the institutions and conflict management processes. This is really hard work.

Sternlight, Donna Stienstra, Nancy Welsh, Jim Woodward – and many others. I admire their deep commit-

ment to productive principles, determination to master the details, hard work to reach practical consensus, willingness to examine themselves honestly, and sense of humor.

The Biggest Questions

G: What do you think are the big questions to be answered next in the conflict management field?

J: The big challenge I am concerned about is how to incorporate good principles and processes in the various institutions in our society. It is good to do our work on an ad hoc basis – and I would like to see us continue to institutionalize it. Institutionalization is difficult and presents the challenge of how to tailor principles and processes to fit the institutions and still maintain the integrity of the institutions and conflict management processes. This is really hard work.

Thrills and Spills

G: What has been your biggest thrill in being a conflict specialist?



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Sometimes I put my foot in my mouth and other times I am too cautious. My willingness to be silly at times is both a strength and weakness.



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 Blog: EngagingConflicts.com,
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J: Undoubtedly my biggest thrill has been to do things that cause people to appreciate my help. I was often touched by my clients' reactions when I was in practice and it is very satisfying now to help students make their own paths.

G: What was your biggest mistake?

J: That's hard to say. There have been so many and I can't remember them all. Sometimes I put my foot in my mouth and other times I am too cautious. My willingness to be silly at times is both a strength and weakness. I wish that I was a better listener and consensus builder.

G: Thank you, John.

ENGAGING CONFLICTS' ANNOUNCEMENTS

Stephanie West Allen announces that the streaming video of her Neuroscience of Conflict Resolution program recently recorded at Portland State University will be available for purchase at the human services discount rate through November 30. The seminar is six hours long. To sign up, call 1-800-547-8887. Hit O and dial extension 4832. Tell them you are registering for the Neuroscience of Conflict Resolution at the human services discount.

Topics include:

- The brain's need for structure in the conflict resolution process
- The critical role of purpose — In the brain, and between participants in a dispute resolution, including the mediator or negotiators
- Stepping back: The essential key to harnessing the brain's power

COMING UP IN *ENGAGING CONFLICTS TODAY*

In *The Negotiator's Fieldbook Series*, an interview with Jayne Docherty. Jayne is professor of conflict studies at the Center for Justice and Peacebuilding at Eastern Mennonite University. She is author of *Learning Lessons from Waco: When the Parties Bring Their Gods to the Negotiation Table* and *The Little Book of Strate-*

gic Negotiation: Negotiating During Turbulent Times and articles on negotiation and conflict transformation. She has worked with numerous partner organizations to help communities strengthen their capacity to harness the positive energy and minimize the negative consequences of conflict. She is particularly interested in the challenges facing communities and organizations experiencing sudden changes that demand rapid adaptation to new realities, such as a changing population, economic restructuring, changes in laws or regulations, or the losses associated with natural disasters or catastrophic events.

RECENTLY IN THE *ENGAGING CONFLICTS* BLOG

- The Negotiator's Fieldbook Series: "Identity: More Than Meets the 'I'" and "Untapped Power: Emotions in Negotiation"
- Confronting Psychological Challenges: Daniel Shapiro Engaging Conflicts Today Interview
- Wild Turkeys, and Happy Thanksgiving!

TIP OR TOOL FOR TODAY

Astronomy Picture of the Day (APOD) (http://antwrp.gsfc.nasa.gov/apod/lib/about_apod.html) is originated, written, coordinated, and edited since 1995 by Robert Nemiroff and Jerry Bonnell. The APOD Archive contains the largest collection of annotated astronomical images on the internet.

QUOTE FOR TODAY

Almost all our faults are more pardonable than the methods we resort to to hide them.

— Francois de la Rochefoucauld

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