



# LEGALLY SPEAKING

Kristi Paulson

## De-escalating fireworks to yield resolution

By Kristi Paulson  
Special to Minnesota Lawyer

The Fourth of July offers a fitting metaphor for the volatility of conflict. Just like fireworks that light up the sky with intensity, disputes between parties can escalate suddenly with force, often leaving behind tension and unresolved emotions. Once the fireworks fade, it is essential to address the lingering effects and guide the situation back toward resolution — a skill especially crucial for lawyers and judges who navigate high-stakes, high-conflict environments. Just like fireworks, conflicts can explode unexpectedly, but how we handle the aftermath can change the course of a case.

Conflict is an unavoidable part of legal practice — but how it's handled can make all the difference. In the heat of negotiation or the tension of a courtroom exchange, the ability to de-escalate can transform confrontation into constructive di-



DEPOSIT PHOTOS

ologue. At its core, de-escalation is about lowering emotional intensity and creating space for thoughtful, solution-focused conversation. It's not just a tool for mediators and ar-

bitrators — it's a fundamental skill for all legal professionals. When used effectively, it preserves professionalism, maintains decorum, and keeps attention fixed on what truly matters: resolution.

For legal professionals, managing moments when emotions run high is essential. Whether in the courtroom, mediation, or negotiations, legal professionals have a responsibility to steer conversations away from emotional escalation and back toward reasoned, productive discussions. De-escalation isn't just a nice-to-have skill — it's a critical part of daily practice.

### Why lawyers and judges need de-escalation skills

For lawyers and judges, having the ability to de-escalate conflict is essential for the integrity of the legal process. When conflicts spiral out of control, the effects can be detrimental to the case, the parties, and the legal system. De-escalation helps preserve professionalism, keeps the focus on legal matters, and fosters an environment conducive to productive dialogue. It can prevent conflicts from escalating into unresolvable disputes and ensures the integrity of proceedings remains intact.

### Understanding the dynamics of conflict escalation

Before applying de-escalation strategies, it's important to understand how conflict escalates in the first place. What often starts as a

simple difference of opinion can quickly spiral into confrontation. Recognizing the stages of escalation gives legal professionals a framework to intervene early—before things get out of hand.

**1. Perceived threat:** Conflict often begins when one party feels their interests, reputation, or values are under attack. In a recent civil litigation matter, a party was blindsided by the opposing side's last-minute disclosure of new evidence. The perceived unfairness triggered a sharp emotional reaction and immediate defensiveness.

**2. Defensiveness:** Once threatened, people instinctively defend themselves. In depositions, when a witness feels their credibility is being challenged, the tone can shift quickly. Voices rise. Responses become combative. The defensiveness sets the stage for escalation.

**3. Counterattacks:** Defensiveness often invites retaliation. In a contract dispute, parties began accusing each other of acting in bad faith. What might have been a focused legal discussion turned into a volley of personal and procedural attacks — fueling the conflict without advancing the conversation.

**4. Win-loss mentality:** As emotions escalate, parties often dig in, viewing the situation as zero-sum. In settlement talks, one side may become so fixated on "winning" that they reject even reasonable proposals. The goal shifts from resolution to domination—and progress stalls.

**5. Breakdown of communication:** Eventually, communication breaks down entirely. In high-stakes intellectual property cases, this often looks like complete refusal to engage. When both sides stop listening, negotiations become performative, and no meaningful progress is possible.

Understanding these stages helps lawyers and judges recognize warning signs and apply de-escalation techniques proactively. Just as fireworks must be carefully managed to prevent injury, conflict in legal practice requires steady hands and strategic responses to keep things from becoming destructive.

### How to de-escalate conflict: Practical strategies for lawyers and judges

**Stay calm and keep composure:** The most critical step in

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# Birrell leads national defense lawyers association

Minnesota Lawyer

Andrew S. Birrell was sworn in July 12 as president of the National Association of Criminal Defense Lawyers (NACDL). He is the 67th president of the organization. A Life Member of the NACDL, Birrell has previously served as president-elect, first vice president, second vice president, secretary, treasurer, and on the Board of Directors.

The senior partner of Birrell Law Firm



Andrew S. Birrell

PLLC in Minneapolis, Birrell represents clients in white-collar criminal law matters including those involving bank fraud, conspiracy, mail and wire fraud, money laundering, RICO, and tax charges. Over the course of his career, Birrell has argued before the U.S. Supreme Court and fed-

eral appeals courts. He has won reversals of convictions and orders for new trials in the Minnesota Court of Appeals and Supreme Court.

Additionally, Birrell is a Fellow of the American College of Trial Lawyers as well as a Fellow of the American Board of Criminal Lawyers. He was the first chairperson of the Minnesota State Bar Association Criminal Law Certification Board, as well as was the first lawyer in Minnesota to be certified by the

Minnesota State Bar Association as a board-certified criminal law specialist.

Birrell is the 8th Circuit representative for the Lawyers Assistance Strike Force, chair of NACDL's Task Force on Artificial Intelligence, a member of the Audit, Budget, and Fourth Amendment Advocacy committees, and secretary of the NACDL Foundation for Criminal Justice (NFCJ) Board of Trustees.

## Applications sought for judicial vacancy in 5th District

Minnesota Lawyer

The Commission on Judicial Selection has announced a vacancy in Minnesota's 5th Judicial District. The vacancy will occur upon the retirement of Judge Allison L. Krehbiel. This seat will be chambered in St. Peter in Nicollet County.

Per statute, the commission will con-

sider the following qualifications for judicial office: integrity, maturity, health (if job related), judicial temperament, legal knowledge, ability, experience, and community service. The commission is seeking applicants who reflect Minnesota's full diversity.

Individuals wishing to apply may re-

quest an application by contacting the Office of the Governor and Lieutenant Governor via e-mail at [Judicial.Selection@state.mn.us](mailto:Judicial.Selection@state.mn.us). Application materials are due by 4:00 pm on August 6 and should be addressed to the chair of the commission, Erin Sindberg Porter. The commission expects to hold interviews in late August.

The judges of the Fifth Judicial District have offered to provide informational interviews to prospective applicants. To request more information or for other inquiries about the application process, please contact the Office of the Governor and Lt. Governor at [Judicial.Selection@state.mn.us](mailto:Judicial.Selection@state.mn.us).

## Legally Speaking

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de-escalation is staying calm. When tension rises — when voices get louder or accusations start flying — it's easy to match that intensity. But in the legal profession, where high stakes and strong personalities are the norm, staying steady is what makes the difference. In one arbitration, opposing counsel became visibly agitated, objecting loudly and cutting each other off. Rather than meeting the energy head-on, one attorney responded with a calm, measured tone and paused before speaking. That simple moment of restraint reset the entire exchange. The volume dropped, and the conversation regained its footing.

Staying calm doesn't mean staying silent — it means staying intentional. Take a breath. Slow the pace. In most cases, that centered energy sets the tone for the room. And when that happens, others are more likely to follow.

**Acknowledge and validate emotions:** People want their feelings recognized — especially in conflict. In a contentious divorce case, a parent's frustration over the lack of progress brought negotiations to a standstill. Instead of diving into legal arguments or proposed terms, the attorney paused to acknowledge the parent's concern. That small gesture — just recognizing the emotion — lowered the temperature and helped shift the focus back to the children's needs. In a probate dispute, tensions ran high between siblings. One was clearly angry about how the estate had been handled. The opposing counsel didn't respond with a barrage of legal points, but instead simply said, "I can see why this feels unfair to you." That one line defused a potentially explosive exchange and opened the door to resolution.

Acknowledging emotions doesn't mean agreeing with them — it means creating enough space for the conversation to move forward. Phrases like "It makes sense you'd feel that way" or "This situation would be hard for anyone" can reduce

defensiveness and foster a more constructive tone.

**Use neutral language:** The words used in conflict matter — a lot. In a settlement negotiation, one party accused the other of acting in bad faith, and tensions began to rise. Rather than letting the conversation spiral, opposing counsel calmly reframed the moment: "It seems we have a difference of opinion on the facts. Let's take a closer look at what we each have." That simple shift in language redirected the discussion from blame to evidence, and from accusation to problem-solving.

This kind of reframing is powerful in legal practice. A charged phrase like "You're lying" immediately triggers defensiveness and shuts down dialogue. Replacing it with "We seem to see this differently" or "Let's look at where our understandings diverge" keeps the door open to resolution without sacrificing advocacy.

**Ask open-ended questions:** When conflict escalates, conversations tend to lock into positions and accusations. It becomes about who's right, who's wrong, and who gets the last word. But open-ended questions can interrupt that spiral by shifting the focus from rigid stances to underlying interests. In a complex real estate dispute, tensions were high, and both sides were entrenched. One attorney cut through the posturing by asking, "What outcome would make this workable for you?" That question reframed the dynamic from accusation to problem-solving and ultimately helped move the parties toward agreement.

Open-ended questions like "What's most important to you in this?" or "How would you like to see this resolved?" can be surprisingly effective. They invite reflection, reduce defensiveness, and create room for constructive dialogue — whether in negotiations, chambers, or client meetings.

**Give people time to reflect:** Sometimes, the most effective way to de-escalate tension is to take a step back. In a contentious piece of litigation, a heated exchange during a settlement conference had both sides digging in. One attorney suggested a short break. Ten minutes later, the parties returned with

cooler heads and a clearer perspective — and the tone of the negotiation shifted noticeably. In a business partnership dispute, after several unproductive rounds of back-and-forth, counsel quietly recommended a pause. That moment away from the conflict gave both partners space to reflect on their goals. When they returned, the conversation moved from accusation to alignment, and progress followed.

Breaks aren't signs of failure — they're tools. A simple, "Let's take 10 minutes and reconvene" can provide just enough distance to reset the tone and reopen the path to resolution.

**Find common ground:** Even in the most divisive disputes, there's often at least one point of agreement. In a commercial lease dispute, both parties were locked in a standoff over terms. The tone changed when one attorney reminded the group, "At the end of the day, both sides want a long-term arrangement that works." That shared value helped reset the conversation and refocus it on solutions rather than positions. In a heated child custody matter, emotions ran high until someone reframed the issue around a common interest: the children. A simple comment — "You both care deeply about your kids and want what's best for them" — helped move the dialogue away from personal attacks and toward constructive problem-solving.

Identifying shared values — whether it's fairness, stability, or the well-being of children — can create a collaborative tone and open the door to resolution, even when everything else feels adversarial.

**Focus on solutions, not problems:** Focusing solely on the problem often deepens the divide. In a business partnership dispute, one side kept replaying what went wrong, while the other became increasingly defensive. The conversation turned when one attorney shifted the tone by asking, "What can we do to resolve this fairly?" That forward-looking question helped both sides step out of blame mode and into problem-solving. In a contract dispute, counsel on both sides were entrenched in rehashing past missteps. When the conversation pivoted to "What would a workable solution look like from

here?" the dynamic changed. Suddenly, the focus wasn't on fault — it was on moving forward.

Questions like "What's the best way forward?" or "What options make sense now?" can redirect conflict and help everyone reorient toward resolution rather than staying stuck in the past.

## Conclusion

The aftermath of fireworks — whether in the sky or across a conference table — offers a chance to reset. Just as the embers of a fireworks display need to be safely managed, the lingering tension after a legal blow-up can't be ignored. Left unchecked, that tension can smolder beneath the surface, quietly undermining progress.

De-escalation isn't about giving in or sidestepping conflict. It's about creating space for calm, focused dialogue that moves things forward. For lawyers and judges, it's not a bonus skill — it's essential. Whether managing a difficult negotiation, a tense courtroom exchange, or a challenging client, the ability to lower the emotional temperature can preserve professionalism and protect the integrity of the process.

These communication strategies aren't just theoretical. They work. When used with intention, they turn high-conflict moments into turning points — preventing today's fireworks from becoming tomorrow's full-blown firestorms. As you face your next high-conflict situation, consider how you can apply these strategies to turn the heat down and get one step closer to resolution.

*Kristi Paulson is the owner of PowerHouse Mediation and The Professional Education Group. Kristi earned a law degree from the University of Minnesota Law School and holds a master's degree in communication. With a diverse background as a trial lawyer, mediator, and educator, she specializes in writing about communication skills, ethics, dispute resolution and trial techniques. To learn more, visit <https://powerhousemediation.com>.*