



LEGALLY SPEAKING

Kristi Paulson

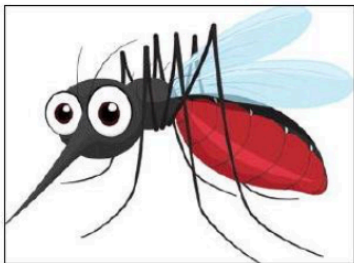
Pest control: Confronting tiny distractions in talks

By Kristi Paulson
Special to Minnesota Lawyer

Summer brings heat, humidity — and pests. The kinds that buzz around your head, interrupt your thoughts, and make it nearly impossible to concentrate. In the legal world, however, we deal with a different kind of pest: subtle, persistent distractions that infiltrate negotiations, mediations, depositions, and client meetings. While these pests may not be as immediately obvious, their impact can be just as disruptive.

These communication “pests”—side comments, body language misfires, unchecked emotions, and tech interruptions — have the power to gradually unravel a negotiation, stall momentum, and even erode professional credibility. They may not bite, but their sting can be sharp: missed cues, miscommunications, and lost opportunities. In some cases, they can even open the door to ethical dilemmas or malpractice claims.

Let’s take a closer look at these metaphorical pests — and explore the tools lawyers can use to swat them away, staying focused on what truly matters.



DEPOSIT PHOTOS

The mosquito: The distracting undercurrent

Any lawyer who’s spent time in the courtroom or at the negotiating table knows that some distractions are subtle. They don’t announce themselves with dramatic fanfare, but their impact is just as powerful—slowly draining your energy and focus. Take the mosquito, for example. It doesn’t make a grand entrance; instead, it’s that faint buzz just below your threshold of hearing. Over time, that quiet annoyance builds, until it’s impossible to ignore.

In the world of legal negotiations, we face our own version of this mosquito: the quiet, subtle disruptions that simmer beneath the surface. You’ve seen it before—the attorney who “just wants to discuss” an issue, but whose real intent is to undermine trust, create doubt, or derail the entire conversation. Or perhaps it’s the opposing counsel who can’t

mask their disapproval with eye rolls, smirks, or sighs every time you make a point.

At first glance, these behaviors may seem insignificant. But in a high-stakes legal environment, these tiny disruptions can set the stage for much bigger problems. They plant seeds of doubt in your client’s mind, unsettle the delicate balance needed to move forward, and, if left unchecked, can cause everything to slow to a halt. Negotiations stall. Clients become defensive. Decisions get delayed. And before you know it, a simple discussion has exploded, derailing what could have been a straightforward resolution.

So, how do you avoid letting these “mosquito moments” infect your case? First, **name the discomfort**. It might feel awkward at first, but addressing the issue upfront can defuse the tension. For instance, you could say, “It seems like something’s bothering you — can we talk about it before moving forward?” This opens the door for clarification or adjustment.

Next, **redirect with curiosity, not accusation**. Instead of jumping to conclusions or confronting the behavior directly, ask open-ended questions that invite dialogue. A question like, “I noticed some hesitation. Is there something you’re unsure about in the offer?” signals a willingness to engage without being confrontational.

Finally, **set the tone early**. The atmosphere in the room should be collaborative, not combative. Establish clear ground rules such as, “We’ll focus on the issues, and everyone will have time to speak without judgment.” When expectations are clear from the start, it becomes easier to manage emotions as the negotiation progresses.

But what happens if you ignore these emotional undercurrents? It’s more than just a missed opportunity for better communication. Unaddressed distractions can lead to misjudging your client’s true goals, misrepresenting their interests, or missing key signals from the opposing side. A delay in addressing an issue could cause a blown deadline or prevent you from meeting a critical demand. Worst case, ignoring these distractions could result in a breakdown in negotiations, potentially jeopardizing your client’s position — and that’s not just a strategic failure — it’s a professional misstep.

The mosquito may seem harmless in the moment, but over time, even the smallest distraction can become a significant problem. So, the next time you sense that buzz in the air, don’t wait. Swat it away early and keep your negotiation on track.



DEPOSIT PHOTOS

The wasp: The aggressive interrupter

Let’s talk about the wasp. You know the type — the lawyer who doesn’t simply speak over others but forces their way into the conversation, raising their voice or throwing sharp verbal jabs designed to rattle. You’ve encountered them in mediations, court conferences, or even during trial prep. Their tactics aren’t about persuasion; they’re about intimidation.

It might seem like they’re just being “tough,” but make no mistake: aggression is not the same as advocacy. When someone dominates the conversation to control the room, the result is rarely productive. Often, the other party either retreats into silence, stalling momentum, or escalates into a confrontation, sparking unnecessary conflict. Either way, the conversation shifts from resolution to power dynamics — and that’s a recipe for failure, both for the case and for civility.

So, how do you handle the sting of the wasp in the room?

First, **set and enforce ground rules**. While you can’t control how others behave, you can set clear expectations for communication. If someone is talking over others or being overly aggressive, establish boundaries early. For example, try saying, “Let’s agree to no interruptions so we can keep things productive.” If an interruption occurs, pause. Don’t rush through it — let the room breathe. This signals that interruptions won’t be tolerated, creating space for more meaningful exchange.

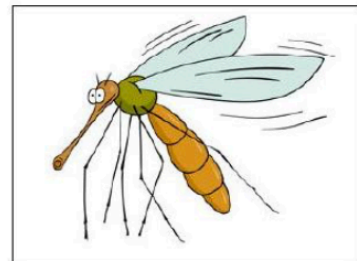
Next, **use reflective statements to redirect** the conversation. Instead of matching aggression with more force, take a step back and show you’re engaged by repeating and clarifying. For instance, “I want to make sure I understood you correctly. You’re saying the offer is unacceptable — can you share more about why?” This approach reinforces that you’re listening and keeps the conversation focused on substance, not volume.

Sometimes, it’s important to **reset the tone** entirely. If things are getting too heated or stuck in a cycle of conflict, don’t

hesitate to call for a pause. A statement like, “We seem to be getting stuck. Let’s take five and return to the core issues,” offers a much-needed break and redirects the conversation back on track.

But what happens if you ignore the wasp? The risks are significant. Aggression unchecked can quickly escalate, creating a hostile environment where communication is tainted by fear, frustration, and resentment. If an attorney’s aggressive tone prevents a client from speaking up — or worse, intimidates opposing counsel — it could cross ethical lines. According to the ABA Model Rules 1.1 (Competence) and 1.3 (Diligence), attorneys are required to communicate meaningfully and diligently, not through bullying tactics. Rule 4.4 is clear about respecting others’ rights, including showing respect in negotiations and the courtroom.

Ignoring the sting of the wasp can turn what could have been a straightforward negotiation into a heated, unproductive battle. So, when aggression rears its head, it’s up to you to calm the room, reset expectations, and remind everyone that progress is made through cooperation, not coercion.



DEPOSIT PHOTOS

The gnat: The endless, unimportant detail

Let’s talk about the gnat. It’s the quiet, persistent creature that doesn’t make a big noise, but keeps buzzing around, distracting you when you’re trying to focus on the bigger picture. In legal negotiations, the gnat is that person who fixates on the smallest, most irrelevant details, steering the conversation off course with facts that might seem important to them but ultimately don’t contribute to the decision at hand.

Think about the over-prepared associate who, in the middle of a settlement talk, can’t stop discussing the rain patterns on the day of the accident — details that, while interesting, do nothing to move the conversation forward. You’ve probably encountered this in your own discussions — someone getting lost in legal rabbit holes or irrelevant background information, turning what could have been a quick, 15-minute discussion

CALENDAR

MONDAY, JUNE 9

Resilience and Rights: Defending Disability Inclusion Amid DEI Rollbacks

Hosts: Minnesota Women Lawyers, Minnesota Disability Bar Association

Time: Noon to 1:30 p.m.

Location: Online via Zoom

Cost: Free for members and Minnesota Disability Bar Association members, \$15 for nonmembers

Description: A panel of experts will explore the recent legal and political setbacks to diversity, equity, and inclusion initiatives, with a particular focus on their impact on individuals with disabilities. They will provide critical insights and practical guidance for attorneys committed to advancing accessibility, equity, and inclusion in today's complex legal environment.

Register: Online at mnlawyers.org

WEDNESDAY, JUNE 11

The Law of the Great Outdoors

Host: Minnesota CLE

Time: 9 a.m. to 4 p.m.

Location: Minnesota CLE Conference Center, 600 Nicollet Mall, Suite 370, Minneapolis

Cost: \$295 for MSBA members and paralegals, \$345 standard rate

Description: Get a crash course on legal issues involving hunting and fishing, cabins and vacation rentals, and recreational and lakeshore property. Topics include Tribal rights and natural resources, riparian rights, boundary disputes involving recreational property, and waterfront land use and regulation. 6 CLE credits requested.

Register: Online at minncle.org

2025 Annual Tax Law Judges Conference and Seminar

Hosts: Minnesota State, Hennepin County and



DEPOSIT PHOTOS

Ramsey County Bar Associations

Time: 2 to 6:30 p.m.

Location: First National Bank Building (RCBA Office), 332 Minnesota St., Conference Center Training Room, St. Paul

Cost: Free for section members, law students and new admittees, \$25 for members not in the section, \$65 for nonmembers

Description: Learn about current tax topics in the legal landscape. This year's keynote presenter is Judge Ronald L. Buch of the United States Tax Court. Topics include How to Read a Tax Court Opinion, Minnesota Department of Revenue, IRS Counsel Update, Minnesota Tax Litigation, and Minnesota Tax Court Update. 3.0 CLE credits requested.

Register: Online at mnbar.org

THURSDAY, JUNE 12

Price, Access, and Power: Exploring Grocery Costs, Food Access, and Competition

Host: Office of the Attorney General

Time: 8:30 a.m. to 4:45 p.m.

Location: University of St. Thomas, 2115 Summit Ave., St. Paul or virtual

Cost: \$20 for non-AG, \$10 for AG staff

Description: Join Minnesota Attorney General

Kelth Ellison and a host of speakers for a program that will examine the legal, economic, and policy dynamics impacting grocery prices, food access, and competition in today's marketplace. Sessions will examine the effects of market concentration on grocery costs, price gouging, and notable cases, underscoring the need for stronger regulatory oversight. 6.25 CLE credits requested.

Register: Online at ag.state.mn.us

MONDAY, JUNE 16

Minnesota Affinity Bar Association Judicial Bootcamp

Host: Minnesota State Bar Association

Time: 8:30 a.m. to 1 p.m.

Location: APEX Conference Center, 33 S. Sixth St., Minneapolis or virtual

Cost: \$45 for members, \$135 for nonmembers, Minnesota Affinity Bar members who are not MSBA members can receive a \$90 discount

Description: The Affinity and Affiliate Bars are a collective of 10 bar organizations that are working with the Minnesota Governor's office to diversify the judiciary. This bootcamp offers candidates planning to seek a judicial position in the next three to five years with the

tools they need to ascend to the bench. Legal professionals from all backgrounds are welcome.

Register: Online at mnbar.org

TUESDAY, JUNE 17

Navigating Copyright in the Age of AI

Hosts: Minnesota State, Hennepin County and Ramsey County Bar Associations

Time: Noon to 1 p.m.

Location: Online via Zoom

Cost: Free for section members, law students and new admittees, \$15 for members not in the section, \$50 for nonmembers

Description: This session will explore how artificial intelligence is reshaping the copyright landscape and what it means for your clients. Hear updates from the U.S. Copyright Office, including developments with the Copyright Claims Board, recent policy studies, and the latest AI-related initiatives. You'll also learn about key resources and services available to practitioners. 1.0 CLE credit.

Register: Online at mnbar.org

JUNE 25 TO JUNE 26

2025 MSBA Convention

Host: Minnesota State Bar Association

Time: 8:30 a.m. Wednesday to 4:45 p.m. Thursday

Location: Minnesota CLE Conference Center, 600 Nicollet Mall, Suite 370, Minneapolis

Cost: \$95 for MSBA members and paralegals, \$45 for judges, clerks, and students, \$295 standard rate

Description: Join your colleagues to participate in valuable presentations by Minnesota lawyers and get important federal and state case law updates. Featured speakers include Minnesota U.S. Supreme Court Advocate Colleen Roh Sinzad, Chief Justice Natalie E. Hudson and Ramsey County Attorney John Chol. 9.5 CLE credits requested.

Register: Online at minncle.org

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into an hour-long diversion.

Why does this matter? Details are important, of course — until they're not. The gnat thrives on the irrelevant, turning minor issues into major distractions. These diversions clog up the flow of the conversation, wear down everyone's patience, and erode the focus necessary for making real decisions. And in the legal world, time is money. When you waste time chasing down tangents, you're losing both.

So how do you redirect without crushing morale or making the person feel dismissed?

First, *ask focused questions*. When someone veers off course, help them refocus by connecting their point to the heart of the discussion: "Can you explain how this ties into the current offer?" This keeps the conversation anchored while showing that their input is still valued.

Second, introduce a *"parking lot"* for off-topic issues. Create a visible space (a whiteboard or shared document) labeled "Parking Lot" where you can jot down any off-topic concerns. "I see this is an important issue, but let's put it in the 'parking lot' for now and return to it later." This gives everyone permission to move forward without ignoring valid concerns that may need attention down the road.

Finally, *set boundaries upfront* with framing. At the beginning of any discussion, establish the key areas of focus: "Let's keep our comments centered

around liability, damages, and timelines." By setting expectations early, you make it easier to steer the conversation back on track if someone starts to wander off into irrelevant territory.

But what happens if you ignore the gnat? Letting the conversation become diluted, with decisions delayed and clarity lost, can have far-reaching consequences. Clients might feel unheard or confused, which can lead to misunderstandings about the issues at hand. Worse, they could later claim they didn't fully understand the offer, the risks, or the alternatives, opening the door to communication breakdowns — and even malpractice claims.

While the gnat's distractions may seem harmless in the moment, failing to manage them can have serious consequences. Redirecting the conversation and keeping it on track not only saves time but also shields you from the bigger risks of unclear or delayed decision-making.

Why pests aren't just annoying — they're risky

It's easy to brush off small distractions as minor annoyances — something to tolerate in the name of progress. But in the legal world, these metaphorical pests are more than just irritating; they pose significant risks to both your case and your professional reputation.

Here's the truth: every pest — from the subtle mosquito to the aggressive wasp to the distracted gnat — undermines the very thing that makes a successful negoti-

ation or mediation possible: clear, effective communication. When communication breaks down, so does trust. And when trust erodes, the foundation of any case begins to crumble.

For instance, when the mosquito's emotional undercurrents go unaddressed, what seems like a small discomfort can snowball into a full-blown communication breakdown. Clients feel unheard, the opposing party digs in their heels, and the case stalls. Now, what should have been a straightforward discussion turns into a messy, prolonged battle of egos, wasting time, money, and emotional energy.

Similarly, the wasp's aggressive interruptions don't just increase tension — they can lead to ethical violations. When one party uses intimidation tactics, it prevents meaningful communication and discourages open dialogue. It's not just about bad manners; it's about professionalism. Ignoring or tolerating such behavior can harm client relationships, lead to disputes over professional conduct, and even open the door to malpractice claims.

And the gnat? While it might seem harmless, when you let irrelevant details consume too much time, you risk misrepresenting your client's goals or missing the opportunity to negotiate a fair settlement. In the worst-case scenario, clients may walk away confused, feeling as if their legal counsel failed to provide clear guidance — potentially resulting in a breach of trust that could have long-term repercussions on both the case and your reputation.

Ultimately, these pests, while seemingly small, have the power to derail

negotiations, delay resolutions, and, in some cases, result in real legal consequences. In a world where every word counts, and every moment of attention is valuable, they are more than just distractions — they're risks you can't afford to ignore.

Final thoughts: Be the bug spray

It's summer. Pests are part of the season. But just because they're around doesn't mean they have to ruin your picnic — or your negotiation. With a bit of awareness and some strategic tools at your disposal, you can stay focused, keep everyone on track, and ensure that the process serves your client's best interests while upholding your professional standards.

And when things get too hectic, or the distractions start to pile up? Take a breath. Reset the room. Then, pass the citronella. A small shift in approach can make all the difference in getting back to a productive, solution-focused conversation.

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 <http://powerhousemediation.com>