LEGALLY SPEAKING

Kristi Paulson

The language of de-escalation: Why it matters

By Kristi Paulson
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DEPOSIT PHOTOS

Lawyers and judges work in environments where conflict is not an occasional feature of the job. It is the work itself. Legal disputes bring fear, frustration, uncertainty, and high stakes into courtrooms, mediation rooms, hearings, and client conferences. In those moments, language matters. The words chosen by legal professionals can either stabilize the process or intensify the conflict.

De-escalation is often misunderstood as a soft skill or a personality trait. It is neither. De-escalation is a deliberate communication strategy that uses language, tone, and pacing to reduce emotional intensity and keep people engaged in rational decision-making. For lawyers and judges, it is a practical skill with a direct impact on outcomes.

We are currently witnessing, on a much larger stage in Minnesota, what happens when conflict escalates faster than communication can contain it, or when communication is used to further inflame the conflict. That same dynamic plays out every day in trials, mediations, and client interactions, often determining how a case begins, how it proceeds, and sometimes how it ends.

De-escalation is not the same as concession

One reason de-escalation is sometimes resisted is the belief that it signals weakness. In practice, de-escalation does not require giving ground or softening advocacy. It requires delivering positions in a way that can be heard.

Courtrooms provide familiar examples. A lawyer may have a strong legal argument, but when it is delivered with sharp tone or visible frustration, the focus can shift from the merits to the behavior. Judges see this regularly, and once escalation enters the exchange, credibility becomes part of the equation, even when the law is sound.

Trials often follow this trajectory, where early escalations in tone during pretrial hearings or motions practice shape how a judge or jury experiences the case from the outset. When advocacy becomes performative rather than persuasive, the room responds accordingly. De-escalation does not dilute advocacy. It strengthens it by keeping attention where it belongs.

The same dynamic appears in mediation. An opening statement framed in absolutes may feel forceful to the speaker, but it often lands as a threat to the other side. When that happens, listening decreases, positions harden, and the path to resolution narrows. This is why many mediators omit opening statements in the resolution process.

Why escalation happens so quickly

Escalation is rarely intentional. Most lawyers do not walk into a courtroom, mediation, or client meeting intending to inflame a situation. More often, escalation grows out of stress, habit, or the pressure to perform. Lawyers are trained to be decisive and efficient, and under pressure that decisiveness can sound confrontational rather than confident.

That said, there are situations where escalation is intentional. Every lawyer and judge has encountered them. The overaggressive lawyer who believes volume equals strength. The client who feels they have something to prove. The party who uses intimidation as a tactic. In those moments, escalation is performative. It is designed to provoke reaction and assert control over the room.

Trials can be particularly vulnerable to this dynamic. Aggressive posturing may energize a witness or unsettle opposing counsel, but it also risks alienating the decision-maker. Bully behavior thrives on reaction. It feeds on emotional engagement and visible disruption. Responding in kind often escalates the dynamic and unintentionally rewards the behavior.

De-escalation removes the oxygen. Calm, measured responses signal authority and confidence without feeding the performance. Judges see this in real time. A steady judicial response to aggressive advocacy often diffuses tension more effectively than sharp rebuke. Lawyers experience the same effect when they refuse to mirror aggression and instead maintain control of tone and pace.

Understanding whether escalation is unintentional or strategic matters. The response is not the same. Unintentional escalation calls for recalibration and clarification. Intentional escalation calls for boundaries, structure, and disciplined language. In both situations, de-escalation remains the most effective tool.

The practical impact of de-escalation language

De-escalation works because it re-engages the thinking part of the brain. When people feel attacked or dismissed, they move into a defensive state where logic and analysis have little effect. De-escalation language lowers that defense and restores the ability to reason, assess risk, and consider options.

This dynamic appears repeatedly in trials. A witness who feels cornered may become evasive or combative. A jury that senses hostility may disengage. Lawyers who adjust tone, pacing, and phrasing often regain control of the exchange and restore credibility with the decision-maker.

Mediation provides especially clear examples. A party may express frustration in absolute terms, claiming they have been ignored or treated unfairly. A skilled mediator does not correct the statement or argue the facts. Instead, the mediator reflects the concern in neutral language and asks a clarifying question. The emotional intensity drops, and the conversation continues.

Client conversations follow the same pattern. When lawyers deliver difficult news bluntly, clients may feel dismissed or blindsided. When lawyers acknowledge frustration without endorsing it, trust builds. Once clients feel heard, they are more willing to engage in strategic decision-making rather than emotional reaction.

Practical de-escalation skills for lawyers and judges

De-escalation is not instinctive. It is a learned skill that improves with intentional practice. In trials, mediations, hearings, and client meetings, small shifts in language and delivery can dramatically change the direction of an exchange.

Replace absolutes with questions: Absolute statements tend to shut conversations down and invite resistance. When a lawyer says that a position will never work or that an argument has no merit, the exchange often ends there. Framing the same concern as a question keeps dialogue open and frequently reveals information that would otherwise remain hidden.

Acknowledge emotion without endorsing it: People escalate when they feel unheard. Recognizing frustration, fear, or anger does not require agreement. It signals respect and allows the conversation to move forward. This approach is particularly effective with

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clients and witnesses, where emotional validation builds trust and cooperation.

Slow the pace on purpose: Escalation feeds on speed. Rapid exchanges, interruptions, and immediate rebuttals increase tension. Deliberate pauses, measured responses, and controlled pacing signal confidence and authority. In both courtrooms and mediations, slowing the tempo often resets the tone of the room.

Use curiosity instead of correction: Immediate correction often escalates conflict, especially when emotions are already high. Curiosity invites explanation rather than defensiveness. Asking what is driving a concern or how the other side sees an issue unfolding gathers information while lowering emotional intensity.

Name the process, not the person: When exchanges begin to escalate, calling out behavior directly can inflame the situation. Redirecting attention to the purpose or process of the discussion keeps the focus on resolution rather than confrontation. Judges often use this technique effectively to maintain control without personalizing conflict.

Set boundaries calmly and clearly: De-escalation does not mean tolerating aggression or disrespect. Boundaries are most effective when stated without emotion or escalation. Clear, neutral statements signal authority and professionalism and often stop disruptive behavior without further conflict.

Model the tone you want to see: Tone is contagious. Whether addressing opposing counsel, a client, or a litigant, the language and demeanor used by lawyers and judges set the ceiling for the interaction. Professionalism under pressure is not passive. It is persuasive.

Why mastery matters

Awareness of de-escalation is not enough. Under pressure, even experienced professionals revert to instinct. Mastery requires intentional practice and self-awareness, along with the ability to recognize personal escalation triggers and plan responses in advance.

Lawyers and judges who use de-escalation effectively are often the ones who move cases forward most efficiently. They maintain credibility, preserve professional relationships, and create space for resolution, even in difficult cases. This is not about avoiding conflict. Conflict is inherent in the legal system. De-escalation is about managing conflict in a way that supports sound decision-making rather than undermines it.

Language shapes outcomes

Language shapes outcomes. The same message can escalate a situation or stabilize it depending on how it is delivered. For lawyers and judges, de-escalation is not an optional communication style. It is a professional skill that directly affects credibility, efficiency, and results.

What we are watching unfold on a much larger scale in Minnesota is a reminder of what legal professionals see every day in smaller rooms. When communication inflames conflict, outcomes narrow. When language is used to lower the temperature, space for sound decision-making and resolution opens.

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.