

THE DISPUTE RESOLVER

Articles on Construction Litigation & Dispute Resolution by Division 1 of the ABA Forum on Construction Law

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A Tuesday With Patricia Thompson



This is not a political article. Although I must admit its theme was prompted by recent political attention devoted to dismantling diversity, equity and inclusion (DEI) initiatives in education, businesses, law firms, and government. I have spoken and written about DEI in alternative dispute resolution in the past, but this article is not going to address the issue of allegedly discriminatory DEI agendas.

Instead, allow me to share my simply stated life philosophy of how to treat others, which may well help us all foster equity and inclusion. I say this because, at times over at least the past 20 years, colleagues have graciously praised me for being inclusive and encouraging and for promoting and mentoring minorities and women within the leadership ranks of several American Bar Association (ABA) committees and other professional organizations.

Indeed, I received my latest award acknowledging my DEI activities just a few months ago.

I have never sought such recognition. Instead, I merely try to be kind to others, especially those who need kindness. The concept has been described as "doing unto others as you would have them do unto you" or "loving your neighbor as yourself."

I prefer the latter phrase. Millennia ago, an itinerant teacher said that loving your neighbor as yourself was one of two most important commandments for virtuous living. He was then asked by a lawyer, "Who is my neighbor?" The teacher answered with a story about a traveler who came upon a man by the side of a road who had been robbed, beaten and left half dead. Two of the injured man's countrymen, separately, had passed him by without stopping. Now, the traveler and the injured man came from two countries with a long history of enmity. They were of different religions and racial backgrounds. Nevertheless, the traveler had compassion for the man, bound his wounds and carried him on his own donkey to an inn where the traveler paid for his care.

The teacher then asked the lawyer which of the three persons who came upon the injured man proved to be a neighbor to that man. The lawyer answered, "The one who showed him mercy." The teacher replied, "Go and do likewise."

With that illustration, I take the commandment to love my neighbor to mean that any person — no matter where they come from or what they may look like — whom I find in my path with a need I can meet is a person to whom I am to show kindness.

How does this apply to my professional life, and specifically my involvement with the ABA and other professional groups? Here are some real examples, which can be varied in many ways.

When I walk into an ABA reception with hundreds of attendees, I look for those who are new, who may not know many people and who may find it all just a bit intimidating. I then introduce myself and ask them about themselves and why they are there. I want them to feel like they belong, because they do. Indeed, at various times in my life, I have been in their shoes — such as when I started attending huge ABA TIPS Fidelity and Surety Law Committee meetings in the 1970s and, later, Forum meetings — and I did not look like or know most of the people at those meetings. And in such gatherings, invariably, someone kindly made me feel welcome. I remember them and usually count them among my friends to this day. In similar situations now, I find it a pleasure to do unto others, as others were kind enough to have done unto me.



Patricia with the partners in her first law firm

For years, before the ABA issued any guidelines on speaker diversity, whenever I had influence over CLE programming, I intentionally included at least one speaker who was qualified on the topic and different from the rest of the panel or a majority of the audience in some way, especially if they had not spoken to the group before or were relatively new to it. In a similar fashion, when forming committees, appointing leadership or serving on membership committees, I looked for ways to add new members who might have differing life experiences and viewpoints to offer the veterans in the group.

I have put my philosophy of being kind to use several times in my career — including in the last few months — when disagreements threatened to destroy the harmony and even the existence of communities of which I have



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been a member. Lawyers are very good at making arguments and taking sides; I have seen it happen in law firms, ABA committees and other professional organizations. In such cases, it is my experience that it is better to be neighborly to those with whom we disagree and express opinions respectfully, with empathy and humility. After all, until the disagreement arose, we were proud to be colleagues. And, as those who write about implicit bias counsel, it is possible the persons with whom we disagree have reasonable bases for their opinions and actions that appear as valid to them as mine do to me. Shocking as it is to admit, on occasion, I have been persuaded to concede I have misjudged those with whom I disagreed.

Loving your neighbor is applicable to all aspects of life. So, in my current practice as a neutral with JAMS, I try to treat every advocate and party with impartial and kind consideration, respect and patience, and to ensure a level playing field for those who do not yet understand the ways in which arbitration differs from litigation.

I can attest that being supportive and kind to others has provided decades of joy. I recommend this approach to all who would like to succeed, help others do the same and make wonderful friends.

Patricia H. Thompson, Esq., FCIArb, CollArb, is a JAMS arbitrator and mediator concentrating on construction and surety claims, employment discrimination, wage and noncompete disputes, fidelity and business insurance coverage analysis, and other complex commercial disputes. She brings nearly five decades of trial, arbitration and appellate experience to her ADR practice.

The Dispute Resolver was proud to work with Patricia in connection with this installment of the "Tuesdays With" series. This series recognizes that, whether gleaned from a lifetime of learning or a life-changing moment in time, we all have something worthwhile to teach each other. If you believe you have a perspective to share, please contact [Marissa Downs](#) for more information on how to contribute to this series.

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