



Cognitive Empathy: The Underrated Superpower in Conflict Resolution

Commercial and Contracts

Real Estate



Banner artwork by Butsaya / [Shutterstock.com](https://www.shutterstock.com)

Could a greater miracle take place than for us to look through each other's eyes for an instant?

Henry David Thoreau

The legal profession is innately emotional. Lawyers work on strict deadlines, manage impulsive personalities, and are pressured to perform daily. In high-stakes and anxiety-inducing environments, lawyers are handling parties' egos and emotional triggers. It is understandable that a lawyer could "snap" at even the slightest chance of pushback. Since conflict is often inevitable in organizations, in-house lawyers need to stay nimble to navigate such temperamental landscapes.

At the heart of any form of conflict resolution is empathy. Relationship counselors across the world advocate for fostering safe environments where people feel understood and valued. While an empathetic approach may be perceived as weak in a historically cutthroat environment — there is a distinct difference between emotional empathy and cognitive empathy. Emotional empathy, on the

one hand, is focused on feeling another person's emotions as if they were their own. Cognitive empathy, on the other hand, is focused on the *validation* of another person's emotions or perspective. Regarding conflict resolution, cognitive empathy offers a more holistic approach to promote open communication and build respect among team members and opposing parties.

Validation, in its essence, is the act of making someone feel heard. As humans, we have a deep need to feel valued. To validate someone's emotions does not necessarily mean that you agree with their argument but are in a better position to understand the intent and background behind it. An internal team member may feel dismissed because their emotional state or argument go unaddressed. As such, in-house lawyers must be aware of organizational conflicts while performing their day-to-day duties. While an in-house lawyer's duty is to the organization, they are often the sounding board to a wide range of frustrations and complaints. To bridge this gap effectively, lawyers need to be empathetic all while still being cognizant of professional boundaries.

While an in-house lawyer's duty is to the organization, they are often the sounding board to a wide range of frustrations and complaints. To bridge this gap effectively, lawyers need to be empathetic all while still being cognizant of professional boundaries.

Construction, for instance, is notoriously known for conflict. With market uncertainty, increases in material costs, and labor shortages, construction teams have significant pressure to succeed. Such adversity has triggered emotions to soar at unprecedented levels. When a project is behind schedule or there is a payment dispute, it is easy to act out litigiously and play the blame game. During one of our multifamily projects earlier this year, a vendor was extremely argumentative regarding alleged payment owed. The vendor was very abrupt in communication with our construction team and threatened to walk off the project on numerous occasions. Instead of fighting fire with fire, our team was able to validate their frustrations to better understand their position. Considering payment had been a difficult experience for them on other development projects in the past, they were immediately triggered by the thought of a payment inaccuracy. We later provided the vendor with a detailed record of our payment history, which included executed payment applications, invoice breakdowns, and time-stamped progress pictures of work completed. By *first* acknowledging the vendor's emotions, we opened the door for respectful communication, which allowed us to maintain our position without being contentious.

The heaviness of negativity and frustration can weigh unfavorably on any team's chances of moving a project forward. Effective resolution requires alignment between all parties' goals and objectives. Often not involved in the day-to-day aspects of a construction project, in-house lawyers need to be conscientious of the team's fiery emotions and recognize its influence on a project's success. Each party's emotions, albeit warranted or not, should not go unaddressed.

Emotions can be uncomfortable, but they are almost always present in organizations and the practice of law. When we better understand our emotional triggers, we are better equipped to handle others. Conflict is a shared journey and an emotional ball game — every player has their side of the story. Leading with empathy may be the best kept secret for success in (and out of) the workplace.

Disclaimer: The information in any resource in this website should not be construed as legal advice or as a legal opinion on specific facts, and should not be considered representing the views of its authors, its sponsors, and/or ACC. These resources are not intended as a definitive statement on the subject addressed. Rather, they are intended to serve as a tool providing practical guidance and references for the busy in-house practitioner and other readers.

[Brad Bald](#)



Associate General Counsel

Lifestyle Communities

Brad Bald is an attorney in Nashville, Tennessee where he serves as associate general counsel for Lifestyle Communities, a national multifamily developer, investor, and operator. Outside of the law, Bald is a member of the Tennessee Bar Association's Well-Being Committee and volunteers for the Tennessee Lawyers Assistance Program.

