

DISPUTOLOGY
Reflections on
Dispute-Resolution Topics

David L. Wallace

EDMUNDS FROLICK BOOKS
Nyack, New York

Disputology
Reflections on Dispute-Resolution Topics

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*I pick my favorite quotations and store them
in my mind as ready armor, offensive or defensive,
amid the struggle of this turbulent existence.*

— ROBERT BURNS

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FOREWORD

Throughout his career, in courthouses across the land, David has memorably, with steely determination, confounded both witnesses and adversaries, charming juries and court-watchers alike. So many stories; too little space.

I was in the gallery of a St. Louis courtroom several years ago to catch my friend's cross-examination of a "professional witness," a man who appeared for plaintiffs in almost every case of a certain sort -- like a wandering minstrel. The jury appeared drugged as the direct dragged on through the morning. *Death by PowerPoint*. When the witness was passed, and David headed his way, the jurors roused from their slumbers. I was close enough to see one in the back row gently elbow his neighbor and remark, in a quiet voice, "Here we go!" Following a complete defense verdict, one of the jurors told David the panel had nicknamed him "The Reverend."

On another occasion, in a New York trial, he creatively invoked "Toonces, the Cat Who Could Drive a Car," a classic Saturday Night Live sketch, to skewer plaintiff's psychiatrist in a cross-examination press reports called "searing." A personal favorite, though, involves the pre-trial deposition of a plaintiff's treating physician in a multi-defendant wrongful death case. After David completed his questioning, a colleague took his turn. When the witness was asked whether he planned to testify at trial, the witness paused, gestured towards David, and said, "Not if he's there." Another is when he essentially walked a clueless old Nazi doctor, one of plaintiff's key liability witnesses, across burning shards of glass in a New Hampshire examination dubbed "the Havlicek cross." His colleagues nearly busted a gut suppressing giggles pending adjournment, when the room exploded in gales of laughter. The next day,

plaintiff's counsel voluntarily dismissed the case.

With a likeability factor that is invaluable before a jury, David shines in the courtroom. But he excels equally in applying the many valuable lessons gained from his time in the trenches -- finely honed professional insights, experienced judgment -- to help folks resolve legal disputes swiftly and effectively, avoiding litigation altogether or winning speedy dismissals with his examination skills or pen. Winning is a fine thing but winning without fighting -- or a prolonged battle -- is even better, and much less costly.

A fine abstract painting of Abraham Lincoln by an artist friend decorates David's office. It keeps him minded of one of several Lincoln quotes you will find in this book: "Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser -- in fees, expenses and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough."

But for my money, a client testimonial he keeps in a desk drawer best captures David's problem-solving approach to dispute resolution. "If you can avoid litigation, do so. If not, make sure David's on your side." *Hear, hear.*

Hayden Rush
Edmunds Frolick

INTRODUCTION

*The wisdom of the wise, and the experience of the ages,
may be preserved by quotation.*

— ISAAC D'ISRAELI

This book is for people dealing with conflict, which is really everybody. Because conflict is ubiquitous among *humans being*. From a young age, we are shaped by how conflict is expressed and resolved -- at home, at school, at work, in the wider world, within our own minds, so on and so forth. Stories too are ubiquitous. We are constantly telling stories, about others and ourselves. And conflicting stories are the stuff of disputes in all walks of life. *He-said-she-said*. As James Owen observes, all stories are true, but some of them never happened.

Dispute resolution is the process of resolving disputes, conflicts, and claims. Broadly speaking, dispute resolution can be divided into two categories. One is adjudicative, spanning litigation and arbitration, where the result is outsourced to a judge or arbitrator. Hidebound, this process is dominated by formality, rules, and lawyers. The other category is consensual, ranging from mediation, to conciliation, to negotiation, where the parties themselves determine the outcome. This is a more informal and flexible process. Lawyers often figure in it, but they are not central to it or required, they have no monopoly over consensual dispute resolution, and non-lawyers are not viewed as interlopers in that setting. Consensual dispute resolution (negotiation) in fact is something folks practice more or less every day. Trained professionals are not required. You can try it at home.

This book is appropriate for people engaged in formal as well as informal dispute resolution. It is not a highbrow treatise on dispute-resolution theory and practice, or a how-to guide for

resolving disputes. It is not even really *my* book. Except for these introductory words, this book was written entirely by others. It consists of borrowed words, wit, and wisdom that I've inked or pasted into journals and commonplace books over the years, and later organized around various topics that I thought relevant to the dispute-resolution process. Quotes, like the epigraph above, have always had a special power to me, something about the way the best of them so powerfully and pithily extract the essence of something -- an idea, a thought, a place, a feeling, a thing.

I began with many organizing themes and topics -- too many. Over time, I refined an unwieldy, overlapping jumble of them into seven chapters: Conflict, Lawsuits, Planning & Strategy, Communication, Negotiation, Perspective, and Trust. While naturally somewhat arbitrary, my line drawing was aimed at illuminating the nature of conflict and the factors that drive dispute resolution, and in many instances, you'll see quotes that could just as easily find a home in another, or even more than one, chapter. The other thing you'll see, which struck me again and again, is how often quotes are, or seem to be, footnotes to others. As filmmaker Kirby Ferguson says, nothing is original, everything is a remix.

The book you're holding also reflects the role that non-lawyers can (and must) play in dispute resolution, of both the adjudicative and consensual type. Most of the quotes in fact are from non-lawyers -- many of them leading figures in the arts and sciences in their time. There are only 14 lawyers among the 200 sources cited.

And finally, a note on sourcing, for which there are no better words than Ambrose Bierce's biting quote about quotes. "Quotation, n: The act of repeating erroneously the words of another."

Try as I might, despite heroic fact-checking measures, I've probably committed this act more than once in the pages that follow. I removed quotes I could not confidently source and dropped footnotes here and there to identify common misattributions. It turns out that many famed one-liners are falsely attributed to Winston Churchill, a man whose words alone could fill a book of quotes on almost any subject. Readers will hopefully footnote my humble efforts.

Happy peacemaking.

David L. Wallace
Nyack, NY

CONFLICT

"A long dispute means that both parties are wrong."

— VOLTAIRE

"Problems that remain persistently unsolvable should always be suspected as questions asked in the wrong way."

— ALAN WATTS

"In our society, we don't naturally look inside ourselves for the source of conflict, we look outside."

— THEODORE E. DOBSON

"In the middle of difficulty lies opportunity."

— ALBERT EINSTEIN

"Difficulties are meant to rouse, not discourage. The human spirit is to grow strong by conflict."

— WILLIAM ELLERY CHANNING

"Conflict is inevitable, but combat is optional."

— MAX LUCADO

"All polishing is done by friction."

— MARY PARKER FOLLETT

"Conflict is the primary engine of creativity and innovation. People don't learn by staring into a mirror; people learn by encountering difference."

— RONALD HEIFETZ

"The art of living lies not in eliminating but in growing with troubles."

— BERNARD BARUCH

"Even business conflicts are in essence personal disputes in disguise."

— ROBERT D. BENJAMIN

"All conflict is about boundaries, where they are or are not, and how they can be righted or co-constructed."

— MICHELLE LEBARON

"Conflict happens when connections are ruptured."

— MICHELLE LEBARON

"Conflict is first and foremost about people's passions, desires, and emotions in collision."

— ROBERT D. BENJAMIN

"Ironically, even though many people caught in the grip of conflict present themselves as certain of their rightness and position, a good measure of conflict can be attributed to their being confused and overwhelmed."

— ROBERT D. BENJAMIN

"Conflict is the primary engine of creativity and innovation."

— RONALD HEIFETZ

"Conflict lies at the core of innovation."

— EMANUEL R. PIORE

"Smooth seas do not make skillful sailors."

— AFRICAN PROVERB

"To fly, we have to have resistance. It's all about turbulence."

— MAYA LIN

"Conflict cannot survive without your participation."

— WAYNE DYER

"Pick battles big enough to matter, small enough to win."

— JONATHAN KOZEL

"Everyone wants to argue. Everyone does. Everyone needs to."

— GERRY SPENCE

"Every conflict we face in life is rich with positive and negative potential. It can be a source of inspiration, enlightenment, learning, transformation, and growth -- or rage, fear, shame, entrapment, and resistance. The choice is not up to our opponents, but to us, and our willingness to face and work them through."

— KENNETH CLOKE

"Some have been thought brave because they were afraid to run away."

— THOMAS FULLER

"A man's errors are his portals of discovery."

— JAMES JOYCE

"The art of arguing is the art of living. We argue because we must, because life demands it, because, in the end, life itself is but an argument."

— GERRY SPENCE

"Don't be afraid of opposition. Remember, a kite rises against, not with, the wind."

— HAMILTON MABIE

"If we manage conflict constructively, we harness its energy for creativity and development."

— KENNETH KAYE

"To be angry is easy. But to be angry at the right person, at the right time, for the right reason, with the right amount of anger, is not easy."

— ARISTOTLE

"Reject your sense of injury and the injury itself disappears."

— MARCUS AURELIUS

"The harder the conflict, the more glorious the triumph."

— THOMAS PAINE

"How much more grievous are the consequences of anger than the causes of it."

— MARCUS AURELIUS

"Whenever you are about to find fault with someone, ask yourself the following question: What fault of mine most nearly resembles the one I am about to criticize?"

— MARCUS AURELIUS

"When a man points a finger at someone else, he should remember that four of his fingers are pointing at himself."

— LOUIS NIZER

"I learned long ago never to wrestle with pigs. You get dirty, and besides, the pig likes it."

— GEORGE BERNARD SHAW

"Two dogs strive for a bone and the third runs away with it."

— PROVERB

"There is nothing more likely to start a disagreement among people and countries than an agreement."

— E.B. WHITE

"Problems are only opportunities in work clothes."

— HENRI KAISER

"If we are peaceful, everyone in our family, our entire society will benefit from our peace."

— THICH NHAT HANH

"Peace is not the absence of conflict but the presence of creative alternatives for responding to conflict -- alternatives to passive or aggressive responses, alternatives to violence."

— DOROTHY THOMPSON

"Peace is the skillful management of conflict."

— KENNETH BOULDING

"Whenever you're in conflict with someone, there is one factor that can make the difference between damaging your relationship and deepening it. That factor is attitude."

— WILLIAM JAMES

LAWSUITS

"Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser -- in fees, expenses and waste of time."

— ABRAHAM LINCOLN

"I fought the law and the law won."

— SONNY CURTIS (SONG)

"The courts of this country should not be the places where resolution of disputes begins. They should be the places where the disputes end after alternative methods of resolving disputes have been considered and tried."

— SANDRA DAY O'CONNOR

"There is far too much law for those who can afford it and far too little for those who cannot."

— DEREK BOK

"A lean compromise is better than a fat lawsuit."

— GEORGE HERBERT

"Litigation: A machine you go into as a pig and come out of as a sausage."

— AMBROSE BIERCE

"I must say that as a litigant I should dread a lawsuit beyond almost anything else short of sickness and death."

— LEARNED HAND

"Litigant, n. A person about to give up his skin for the hope of retaining his bones."

— AMBROSE BIERCE

"To seek redress of grievances by going to law, is like sheep running for shelter to a bramble bush."

— LEWIS L. DILWYN

"Sue me!"

— CATCH-PHRASE

"Sue the bastards!"

— VICTOR J. YANNACONE, JR.

"Lawsuits consume time, and money, and rest, and friends."

— GEORGE HERBERT

"He who wishes to fight must first count the cost."

— SUN T'ZU

"The plaintiff and the defendant in an action at law, are like two men ducking their heads in a bucket, and daring each other to remain longest under water."

— SAMUEL JOHNSON

"The litigious spirit is more often found with ignorance than with knowledge of law."

— CICERO

"Never stir up litigation. A worse man can scarcely be found than one would does this."

— ABRAHAM LINCOLN

"I was never ruined but twice -- once when I lost a lawsuit, and once when I won one."

— VOLTAIRE

"A lawsuit is a fruit-tree planted in a lawyer's garden."

— ITALIAN PROVERB

"In law, nothing is certain but the expense."

— SAMUEL BUTLER

"To be a trial lawyer is to see the ignominy of slow justice in a system in which the process itself punishes all who come in contact with it -- the winner as well as the loser."

— JOHN A. JENKINS

"Litigation is the basic legal right which guarantees every corporation its decade in court."

— DAVID PORTER

"[W]e must move away from total reliance on the adversary contest for resolving all disputes. For some disputes, trials will be the only means, but for many, trials by the adversary contest in time must go the way of ancient trial by battle and blood. Our system is too costly, too painful, too destructive, too inefficient for truly civilized people."

— WARREN E. BURGER

"Yes, there's such a thing as luck in trial law but it only comes at 3 o'clock in the morning. You'll still find me in the library looking for luck at 3 o'clock in the morning."

— LOUIS NIZER

"Avoid lawsuits beyond all things; they pervert your conscience, impair your health, and dissipate your property."

— JEAN DE LA BRUYERE

"Litigation takes the place of sex at middle age."

— GORE VIDAL

"Next to the confrontation between two highly honed batteries of lawyers, jungle warfare is a stately minuet."

— BILL VEECK

"A lawsuit is the suicide of time."

— THOMAS EDISON

"Misery is the company of lawsuits."

— FRANCOIS RABELAIS

"Death is not the end. There remains the litigation over the estate."

— AMBROSE BIERCE

"A bad agreement is better than a good lawsuit."

— ITALIAN PROVERB

"Trials are all storytelling, nothing more ... The problem is that we, as lawyers, have forgotten how to speak to ordinary folks ... Lawyers long ago abandoned ordinary English."

— GERRY SPENCE

PLANNING & STRATEGY

"In preparing for battle I have always found that plans are useless, but planning is indispensable."

— DWIGHT D. EISENHOWER

"No battle plan survives first contact with the enemy."

— HELMUTH VON MOLTKE¹

"Everyone has a plan 'till they get punched in the mouth."

— MIKE TYSON

"When it is obvious that the goals cannot be achieved, don't adjust the goals, adjust the action steps."

— CONFUCIUS

"By failing to prepare, you are preparing to fail."

— BENJAMIN FRANKLIN

"To be prepared is half the victory."

— MIGUEL DE CERVANTES

¹ This quote is frequently attributed to Colin Powell, but that seems suspect.

"A problem well put is half-solved."

— JOHN DEWEY

"He that lives upon hope, dies farting."

— BENJAMIN FRANKLIN

"When I am getting ready to reason with a man, I spend one-third of my time thinking about myself and what I am going to say, and two-thirds thinking about him and what he is going to say."

— ABRAHAM LINCOLN

"If I had an hour to solve a problem I'd spend 55 minutes thinking about the problem and 5 minutes thinking about the solutions."

— ALBERT EINSTEIN

"In all negotiations of difficulty, a man may not look to sow and reap at once, but must prepare business and so ripen by degrees."

— FRANCIS BACON

"Anger is a powerful motivator, but a poor strategist."

— ROBERT D. JONES

"Let your plans be dark and impenetrable as night, and when you move, fall like a thunderbolt."

— SUN TZU

"Never open the door to a lesser evil, for other and greater ones invariably slink in behind it."

— BALTASAR GRACIÁN

"The supreme art of war is to subdue the enemy without fighting."

— SUN TZU

"Never interfere with your enemy when he is making a mistake."

— NAPOLEON BONAPARTE

"Simplicity is the ultimate sophistication."

— LEONARDO DA VINCI

"Strategy is a pattern in a stream of decisions."

— HENRY MINTZBERG

"However beautiful the strategy, you should occasionally look at the results."

— WINSTON CHURCHILL²

"Strategy without tactics is the slowest route to victory.
Tactics without strategy is the noise before defeat."

— SUN TZU

"The essence of strategy is choosing what not to do."

— MICHAEL PORTER

"Study the past if you would define the future."

— CONFUCIUS

"Victorious warriors win first and then go to war, while defeated warriors go to war first and then seek to win."

— SUN TZU

"Attack is the secret of defense; defense is the planning of an attack."

— SUN TZU

² This quote is often attributed to Winston Churchill, but its authorship is uncertain.

"Always remember that the future comes one day at a time."

— DEAN ACHESON

"The worst of head-on attacks is often better than the most sophisticated defense. Never permit your opponent to take control. Do not defend when you can attack. Counter-punching is for boxers, and counter-punchers most often lose."

— GERRY SPENCE

"There should be an honest attempt at the reconciliation of differences before resorting to combat."

— JIMMY CARTER

"The operational word in every competent defense is attack. If you're explaining and defending, you're losing."

— GERRY SPENCE

"Failure is nothing more than a chance to revise your strategy."

— ANONYMOUS

"Always start at the end before you begin."

— ROBERT KIYOSAKI

"What do you want to achieve or avoid? The answers to this question are objectives. How will you go about achieving your desired results? The answer to this you can call strategy."

— WILLIAM E. ROTHSCHILD

"There is nothing so useless as doing efficiently that which should not be done at all."

— PETER DRUCKER

"Strategy is not the consequence of planning, but the opposite: it's the starting point."

— HENRY MINTZBERG

"[A]ttack the enemy's strategy."

— SUN TZU

"Sound strategy starts with having the right goal."

— MICHAEL PORTER

"Even if you're on the right track, you'll get run over if you just sit there."

— WILL ROGERS

"Imagination is more important than knowledge."

— ALBERT EINSTEIN

"If everyone is thinking alike, then no one is thinking."

— BENJAMIN FRANKLIN³

"If you don't know where you are going, you'll end up
someplace else."

— YOGI BERRA

"The essence of strategy is that you must set limits on what
you're trying to accomplish."

— MICHAEL PORTER

"In life, as in football, you won't go far unless you know
where the goalposts are."

— ARNOLD H. GLASOW

³ A variant of this quote has also been attributed to George S. Patton.

"You've got to think about big things while you're doing small things, so that all the small things go in the right direction."

— ALVIN TOFFLER

"Plans are only good intentions unless they immediately degenerate into hard work."

— PETER DRUCKER

"It is not enough to be busy. So are the ants. The question is, what are we busy about?"

— HENRY DAVID THOREAU

"Appear weak when you are strong, and strong when you are weak."

— SUN TZU

"I am a slow walker, but I never walk back."

— ABRAHAM LINCOLN

"Be sure to put your feet in the right place, then stand firm."

— ABRAHAM LINCOLN

COMMUNICATION

"It was impossible to get a conversation going, everybody was talking too much."

— YOGI BERRA

"Give me the gift of a listening heart."

— SOLOMON

"Always forgive your enemies -- nothing annoys them so much."

— OSCAR WILDE

"Effective communication also requires a mutual understanding of needs, wants, and desires."

— KIRK HAZLETT

"I know you believe you understand what you think I said, but I am not sure you realize that what you heard is not what I meant."

— ROBERT J. MCCLOSKEY⁴

⁴ This quote has also been attributed to Richard Nixon and Alan Greenspan.

"To be persuasive we must be believable; to be believable we must be credible; and to be credible we must be truthful."

— EDWARD R. MURROW

"A lie gets halfway around the world before the truth has a chance to get its boots on."

— MARK TWAIN⁵

"Be sincere, be brief, be seated."

— FRANKLIN D. ROOSEVELT

"I speak to everyone in the same way, whether he is the garbage man or the president of the university."

— ALBERT EINSTEIN

"The less people know, the more they yell."

— SETH GODIN

"Talk low, talk slow, and don't say too much."

— JOHN WAYNE

⁵ This quote is frequently attributed to Winston Churchill (with "pants" taking the place of "boots"), but there is no reliable evidence he ever said it.

"The difference between the right word and the almost right word is really a large matter -- it's the difference between the lightning bug and the lightning."

— MARK TWAIN

"Extremists think 'communication' means agreeing with them."

— LEO ROSTEN

"To listen well is as powerful a means of communication and influence as to talk well."

— JOHN MARSHALL

"Listening, not imitation, may be the sincerest form of flattery."

— JOYCE BROTHERS

"There is only one rule for being a good talker -- learn to listen."

— CHRISTOPHER MORLEY

"Words empty as the wind are best left unsaid."

— HOMER

"First learn the meaning of what you say, and then speak."

— EPICETETUS

"If you have an important point to make, don't try to be subtle or clever. Use a pile driver. Hit the point once. Then come back and hit it again. Then hit a third time -- a tremendous whack."

— WINSTON CHURCHILL

"Don't tell me the moon is shining; show me the glint of light on broken glass."

— ANTON CHEKHOV

"The most important thing in communication is hearing what isn't said."

— PETER DRUCKER

"One of our strongest weapons is dialogue."

— NELSON MANDELA

"No one would talk much in society, if they knew how often they misunderstand others."

— JOHANN WOLFGANG VON GOETHE

"The biggest single problem in communication is the illusion that it has taken place."

— GEORGE BERNARD SHAW

"No one is as deaf as the man who will not listen."

— JEWISH PROVERB

"The first duty of a wise advocate is to convince his opponents that he understands their arguments, and sympathizes with their just feelings."

— SAMUEL TAYLOR COLERIDGE

"It is not he who gains the exact point in dispute who scores most in controversy -- but he who has shown the most forbearance and the better temper."

— SAMUEL BUTLER

"Music is not in the notes, but in the silence between them."

— CLAUDE DEBUSSY

"Out beyond ideas of wrongdoing and rightdoing, there is a field. I'll meet you there."

— RUMI

"It is an excellent rule to be observed in all disputes, that men should give soft words and hard arguments; that they should not so much strive to vex as to convince each other."

— JOHN WILKINS

"Never ruin an apology with an excuse."

— BENJAMIN FRANKLIN⁶

"If you are patient in one moment of anger, you will escape a hundred days of sorrow."

— CHINESE PROVERB

"Man ruins things much more with his words than with his silence."

— MAHATMA GANDHI

"If you have nothing to say, say nothing."

— MARK TWAIN

⁶ This quote is often attributed to Benjamin Franklin, but its authorship is uncertain.

"Blessed is the man who having nothing to say, abstains from giving wordy evidence of the fact."

— GEORGE ELIOT

"When you ask someone a question and they are slow to respond, don't feel pressure to move the conversation forward. Remaining silent plays to your advantage. Moments of silence make people feel as though they should speak, especially when the ball is in their court. This is a great tool to use in negotiations and difficult conversations."

— TRAVIS BRADBERRY

"Be leery of silence. It doesn't mean you won the argument. Often, people are just busy reloading their guns."

— SHANNON L. ADLER

"Well-timed silence hath more eloquence than speech."

— MARTIN FARQUHAR TUPPER

"Any fool can know. The point is to understand."

— ALBERT EINSTEIN

"Remember not only to say the right thing in the right place, but far more difficult still, to leave unsaid the wrong thing at the tempting moment."

— BENJAMIN FRANKLIN

"One of the most sincere forms of respect is actually listening to what another has to say."

— BRYANT H. MCGILL

"If you start a conversation with the assumption that you are right or that you must win, obviously it is difficult to talk."

— WENDELL BERRY

"If you can't explain it simply, you don't understand it well enough."

— ALBERT EINSTEIN⁷

"Listening is about being able to be changed by the other person."

— ALAN ALDA

⁷ This quote is often attributed to Albert Einstein, but its authorship is uncertain. A variation of it is attributed to Richard Feynman.

"There is a difference between listening and waiting your turn to speak."

— SIMON SINEK

"The word 'listen' contains the same letters as the word 'silent.'"

— ALFRED BRENDDEL

"There's a lot of difference between listening and hearing."

— G.K. CHESTERTON

"When people talk, listen completely. Don't be thinking about what you're going to say. Most people never listen."

— ERNEST HEMINGWAY

"A good listener is not only popular everywhere, but after a while, he gets to know something."

— WILSON MIZNER

"If we were supposed to talk more than we listen, we would have two tongues and one ear."

— MARK TWAIN

"One of the best ways to persuade others is with your ears --
by listening to them."

— DEAN RUSK

"Instead of talking in the hope that people will listen, try
listening in the hope that people will talk."

—MARDY GROTHE

"Open your ears before you open your mouth. Probe first,
disclose later."

— G. RICHARD SHELL

"Courage is what it takes to stand up and speak. Courage is
also what it takes to sit down and listen."

— WINSTON CHURCHILL⁸

"Listen or your tongue will make you deaf."

— NATIVE AMERICAN PROVERB

"Asking is the sister of knowing."

— MALTESE PROVERB

⁸ This quote is frequently attributed to Winston Churchill, but its authorship is uncertain.

"He who cannot put his thoughts on ice should not enter into the heat of the dispute."

— FRIEDRICH NIETZSCHE

"The result of bad communication is a disconnection between strategy and execution."

— CHUCK MARTIN

"Keep cool; anger is not an argument."

— DANIEL WEBSTER

"No rational argument will have a rational effect on a man who does not want to adopt a rational attitude."

— KARL POPPER

"He who establishes his argument by noise and command shows that his reason is weak."

— MICHEL DE MONTAIGNE

"Silence is one of the hardest arguments to refute."

— JOSH BILLINGS

"Strong and bitter words indicate a weak cause."

— VICTOR HUGO

"Soft words are hard arguments."

— THOMAS FULLER

"People's minds are changed through observation and not through argument."

— WILL ROGERS

"The argument from intimidation is a confession of intellectual impotence."

— AYN RAND

"The aim of argument, or of discussion, should not be victory, but progress."

— JOSEPH JOUBERT

"Our willingness to openly reveal our feelings in our argument nearly always builds our credibility."

— GERRY SPENCE

"Once you label me, you negate me."

— SØREN KIERKEGAARD

"Never take a person's dignity; it is worth everything to them,
and nothing to you."

— FRANK BARRON

"To belittle is to be little."

— UNKNOWN

"The old saw, that 'sticks and stones can break my bones but
words will never harm me' does not, in fact, hold true."

— GERRY SPENCE

"Make improvements, not excuses. Seek respect, not attention."

— ROY T. BENNETT

NEGOTIATION

"Your 'if' is the only peacemaker; much virtue in 'if.'"

— WILLIAM SHAKESPEARE

"Negotiation is, in some ways, a kind of creative problem solving."

— MAX BAZERMAN

"If a man will begin with certainties, he shall end in doubts; but if he will be content to begin with doubts, he shall end in certainty."

— FRANCIS BACON

"The greatest cunning of all is to have none at all."

— CARL SANDBURG

"Negotiations over a shrinking pie are especially difficult because they require an allocation of losses. People tend to be much more easygoing when they bargain over an expanding pie."

— DANIEL KAHNEMAN

"Each party should gain from the negotiation."

— DALE CARNEGIE

"When the final result is expected to be a compromise, it is often prudent to start from an extreme position."

— JOHN MAYNARD KEYNES

"Firmness in support of fundamentals, with flexibility in tactics and methods, is the key to any hope of progress in negotiations."

— DWIGHT D. EISENHOWER

"Necessity never made a good bargain."

— BENJAMIN FRANKLIN

"The first thing to decide before you walk into any negotiation is what to do if the other fellow says 'no.'"

— ERNEST BEVIN

"The fellow who says he'll meet you half way usually thinks he's standing on the dividing line."

— ORLANDO ALOYSIUS BATTISTA

"The first principal of contract negotiations is don't remind them of what you did in the past -- tell them what you're going to do in the future."

— STAN MUSIAL

"Information is a negotiator's greatest weapon."

— VICTOR KIAM

"The most difficult thing in any negotiation, almost, is making sure that you strip it of the emotion and deal with the facts."

— HOWARD BAKER

"Never cut what you can untie."

— JOSEPH JOUBERT

"A negotiator should observe everything. You must be part Sherlock Holmes, part Sigmund Freud."

— VICTOR KIAM

"If you are planning on doing business with someone again, don't be too tough in the negotiations. If you're going to skin a cat, don't keep it as a house cat."

— MARVIN S. LEVIN

"Place a higher priority on discovering what a win looks like for the other person."

— HARVEY ROBBINS

"Anger can be an effective negotiating tool, but only as a calculated act, never as a reaction."

— MARK MCCORMACK

"Never forget the power of silence, that massively disconcerting pause which goes on and on and may last induce an opponent to babble and backtrack nervously."

— LANCE MORROW

"If you come to a negotiation table saying you have the final truth, that you know nothing but the truth and that is final, you will get nothing."

— HARRI HOLKERI

"You must never try to make all the money that's in a deal. Let the other fellow make some money too, because if you have a reputation for making all the money there is in a deal, you won't make many deals."

— J. PAUL GETTY

"He who has learned to disagree without being disagreeable has discovered the most valuable secret of a diplomat."

— ROBERT ESTABROOK

"Don't bargain yourself down before you get to the table."

— CAROL FROHLINGER

"People talk about the middle of the road as though it were unacceptable. Actually, all human problems, excepting morals, come in the gray areas. Things are not all black and white. There have to be compromises. The middle of the road is all of the usable surface. The extremes, right and left, are in the gutters."

— DWIGHT D. EISENHOWER

"Every reason that the other side wants or needs an agreement is my leverage -- provided that I know those reasons."

— BOB WOOLF

"You can't start building a bridge from the middle and if you want someone else to take the first step, you need to start building it from their side."

— RICHARD ROHR

"Leverage is dynamic, not static."

— G. RICHARD SHELL

"Leverage is based on the other party's perception of the situation, not the facts."

— G. RICHARD SHELL

"Leverage is having something the other guy wants. Or better yet needs. Or best of all, simply cannot do without."

— DONALD J. TRUMP

"You can get much further with a kind word and a gun than you can with a kind word alone."

— AL CAPONE

"Let us never negotiate out of fear, but let us never fear to negotiate."

— JOHN F. KENNEDY

"Negotiation is simultaneously a social and psychological interaction, as well as an economic event."

— ROBERT D. BENJAMIN

"Make every bargain clear and plain, That none may afterwards complain."

— LATIN RHYME

"Everyone lives by selling something."

— ROBERT LOUIS STEVENSON

"Do not be so sweet that people will eat you up, nor so bitter that they will spit you out."

— PASHTO FOLK SAYING

"Unless both sides win, no agreement can be permanent."

— JIMMY CARTER

"During a negotiation, it would be wise not to take anything personally. If you leave personalities out of it, you will be able to see opportunities more objectively."

— BRIAN KOSLOW

"Think win-win, not just win."

— G. RICHARD SHELL

"Before making a key decision in a negotiation, ask yourself whether it makes sense or whether you are simply trying to justify an earlier decision (and irrationally escalating your commitment to a prior course of action)."

— MAX BAZERMAN

"Good judgment in negotiating often comes down to keeping things in balance."

— JAMES C. FREUND

"In negotiations, you want to lead with your shared interests, but you need to anticipate objectives and problems so you will be able to respond constructively."

— G. RICHARD SHELL

"When the relationship counts more than the issue in dispute, the best concession strategy is accommodation."

— G. RICHARD SHELL

"If you know you are negotiating with a nibbler, hold something back to give away at the end."

— G. RICHARD SHELL

"Before you begin any important negotiation, you should consider the potential consequences of failing to reach an agreement."

— MAX BAZERMAN

"Peacemaking is costly but it is worth the expense."

— AFRICAN PROVERB

"The god of Victory is said to be one-handed, but Peace gives victory to both sides."

— RALPH WALDO EMERSON

"Nothing is easier than yesterday's solutions."

— ROGER SPERRY

"At the bargaining table, watch out for people who make small concessions and then ask for much bigger ones in return."

— G. RICHARD SHELL

"Behaviors in negotiations are often reciprocated."

— MAX BAZERMAN

"Reciprocity is a reliable guide of proper conduct at the bargaining table."

— G. RICHARD SHELL

"Never insult an alligator until you have crossed the river."

— CORDELL HULL

"A compromise is the art of dividing a cake in such a way that everyone believes he has the biggest piece."

— LUDWIG ERHARD

PERSPECTIVE

"The task is ... not so much to see what no one has yet seen; but to think what nobody has yet thought, about that which everybody sees."

— ERWIN SHRÖDINGER

"To change ourselves effectively, we first had to change our perceptions."

— STEPHEN R. COVEY

"There are things known and there are things unknown, and in between are the doors of perception."

— ALDOUS HUXLEY

"Don't find fault, find a remedy."

— HENRY FORD

"Don't let yesterday use up too much of today."

— CHEROKEE PROVERB⁹

⁹ This quote is also frequently attributed to Will Rogers.

"Between stimulus and response, there is a space. In that space lies our freedom and power to choose our response. In our response lies our growth and freedom."

— VICTOR FRANKL

"Human beings love to be right. When a person is willing to give up being right, a whole world of possibilities opens up."

— PETE SALMANSOHN

"If you do what you've always done, you'll get what you always got."

— MARK TWAIN

"It is not the strongest of the species that survives, nor the most intelligent, but rather the one most responsive to change."

— CHARLES DARWIN¹⁰

"People don't resist change. They resist being changed."

— PETER SENGE

¹⁰ While frequently attributed to Charles Darwin, some suggest the author is Clarence Darrow.

"In conflict, being willing to change allows you to move from a point of view to a viewing point -- a higher, more expansive place, from which you can see both sides."

— THOMAS CRUM

"The reverse side also has a reverse side."

— JAPANESE PROVERB

"[T]he opposite of a profound truth may be another profound truth."

— NIELS BOHR

"Don't believe everything you think."

— ALLAN LOKOS

"Do not judge your neighbor until you walk two moons in his moccasins."

— CHEYENNE PROVERB

"Whenever two people meet there are really six people present. There is each man as he sees himself, each man as the other sees him, and each man as he really is."

— WILLIAM JAMES

"Every fight is on some level a fight between differing 'angles of vision' illuminating the same truth."

— MAHATMA GANDHI

"There are no facts, only interpretations."

— FRIEDRICH NIETZSCHE

"No two persons ever read the same book."

— EDMUND WILSON

"The real voyage of discovery consists not in seeking new lands but in seeing with new eyes."

— MARCEL PROUST

"We can complain because rose bushes have thorns, or rejoice because thorns have roses."

— JEAN-BAPTISTE ALPHONSE KARR

"Some people see the glass half full. Others see it half empty. I see a glass that's twice as big as it needs to be."

— GEORGE CARLIN

"Most misunderstandings in the world could be avoided if people would simply take the time to ask, 'What else could this mean?'"

— SHANNON L. ADLER

"In all affairs, it's a healthy thing now and then to hang a question mark on the things you have long taken for granted."

— BERTRAND RUSSELL

"Your assumptions are your windows on the world. Scrub them off every once in a while, or the light won't come in."

— ISAAC ASIMOV¹¹

"It is a narrow mind which cannot look at a subject from various points of view."

— GEORGE ELIOT

"Everywhere is walking distance if you have the time."

— STEVEN WRIGHT

¹¹ This quote is sometimes attributed to Alan Alda.

"What people in the world think of you is really none of your business."

— MARTHA GRAHAM

"We often need to lose sight of our priorities in order to see them."

— JOHN IRVING

"When a person wants to murder a tiger he calls it sport; when a tiger wants to murder him he calls it ferocity."

— GEORGE BERNARD SHAW

"Electricity is really just organized lightning."

— GEORGE CARLIN

"The optimist sees the donut. The pessimist sees the hole."

— OSCAR WILDE

"The most fatal illusion is the settled point of view. Since life is growth and motion, a fixed point of view kills anybody who has one."

— BROOKS ATKINSON

"I don't like that man. I must get to know him better."

— ABRAHAM LINCOLN

"Everything that irritates us about others can lead us to understanding of ourselves."

— CARL JUNG

"When one is to succeed in leading a person to a certain place, one must above all take care to find out where he is and start there."

— SØREN KIERKEGAARD

"If there is any one secret of success, it lies in the ability to get the other person's point of view and see things from that person's angle as well as from your own."

— HENRY FORD

"Everything we hear is an opinion, not a fact. Everything we see is a perspective, not the truth."

— MARCUS AURELIUS

"All stories are true. But some of them never happened."

— JAMES A. OWEN

"Life is opinion."

— MARCUS AURELIUS¹²

"No matter how thin you slice it, there will always be two sides."

— BARUCH SPINOZA

"You can't solve a problem on the same level that it was created. You have to rise above it to the next level."

— ALBERT EINSTEIN

"Distance has the same effect on the mind as on the eye."

— SAMUEL JOHNSON

"It all depends on how we look at things, and not on how they are themselves."

— CARL JUNG

"Learning to focus on the big picture will help you keep things in a proper perspective."

— ROY T. BENNETT

¹² There is doubt about the authorship of this quote.

"Often it isn't the mountains ahead that wear you out, it's the pebble in your shoe."

— MUHAMMAD ALI

"What we learn only through the ears makes less impression upon our minds than what is presented to the trustworthy eye."

— HORACE

"Seize the day, and put the least possible trust in tomorrow."

— HORACE

"The moment we want to believe something, we suddenly see all the arguments for it, and become blind to the arguments against it."

— GEORGE BERNARD SHAW

TRUST

"A man always has two reasons for what he does -- a good one and the real one."

— J.P. MORGAN

"Without trust, the most essential element of innovation -- conflict -- becomes impossible."

— PATRICK LENCIONI

"Self-trust is the first secret of success."

— RALPH WALDO EMERSON

"Trust, but verify."

— RONALD REAGAN

"Character is much easier kept than recovered."

— THOMAS PAINE

"Trust your instinct to the end, though you can render no reason."

— RALPH WALDO EMERSON

"Whoever is careless with truth in small matters cannot be trusted with important matters."

— ALBERT EINSTEIN

"It is an equal failing to trust everybody, and to trust nobody."

— ENGLISH PROVERB

"It is mutual trust, even more than mutual interest that holds human associations together."

— H.L. MENCKEN

"He who does not trust enough will not be trusted."

— LAO T'ZU

"The shifts of fortune test the reliability of friends."

— CICERO

"Consistency is the true foundation of trust. Either keep your promises or do not make them."

— ROY T. BENNETT

"Trust thyself: every heart vibrates to that iron string."

— RALPH WALDO EMERSON

"Trust is the glue of life. It's the most essential ingredient in effective communication. It's the foundational principle that holds all relationships."

— STEPHEN R. COVEY

"If you once forfeit the confidence of your fellow citizens, you can never regain their respect and esteem."

— ABRAHAM LINCOLN

"I'm not upset that you lied to me. I'm upset that from now on I can't believe you."

— FRIEDRICH NIETZSCHE

"The best way to find out if you can trust someone is to trust them."

— ERNEST HEMINGWAY

"An honest admission, having come from you, not only endows you with credibility, it also leaves your opponent with nothing to say except what you have already admitted."

— GERRY SPENCE

"Leave a good name in case you return."

— KENYAN PROVERB

"Anyone can be credible, but we must risk telling the truth --
about ourselves."

— GERRY SPENCE

About the Author

David Wallace is a high-powered trial advocate who for years has consistently been nationally ranked by clients and peers among the best in the business. He guides individuals and companies clear of legal trouble, leads them to safer courses of action, helps reduce the likelihood of litigation, positions them to tell a better story when it does arise, and gets them out of legal trouble quickly.

He began his career as a litigator handling high-stakes product liability cases, quickly rising to become one of the foremost national trial advocates for several tobacco companies during a period of tumultuous litigation for the industry. A bold and tenacious trial lawyer, David has handled cases in courtrooms around the country -- north, south, east and west.

David has been named a National Star in products liability by *Benchmark Litigation*, recognized by the IBA's *Who's Who Legal* and *New York Super Lawyers* for product liability defense, and recommended by *The Legal 500* for consumer products defense.

With roots in an historic coastal New Hampshire town, David began his litigation career at Manhattan's Chadbourne & Parke in 1987, where he became a partner in 1996. He left that firm with several colleagues in 2012 to open a New York office for London-based Herbert Smith Freehills, where he practiced until opening Wallace Law PLLC, a New York- based disputes boutique with national reach in 2017.

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Homer is the name ascribed by the ancient Greeks to the legendary author of *The Iliad* and *The Odyssey*.

Horace was a Roman lyric poet.

Victor Hugo was a French poet, novelist, and dramatist.

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Friedrich Nietzsche was a German philosopher, cultural critic, composer, poet, and philologist.

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