
Online Dispute Resolution: Do You Know Where Your Children Are?

David A. Larson

Will we ever see the day when the Internet serves as the primary venue for problem solving and dispute resolution? Social science research suggests that our online communication skills will improve as we learn relational behaviors based upon nonverbal cues available online. Dispute resolution and problem solving will move online, however; whether or not you and I master those skills. Our children already have developed effective online relational behaviors and can establish trust and intimacy online.

Although most of us acknowledge that the Internet is becoming an increasingly important supplemental tool for dispute resolution and problem solving, we cannot imagine ourselves resolving disputes primarily online. Because online communication's distinct limitations include an absence of verbal cues and body language, the online environment does not appear conducive to dispute resolu-

tion. We may not have the confidence to make, or help others to make, the honest and private disclosures online that often are essential to effective problem solving.¹ Yet in spite of these reservations, dispute resolution will move online.

Why? Because our kids already have learned to develop close relationships and solve problems using the Internet. Regardless of whether you or I are prepared to take prob-

David A. Larson is professor of law at Hamline University School of Law, 1536 Hewitt Ave., St. Paul, Minn. 55104-1235 and a senior fellow at Hamline's Dispute Resolution Institute. He is the founder and former editor-in-chief of the *Journal of Alternative Dispute Resolution in Employment*. He was a member of the American Bar Association E-Commerce and ADR Task Force and created the ADR & Technology course at Hamline.

lem solving online, the next generation already has made that move. The only real question is whether the rest of us — generally “over 35” types — will join them.

Consider three possibilities:

- (1) The dynamic potential that online dispute resolution offers is almost unimaginable, and some day it will become the pre-eminent ADR process;
- (2) Online exchanges capture neither the essence nor nuance of human communication and, consequently, initial excitement will evaporate quickly and online dispute resolution soon will be relegated to the same lonely space now occupied by monochromatic monitors; or ,
- (3) Online dispute resolution increasingly will become a valuable, and perhaps ultimately invaluable, complement to ADR processes; but it always will be, shall we say, a side dish and never the main course.

Confused? Then you are not alone. Although online dispute resolution is attracting significant attention from scholars,² governments, professional associations,³ and service providers, the idea of resolving disputes online still is in its infancy. So it is difficult, if not impossible, to predict how valuable online dispute resolution will become.

Some of us are hoping quietly, or declaring dismissively, that the second possible outcome is most likely. Many of us will identify the third outcome as the most plausible. But there is a genuine possibility that the first prediction is the one that will

materialize and it may happen more quickly than we ever could have imagined.

Truly fascinating data being collected and analyzed by communication experts suggests that, rather than finding themselves unable to create trust and intimacy online, experienced individuals exchange more intimate questions and disclosures in computer-mediated [assisted] communication than in face-to-face contexts. A growing body of research asserts that personal relationships developed in computer-mediated communication are comparable to those developed face-to-face. Assuming the research is reliable, then as we become more experienced and skilled online communicators, we will create an environment online that encourages disclosure and facilitates effective problem solving. Some will find it not only a workable environment, but also the optimal environment.

The Comfort Factor

Although initial research concerning the creation of personal relationships online suggested that individuals were unable to form impressions of each other in the absence of nonverbal cues, groundbreaking research indicates that online communicators have adapted.⁴ Social Informational Processing theory asserts that even without nonverbal cues, parties who communicate online can develop effective relational behaviors that rely upon the cues that do exist online, including typographic or chronemic cues as well as content and linguistic strategies.⁵ Additional

research suggests that when nonverbal cues are lacking, parties using computer-mediated communication focus and narrow their conversations and thus engage in more intimate exchanges. Computer-mediated communication becomes in effect “hyperpersonal.” Parties engaged in computer-mediated communication develop more intense, although not broader, impressions.⁶

So will we be able to form the types of impressions online that may be required to participate in an intimate conversation? Studies have shown that by using available uncertainty reduction strategies such as direct questions and self-disclosure (which prompt reciprocal disclosures) more intensely than one would face-to-face, computer-mediated communicators can engage in very personal exchanges.⁷ In fact, hyperpersonal relationships thus can be created. A growing body of literature maintains that effective online communicators experience more intimate conversations and offer more personal disclosures than they would in face-to-face situations.

Because computer-mediated communication is characterized by visual anonymity and text-only communications, some researchers have declared that computer-mediated communication inevitably will be task-oriented and lack emotional content.⁸ Furthermore, others have argued that computer-mediated communication will encourage anti-normative, aggressive (i.e., “flaming”) behavior.⁹ More recent studies, however, reveal that visual anonymity and increased private awareness, coupled with a reduced

public awareness, result in greater self-disclosure in computer-mediated communication as compared to face-to-face.¹⁰

Assuming this is true, as we increasingly use computer-mediated communication by e-mailing and posting messages, we will create a comfort zone that will allow us to reveal ourselves online in ways that we are unable to do offline. Once that comfort level is established, online dispute resolution becomes a very plausible option.¹¹

You don’t buy it? Perhaps you do not believe the research. You may believe that your online communications never can achieve the level of intimacy that can be established face-to-face. If you are right, then in the short term this may slow the evolution of online dispute resolution. But in the long run, it will not make any difference. The fact is that your children already have established that critical level of intimacy online.

The Next Generation Lives Online

The research investigating how teens and pre-teens communicate online is eye opening, even stunning. Although many of us have not thought critically about how our children communicate online, it now is something that we need to consider. In fact, one could offer a fourth prediction to supplement the three predictions articulated in this article’s third paragraph:

- (4) The possibilities that online dispute resolution presents are incomprehensible to the current population of ADR professionals,

who have neither the technical expertise required nor, frankly, the energy and motivation necessary to employ this powerful tool. Experienced neutrals and facilitators are quickly recognized as ineffective in the online environment and seldom are invited to facilitate conversations or participate in problem solving. Their places are taken by members of a younger generation who understand computer-mediated communication.

Yikes.

The research exploring how teenagers live online is fascinating, exciting, and dynamic. The Pew Internet and American Life Project's Mission Statement explains that its goal is to: ". . .create and fund original, academic-quality research that explores the impact of the Internet on children, families, communities, the workplace, schools, health care and civic/political life. The Project aims to be an authoritative source for timely information on the Internet's growth and societal impact, through research that is scrupulously impartial."¹²

The Project intends to publish 15 to 20 research reports per year of varying size and scope. Among the topics of these reports are: "Cyber-Faith: How Americans Pursue Religion Online" (Larsen 2001); "Getting Serious Online" (Horrigan 2002)¹³; "Use of the Internet at Major Life Moments" (Kommers 2002); and "Online Communities: Networks that Nurture Long-Distance Relationships and Local Ties" (Horrigan 2001). The report that is most relevant to this article, how-

ever, is "Teenage Life Online: The Rise of the Instant Message Generation and the Internet's Impact on Friendships and Family Relationships" (Lenhart and Rainie 2001).

Lenhart and Rainie, in the "summary of findings" which introduces the article, deliver a powerful statement. And please keep in mind — this research was published in June 2001. It is reasonable to assume that the statistics are even more compelling today. Seventeen million young people ages 12 through 17 already were using the Internet in 2001, which represents 73 percent of that age group. Not only do 76 percent of the online teens declare that they would miss the Internet if they were not provided access, almost one half (48 percent) say that using the Internet improves their relationships with existing friends. Approximately 56 percent of all 12-through 17-year-olds use instant messaging (IM) and report that this form of communication holds a key place in their lives. In fact, one fifth of this online group asserts that instant messaging is the main way they deal with their friends.

The "main way that they deal with their friends"? Anyone interested in communication, conversation and dispute resolution cannot ignore the dramatic cultural change that is occurring. These online exchanges are not merely superficial. A significant number of teenagers use IM for serious communications, including beginning and ending relationships or relating unpleasant thoughts or feelings. Thirty-seven percent of online teens, according to Lenhart and

Rainie, report that they have used IM to communicate something that they would not have said in person.

There is a wealth of provocative information in the "Teenage Life Online" report. The "Teens and Their Friends," section, for example, reports that face-to-face and telephone communications are being replaced, at least in part, by e-mail and IM. Some teens believe that the Internet allows them to show their true personalities more easily than they can face-to-face. In a distinctly ageless way, asking someone out on a date can be an unnerving event. Seventeen percent of online teens have used IM to ask someone out.

Other relevant findings can be cited, but the material above is sufficient to make the point. The ways you and I communicate are changing, and those changes have implications for dispute resolution. But the ways in which our kids are communicating will have greater implications.

The next generation is developing an intuitive comfort level online that will elude, if not baffle, many of us. Their electronic interactions may be ill suited by their nature to existing dispute resolution processes or models. Additionally, the technology and language of computer-mediated communication with which kids are so familiar may feel awkward to experienced practitioners. Accordingly, experienced problem solvers and dispute resolvers may be unable to participate effectively online.

The Teenage Life Online report, however, does not present a universal endorsement of online com-

munications. Most teens, for instance, do not believe that the Internet is especially helpful when it comes to making new friends. For instance, 67 percent of online teens believe the Internet helps "a little" or "not at all."

But even among the teens, we can see that age makes a difference. Younger teens can be more comfortable communicating online than teens just a few years older. The responses regarding making new friends are not uniform, for example. Younger children feel more strongly than older children that the Internet helps them make new friends. Thirty-seven percent of younger teens claim that the Internet helps them create new friendships, according to the Lenhart and Rainie study. Younger teens 12-to-14 years of age are more likely to use IM to break up with someone. Almost one-fifth of that age group has ended a relationship using IM.

In the 21st century, children are being introduced to computers and books simultaneously. My wife and I have a three-year-old who, not unlike many three-year-olds, loves to play on the computer. Our daughter literally is learning computer skills while she is mastering her ABCs. The real question is not whether you and I will be able to help resolve disputes when our teenagers move into adulthood. The real question is whether we will be ready when the next decade of children weaned on computers joins them.

NOTES

1. Numerous different processes are available to address disputes (e.g., arbitration, mediation, negotiation, and early neutral evaluation) and each process may have several distinct models. For instance, mediations can be transformative, evaluative, or problem-solving/facilitative. The behavioral evolutions discussed in this article may impact different models to varying degrees. The dramatic changes underway may be so momentous, however, that new ADR processes and models are required.
2. See, for instance, Katsch and Rifkin (2001) and Rule (2002).
3. See, for example, the American Bar Association E-Commerce and ADR Task Force Report at <http://www.law.washington.edu/ABA-eADR/home.html>.
4. See Tidwell and Walther (2002), citing Kiesler (1986); Kiesler, Siegal, and McGuire (1984); Walther (1993); and Walther and Burgoon (1992).
5. The references cited in note four also provide information on this point.
6. For example, see Hancock and Dunham (2001) and Walther (1997). Additionally, social identity and de-individuation theory maintains that the absence of nonverbal cues in computer-mediated communication causes parties to form impressions based on social categories rather than interpersonal cues. See the ABA E-Commerce and ADR Task Force Report (note three), citing Lea and Spears (1992).
7. Information and uncertainty are inversely proportional — the more I know, the less uncertain I feel. While uncertainty reduction strategies may be limited in computer-mediated communication, research indicates that a more intensive use of the available strategies may be sufficient.
8. See Joinson (2001), citing Rice and Love (1987).
9. See Kiesler, Siegal, and McGuire (1984: 1124-1134).
10. Tidwell and Walther (2002: 4, 7, 11, and 19-22).
11. The “disinhibition effect” can be powerful in cyberspace. Psychological barriers are reduced for a variety of reasons. For example, parties engaged in computer-mediated communication may be more open because no one can see them (invisibility); asynchronicity (not having to deal with immediate reactions); “solipsistic introjection” (absence of face-to-face cues combined with online text communication may create the feeling that the online message is a voice originating within [or “introjected” into] one’s own psyche); disassociation (these communications are merely a game); and a neutralization of status (“I’m equal to him or her”). See Suler (2003).
12. The Pew Internet and American Life Project, <http://www.pewinternet.org>.
13. “As Americans gain experience, they use the Web more at work, write e-mails with more significant content, perform more online transactions, and pursue more activities online.” See Horrigan (2002).

REFERENCES

- Hancock, J.T. and P.J. Dunham. 2001. Impression formation in computer-mediated communication revisited: An analysis of the breadth and intensity of impressions. *Communication Research* 28: 325-347.
- Katsh, E. and J. Rifkin. 2001. *Online dispute resolution: Resolving conflicts in cyberspace*. San Francisco: Jossey-Bass.
- Horrigan, J.B. 2002. Getting serious on line The Pew Internet and American Life Project, <http://www.pewinternet.org>.
- . 2001. Online communities: Networks that nurture long-distance relationships and local ties. The Pew Internet and American Life Project, <http://www.pewinternet.org>.
- Joinson, A. N. 2001. Self-disclosure in computer-mediated communication: The role of self-awareness and visual anonymity. Institute of Educational Technology, The Open University.
- Kiesler, S., J. Siegal, and T. McGuire. 1984. Social psychological aspects of computer-mediated communication. *American Psychologist* 39: 1123-1134.
- Kommers, N. 2002. Uses of the Internet at major life moments. The Pew Internet and American Life Project, <http://www.pewinternet.org>.
- Larsen, E. 2001. CyberFaith: How Americans pursue religion online. The Pew Internet and American Life Project, <http://www.pewinternet.org>.
- Lea, M. and R. Spears. 1992. Paralanguage and social perception in computer-mediated communication. *Journal of Organizational Computing* 2: 321-341.

-
- Lenhart, A. and L. Rainie. 2001. Teenage life online: The rise of the instant message generation and the Internet's impact on friendships and family relationships. The Pew Internet and American Life Project, <http://www.pewinternet.org>.
- Rice, R.E. and G. 1987. Electronic emotion: Socioemotional content in a computer-mediated network. *Communication Research* 14: 85-108.
- Kiesler, S. 1986. The hidden messages in computer networks. *Harvard Business Review* January-February 1986: 46-54, 58-60.
- Rule, C. 2002. *Online dispute resolution for business: B2B, ecommerce, consumer, employment, insurance, and other commercial conflicts*. San Francisco: Jossey-Bass.
- Suler, J. 2003. The online disinhibition effect. In *The Psychology of Cyberspace*. Online hypertext book originally published in 1996. <http://www.rider.edu/users/suler/psyber/disinhibit.html>
- Tidwell, L.C. and J.B. Walther. 2002. Computer-mediated communication effects on disclosure, impressions, and interpersonal evaluations. *Human Communication Research* 28(3): 318-319.
- Walther, J.B. 1993. Impression development in computer-mediated interaction. *Western Journal of Communication* 57: 381-398.
- . 1997. Group and interpersonal effects in international computer-mediated collaboration. *Human Communication Research* 23: 342-369.
- Walther, J.B. and J.K. Burgoon. 1992. Relational communication in computer-mediated interaction. *Human Communication Research* 19: 50-58.