

Dancing with Discord

By Hesha Abrams, J.D.

Most of us are conflict avoidant. Either we are passive aggressive or aggressive-aggressive. Both can be obnoxious and unproductive. An aggressive person is, in fact, often conflict avoidant. They come on so strong in an effort to stop the conflict quickly and aggressively. A passive person can wait and look for his/her turn to retaliate.

There has to be a better way and yet.... Why do people act this way?

Neuroscience has known for a long time that the reptilian brain – called the amygdala – sees things as demanding fight, flight or freeze. If you see that black line ahead of you, is it a snake, is it a hose, or is it a crack in the sidewalk? Your amygdala, in the back of the brain, responds in a nanosecond, faster than your cognitive brain can keep up.

Current theories in neuroscience have clearly demonstrated that this reptilian brain makes decisions for us and then our prefrontal cortex, the large thinking cognitive part behind our forehead, simply rationalizes the decision we've already made with our amygdala.

The brain acts the same whether you're the CEO of a multibillion-dollar company or an individual inventor or business person worried s/he's not going to get a good deal.

When the amygdala is activated and the either passive aggressive or aggressive aggressive stance begins, neuroscience has proven that you go through ocular occlusion, i.e., tunnel vision, and auditory exclusion, which means you stop listening. This is a dangerous place to be. We miss cues. We miss clues. We miss body language of veracity. We miss opportunity.

So how then can we develop a "Dance with Discord"? Keep our faculties..., keep our strategy..., keep our keen perceptions..., keep our sense of calm. Without this, it is very difficult to find common ground, to avoid pitfalls, to see another's point of view, to look for creative solutions, to see the correct path forward.

We need to create and develop the ability to be uncomfortable with conflict in order to calm down the amygdala so we stay in control and avoid being reactive. Then we hear more, see more and understand more, thereby allowing creative thought processes, ideas and options to emerge.

The big question is HOW do we become comfortable with conflict when we're feeling unsafe, nervous, insecure, arrogant, self-righteous or pressured?

The amygdala can get triggered by almost anything. Fear of failure, fear of success, being reviewed or observed, not meeting expectations, having excessive expectations, leaving money on the table, not knowing all the facts, relying too heavily on your own version of the story, fear of consequences, being unable to obtain additional information or verifying information, being angry, feeling put upon or put out, taken advantage of, and most spectacularly, having unreasonable expectations that don't seem at all unreasonable,

Quite frankly, it can simply be not getting our own way, getting pushed around, feeling resistant or stubborn, paranoid, or fearful. The amygdala lives in the land of emotion. The pre-frontal cortex lives in the land of logic. Yet the amygdala controls. Neuroscience has proven this simple concept consistently across cultures, age groups, genders, socioeconomic groups etc. Yet all humans try to reason with each other and when that fails, we resort to either being passive aggressive or aggressive-aggressive and we label the “other guy” the jerk, stupid, stubborn, illogical, ridiculous etc.

Far too many advisers, lawyers and mediators try to out logicate, out argue, be defensive, substitute their judgment for your own etc.

None of this is effective. First of all, it's rude and obnoxious to try to substitute your opinion for somebody else's, especially when you're trying to assist them in resolving the problem. But more importantly and scientifically, it is completely ineffective. All of these common ineffective strategies speak to the prefrontal cortex. Decision making is not made there and quite frankly neuroscience has known this for decades. So why do we keep doing it?

I think it's just a skill set issue. People do what they are habituated to do. People do what they have been taught to do. People don't want to be uncomfortable themselves and learning new skills guarantees that you will be uncomfortable for a little while as you practice.

As a mediator and deal negotiator, I look for these opportunities to provide an oasis in which people can relax into their problem-solving methodology. It's very hard to do for yourself when your own amygdala is triggered. Using a mediator, a confidant, a consigliere, a trusted lawyer as a sounding board always helps. As a mediator I am able to hold a space for the intense emotions of anger or even rage, aggression, stubbornness, fear, insecurity, jealousy, revenge, sadness, and even depression. I find that if I give people the space to just experience what they're experiencing, without arguing with them, challenging them or criticizing them, they can often see clearly themselves through the haze that the amygdala creates.

Then a thoughtful conversation can happen avoiding ocular inclusion and auditory exclusion. This helps parties remain in control, which is the one thing the amygdala craves, and which allows it to calm down. Then a plethora of options open because after all, it is your dispute; you are entitled to resolve it in any way that you think best. Calming down the amygdala allows for choice which only happens once it is no longer triggered.

Interestingly, allowing someone to say “No”, calms down the amygdala and allows a person to reassert control. Don't be afraid of “No”. It is a gateway to option generating, re-evaluation, deal making that come after the “No, or Never or No Way”.

A good mediator or confidant is insurance against you making rash decisions allowing the amygdala to be in control or helping you see that you may not know what you don't know or are seeing or hearing through a filter.

All of this I call “Dancing with Discord”. You don't trample, wrestle or contain disagreement. A basic law of physics is that a body in motion stays in motion and exerting a force will encourage an equal and opposite reactive force. Mediators that argue with you, or pound on you actually trigger the amygdala more and make finding a deal harder. And...if a deal is reached, buyer's remorse sets in more quickly and can be deadly if the amygdala had been beaten down.

Rather than resisting, do the “Dance of Discord”. Being present and non-reactive in the face of aggression, anger, self-righteousness, fear, insecurity, and even stupidity, allows you to see more, hear more and understand more. All of which are vital weapons and tools in the creation of a solution only made possible by this Dance with Discord.

None of this implies that you still don’t need assistance when your own amygdala is triggered. As a master negotiator and mediator, I find that in times of high stress if my amygdala is triggered, I seek help to give me a sounding board and make sure my vision hasn’t narrowed and my ability to hear another perspective hasn’t been reduced. It’s a human being trait. The skill is in knowing when to marshal resources to combat its limitations.

Solutions can be found if you learn to Dance with Discord.

And that is really the great gift of a good mediator.

Robert Fulton was sitting peacefully at a table watching a tea kettle boil and steam push the lid open. From that open calm place, he invented the steam engine.

What will we invent?

Hesha Abrams, Esq., a nationally acclaimed attorney mediator for over 30 years, is known for crafting highly creative settlements in very difficult cases. She has created settlements worth over \$700 million in the past year alone. She specializes in creating innovative solutions for complex or difficult matters in Commercial, Intellectual Property and “Deal Mediation”, which is driving a complex business deal to successful signing. She has the unique ability to work with big egos and strong personalities. Hesha has successfully mediated for thousands of parties and was an innovator in the mediation field serving on the legislative task force that drafted the landmark Texas ADR law. She mediates, consults, and negotiates on behalf of private parties throughout the country and internationally. She has worked in London, Hong Kong, Mexico, Thailand and India and with parties from all over the globe in complex patent licensing deals. She taught mediation and negotiation at the 2001 International Symposium on Negotiation and Conflict Resolution in The Hague. She was on the national panel for Dow Corning Implant cases and was the Chair of the Texas Bar Intellectual Property ADR Committee. She has been appointed Delegate to the Fifth Circuit Judicial Conference, 1988, 1990, 2002, speaker 2005, elected as a fellow of the Texas Bar Foundation in 2006 and received the Brutsché Award for Excellence in Mediation from the Association of Attorney Mediators. For further information, see www.HeshaAbramsMediation.com.