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JUDGE CAPELL'S TIKTOK: A MODEL TO EMPOWER THE PUBLIC TO BE THEIR OWN
CONFLICT NEGOTIATORS

Marielle Burnett

What if social media platforms were leveraged to empower interested users to resolve their own conflicts without litigation? This is a question that Brooklyn Civil Court Judge Heela Capell is exploring through several online platforms, most notably TikTok.¹

Judge Capell has been making TikTok videos since December of 2022.² She encourages viewers to resolve disputes themselves, without immediately resorting to litigation.³ Judge Capell created her TikTok account after observing litigious conflicts in which parties could have benefitted from clearer communication and stronger active listening skills.⁴ Judge Capell draws on these experiences, along with arbitration and mediation training, to share interpersonal negotiation tools with the public.⁵ To date, Judge Capell has over 250 videos and more than 3,300 followers on TikTok,⁶ and has individual TikTok videos with up to 9,000 views.⁷

¹ Rob Abruzzese, *Brooklyn Civil Court Judge Leverages Social Media to Empower and Educate the Public on Conflict Resolution*, BROOKLYN DAILY EAGLE (July 14, 2023), <https://brooklyneagle.com/articles/2023/07/14/brooklyn-civil-court-judge-leverages-social-media-to-empower-and-educate-public-on-conflict-resolution/> [https://perma.cc/E3HD-GZNU]; Lea Tomaswick, *Judge Heela Capell Takes to Social Media to Empower the Community*, POL. N.Y. (July 11, 2023), <https://politicsny.com/2023/07/11/judge-heela-capell-takes-to-social-media-to-educate-the-community/> [https://perma.cc/UM69-4WTA]; Antwan Lewis, *TikTok Sensation 'Judge Heela' Offers Expert Conflict Resolution Advice*, FOX 5 N.Y. (Sept. 12, 2023), <https://www.fox5ny.com/news/tiktok-sensation-judge-heela-offers-expert-conflict-resolution-advice> [https://perma.cc/C3SM-49Z2].

² Judge Capell (@JudgeHeela), TIKTOK (Dec. 13, 2022), <https://www.tiktok.com/@judgeheela/video/7176707970791738667> [https://perma.cc/4ZPP-KDLE].

³ Judge Capell (@JudgeHeela), TIKTOK (Oct. 12, 2023), <https://www.tiktok.com/@judgeheela> [https://perma.cc/F7RG-NRGT].

⁴ Judge Capell (@JudgeHeela), TIKTOK (Dec. 12, 2022), <https://www.tiktok.com/@judgeheela/video/7177499741855419690> [https://perma.cc/DP9T-NF34]; Judge Capell (@JudgeHeela), TIKTOK (July 12, 2023), <https://www.tiktok.com/@judgeheela/video/7254789219493809454> [https://perma.cc/KW6C-JK6S].

⁵ Tomaswick, *supra* note 1; Judge Capell (@JudgeHeela), *supra* note 4 (Judge Capell explaining use of knowledge gained from courtroom experience as well as arbitration and mediation training to inform her TikToks).

⁶ Judge Capell (@JudgeHeela), *supra* note 2.

⁷ Judge Capell (@JudgeHeela), TIKTOK (July 12, 2023), <https://www.tiktok.com/@judgeheela/video/7254789219493809454> [https://perma.cc/KW6C-JK6S].

Studies have shown that sharing educational material through social media can effect and enhance learning experiences.⁸ Given TikTok’s widespread use—including by over 150 million in the United States alone⁹—a negotiation-skills-based education conveyed from this platform could have significant reach and effect.

Judge Capell’s Tiktoks provide an array of tips that individual negotiators can use to work toward conflict resolution. These include: organizing and understanding one’s own goals in a conflict by writing them down beforehand;¹⁰ clearly asking for the desired result;¹¹ apologizing in certain circumstances;¹² focusing on possible resolutions rather than blaming the other party or making allegations about past events;¹³ establishing behavioral boundaries for the negotiation;¹⁴ diffusing conflicts with active listening;¹⁵ remaining calm;¹⁶ looking for commonalities;¹⁷ and treating the other person in the negotiation as a collaborator rather than as an opponent.¹⁸ Judge Capell also answers questions from followers, and gives examples of how

⁸ See, e.g., Samantha Cooke, *Social Teaching: Student Perspectives on the Inclusion of Social Media in Higher Education*, 22 EDUC. INFO. TECHS. 255, 267 (2017) (study findings supported propositions that United Kingdom students found social media helpful in their education and that it improved their educational experiences); Clare Hayes et al., “*Making Every Second Count*”: *Utilizing TikTok and Systems Thinking to Facilitate Scientific Public Engagement and Contextualization of Chemistry at Home*, 97 J. CHEM. EDUC. 3858, 3864 (2020) (in survey of 29 undergraduates shown educational chemistry TikToks, over half agreed or strongly agreed that the videos increased their interest in chemistry).

⁹ *Celebrating Our Thriving Community of 150 Million Americans*, TIKTOK (Mar. 21, 2023), <https://newsroom.tiktok.com/en-us/150-m-us-users> [https://perma.cc/W2KN-BW3F].

¹⁰ Judge Capell (@JudgeHeela), *supra* note 2; Judge Capell, TIKTOK, (Dec. 14, 2022) <https://www.tiktok.com/@judgeheela/video/7177189377108495659> [https://perma.cc/98HX-2GRQ].

¹¹ *Id.*

¹² Judge Capell (@JudgeHeela), *supra* note 10; Judge Capell (@JudgeHeela), TIKTOK (March 1, 2023), <https://www.tiktok.com/@judgeheela/video/7205796611203632426> [https://perma.cc/GL69-BJSS].

¹³ Judge Capell (@JudgeHeela), TIKTOK (Feb. 3, 2023), <https://www.tiktok.com/@judgeheela/video/7195817691645496618> [https://perma.cc/44E3-8UZQ].

¹⁴ Judge Capell (@JudgeHeela), TIKTOK (Feb. 6, 2023), <https://www.tiktok.com/@judgeheela/video/7196916511787748650> [https://perma.cc/C3JR-VDA3].

¹⁵ Judge Capell (@JudgeHeela), TIKTOK (Feb. 28, 2023), <https://www.tiktok.com/@judgeheela/video/7205083122008935726> [https://perma.cc/DDH9-P87S].

¹⁶ Judge Capell (@JudgeHeela), TIKTOK (Dec. 24, 2022), <https://www.tiktok.com/@judgeheela/video/7180739448290938158> [https://perma.cc/34C3-TAG9].

¹⁷ Judge Capell (@JudgeHeela), TIKTOK (Dec. 25, 2022), <https://www.tiktok.com/@judgeheela/video/7181205945794432299> [https://perma.cc/P8EQ-NMSW].

¹⁸ Judge Capell (@JudgeHeela), TIKTOK (Jan. 23, 2023), <https://www.tiktok.com/@judgeheela/video/7191721322047900974> [https://perma.cc/X2BU-QWYG].

they might start conversations to resolve their specific conflicts.¹⁹ As Judge Capell has expressed, familiarizing the public with concepts such as active listening, understanding one’s own motives, and listening to another party while holding on to one’s own beliefs, can help make conflict responses, including non intuitive ones, innate.²⁰

Such techniques are fundamental to conflict negotiation theory. Negotiation strategies that focus on the goals of the parties can strengthen relations in work contexts and create contentment.²¹ Encouraging the public to focus on goal or interest-based techniques can help individuals navigate away from conflict escalations that would likely result from defensive or retaliatory alternative negotiation strategies, such as turning to litigation or attempting to exercise power over the other negotiator.²² Many of Judge Capell’s videos focus on building rapport between negotiators and creating a lens of collaboration.²³ Fostering feelings of similarity and mutual understanding can act as a “social tranquilizer” when a particular interaction within a larger dispute might otherwise provoke irritation.²⁴

Tools such as these can be enormously powerful to the public. Court systems are often busy, and choosing to litigate conflicts can subject parties to a lengthy process that quickly accrues expenses. Empowering the public to be their own first-stop resource in resolving disputes can divert from the court system conflicts that do not require litigation to be resolved.

¹⁹ E.g., Judge Capell (@JudgeHeela), TIKTOK (Mar. 16, 2023), <https://www.tiktok.com/@judgeheela/video/7211009991359122730> [<https://perma.cc/N5WJ-FCQV>]; Judge Capell (@JudgeHeela), TIKTOK (Feb. 15, 2023), <https://www.tiktok.com/@judgeheela/video/7200252896930467118> [<https://perma.cc/EPK6-3WHV>].

²⁰ Antwan Lewis, *TikTok Sensation ‘Judge Heela’ Offers Expert Conflict Resolution Advice*, FOX 5 N.Y. (Sept. 12, 2023), <https://www.fox5ny.com/news/tiktok-sensation-judge-heela-offers-expert-conflict-resolution-advice> [<https://perma.cc/C3SM-49Z2>].

²¹ *Conflict Negotiation*, HARV. L. SCH.: PROGRAM ON NEGOT., (Sept. 19, 2023), <https://www.pon.harvard.edu/tag/conflictnegotiation/#:~:text=Conflict%20negotiation%20is%20the%20process,are%20satisfied%20with%20the%20outcome.> [<https://perma.cc/WC78-UBNP>].

²² *Id.*

²³ See, e.g., Judge Capell (@JudgeHeela), *supra* note 17; Judge Capell (@JudgeHeela), *supra* note 18.

²⁴ Janice Nadler, *Build Rapport—and a Better Deal*, NEGOT. BRIEFINGS (Mar. 2007), *as adapted in* NEG. STRONG RELATIONSHIPS AT WORK AND AT HOME 4, 4 (Harvard Law School: Program on Negotiation 2019).

Voluntary negotiation education programs such as Judge Capell's have the potential to reach widespread audiences on TikTok's platform of over 1.1 billion global monthly users.²⁵ Moreover, the efficacy of these negotiation techniques is amplified when they are used by multiple parties in a dispute.²⁶ Accordingly, proliferation of these negotiation tools has marked potential to improve the public's ability to resolve their own conflicts.

Judge Capell's use of TikTok to inform and empower the public presents a model of dispute resolution messaging that could have a host of benefits with time and scale. While negotiation is not a panacea for all disputes, using TikTok to make conscious and practiced everyday negotiators of the platform's interested users could improve efficiency in dispute resolutions, alleviate stress on court systems, and strengthen interpersonal skills and relationships among the negotiating public.

²⁵ Daniel Ruby, *45+ TikTok Statistics in 2023 (Users, Revenue & Trends)*, DEMANDSAGE (Aug. 9, 2023), [https://www.demandsage.com/tiktok-user-statistics/#:~:text=TikTok%20has%20over%201.677%20billion,active%20users%20as%20of%202023.\[https://perma.cc/9G2S-NLCK\]](https://www.demandsage.com/tiktok-user-statistics/#:~:text=TikTok%20has%20over%201.677%20billion,active%20users%20as%20of%202023.[https://perma.cc/9G2S-NLCK]).

²⁶ Kathleen L. McGinn, *Value Long-Term Relationships*, NEGOT. BRIEFINGS (Nov. 2004), as reprinted in NEG. STRONG RELATIONSHIPS AT WORK AND AT HOME 2, 3 (Harvard Law School: Program on Negotiation 2019) ("Shared rules for interaction ease coordination in negotiations.").