



When seeking a fact pattern to spice up mediation training, you can hardly beat Greek mythology with its passions and complex interpersonal relationships. So, for the upcoming Valentine's Day holiday, here is ADR Notable's latest conflict fact pattern.

When love goes awry: Apollo and Daphne vs. Cupid (a/k/a Eros)

Parties.

Apollo brings this action against Cupid, claiming intentional infliction of emotional distress and battery, seeking specific performance in the reversal of certain actions, and unspecified additional damages. Apollo is generally regarded as a leader in the Mount Olympus community. Apollo is represented by Themis, goddess of justice, divine order, fairness, law and custom.

Cupid counterclaims against Apollo for physical and verbal abuse rising to the level of assault. Cupid claims his actions were induced as a defense against Apollo's threats. Cupid, as a minor, is represented by Peitho, goddess of persuasion and elocution. According to Peitho, Cupid has established a certain reputation and brand as an archer skilled with his bow and employing arrows which come in two types: golden-tipped arrows are said to induce strong feelings of love and passion, while his lead-tipped arrows cause feelings of indifference or even repulsion.

Daphne joins in the action aligned as a co-plaintiff with similar claims of battery against Cupid, and as a cross-claimant against Apollo for assault, harassment and trespass. At the time this dispute arose, Daphne was a nymph, dedicated to and skilled in the art of hunting. Along with her mentor, Artemis, Daphne had chosen a lifestyle that shunned the attentions of the many men who found her attractive. Daphne is represented by the firm, Artemis, Dryads and Associates.

Facts.

According to Cupid, he was minding his own business one day while practicing with his bow and arrows, when Apollo spied him. Cupid claims that Apollo was pumped up and full of arrogance from his recent success in killing a large but defenseless serpent by shooting it with several arrows. Cupid claims to have been insulted, intimidated and threatened when Apollo, still armed with his bow and quiver of arrows, approached him boasting and taunting him with suggestions that his bow was larger and more lethal than Cupid's and moved to take Cupid's bow away.

Ovid, a third party, reports that in this encounter Apollo said,

“Impudent boy, what are you doing with a man’s weapons? ... I can hit wild beasts of a certainty, and wound my enemies, and not long ago destroyed with countless arrows the swollen Python You should be intent on stirring the concealed fires of love with your burning brand, not laying claim to my glories!”

Cupid responded with an unkind reply and by shooting Apollo with a golden arrow. The arrow was physically harmless to Apollo, although Cupid admits he knew it would induce feelings of love and passion toward the next person Apollo would meet. Cupid further concedes that he then also shot Daphne, who was merely an innocent bystander, with a lead-tipped arrow. He again notes that his arrow was not physically harmful but would induce feelings of indifference or repugnance which was arguably beneficial to Daphne as she was committed to avoiding romantic relationships with men.

Apollo claims that Cupid’s arrow constitutes a battery, although concedes it did no physical harm. Instead, Apollo claims that the effect of Cupid’s actions was to cause him to fall hopelessly in love with Daphne while at the same time ensuring that love would be unrequited. This, Apollo claims, caused him tremendous ongoing emotional distress, pain and suffering. Apollo claims that it was not his intent to threaten Cupid in any way, but only to engage in some banter and harmless ‘trash talk’ with the young, skilled archer. Apollo concedes however, that his age, size, appearance and reputation might have been intimidating to the smaller, younger Cupid.

For her part, Daphne asserts that both Cupid and Apollo have taken actions to harm her, with the result that she now has been transformed into a laurel tree for her own protection from Apollo’s advances. She concedes that Cupid’s lead-tipped arrow did her no physical harm, and that although feeling revulsion toward Apollo’s advances was consistent with her celibate lifestyle, it likely contributed to the extremely desperate measure of transformation into deciduous flora. Daphne also complains that Apollo committed assault, making her fear for her personal safety. She notes that she had to literally flee his ardor, running a great distance through the woods with the speed and agility of a nymph to avoid him. Yet he refused to get the message or give up until at last she cried out to her father for help, resulting in her sad transformation and current state. Because Apollo continues to wear a laurel wreath on his head wherever he goes as a sign of his unrelenting passion for her, she fears returning to her previous nymphal state.

The parties and their respective counsel have agreed to attempt to mediate a resolution to their conflict, although bitter recriminations, denial of responsibility and reciprocal blame still dominate their communications.

*Happy Valentine’s Day from the ADR
Notable team!*