

## 4 Strategies For De-Escalating Hospitality Industry Disputes

By **Randa Adra and Stephanie Jean-Jacques** (June 11, 2025, 3:14 PM EDT)

The hospitality industry involves a unique degree of service, but like any other industry, it is susceptible to high-stakes conflicts. These range from guest complaints to large-scale hotel disputes.

Focusing on the latter by way of example, there is a certain inevitability to these disputes when unforeseen circumstances arise and owners closely scrutinize performance metrics; operators navigate fluctuating market conditions, such as labor availability and supply costs; and all parties look to protect revenue in an environment that leaves little margin for error.

In the present climate of economic uncertainty, the risk of disputes is exacerbated. Following the volatility of the pandemic and subsequent post-pandemic travel surge, there are now concerns of an impending recession, rapidly shifting immigration policies globally and rampant supply chain disruptions.

These factors affect the frequency of travel and the stability of the hospitality workforce, creating significant operational challenges. Indeed, total travel spending could potentially drop by \$64 billion this year as a result of decreased U.S. domestic and inbound spending alone.[1]

Such conditions will necessarily and significantly affect the performance of the hospitality sector, including hotels in particular, leading to friction between various stakeholders and creating fertile ground for disputes.

These disputes can take multiple forms. Decreased demand may lead to potential disagreements with business partners over contract modifications or cancellations. Contracts may include specific performance or outcome milestones that become challenging if not impossible to meet during an economic downturn, leading to allegations of breach.

When there is reduced revenue and increased financial strain, or even the perception that such challenges are forthcoming, the likelihood of disputes escalating increases.

In the face of this potentially challenging period ahead, in-house counsel practicing in the hospitality sector, as well as their outside counsel partners, should consider some proactive strategies for dispute



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de-escalation and take a fresh look at how to position themselves for more successful dispute resolution outcomes.

Below are four practical considerations to add to your dispute resolution toolkit as we enter these uncertain times.

### **1. De-escalate by rational and strategic goal-setting.**

Before a dispute gets to a point of no return, consider additional de-escalation tactics to deploy.

Hospitality disputes are frequently high-stakes, high-value matters, which may represent an owner's sole revenue stream or a major strategic investment for an operator.

When an economic downturn causes performance to miss expectations, emotions can run sufficiently high to threaten any meaningful opportunity for a mutually beneficial commercial resolution.

Avoidable disputes are particularly costly during a recession, when they can drain limited resources and further strain financial stability. Thus, strategies for de-escalation are particularly important when facing financial headwinds, as they help to protect the financial health of your organization, preserve business relationships when they may be needed most, and allow for time and attention to be focused on operations.

To de-escalate, consider involving business representatives with less skin in the game early on, to lead the assessment of the dispute with a more objective and business-focused approach.

The priority should be evaluating whether a business resolution can be reached or whether this is a sword worth dying on.

Goal identification is paramount. Consider whether the goal is to salvage the business relationship, recoup what you can or send a message that this is a battle to be fought, and when it is time to bring in other team members.

The negotiation should be led by a curated business team, and legal counsel should stay in the background supporting that effort and helping shape the record for any possible outcome, helping to shape constructive conversations, preserve commercial relationships and avoid breakdowns, while still preparing for a potential dispute.

Do not mistake de-escalation with passivity. Rather, it is rational and strategic — using calm, commercial judgment to shift the focus from blame to resolution. In an industry where long-term contracts are often at issue, maintaining flexibility and goodwill can unlock more value than a short-term win, preserving stability during economically challenging times.

### **2. Strategize early to preserve and manage the record.**

If you nonetheless end up in a dispute during a time of market uncertainty, remember that disputes are often won — or lost — on the strength of the record. Nonetheless, disputes do not, and should not, drive an organization's general document management and retention policies.

Rather, legal holds should be deployed to ensure preservation of relevant information when there is a

reasonable anticipation of litigation, potentially saving the company critical resources over the course of the dispute.

In evaluating the strength of your position, be sure to consider the strength of your record. This is particularly important in the hospitality industry where significant commitments and agreements can sometimes be made verbally, such as with a handshake in a hotel lobby, or a mere signature on the back of a napkin — these are real-world examples and we recommend neither.

Moreover, if agreements do not provide clear definitions of performance standards, documentation of the parties' understanding and course of dealing over a period of time may become crucial to resolving conflicting contractual interpretations.

Notably, in this economic climate, the parties' course of performance is more likely to change in response to market downturns, and key witnesses or subject matter experts may become unreachable or unfriendly, particularly if they were laid off in response to performance challenges, so maintaining a written record becomes particularly critical.

In practice, the documentary record is never flawless, but impacts can be minimized by strategizing document preservation and management early in a potential dispute.

While no one would recommend treating every mishap like a lawsuit, training business leaders to flag disputes promptly can better position the company to maximize the outcome of a dispute in service of their bottom-line. This allows for legal holds to be put in place in a timely fashion, preserving relevant communications and data, and protecting sensitive communications with legal privilege at the outset.

It also signals to both the legal and business teams that, as we enter a time of financial uncertainty, they should collaborate closely on shaping the record to best position the organization in the event of a dispute.

### **3. Avoid boilerplate dispute resolution clauses.**

Perhaps the most important time to strategize for a dispute is long before one is even on the horizon — at the contract drafting stage. While dealmakers rarely want to contemplate the possibility of a dispute as they embark on a business arrangement, failing to do so puts parties at a disadvantage from the outset.

Too often, dispute resolution provisions are pasted across agreements without consideration for context, the unique circumstances of the relationship at issue, or changing economic conditions. But a one-size-fits-all approach is rarely effective, especially in the hospitality sector, where agreements are often long-term, span borders and implicate sensitive operational data.

The industry's performance can be dramatically affected by a recession, and the risks arising from this must be allocated. Additionally, brand reputation is frequently at the center of hospitality relationships and particularly crucial to performance in times of scarcity and increased competition.

Litigation headlines can undermine guest trust or partner confidence, which adds an additional layer of sensitivity and complexity to any potential dispute. Tailoring your dispute resolution provision by factoring in these many nuances can lead to better outcomes.

Arbitration is a popular choice in the hospitality industry, particularly in light of the cross-border nature of many of the agreements in this sector as well as the importance of maintaining confidentiality to avoid brand harm. Nonetheless, as you draft your dispute resolution provision, consider whether more formal procedures, broader discovery and appealability available in U.S. litigation are preferred.

Do not underestimate the importance of periodically reconsidering your choice of governing law and, if choosing arbitration, the arbitral seat. Changing laws and global political transitions are quickly making some jurisdictions less than friendly options for certain organizations. Other elements to consider as you revise your dispute resolution provision are notice periods, escalation steps and mandatory mediation.

These options afford the parties an opportunity to de-escalate and work toward a commercial resolution first, potentially avoiding costly disputes when the company is least able to afford them. Depending on the nature of the agreement, you may consider incorporating an expedited arbitration agreement for smaller value disputes or empowering arbitral tribunals or local courts to provide injunctive relief.

The considerations when crafting an effective dispute resolution provision are many, and decisions must be made in the fact-specific context of the agreement at issue. Take the time to conduct that analysis, especially when the stakes are substantial.

A well-drafted dispute resolution provision is not just key to legal risk management — it is a pivotal piece of any brand protection, long-term operations and relationship management strategy that can help float a company through difficult economic times.

#### **4. Leverage the benefits of arbitration.**

When hospitality companies are under increased pressure and facing a potential downward financial cycle, arbitration can be a particularly valuable tool for resolving disputes efficiently and cost-effectively.

However, it is crucial to ensure that arbitration does not simply become litigation in another forum, which can negate its benefits. It is not uncommon to see the efficiency and cost-effectiveness of arbitration evaporate as parties incorporate depositions, broad disclosure, and other litigation-style procedures into the proceedings.

Instead, leverage the flexibility of arbitration to curate a procedure that allows for swift, streamlined resolution. This includes early-stage applications seeking, for example, the disclosure of key evidence that could be dispositive in resolving the dispute or a preliminary determination on a material issue that could limit the scope of the proceedings moving forward.

Ensure any procedural order limits document disclosures to narrow and specific categories of documents that are material to resolving the dispute and does not include unnecessary or onerous disclosure obligations such as certified translations of every foreign language document or authentication requirements.

Strategic arbitrator selection is another essential piece of ensuring the arbitration proceedings are properly facilitated. Choosing a decision-maker with relevant expertise is one of the real benefits of arbitration over litigation, so be sure to evaluate your options closely. A tribunal already familiar with industry fundamentals and terms of art can lead to more efficient proceedings and yield a potentially improved outcome.

**Conclusion: This is your reminder.**

The hospitality industry has its unique intricacies and challenges. Disputes in this sector can be particularly consequential when significant value, deep relationships and reputations are all on the line.

But challenging business times do not always need to culminate in expensive and prolonged legal battles. As we enter a period of economic and regulatory uncertainty that will undoubtedly affect the hospitality industry, consider this your reminder to reexamine your dispute strategy — whether in your agreements or for imminent conflicts — to better navigate this moment of unpredictability and transition.

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[1] See, e.g., Expanded trade wars scenario on US travel, Research Brief by Tourism Economics, dated 26 February 2025, available at [TE-RB-ExpandedTradeWar-TravelImpacts-Feb2025.pdf](#).