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"'Resolving Environmental Disputes: Litigation, Mediation, and the Courting of Ethical Community"

Kahn, Jr., Peter H.

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Litigation and mediation offer substantive and important approaches toward resolving environmental disputes. Yet as currently practiced both approaches have shortcomings. For example, litigation often promotes divisive, adversarial relationships. Mediation often yields untenable ground given the seriousness of many environmental problems. This paper offers a reconception of both approaches. It is argued that both litigation and mediation need to be embedded within a more ethically comprehensive context, one of "courting ethical community." Discussion focuses on what it means in this sense to court, on what defines and bounds the ethical, and how courting depends on understanding not only differences but commonalities in people's environmental views and values.

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