Author’s response to reviews

Title: Resolving authorship disputes by mediation and arbitration

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Author’s response to reviews:

This manuscript is a revised version of RIPR-D-18-00011, which was rejected. I found the reviewer’s comments positive and constructive enough that I thought it was worth revising and resubmitting this manuscript. The reviews helped me clarify the purpose of this paper.

I want this paper to highlight how toxic the lack of dispute resolution is for the research community. One of the most important changes was adding the first paragraph in the section, “Authorship disputes are difficult to resolve”, for which I am indebted to Reviewer 1, whose analogy about neighbours fighting prompted this paragraph.

I dug deeper into the literature. The new version of this manuscript contains 40% more references than the rejected version, including key data like the frequency of authorship disputes.

Despite these additions, the main text is only slightly longer (about 3300 words now compared to about 3100 before) than the earlier version, because I removed tangential information and condensed many points.

I regret that I cannot provide a “track changes” version of the manuscript.

Reviewer’s comments in italics.

Reviewer #1: I thoroughly enjoyed reading your paper. I actually do not agree with most of what you write but as a conversation point or debate kick-starter you raise some interesting points. You must, however, address multiple errors of grammar and syntax. I list several at the end of my review but frankly I gave up trying to note them all as it disrupted my reading of the paper.

I have attempted to correct as many typos as I could find.

I think the fundamental omission from your paper is exploring more in depth whether the research institutions where the research took place should get involved. I know you note how difficult that would be at multiple sites and I know this paper is about authorship, but many of the conflicts that arise are really the manifestation of other issues that are taking place before the article is submitted to a journal for publication.
This comment is essentially asking me to delve deeper into matters of dispute prevention. In the revision, I tried to be clearer that this paper is about dispute resolution, not prevention. Dispute prevention is important, but there is much more about that in the literature.

Second, I rather think the onus is not just on publishers or journals to sort a dispute out. The situation is akin to having neighbors move in next-door, one day find them fighting on your front lawn and then have them yell at you to resolve their fight or find yourself in trouble. Overwhelmingly, submissions are unsolicited. Journals, therefore, did not ask for the manuscript in the first instance. Even for large journals, sorting these sorts of disputes out are massive consumers of time and resources, which for the majority of journals is simply something they cannot offer.

I’m grateful to the reviewer for this analogy, which I use in the first paragraph in the section, “Authorship disputes are difficult to resolve.” As I noted there, the current situation is like having neighbours start fighting on the lawn, but nobody ever intervenes. Communities suffer when there are not mechanisms of dispute resolution.

I have tried to be clearer that the proposal was not that journals themselves need to provide dispute resolution, but that they facilitate it.

Third, I really do agree it would be great if there were a set of rules and - even better - one global body to arbitrate. Unfortunately, the situation is complex and I am not convinced anyone has the appetite to account for the myriad different possibilities for authorship, implications and outcomes generated by author order, cultural constructs that shape how authors behave individually and as a collective and national legal systems.

Many intellectual property disputes are complex. But these are routinely resolved in courts nonetheless.

I found your analogies to screen-writing compelling and maybe there is a model there. But what struck me is that ultimately it seemed like a national-level body or one with an obvious jurisdiction. And COPE is most definitely not the body that would be equipped to handle the inevitable flood of cases.

The current version of the manuscript does not suggest that COPE do this.

Finally, I wonder if another simple stop-gap way to approach this until a better idea comes along is for authors to sort out the order right at the start of the research project when the division of labor is ascribed. At that point there is clarity and if the researchers cannot agree, then maybe the research project ends before it starts. If agreement is reached, before the paper is written the authors again discuss authorship and then once the paper is written for a third time they determine, did the author order still hold true, if indeed meaning is attached to it, throughout the entire process.

Again, I focused the paper squarely on dispute resolution rather than prevention.
Points for discussion:

Line 101: "But if communication was good, there would probably have not been an authorship dispute in the first place". Is this really solely an issue of communication? For sure on times, across multiple investigating sites I am sure it is. But what about power, politics, privilege, gender, funding, or efforts to manipulate the prospects of publication by arranging authors in a certain order to highlight the "big name" researcher? You allude to power and under-represented groups immediately after that statement and I think you are very cognizant of those points, but the way the sentence is written you are going to generate a reaction in the reader that might slowly start to bias them against your reasoning. In short, I would not imply, as this sentence does, that if communication was good, things would be better. Because we know that is not always the issue.

This sentence is not in the revision.

Line 126-137. You are correct, editors rarely want to get involved and here are a couple more reasons why, which I think have as much equal weight to the points you raise:

a) They are worried about getting sucked in to a legal dispute. If all the authors are at one institution, almost always the editor will toss this back to the institution to resolve. That is appropriate. The dispute is clearly internal. Obviously, as you note, that doesn't work at multi-center sites.

b) There are few papers that truly are that impactful enough whereby the editors are prepared to get involved, which invariably is a massive time suck. Unless the authors were invited by the journal to publish, the editors never asked to get embroiled in the dispute and its unfair the situation has been dumped on them. If the dispute happens before publication the editors may very well just tell the authors to go elsewhere if they can't sort themselves out.

I revised this discussion (which is now around line 156-166), although I didn’t include these particular examples.

Line 214 - Arbitration could be supported by funds from publishers and journals, as part of their commitment to ethical publishing practices. Many academic publishers are highly profitable…. While I am no defender of for-profit publishers, this comment is a bit disingenuous. First, their level of profitability has nothing to do with your arguments.

I removed this.

Line 214 (con’t) - Second, while I agree they absolutely must do more to encourage better standards of behavior both from their own editors and the authors that publish in their journals, I am not convinced the onus falls to them either to ensure authors sort themselves out. If a married couple fall out, divorce and have to fight over their assets, I don't think one would call in the car manufacturer to arbitrate who gets the keys to the car in the divorce settlement.
But someone does get to say who gets the car. Again, a major point of this paper is to that there are not norms for resolving disputes.

The publisher only publishes the article. They will first contend that the editor needs to make sure the authors are all ok before accepting the paper or, at the last gasp, by the proofs approval stage. More likely, and more appropriately, they will say the institutions that employ these authors, and where the research took place, should compel their researchers to get the dispute resolved. In this entire scenario, the institution is the constant, but the journal, the editor and the publisher is entirely flexible. The authors made a conscious decision to select a journal and publisher.

Anyway, beyond all that: no publisher is going to want to get involved in anything that could see them having to spend time and money on something that could drag them in to a lawsuit.

Nobody likes getting involved in dispute resolution, which is why it needs to be someone’s job.

I would like you to consider another question as well, though we are talking about an authorship dispute, is this really a publishing question, or at least exclusively so? Much of the backstory that leads to disputes originate from "lab politics", inter-personal relationships, etc. Should, maybe, institutions get together to form some sort of scientific court of arbitration? What about funders in all of this as well? Should they get involved too, as it is their money that underpinned the research?

The origins of these are not publishing issues, but two characteristics of scientific authorship exacerbate this: power differentials and arbitrariness (Fisk 2006, cited in text)

Line 224 - its unclear to me whether you are arguing for a pan-publisher arbitration body, the publisher itself to arbitrate across its journals or for journals themselves to arbitrate.

I have attempted to clarify.

If the latter, many already do that through publication or ethics committees, especially those journals that are owned by scientific and learned societies. I admit, such a body may not exist for those many journals owned directly by a publisher.

I confess that I was a little frustrated that the reviewer claims these committees exist, but that the reviewer provided no examples. I found some and included mention of this.

Line 230-231: "The existence of arbitration may encourage improved record-keeping." True, but again, why are institutions getting off freely here? They employ these researchers. In many other lines of work, employees have to document their time and how/why they did things. Why shouldn't institutions do a better job holding their employees to account instead of passing off the responsibility to others?

As noted in the text, because authors from many institutions may not recognize the authority of other institutions, but all authors recognize editorial authority.
Line 245-248: "There is an immediate need for journals to provide to clear policies on what their expectations for authorship are: not only who gets to be an author, but where in the order, "equal contribution" statements, and "corresponding author" designations……" it is not clear to me, do you mean journals collectively should get together to do something or journals individually? If you mean the latter, I think many journals do have policies. These may not be published or be publicly available. Having said all that, I do agree with you that journals as individuals should describe their peer review process and what they will do when they specifically get dragged in to this mess. It is a good point but I think it is separate from your call for some form of arbitration body. Please also note the typo in the quote above.

This was was revised.

Minor issues:

I found myself getting very frustrated with multiple errors of grammar and syntax. You must proof read your revision and eliminate these. Unfortunately readers will not stick with the paper unless you attend to language issues.

Examples removed. I hope that in revising the text I have caught most of the typos and not added many new ones.

Line 105-106 on under-represented groups. You hypothesize and you are more than likely right but I think you need to support this statement with data or a citation.

Reference added.

Reviewer #2: This manuscript presents an original idea of resolving authorship credit in research publications. It suggests establishing one or more arbitration bodies which could help authors decide on the contributions and possibly the authorship byline, depending on the specific characteristics of a research disciplines. While the idea seems to help by removing the decision to someone outside of the authors' group, it introduces more risks that it provides benefits.

For example, even if an arbitration body would exist, the authors would need to present the "case" to such body. For that, they would need to agree who participated in research and who did what, so that the arbitration body could make a decision/arbitration. If they agree on those two issues (who has to be on the paper and why) - they don't need arbitration?

Presumably yes, the dispute would then be resolved. But that there is a dispute suggests that different authors will present different evidence.

If they disagree, how would the arbitration resolve disagreements and disputes? How long would it take and how it would affect the timely publication of research results and intellectual property primacy (we see a move to pre-print archive in biology because of this)? Can an author appeal? Who would be responsible for the appeal process? Can it be the same arbitration agency which
made the first decision? Who will pay this? - We already have a move of publication expenses to the authors with article processing charges.

These are good questions, but I am not sure these questions could be answered even for established dispute resolutions (e.g., courts). Court cases are not resolved on a precise timeline: they vary with the particulars of the case. The answers to these questions are mostly, “It depends.”

I feel like the reviewer is almost asking for a fully running operational example in this paper, which seems an unreasonably high expectation.

I am not sure that authorship can be decided by someone outside of the research team. We performed a study to demonstrate that there can be no proxy for authorship contributions - if you ask authors about their own contributions and those of others, they always see their as more important and those of others as less important (see http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0020206).

If I am interpreting this point correctly, it seems that the reviewer is saying that when different people give different accounts of events, that nobody on the outside can decide which is more accurate. But courts are tasked with doing exactly this all the time. Communities creates a process for decision making, and agrees to abide by the decisions – while recognizing that nobody will ever claim that courts always make correct decisions. But communities recognize that there is more to be gained by having a process for deciding disputes than not.

What could work better is planning authorship before the research and managing it during research so that the final authorship byline reflects the actual contributions of individual researchers? Again, the author may consult the Five-step authorship framework proposed for clinical research (see https://doi.org/10.1186/s12916-014-0197-z).

While I agree with efforts to reduce disputes before they occur, this should not be an excuse for the community having no mechanisms of dispute resolution.

I apologies for mentioning my own work, but my research group has studies authorship in a systematic way, including randomized experiments, and a systematic review of authorship research across disciplines and metanalysis of reported authorship problems.

Here are some of the studies, which may be of use to the author: [snip]

I greatly appreciate the reviewer providing these citations. These were interesting, though not all were included in the revision as I sharpened to focus of the paper.

Reviewer #3: The paper attempts to present a novel concept of using arbitration to resolve authorship disputes based on the claim that authorship disputes cannot be solved effectively by any other means. While the concept is not totally new (see Charrow R 1995 Lawless in the laboratory in Journal of NIH Research), certainly it is worthwhile discussing further.
I appreciate the reviewer providing me with this citation. I hope I can be forgiven for overlooking a paper that is unavailable in PubMed, Google Scholar, or Web of Science from a journal that went out of business over 30 years ago (http://www.sciencemag.org/news/1997/12/journal-nih-research-rip).

Unfortunately, however, the author does not substantively argue why arbitration is a mechanism that would be welcome in academic research. The author also doesn't substantively present rebuttals against potential counterarguments e.g., why other mechanisms to resolve authorship issues are insufficient. The paper is not written as a systematic conceptual/normative analysis and the arguments/counterarguments are presented more as assertions. There is also inadequate citation and a lack of critical assessment of the existing literature on authorship disputes and resolution mechanisms.

I have significantly expanded the number of citations, and reached into some of the literature on alternative dispute resolution.

1) This is a general comment and I discuss specifics below. The author discusses the contemporary problems surrounding authorship e.g., variation in interpretation of authorship guidance i.e., ICMJE, power dynamics between researchers being central to authorship disputes, disciplinary and cultural differences in authorship assignment and ordering, and the frequency of authorship disagreements. The first half of the manuscript is devoted to discussing such authorship issues while the latter half discusses arbitration, how it would work, and why it would be a suitable substitute. I would suggest tightening the first half spent problematizing authorship. This is not necessary as the target audience are researchers familiar with this literature. Instead, I would strongly encourage the author to cogently present the few main problems and present empirical evidence where available to highlight these issues. Then the author would free up space to spend more time unpacking the model of arbitration.

I have reduced some of the tangential material and found some further references that support some of the claims. One of the key papers shows most authors in the study had been involved in an authorship dispute.

2) In the section "Authorship practices are highly variable," I would suggest citing academic journal articles that discuss authorship practices between different disciplines instead of just showcasing examples in physics and other scientific areas. The author is correct in stating examples of authorship in mathematics, economics which are alphabetical, humanities fields revering single authorship practices, and biomedical science having last senior author positions denoting leadership. But simply mentioning these differences in disciplinary practices and not citing academic journal articles papers discussing them seems awkward. For us in the field of research on research integrity, we are familiar with such trends and simply mentioning them and citing papers is sufficient and will serve to tighten the first half of the manuscript providing more room to discuss more substantively the mechanism of arbitration.

The references have expanded considerably, which should include these points.
3) In the section "Authorship disputes are difficult to resolve," I would urge the author to identify sources of empirical data to strengthen the argument presented here. There are several quantitative and qualitative reports that outline the frequency of authorship disputes and disagreements, and the nature and reasons for these disputes. These papers should be cited to show the extent and frequency of authorship disputes in order to highlight the problem.

As mentioned above, I have cited more relevant literature.

4) The author also discusses possible authorship disagreement resolution models but fails to cite the literature. There are many articles proposing the use of publication officers, research ethics consultations, and other academic officials (e.g., ombudspersons) as ways to resolve authorship disputes through collegial dialogue. These papers should be cited and discussed and then the author should explain why these models are not effective at resolving authorship disagreements. Currently, the author merely mentions, for example, the concept of ombudspersons and quickly dismisses the idea that an ombudsperson can help resolve authorship disputes by stating they have no authority and not every institution has such folks. But why can an ombudsperson not be used? Why do they have no authority? Why can't other officials within academic settings not be substitutes? The author needs to not simply assert they are/are not helpful, but unpack and make an argument for why ombudspersons (and other university administration e.g., RIOs, research ethics consultants, etc.) are not the right people for the job. Currently, the counterarguments presented are anecdotal with limited conceptual analysis and discussion.

It seems the reviewer has particular papers in mind here, and specific references would have been helpful. As for ombuds, I think the paper points out two problems with those offices as a general solution: 1) Not all universities have them. 2) It’s not clear they have any ability to enforce a decision. Ombuds offices could certainly assist in many cases, but those two facts would seem to prevent them from being a solution to the systemic problem.

5) Many scholars have proposed models of resolving authorship disputes through the use of quantitative models of authorship assignment and ordering based on contribution. Similarly, none of these articles are cited and nothing is discussed as to why these models are insufficient. This I think is also necessary to write in the manuscript. Why are these models insufficient at resolving authorship disputes? While there is no empirical data showing whether such models are effective, before proposing a new model of arbitration, I would need to see a robust discussion as to why prior conceptual proposals to order authors, or why other models to resolve authorship disputes as explained above, are unlikely to work.

I think two issues were mixed together in the earlier manuscript.

1. Preventing disputes, which the proposals the reviewer mentions would address. Some of which were mentioned in the earlier version of the manuscript, and I could have done more, but I realized that the manuscript is not so much about this.
2. Resolving disputes. This is the topic I have tried to focus on in this revision. Even when there are many mechanisms in play to prevent disputes, they will still occur. Contracts exist to preempt disputes, but court cases still arise even with contracts in place.

6) The concept of arbitration is certainly a novel idea yet I think the author needs to further develop arguments for why arbitration is likely to work and refute potential counterarguments against arbitration in a systematic manner. Currently, I can only see shortcomings with this model and I am not convinced of its application in an academic setting. As with the comments above, currently the presentation of arguments and counterarguments are written as commentary instead of a structured normative analysis. Here are several of the issues I would need to see addressed:

   (i) Researchers tend not gravitate towards legal-like processes including audits, which have been proposed as a mechanism to prevent misconduct. Even if arbitration as a model is available, what is the likelihood researchers would use it? Arbitration is an alternative to civil litigation. It is used widely because it is quicker, less costly, and can have less of a negative impact on both parties involved when compared to litigation. But arbitration is used for cases where typically there are two parties - not several parties as in multi-authored publications (which as the author notes is becoming the norm in many disciplines). Placing someone an author or removing them, or moving them up or down the authorship byline impacts other researchers. All researchers have a shared interest in authorship and I am unclear as to how arbitration can resolve authorship issues where multiple parties are involved.

   The first version of the manuscript focused on arbitration, but in the revision, I tried to use the more general term of alternative dispute resolution, which could include mediation.

   I am not aware of any literature relating the effectiveness of arbitration and mediation as related to the number of parties involved. If there are some, I would appreciate references. Certainly, several forms of dispute resolution (e.g., courts) routinely make decisions involving more than two parties. A child custody case affects not only the parents, but the children, and extended families.

   (ii) Arbitrators have more subject matter expertise than judges which is one of the reasons why parties select arbitration instead of litigation. As such, how will arbitrators be qualified to deal with authorship disputes and who will provide them training on authorship dynamics, cultural and disciplinary differences, and guidance on authorship. Perhaps the author thinks training arbitrators is unnecessary - if so this needs to be explained. As arbitrators work in different areas, please explain why no knowledge of authorship is necessary and if this is not the case, how will we qualify arbitrators to tackle authorship issues. In this latter case, if arbitrators need training, I am unconvinced why other academic officials, likely more familiar with issues of authorship and disciplinary differences, are not the right people to help resolve authorship disputes.
Absolutely, you need expertise in both the discipline and in alternative dispute resolution. See line 216-218 in revision, which mention this (albeit briefly).

(iii) While arbitrators can have binding verdicts, they still may not be able to address the issues of power dynamics especially in the case of junior scholars having insufficient power to stand up to more senior researchers. Why would a junior researcher even start the process and challenge a senior researcher in arbitration knowing well that such a move could harm their career? As such, how is arbitration meant to resolve the issue of power dynamic differences or is not meant to solve it?

It seems to me addressing power dynamics is precisely what any form of dispute resolution is intended to do. Dispute resolution prevents “might makes right” from being how all decisions are made.

The question, “Why would a junior researcher even start the process and challenge a senior researcher in arbitration knowing well that such a move could harm their career?” could just as well be applied to a sexual harassment case as an authorship dispute. Reporting cases of sexual harassment (via Title IX in the US) has not instantaneously fixed the underlying power differences relating to sexual harassment. But the existence of a reporting pathway establishes a professional expectation.

(iv) The author notes that costs of arbitration should be absorbed by for-profit publishers because it showcases their commitment to ethical publication. Albeit less costly than litigation, arbitration is not a cheap process. With the frequency of authorship disputes being 25-65% (depending on which survey you look at) why would publishers be responsible for picking up the tab? Why would this not be a financial burden put on the researchers, or the research institutions? I am not convinced on the feasibility that publishers are morally obligated to pay for such services and whether they even would want to.

It was not clear in the previous manuscript that I was suggesting multiple paths for arbitration (or mediation). I hope I have clarified this.

Journals often position themselves as part of the research community, and claim they provide value to authors. Journals should be committed to ethical decision making processes.