

“Care Work” in Facilitative Mediation: Interactional Techniques for Emotional Support in the Context of Conflict Resolution

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Abstract: This paper investigates how facilitative mediators use “care work” techniques when participants display emotional or relational concerns during the session. Conversation analysis is used to analyze a pre-existing dataset of video-recorded small claims and divorce mediation sessions. Techniques the mediators used to do care work include reflection, topic refocusing, complimenting, role modeling, and coaching. The analysis shows how the trajectory of the talk in the mediation session is impacted by care work. The results are discussed in terms of their implications for the mediator’s role and the effectiveness of the interaction for the conflict resolution process in mediation.

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Previous research on emotion management and care work has been done in a variety of settings, both informal and institutional. The purpose of this paper is to discover how mediators in family and small claims mediation sessions use “care work” techniques to respond to participants’ displays of emotion, relational issues, or vulnerability. A qualitative approach is used to analyze a pre-existing dataset of conversation analytic transcripts of videotaped mediation sessions. While a need for care work may be expected in the family and divorce mediation sessions because of the nature of the challenges those participants are experiencing, the need for care work in small-claims mediation may be less obvious, as these mediations are typically, at least officially, about monetary issues. However, at least some types of care work were found in both family/divorce and small-claims mediation sessions. The techniques mediators used to respond to participants’ displays of emotion, vulnerability, or relationship challenges include reflection, topic refocusing, complimenting, role modeling, and coaching. The results of this analysis of how mediators respond to clients’ emotional displays during the session will be discussed in terms of their implications for the effectiveness of the mediation process and for how they facilitate conflict resolution.

Literature Review

Previous research on emotions in the work of caring for others has focused on social roles and statuses. Examples include Hochschild’s (1983) well-known study of the emotional labor done by airline flight attendants during interactions with passengers, Gilligan’s (1982) analysis of the role of “care” in how women’s moral development is shaped by their relationships with others, Charmaz’s (1991) study of how being chronically ill shapes one’s identity and self-care work, and DeVault’s (1991) study of how caring for family members through meal planning and food provisioning tasks are tied to mental and emotional work. Recent studies of emotion work in various contexts include Milan’s (2023) study of activists working on refugee issues, which showed how emotions experienced shifted during different stages of involvement with that type of work, and Lee’s (2023) study of the emotion work women do as they manage conflicting work and family demands. Siegel (2021) also uses Hochschild’s (1983) concepts in his study of how women who define themselves as feminists do emotion management around their abortion experiences, and Robinson (2021) uses Hochschild’s (1983) concepts to study how Black female ballet dancers do emotional labor in the context of this profession.

In the context of mediation sessions, there is evidence that participating in mediation can help clients with their emotions relative to the dispute. For example, a survey-based study by Heard and colleagues (2024) found that divorcing couples in an Australian mediation program experienced a decrease in acrimony after mediation, regardless of their level of interest or enthusiasm for the mediation. Cohen, Dattner, and Luxenburg (1996) describe how mediators can help divorcing couples with emotionally laden decisions by reframing in ways that allow each couple to see the other's needs and positions more clearly. Tanz, McClintock, and Kyritsi (2023) found that holding caucuses before the main mediation session affected the emotions experienced during mediation sessions. In particular, they found a decrease in stress and a calmer mood in these facilitative mediation sessions. Greco, Cigada, and Jermini-Martinez Soria's (2022) study of French mediation sessions showed how naming an emotion can help mediators impact the trajectory of the interaction in mediation sessions. This labeling work can provide the groundwork for a transition from negative to positive feelings, which may assist in dispute resolution. Rypí's (2017) study of victim/offender mediation showed that mediators used preliminary meetings with each side to coach participants on how to construct their contributions in joint sessions to avoid eliciting negative emotional responses. For example, the offender might be advised to adjust how they describe the reasons for the crime, or a victim might be asked to avoid certain questions about the perpetrator's identity.

Attending to clients' emotions has long been considered part of the role of mediators (Ury 1993; Domenci and Littlejohn 2001). Chang (2018) used a conversation analytic approach to study civil mediation

cases in Taiwan that were conducted in the Chinese language. In the paper, she analyzes how emotion and face work are intertwined in a mediation session. She found that participants in this wrongful death case worked to elicit empathy or emotional support from the opposing participants. The emotion work in this context was complicated by cultural conventions and expectations regarding face work.

Milišauskaitė and Sondaitė (2022) conducted interviews with a small sample of family mediators in Australia and found that family dispute resolution practitioners "create safe environments to process disputes and emotions" (Milišauskaitė and Sondaitė 2022:100). However, this interview study does not examine the interactions themselves, so how the mediators accomplish this remains to be shown. Some conversation analytic studies have addressed the role of emotion work in mediation sessions. For example, Garcia, Vise, and Whitaker (2002) conducted a single-case analysis of a mediation in which a client made an accusation of bias against the mediator during the session. One source of a client's perception of bias may have been due to the mediator's emotion work in support of the first client to speak, and its absence during the opposing client's turn to tell her story.

While previous research shows that mediation benefits participants, including emotional benefits such as reduced animosity or stress, more research is needed on how this outcome is achieved. The current study examines how mediators in facilitative mediation do care work in response to participants' actions and utterances that display emotional or relational concerns or vulnerabilities. In this article, conversation analysis will be used to investigate interactions in mediation sessions to discover how

mediators do care work as they work to facilitate the session. Conversation analysis grew out of the ethnomethodological approach developed by Harold Garfinkel (1967). Conversation analysis enables direct observation and sequential analysis of naturally occurring data (Schegloff 2007; ten Have 2007; Hutchby and Wooffitt 2008; Heritage and Clayman 2010; Sidnell 2010; Antaki 2011; Liddicoat 2021; Garcia 2023a). Previous research from a conversation analytic perspective has explored how ordinary conversation differs from talk in institutional settings (e.g., Sacks, Schegloff, and Jefferson 1974; Boden and Zimmerman 1991; Sacks 1992; Heritage and Maynard 2006; Heritage and Clayman 2010; Antaki 2011; Arminen 2017). Recent conversation analytic studies in workplace settings include business settings (e.g., Barnes 2007; Asmuß 2008; Vöge 2010; Kevoe-Feldman 2018), legal settings (e.g., Garcia 2019; Gibson and Fox 2021), and medical settings (e.g., Peräkylä 2019; Stivers and Timmermans 2020; Wang 2020). Previous conversation analytic research on mediation investigates how the interactional organization and turn-taking system of mediation facilitate the conflict resolution process (e.g., Garcia 1991; 2019; Greatbatch and Dingwall 1997; Jacobs 2002; Heisterkamp 2006a; 2006b).

Conversation analytic approaches to care work focus on the types of actions performed when people are in interaction with each other rather than on the emotions experienced by individuals. The implications of the activity of “care” for the management of emotions can be seen in how the work done is placed in relation to previous actions that may display an orientation to emotion, or in how a recipient of the activity of care may then display a different type of response or action after the care work has been done. Whalen and Zimmerman’s (1998) arti-

cle shows that emergency service call takers helped callers who were so upset that they could not communicate clearly; they used directives designed to help the callers calm down. Garcia’s (2023b) study of care work in emergency service calls showed that call takers used a range of techniques to accomplish care work to assist or support callers in their emotional management or ability to handle the ongoing emergency. In some cases, the call takers provided this assistance because emotional upset was displayed, while at other times, they preemptively worked to lower stress levels to maintain the caller’s level of self-control during stressful circumstances. Actions such as providing reassurances, expressions of empathy, or coping techniques for stress reduction can assist callers in emotion management. Other techniques, such as offering compliments or providing other forms of distraction, can also serve as methods of emotional support. In a study of an emergency services call made by a person who was threatening suicide, Garcia (2024) found that displays of compassion or empathy, active listening, and sharing personal information to create a bond with the person in crisis were effective when carefully placed in the interaction so that their effect was supportive of the person and their autonomy rather than done in a way that could be seen as pressuring the caller (see also Tracy and Huffman 2016).

In addition, conversation analytic research on crisis negotiation shows how interactional techniques can effectively bring the person in crisis back from the brink. For example, Sikveland, Kevoe-Feldman, and Stokoe (2020) found that, contrary to existing advice, challenging the person in crisis can sometimes be effective. Finding ways to get help to the person in crisis while respecting their autonomy has also been shown to be effective (Sikveland and Stokoe 2023).

Methods and Data

The conversation analytic approach involves the analysis of participants' actions in the sequential context in which they occur. The focus of the analysis is on the interactional procedures participants use to construct their actions and interpret the actions of others. This paper reports the results of a qualitative analysis of a pre-existing dataset of conversation analytic transcripts of facilitative mediation sessions (Garcia 2000; 2012; 2019). For this analysis of care work in mediation sessions, I identified all instances in the data in which emotions were explicitly addressed, conveyed indirectly (e.g., through tone of voice), or otherwise potentially relevant to the ongoing discussion.

These data were collected in 1994 and 1995 for a *National Science Foundation* grant (Law and Social Sciences Program, SBR # 9411224). The videotaped sessions were previously transcribed using conversation analytic conventions (Jefferson 2004). Brackets indicate simultaneous speech, numbers in parentheses show the approximate length of pauses, words in parentheses are tentative transcriptions, and empty parentheses are inaudible words. Capitalization indicates increased volume, and degree signs indicate decreased volume. Inhalations and exhalations are indicated with “.hh” or “hh” respectively, and equal signs show that two words were latched together with no pause or overlap. Colons indicate a word is drawn out, and a dash indicates a word was cut off abruptly. Punctuation indicates intonation rather than grammatical structure, and laughter is spelled out (e.g., “heh”). A tilde indicates a quavery tone that conveys tearful emotion, and carets indicate an increased rate of speech.

Approval for the study was obtained from the IRB, all participants signed consent forms, and all identifiers were replaced with pseudonyms. In the transcripts, mediators are labeled “Med” in the transcript excerpts from the small claims cases, which were facilitated by one mediator, and “MedA” or “MedB” in the excerpts from the divorce mediations, which were facilitated by two co-mediators. Mediation clients are labeled in the transcript excerpts with either a pseudonym or a shortened version of their pseudonym.

The 20 mediation sessions analyzed in this paper were all conducted using a facilitative model of mediation (Boulle, Colaterella, and Picchioni 2008; Frenkel and Stark 2012; Moore 2014; Goldberg et al. 2017; Garcia 2019; Maxwell and Ingram 2022). Five of the mediation cases were facilitated by a non-profit organization in the Midwest region of the US. This program provided services to families with children. These divorce and family mediations were facilitated by co-mediators who were also trained family therapists. One of these cases involved a couple who were having challenges in their relationship stemming from their decision to marry. The other four cases were divorce mediations involving couples with children. These mediation cases typically involved three or four mediation sessions of 1 ½ hours each.

The remaining 15 mediations were small claims mediations provided by a city-run program, also in the Midwest. Each mediation was facilitated by a trained professional mediator. These mediation sessions typically ranged between 30 minutes and an hour in length. A range of issues were mediated, such as car repairs, the loan of a camera, roommate issues, pet issues, and workplace disputes.

I have identified all instances of care work performed by the mediators in these 20 mediation cases. The analysis below shows how participants’ actions displayed emotional or relational vulnerability in some ways and how the mediator responded to those situations. The talk following the care work intervention is analyzed to gauge its impact on the subsequent interaction. The goal of this analysis is to discover how care work is performed in the context of mediation and how different types of care work can be used to assist participants through emotional or relational challenges during the session.

Analysis of Data

Five main categories of care work were identified in these data. First, a traditional facilitative mediation technique of mirroring or reflecting participants’ statements was frequently used to support participants emotionally or to highlight the emotional aspects of the dispute. Second, mediators often worked to focus on or shift the topic toward emotions and relationship issues when relevant for the resolution of the conflict. Third, compliments were used to reward clients for emotionally positive utterances or actions. Fourth, mediators acted as role models to animate ways the participants could communicate about emotions or express empathy and care for each other as they interacted about the issues that were triggering conflict. Fifth, mediators took on a coaching role, giving advice or instruction about how to handle emotions and/or relational problems. The analysis below shows how the mediators used each type of care work to respond to participants’ emotional concerns and how that care work impacted the trajectory of the talk that followed.

Reflection or Paraphrasing Display of Emotion

Reflection or “mirroring” is a common technique in many types of mediation, although how the technique is performed differs. In transformative mediation (Bush and Folger 2005; Simon and West 2022; Garcia and Cleven 2024), a reflection should (as closely as possible) directly repeat the words or emotions spoken or displayed by the participant to highlight areas in which they may need support or clarification. However, in facilitative mediation, the mediator’s reflection may directly repeat, but often paraphrases, what the participant has said (see Boulle et al. 2008; Ewert et al. 2010; Frenkel and Stark 2012; Picard 2016). These paraphrases often reframe the participant’s words or position with an aim to further the process of dispute resolution.

In these data, mediators produced emotion-targeted reflections in two of the five family mediations and in 8 of the 15 small claims mediation sessions. There were two types of participant actions that led to mediators’ use of reflections to do care work. First, the mediator may reflect a participant’s verbally expressed emotion, thus providing support or validation of the feelings the participant is expressing. Second, the mediator may reflect the gist or impact of the emotions the participant conveyed through paralinguistic actions such as tone of voice, use of emphasis or volume, or through specific aspects of the story they are telling about the dispute. This technique highlights and focuses attention on the emotional experiences or issues involved in the details of the dispute. For example, Excerpts 1 and 2 show a mediator reflecting a participant’s emotion. The two excerpts differ in how the mediator constructs the reflection and in how the reflection impacts the trajectory of the talk after the intervention.

Excerpt 1 is from a small claims mediation between a landlord (“Tish”) who is trying to get her tenants to pay for a washer/dryer installation. In this excerpt, the mediator reflects the emotion or relationship issues that were conveyed by Tish, even though these were not explicitly articulated. The mediator does care work by putting a label on the emotions.

Excerpt 1: Small Claims Mediation “Washer/Dryer Installation,” Tape 17, lines 389+

1 Tish: and you would pay HALF (1.0) the next month, and half the following month! in
2 two month payments! (0.3) .h and he called me (0.4) .h a: blanking liar! (0.6) >and I
3 hung up on him!< (0.8) there is where my allegiance (0.8) went to (0.3) Robert
4 (0.4) a hundred percent! (0.9) I don’t deserve to be talked to that way? and I will
5 not stand for [it!]
6 Med: >[so] you were< **offended.**
7 (0.4)
8 Tish: yes ma’am!
9 (2.5)
10 Med: and (0.4) by now we’re what, into August? (0.9) >September or something<
11 [°like that?°]
12 Tish: [>OH it’s HHHH<] °just-° eh July!
13 (0.5)
14 Med: °July.° (1.0) .h (2.7) >how close do you< (0.5) live to: Anne and John?
15 (0.1)
16 Tish: thirty miles.
17 (1.3)
18 Med: °°okay.°° (0.3) >is this is a< house they’re °renting?°
19 (0.5)
20 Tish: °>it’s a two< family.°
21 (0.4)
22 Med: °two family.° (1.2) are there tenants in the other half?
23 (1.5)
24 Tish: there are now! there haven’t been >most of the< time!

In lines 1-5, the landlord Tish describes the conflict that has occurred between her, her partner Robert, and her tenants over the issues. While Tish does not

directly articulate emotions or emotional issues, the events she describes (e.g., “and he called me (0.4) .h a: blanking liar!”; line 2 and “>and I hung up on

him!<"; lines 2-3) convey strong emotion. In addition, her use of louder volume (e.g., "HALF"; line 1) and stress (throughout lines 1-5) also conveys strong emotion.

The mediator reflects the emotion conveyed in Tish's turn by labelling the emotion underlying her statement (">[so] you were< offended."; line 6). Tish agrees with this characterization of her feelings ("yes ma'am!"; line 8). After the mediator's intervention, the two then return to discussing the details of the story (lines 10-24) in a calmer manner. The mediator shifts the topic of talk to the dates the events occurred (lines 10 and 11), and Tish responds (line 12). The mediator then asks more questions about the facts of the case, which Tish calmly answers. In addition to the topic shift from complaints to a discussion of the facts, the tone of voice and intonation of Tish's

speech are calmer. Both Tish and the mediator speak quietly (lines 10-24), and there is no use of raised volume (indicated by capital letters) or stress/emphasis (indicated by underlining). In sum, the mediator's reflection, in which she labeled the feeling Tish was experiencing, succeeded in helping Tish transition to a calmer way of speaking and to discussing facts rather than continuing to elaborate her complaints.

Excerpt 2 also shows a mediator doing reflection. This excerpt is from a small claims mediation between the buyer and seller of a house. Vince and Martha are disputing about the poor condition of the house Vince has just bought from Martha. She had also delayed her move-out day, which caused problems for Vince and his family. As the excerpt begins, Vince continues his complaints about these issues (lines 1-4).

Excerpt 2: Small Claims Mediation "Real Estate," Tape 6, lines 1379+

- 1 Vince: first time in ten years! I lived with my MOTHER in law! (0.6) okay? (0.6) .h
 2 >and when someone< sits here and says oh! you can have it on the nineteenth (0.4)
 3 in front of fi:ve other people!? (1.3) and then keeps moving, and moving, >and
 4 then< when you come in? you have to deal with things like this?
 5 (0.8)
 6 Med: Mar[tha]
 7 Vince: [that]'s >nuh THAT!< is not fair! (0.7) THAT is NOT FAIR!
 8 (0.1)
 9 Med: **you >feel like< you're?, (0.4) being treated unfa:irly in**
 10 th[is.]
 11 Vince: [ex]treme°ly°!=
 12 Med: =Martha mentioned (0.5) that she has some memory problems.
 13 because of some medicaton? (0.7) .h that she's taken?
 14 (0.4)
 15 Vince: um hm?
 16 (0.5)
 17 Med: .h uh and I DON'T (0.4) I haven't heard her at a:ll?, (0.5) .h say that you're big bad
 18 gu:y. (0.6) I >haven't heard her< (0.5) at- at least >in what she's< told me (0.4) .h

- 19 >did it < sound >like she was saying< look he's bullying me around! (0.4) .h I've
 20 not heard that if=that-
 21 (0.4)
 22 Vince: I ha:ve!=
 23 Med: =helps at all.=
 24 Vince: =>missus Martha said< how we were harRASSing her? she
 25 mentioned that sitting here today! (0.6) all's I did was contact her when she said to
 26 contact her. >the only< co:ntact I did not make! (0.4) .h that she did not (0.5) say
 27 call me?
 28 (0.4)
 29 Med: °mm hm?°
 30 (0.4)
 31 Vince: was o:n (0.4) to have one person come out and measure a few things
 32 at the [house!]
 33 Martha: [CHUM] chum-!
 34 (0.2)
 35 Vince: tha:t is it! >that's the only< time (0.3) I: made the phone call!
 36 (0.1)
 37 Med: >was that<? the nineteenth? ((Discussion continues with Vince making more
 complaints about Martha.))

After Vince described the problems that occurred when Martha kept changing her move-out date (lines 1-4), he then emotionally characterizes these experiences: “[that]’s >nuh THAT!< is not fair! (0.7) THAT is NOT FAIR!” (line 7). He raises his voice and uses stress and emphasis to convey the emotion behind that statement. Note that in line 6, the mediator had initiated a turn, which may be an attempt to solicit a response from Martha; however, she dropped out when Vince continued speaking, letting him have the floor to produce his emphatic turn in line 7. When she speaks again in lines 9-10, the mediator does not make another attempt to address Martha. Instead, she addresses Vince and reflects the emotion he expressed, mirroring back his feeling of unfairness (“you >feel like< you’re?, (0.4) being treated unfa:irly in th[is.]”; lines 9-10). Note that the mediator’s reflection was a downgraded version

of Vince’s emotional turn in line 7 (Pomerantz 1984). She mirrored the emotion experienced (unfairness), but not the intensity of his emotion. Vince’s response to the mediator’s reflection upgrades the intensity of her response (“[ex]treme°ly°!=”; line 11). This upgraded response suggests that the mediator has not accurately characterized the intensity of Vince’s emotions. The mediator then refers to Martha in the third person as she speaks on her behalf, reminding Vince that Martha has some memory problems (lines 12-13). This could be seen as an attempt to help Vince see why Martha has behaved as she has, rather than assuming that Martha has been deliberately treating him unfairly. Vince’s response to this seems initially to be a calmer response. His “um hm?” with questioning intonation (line 15) seems to request more information. The mediator goes on to explain that Vince may be mistaken in

how he is interpreting what Martha is saying (lines 17-20). However, this explanation does not succeed in convincing Vince that he is not being bullied or treated unfairly by Martha (“I ha:ve!=”; line 22). Although he is not raising his voice as he did earlier in lines 1 and 7 above, the stress on “I” conveys his disagreement with the mediator’s representation of Martha’s position. Vince then goes on to produce complaints and defend his position that Martha has been treating him unfairly. In this instance, the reflection seemed to downplay the intensity of Vince’s emotional response, thus resulting in a different trajectory after the intervention.

In sum, the use of reflections or paraphrases to do care work occurred in two types of contexts. Mediators could reflect participants’ utterances in which they verbally articulated an emotion or relational concern, or they could reflect participants’ utterances in which they displayed emotion or relational concerns without verbally articulating the emotion, instead displaying the emotion through paralin-

guistic features such as volume, tone of voice, stress, or emphasis.

Focusing or Shifting the Topic to Emotion

When participants were discussing the issues without specifying or labeling the emotional aspects of the experience, but their stories nonetheless conveyed unarticulated emotional contexts or issues, mediators often worked to refocus the topic toward emotions and relationship issues. While this technique was not always successful in getting participants to directly address the emotional issues, it served to show that the monetary issues of the dispute or extended stories about what happened were not the only issues keeping the participants from reaching a resolution of their dispute.

Excerpt 3 from Mike and Kelly’s divorce mediation occurred early on in the session and illustrates how a mediator’s topic shift to emotions can lead the disputants to address these issues.

Excerpt 3: Divorce Mediation, “Mike and Kelly,” Tape 7, lines 324+

- 1 Kelly: he likes to do that. .h (0.5) the other two ip-! >my oldest one<
 2 >he doesn’t really say anything< he just? He’s kind of quiet °and° .h (0.8)
 3 and [our boisterous one] is Mary
 4 MedA: [°()°]
 5 (1.0)
 6 MedA: °°okay.°°=
 7 Kelly: =and uh (0.4) >she has to s-< (0.7) say everything? and
 8 anything? and .h >hh! hinh hinh hinh< .h tell everything so .h >enh hinh
 9 hinh!< .h (0.8) that’s about it! >unh henh hehn!<
 10 (0.7)
 11 MedA: **are they experiencing any STRESS >from the< separation that you**
 12 **could °identify?°**
 13 (1.1)
 14 Mike: °u:m yeah. I’m sure.° (0.7) °I- I mean it h (1.4) u::h h! (0.6) I

- 15 >went out and< talked to? h um (0.6) counselors at school. °a:n:d°
 16 >made them aware of our< situation? (0.7) °an:d° .h (0.6) because I did
 17 >want them to keep an eye on< the kids and see because
 18 (0.1)
 19 MedA: °that's real[ly impor]tant?°
 20 Kelly: [chum!]

When the mediators asked Mike and Kelly to describe their three children, their responses were brief and focused on their children's personalities (e.g., lines 1-3 and 7-9). Mediator A then shifts the topic to the emotions the children are experiencing as a result of the breakup of their parents' marriage ("are they experiencing any STRESS >from the< separation that you could °identify?"; lines 11-12). This topic shift successfully redirects the talk to the emotional issues affecting the family. Mike responds and explains how he has tried to respond to the children's emotional needs (lines 14-17). Get-

ting divorcing parents to focus on the needs of the children is a key piece of the divorce mediation process.

Excerpt 4 shows a successful attempt to refocus the topic from a participant's complaint story to the participant's feelings about the story. In this small claims mediation between two former roommates (Kris and John) who were disputing an unpaid electric bill, aspects of Kris's story convey the underlying emotional layer to the dispute without directly articulating these emotional impacts.

Excerpt 4: Small Claims Mediation, "Roommate's Electric Bill," Tape 9, lines 188+

- 1 Med: can you? (0.4) explai:n to me, because I'm not understanding why.; (0.3) it's a
 2 problem for his cousin to be there.
 3 (0.3)
 4 Kris: U:m well! because (0.4) it was still our residence. (0.4) it was still Kurt's
 5 residence,=
 6 Med: =>so you felt-< (0.6) >you sh-< (0.3) he should of (0.2) come to you
 7 and go:t (uh) permission?, before he allowed someone [to move] in?
 8 Kris: [we:ll,]
 9 (0.6)
 10 Kris: Kurt GAVE him permission for a two week trial basis. (0.6) to see how it would
 11 work out. (0.4) .h and we walked in during that two week trial basis and saw all of
 12 Rick's stuff thêre? (0.5) .h ã:nd (0.6) then realized >that it< was >not a< on a
 13 trial basis.
 14 (0.6)
 15 Med: **and- and- how >did you< feel about that?**
 16 (1.1)
 17 Kris: betrã:yed? (0.7) because we told (0.5) °k k° Kurt to:ld John, it was a two week

18 trial basis? a:nd .h (0.2) yeah, >but THAT’S< not really what I’m: (0.3) I’m
 19 [upset about you know? That’s:.]

When the mediator asks why John’s cousin should not be living in the apartment (lines 1-2), Kris uses stress and emphasis as she says “because (0.4) it was still our residence.” (line 4). Kris thereby displays her deep conviction that John has somehow violated their rights to the apartment. Kris uses “our” in line 4 to refer to herself and her partner Kurt. Kurt had leased the apartment from the landlord and later allowed John to live with them. The mediator asks for clarification in lines 6-7, and Kris’s explanation shows that while they agreed to a “two week trial basis” (line 10), they soon realized John’s cousin had moved in permanently, not just for a two week stay, as agreed (lines 10-13). The mediator then refocuses the topic to Kris’s emotional reaction to this (“and- how >did you< feel about that?”; line 15). This topic refocusing move is successful—the first word

Kris produces in her response is “betrã:yed?” (line 17), which directly and concisely conveys the emotion she experienced (the tilde indicates a quavering voice conveying tearful emotion).

Not all attempts by mediators to refocus topics to emotions were successful. For some participants, emotional or relational issues and experiences are deeply connected to the dispute, and surfacing these issues can often help the participants move toward resolution. However, for other participants, the issues may be straightforward financial, contractual, or legal concerns. Excerpt 5 is from a small claims mediation between two former roommates, Rob and Brian. They are in disagreement over whether Rob, who signed a lease and then moved out, should be responsible for unpaid rent.

Excerpt 5: Small Claims Mediation, “Broken Lease,” Tape 4, lines 138+

1 Med: are you still reSIDing? (0.5) [there?]
 2 Brian: [yes.]
 3 (1.2)
 4 Med: an:d how long is this lease for?
 5 (0.9)
 6 Brian: till: June.
 7 (0.9)
 8 Med: June. (0.5) next year?
 9 (0.3)
 10 Brian: yes.
 11 (0.7)
 12 Med: .h a:n:d uh: tch (1.6) TCH=.h (0.4) when di:d Rob move out?
 13 (1.3)
 14 Brian: S:eptember::: >ninth<? (0.7) >seventh.<
 15 (7.8)
 16 Med: °°okay.°° (0.5) uh:m, (3.5) **HOW DID YOU FEEL About Rob’s decision to**

- 17 **leave?**
 18 (2.1)
 19 Brian: well, >it was::< up to him. I mean, in whether or not he wanted to stay or leave?
 20 (0.7) is up to him. but he had (0.4) a leas:e? (0.5) >he had a< legal contract
 21 that he: agreed to.
 22 (1.7)
 23 Med: [(and)]
 24 Brian: [and] and so whether he wanted to stay there or NOT it was:: (0.9) i:h it didn't
 25 bother me? (0.4) but as long as he paid the rent.
 26 (1.6)
 27 Med: okay. (0.6) and how much are you suing?

The mediator refocuses the topic to the emotional aspects of their relationship (“°°okay.°° (0.5) uh:m, (3.5) HOW DID YOU FEEL About Rob's decision to leave?°”; lines 16-17). Brian’s response (lines 19-21) does not address his feelings about his roommate’s decision to leave. Instead, Brian discusses the legal and contractual issues relevant to the rent due. The mediator then follows Brian’s lead by addressing the legal issues and ignoring the lack of a response to his question about Brian’s feelings (see line 27).

In sum, when participants’ construction of their stories displays an emotional component without specifically articulating it, the mediator may work to shift or refocus the topic to the emotional issues. When successful, this may lead to a participant directly articulating the emotions that are now seen to be relevant to the dispute, and/or may lead to them being able to continue to communicate about the topic more calmly now that the emotion has been recognized. When the mediator’s moves to refocus the topic onto emotion are unsuccessful (as in Excerpt 5 above), this is not necessarily a failure of the mediator or a problem for the participants. The participants have autonomy in facilitative mediation and may feel that the emotional issues are not relevant to their dispute.

Complimenting and Role Modeling

Another method of performing care work was using compliments to support or reward participants for emotionally positive utterances or actions. The instances of care work done through compliments all occurred in the family and divorce mediations; none occurred in the small claims mediations. This may be because the compliments served to reinforce actions or utterances that used emotions or relationships positively. Since one of the goals of family/divorce mediation in couples with children is to help the parents learn how to work together for the care of their children after the divorce, this type of care work may have been more relevant in the family/divorce mediations than in the small claims cases. Participants in small claims mediation are much less likely to have to maintain a significant relationship after the dispute is resolved.

At times, mediators also provided care work through acting as a role model. This technique worked to demonstrate how the participants could manage relationship and emotional challenges as they interacted about the issues that were triggering conflict between them. This was typically done by the mediator animating a hypothetical utterance

on behalf of a participant to demonstrate how they could communicate with each other. This technique was also used only in the family and divorce mediations; there were no instances of doing care work by role modeling through producing hypothetical utterances in the small claims cases.

Excerpt 6 from a divorce mediation involving Liz and Jon illustrates care work done through complimenting and through role modeling. As Excerpt 6 begins, Jon is explaining how they managed sharing their time with their four-year-old daughter on Halloween, even though their custody agreement listed it as Liz's day. They worked it out so they each had time to take their daughter trick-or-treating.

Excerpt 6: Divorce Mediation, "Jon and Liz," Tape 8, lines 1157+

1 Jon: so what we had do:ne, is that from s:ix to s:even (0.9) Liz took her around her
 2 complēx an her:=uh (0.3) neighbors: and it=
 3 MedA: =that's great.
 4 (0.3)
 5 Jon: and had halloween. (0.5) she then dropped her off (1.3) yeah you did drop her
 6 ôff rîght >I didn't pick her< up. (0.3) yeah she dropped her off, (0.8) and from
 7 se:ven until ei:ght: (0.5) she went around my neighborhoo:d, (0.8) uh (0.6) you
 8 know I got to see her, >well I< got to see her co:stu:me (0.3) and then I think (0.8)
 9 around: (0.8) eight: (0.6) liz came by and picked her up and I think (0.7) tch (0.6)
 10 had the rest of the hour with her ih.
 11 (0.3)
 12 MedA: **well that's splendid.**
 13 (0.5)
 14 MedB: **and you two are doing great! [you] worked that one out**
 15 MedA: [yeah.]
 16 MedB: **beautifully on your [own! and] it's a wonderful start.**
 17 MedA: [yea:h]
 18 (0.4)
 19 Liz: and u:h (0.3) I asked him, if he wanted the time, because if I- (0.3) .h I know if I
 20 was in his shoes I'd want to see her in her [costume,] and
 21 MedB: [(sure)]
 22 (0.3)
 23 MedA: °yeah° and that's a **WONDERFUL MESSAGE** to your child. (0.6) **I know**
 24 **daddy's going to want to see you.**
 25 (0.6)
 26 Liz?: °um hmh°=
 27 MedA: =I'll **CALL him up and we'll: (0.3) pick we'll: (0.3) figure it out.**
 28 (0.7)

29 MedB: °°um mm°°=
 30 MedA: =that's a gre:at message.

Mediators A and B both respond with compliments after Jon has finished explaining how they shared time with their daughter on Halloween (lines 12, 14, and 16). Liz then joins in and explains that her empathy for her husband led her to ask him to participate in the trick or treating (“I asked him, if he wanted the time, because if I- (0.3) .h I know if I was in his shoes I’d want to see her in her [costume,] and”; lines 19-20). Both mediators respond positively to this display of empathy and cooperation between the parents. Mediator A first compliments Liz on how she has handled the situation, and then acts as a role model by animating a hypothetical utterance that the parents could have said to their daughter (“°yeah° and that’s a WONDERFUL MESSAGE to your child. (0.6) I know daddy’s going to want to see you... =I’ll CALL him up and we’ll: (0.3) pick we’ll: (0.3) figure it out.”; lines 23-24, 27). Another mediator compliment ends the exchange (“that’s a gre:at message.”; line 30). After the excerpt, Mediator A changes the topic to other issues the couple needs to discuss in mediation, such as how they will share vacation time and cover insurance payments after their divorce.

When using hypothetical speech to role model for the participants on how they could construct positive emotional and relational messages with their partner, the mediators effectively taught partici-

pants and gave them specific examples of how they could handle these situations on their own. These types of examples could help divorcing parents communicate better in the future by providing a template for constructive ways to address emotional and relational issues.

Coaching

The coaching category includes occasions when the mediator actively instructs or assists participants in working through emotional or relational issues. While coaching sometimes occurred in the small claims mediations, it was much more common in family and divorce mediations. First, mediators may use coaching after a participant has raised an issue relevant to emotion or relationships, in a way that instructs or reinforces the positive emotional or relational issues expressed and how to handle them. In other instances, they may work to help bring the participant to an understanding or a way to handle an emotional issue. Finally, in some cases, they may use a coaching approach to help one participant see why the opposing participant experiences emotional issues differently.

In Excerpt 7, from a family mediation, the mediator works to help Kate learn how to handle emerging arguments between herself and her partner, Tim.

Excerpt 7: Family Mediation, “Tim and Kate,” Tape 1b, lines 1350+

1 MedA: so it just escalates aga[in (until >he gets he what he wants.<]
 2 Kate: [O:H! yeah! it] just gets worse!
 3 (0.2)
 4 MedA: **how could [you]=**

- 5 Kate: [because-]=
- 6 Tim: =°>not always<°=
- 7 MedA: =deescalate. (0.3) is my
- 8 **ques[tion.]**
- 9 Kate: [no.]=°not al[ways.°]
- 10 MedA: **[how co]uld you deescalate. (0.5) when- when- you see that**
- 11 **(0.3) starting >to happen.<**
- 12 (0.8)
- 13 Kate: tch (0.3) .hh (1.2) hh! .h=
- 14 MedA: =**you- gosh. you're getting MADder and madder**
- 15 **[Kate.]**
- 16 Kate: [huh=huh]=HUH=HUH=HUH=HEH=HEH .h CHUH=CHEH=CHUH! chuh!
- 17 [chuh!]
- 18 MedA: **[you know where this train is [going to go?]**
- 19 Kate: [chuh chu]h chuh! (1.4) wow that takes a lot of
- 20 (0.8) fortit=h=u=de=heh=heh=(some) self contr=h=ol. [I mean] because- .h
- 21 MedA: **[you're right!]**
- 22 Kate: because °it's=an° issue that (0.5) repeats it- it's too repetitive, you know? if it
- 23 came up occasionally, it- (1.4) you know, (0.8) but it's- it's too repetitive. and it's
- 24 [you know]
- 25 MedA: **[>it's HAPpen]ing< a lot. (0.5) okay. (0.3) it's=and- it is? it is a real problem.**
- 26 **.h (0.4) and**
- 27 (0.8)
- 28 Tim: yeah? (0.3) but I think >you have to admit< that I've °made some° (1.4) some
- 29 changes °in some of the° (1.6) do you feel uncomfortable with the health
- 30 club (issue)?
- 31 (1.8)
- 32 Kate: I just started last week to feel comfortable. (0.6) °about°
- 33 (0.2)
- 34 MedA: **there's a change then.**
- 35 (0.3)
- 36 Tim: mm hm!
- 37 (0.1)
- 38 MedA: **there's- there's a- there's a change going °on there.°**

Initially, Kate agrees with Mediator A that escalation of conflict is a pattern ("[O:H! yeah! it] just gets worse!"; line 2) while Tim quietly disagrees ("°>not always<°"; line 6). Kate then agrees with Tim ("[no.

]=°not al[ways.°]"; line 9). While this exchange between the partners is occurring, Mediator A raises a question about how they could de-escalate a conflict "when- you see that (0.3) starting >to happen.<"

(lines 4, 7-8, 10-11). When Kate does not produce a substantive response (see line 13), Mediator A probes further, giving an experiential prompt describing Kate's hypothetical emotions when a conflict happens ("=you- gosh. you're getting MADder and madder [Kate.]"; lines 14-15). Kate laughs (lines 16-17), and eventually responds after the mediator prompts her again ("[you kn]ow where this train is [going to go?]" ; line 18). Kate then acknowledges the emotional challenges of dealing with conflicts with Tim. She describes the fortitude and self-control required to avoid escalating a conflict (lines 22-24). Mediator A acknowledges these challenges (lines 25-26), and Tim joins in. Tim is not disagreeing that they have had problems with escalating conflict in the past, but is seeking recognition of the progress they have made, in particular about some conflicts related to their health club (lines 28-30). Kate's acknowledgment that there has been some improvement (line 32) is reflected by Mediator A ("there's a change then." ; line 34). Tim also expresses agreement (line 36). Through these interventions, which included coaching Kate to describe how she reacts to escalating conflict, the mediator brings the couple to a point where they both acknowledge the problems that have occurred and agree that progress has been made on the issue. The coaching provides tools they can use the next time they are in a situation of conflict to practice stopping escalation.

In sum, doing care work through coaching differs from acting as a role model because the mediator in Excerpt 7 does not animate hypothetical utterances for the participants, but she does instruct, advise, and prompt participants to consider the emotional aspects of their conflicts and to come to a shared understanding of how they are doing with this issue in their relationship.

Discussion and Conclusion

While previous research on emotion management and care work has been done in a variety of settings, both informal and institutional, this paper specifically investigated the interactional techniques mediators use to perform care work during mediation sessions. These results should lead to a greater understanding of whether and how facilitative mediators assist clients during the mediation process when they display emotional vulnerability or challenges.

Mediators performed some type of care work in all five of the family and divorce mediation cases in the collection. These mediations were facilitated by mediators who were also licensed family therapists. The subject matter of divorce and family mediation more often lends itself to emotional and relational issues than do small claims cases; this may be why care work occurred in all five of these cases. Care work was also done in 11 out of the 15 small claims mediation sessions. While the disputes in small claims mediation tend to focus on monetary issues, participants do make emotions and relationships relevant in many of the mediation sessions.

There were five different interactional techniques used to perform care work in these data when participants' utterances or actions indicated emotional, relational vulnerability, or concerns: reflection, topic focusing, complimenting, role modeling, and coaching. In many instances, the care work intervention resulted in a shift in what was being talked about or how it was being discussed. For example, in some cases, participants were able to either acknowledge or process the emotional aspects, to topicalize them, or to move beyond them to discuss other issues. Mediator's care work thus affected the trajectory of the talk in the conflict resolution process.

This study of the techniques used by mediators to respond to emotional aspects of the mediation and provide some type of intervention reveals the choices mediators have about how to handle the emotional aspects of disputes. Whether care work “should” be done in mediation is still an open question. One possible critique is that mediators may be infringing on participant autonomy when they work to change the topic or otherwise bring emotional issues to the fore that participants have not chosen to directly articulate or focus on. Should care work be considered a routine part of facilitative mediation? Or, should it only be expected to be provided by those mediation programs in which the mediators also have training as therapists or counselors in addition to their mediation training? The results of this study will be useful to mediators who may be facing similar situations in their conflict resolution work.

Further research on a larger dataset should examine how prevalent care work is and whether its use is tied to the resolution of the dispute, satisfaction with the mediation process, or other positive outcomes. Given the fact that the data analyzed in this paper were collected a number of years ago, comparison studies with current facilitative mediations

should be conducted to discover if and in what ways care work has changed. In addition, since the time these data were collected, innovations in mediation now provide potential mediation clients with more choices of types of mediation in addition to facilitative mediation, which is studied in this paper. While facilitative mediation is still very popular, other types of mediation, such as narrative mediation (e.g., Ewert et al. 2010) and transformative mediation (Bush and Folger 2005), are now available as well. Investigations of care work in these newer types of mediation should also be conducted. More research on mediation sessions led by mediators who are trained as therapists or counselors should also be done to see how these sessions differ from typical mediations in terms of how emotions are handled.

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