

PROCESS MATTERS: DISPUTANT SATISFACTION IN MEDIATED CIVIL CASES

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The present research uses data from randomly assigned small-claims court mediation cases in New Mexico to assess the role of procedural and structural factors shaping disputant satisfaction with mediation. Results underscore the degree to which factors explaining disputant satisfaction are under the control of mediators. This suggests ways in which satisfaction with mediation may be increased and the possibility that more effective use of mediation could help reduce time and resource expenditures in court litigation. Further policy implications include a call for continued mediator training and research and efforts to codify emerging knowledge in a manner helpful to mediators, disputants, and the public.

Court mediation programs offer the possibility of increasing the efficiency, and reducing the time and cost, of resolving disputes brought before the court. It is thus important to understand the factors shaping disputant satisfaction with mediation as a way to increase its reception and successful utilization. Might these factors be procedural ones that could be adjusted to increase satisfaction, or might they be structural factors, such as social class, gender, and ethnicity, that indicate inequities in the perception or application, or both, of court mediation programs? The present research uses data from 281 randomly assigned small-claims court mediation cases in New Mexico to assess the role of procedural and structural factors in shaping disputant satisfaction.

Although there has been much work on disputant satisfaction, research has rarely systematically pursued explaining variations in satisfaction in mediated civil cases. Instead, attention has focused on comparing satisfaction in mediation with satisfaction in adjudication. Additionally, research on mediation in civil cases has rarely directed attention to comparing the role that procedural factors and structural factors, like class, gender, and ethnicity, play in explaining disputant satisfaction. We pursue substantive and practical/policy goals by using all the relevant data available from one of the most extensive and systematically compiled data sets on small-claims court mediation in the United States. The substantive findings are in many respects what one might anticipate, yet they hold nuances that are not obvious; policy implications lend credence to the mediation enterprise, while suggesting avenues to increase its utility in small-claims courts.

SATISFACTION WITH MEDIATION: RESEARCH AND EXPLANATION

Prior Research. Research has typically found high levels of satisfaction with mediation, and when comparison is made with conventional court proceedings, persons in

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mediation usually exhibit greater satisfaction (e.g., Wissler, 1995; McEwen and Maiman, 1981, 1984; Roehl and Cook, 1989; Pearson and Thoennes, 1989; for exceptions see Goerdt, 1992; Vidmar, 1985). In a bibliographic summary of fifty-one court-related mediation programs, the Center for the Analysis of Alternative Dispute Resolution Systems (CAADRS) (Shack, 2003) reported eighteen studies that found satisfaction with mediation, and one that reported satisfaction with the process but dissatisfaction with the outcome of mediation (Clark, Ellen, and McCormick, 1995). In seventeen studies comparing mediation with a control group (usually adjudication), CAADRS finds most results indicate greater satisfaction with mediation.

Among the studies comparing mediation and adjudication is Wissler's research using data from the small-claims divisions of four Boston-area district courts, which included an examination of evaluations of fairness and satisfaction in cases of successful mediation, unsuccessful mediation, and adjudication. A key finding was that "disputants in mediation evaluated the dispute resolution process in particular, and the small claims court in general, more favorably than did disputants in adjudication, but they did not differ in their evaluations of the outcome" (Wissler, 1995:341). In analyses assessing groups of variables associated with the process and outcome of mediation, Wissler found that characteristics of the participants, such as age, education, income, gender, and prior court experience, had little association with evaluations of fairness and satisfaction, whereas characteristics of the process of mediation, such as the opportunity to tell one's own story, and the mediator remaining neutral, were substantially associated with participant evaluations of fairness and satisfaction. Outcome variables, such as monetary outcome as a percentage of the claim, also had a modest association with fairness and satisfaction. Overall, independent variables were more strongly related to assessments of the process of mediation than to assessments of the outcome of mediation.

Explaining Satisfaction. Efforts to explain satisfaction in mediation use two sets of factors—procedural ones that deal with the way mediation is handled, and structural factors such as class, gender, and ethnicity that may represent inequities in the broader social environment that shape the operation of mediation, and disputant reaction to it.

Procedural Justice and Satisfaction. Explanations accounting for satisfaction with mediation have conventionally been part of a focus on procedural justice that points to a sense of participation, control, and openness that participants feel in mediation (Pearson and Thoennes, 1989; McEwen and Maiman, 1981; Thibaut et al., 1974; LaTour, Walker, and Thibaut, 1976) independent of the outcome of the mediation (Lind and Tyler, 1988). Research generally supports such explanations (e.g., McEwen and Maiman, 1989; Pruitt et al., 1993; Goldberg and Brett, 1990; Tyler, 1987).

More recent work examining procedural justice points to the importance of procedures that are viewed by participants as *being fair*. Such work notes the effects of a sense of fairness on cooperation, commitment, satisfaction, and self-esteem in organizations and the criminal justice system. For example, Tyler and Huo's (2002) procedural justice model of regulation underscores the importance of procedures being viewed as fair for cooperation and compliance of citizens to police. Fair procedures

are those in which decisions are viewed as neutral, objective, and consistent; treatment of citizens exhibits dignity and respect; and the police are viewed as trustworthy. Tyler and Cheryl (2004) examine how such procedures lower citizen assessments that police engage in profiling, and Sunshine and Taylor (2003) note that such procedures shape cooperation and compliance with police through the legitimacy they provide to police. They even find that measures of legitimacy are more important than measures of police performance in generating cooperation and compliance, indicating that the way authority is expressed is perhaps more important than performance and outcomes in shaping cooperation and compliance. Brockner and others (2005) point out how procedural fairness has complex effects on organizational commitment and self-esteem, with high procedural fairness, and a sense that one is responsible for consequences, linked to high self-esteem.

Whether one draws from earlier work on procedural justice that focuses on the importance of a sense of involvement and control or from more recent research pointing to the importance of fairness, work on procedural justice underscores the importance of characteristics of the ongoing process of mediation in shaping disputant satisfaction, independent of the outcome of mediation. This leads to the following hypothesis:

- H1. Perceptions of involvement, control, and/or fairness in decision making are associated with greater satisfaction among participants. Within mediation, those participants with a greater sense of control and/or fairness will be more satisfied.

Social Structural Relations and Satisfaction. It is also possible that structural factors, such as class, gender, and ethnicity, may hold the key to understanding disputant satisfaction. Just as researchers suggested class, race, and gender may shape monetary outcomes in mediation (LaFree and Rack, 1996), it is also possible they shape disputant satisfaction. Reflecting the logic of arguments regarding monetary outcomes, we suggest that those with greater access to economic and social resources are not only likely to fare better in judicial settings, but also, as a consequence, more likely to evaluate official practices, such as court adjudication and mediation, more positively. Thus, persons with fewer economic resources, as well as minorities and women, would feel uneasy in mediation, whereas those with more resources would be more likely to evaluate mediation positively. We hypothesize:

- H2. Economic resources, nonminority status, and being male are associated with greater satisfaction among participants in decision-making arrangements. Within mediation, participants with greater economic resources, as well as non-minority and male status, will be more satisfied.

DATA COLLECTION AND ANALYSIS

The present research uses data recorded from the original questionnaires of the MetroCourt Project of Bernalillo County, New Mexico (Hermann et al., 1993). This study examined civil nonjury small-claims court cases in which money judgments

were sought and in which there was a single individual, business, or married couple on each side; excluded were restitution cases, bankruptcy cases, and cases where either party was under eighteen. From this sample, 281 cases were randomly assigned to mediation between September 1990 and October 1991. There were 322 cases that were randomly assigned to adjudication in the MetroCourt Project that are not part of the present research.

The MetroCourt Project interviewed the disputants about two months after mediation took place. About six months after mediation, a follow-up questionnaire was mailed. Telephone interviews were used for parties who did not return the follow-up questionnaire. In 66 percent of the 281 mediation cases an agreement was reached, while in 34 percent of the cases no agreement was reached, and most of the cases went to court. The response rate for the two-month data was 90 percent for claimants and 87 percent for defendants (Hermann et al., 1993:50). Most nonresponses were refusals, with some being persons the project was unable to locate. The response rates for the six-month data were 92 percent for claimants and 72 percent for respondents.

The 281 mediation cases we examine show substantial variation in gender and ethnicity: 41 percent of the claimants were female, while 34 percent of the defendants were female. Thirty-three percent of the claimants were minority, while 42 percent of the defendants were minority. Reflecting the ethnic character of New Mexico, 33 percent of claimants and 42 percent of defendants were minority, primarily Hispanic. The participants also exhibit substantial variation in income, with 30 percent of the claimants having household incomes under \$20,000, and 33 percent having incomes of \$50,000 and above. For defendants, 37 percent had incomes under \$20,000, while 25 percent had incomes over \$50,000.

Two major published papers emerged from the MetroCourt Project; both used the data to examine the project's central concern with the effects of gender and ethnicity on monetary outcomes. LaFree and Rack (1996) found that once case characteristics were taken into account (e.g., claim size, counterclaim), "cases including at least one Anglo mediator resulted in higher monetary outcomes for Anglo claimants, and minority female claimants received lower monetary outcomes in mediated cases in which both mediators were women." An earlier published project report (Hermann et al., 1993) provided details on variation in monetary outcomes and information on satisfaction and fairness, and showed results congruent with the more extensive analyses found in the present research.

Measures of Satisfaction. We chose to focus on satisfaction, instead of fairness, for three reasons. First, satisfaction is a general assessment of a participant's view of the process of mediation, with fairness being one aspect of that general assessment. Second, preliminary work suggested that results examining fairness were quite similar to those for satisfaction. Finally, as noted above, the project collected data on several measures of satisfaction at two points in time, allowing us to examine two dimen-

sions of satisfaction and have some sense of how satisfaction may have changed through time.

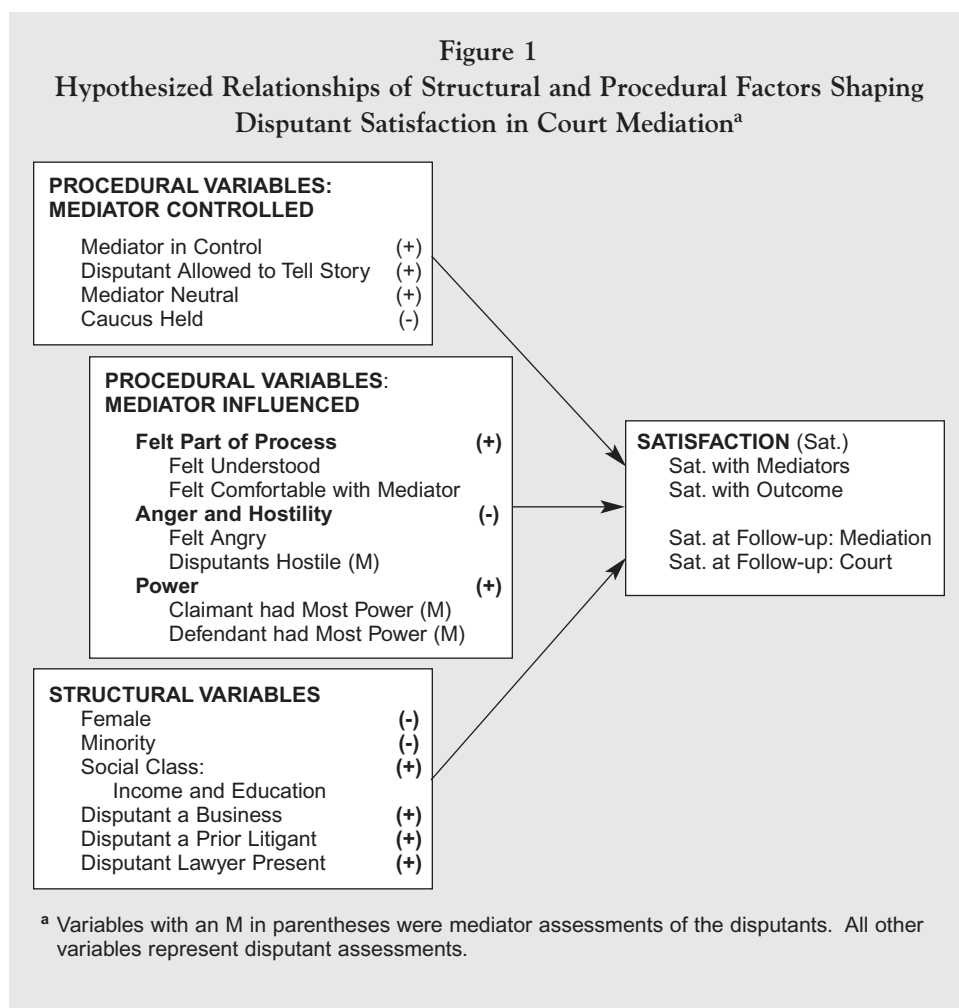
The MetroCourt data included several measures of satisfaction. Some measured satisfaction at the two-month interview, while others measured it at the six-month interview. We used two questions to measure satisfaction at the two-month interview. These questions had four possible responses, scored from one to four: (1) not at all satisfied, (2) a little satisfied, (3) somewhat satisfied, and (4) very satisfied. The questions asked were: "Overall, how satisfied were you with the mediators?" and "Overall, how satisfied were you with the outcome of the mediation at the time that it ended?" In a follow-up interview about six months after mediation, persons reaching an agreement in mediation were asked, "Overall, how satisfied were you with how the agreement has worked for you?" Persons not reaching an agreement and going on to court were asked, "Overall, how satisfied were you with how the court process has worked for you?"

Structural and Procedural Factors that May Explain Satisfaction. The MetroCourt Project provided data on an array of factors to help explain disputant satisfaction. Many of them may be appropriately viewed as capturing structural characteristics of the broader social world that individuals bring to the judicial process, factors that cannot be modified or altered within mediation. They include gender, ethnicity, income, and education (lower left in Figure 1). Social scientists (e.g., LaFree and Rack, 1996) have been interested in examining these factors, usually viewing their influence as illustrating inequities and problems within the judicial process.

An additional set of factors shaping disputant satisfaction is related to the ongoing flow of mediation and adjudication, and can vary not only among participants but also through time. These procedural factors can be roughly divided into two types. The first set of factors is largely under the control of mediators and includes the disputants' assessments of whether the mediator was in control of the mediation, allowed disputants to tell their side of the story, and appeared neutral. Whether or not a caucus—the mediator meeting separately with the disputants—was held was also included, as the mediator decided if a caucus was to occur. As a caucus was used to help improve a mediation that was not going well, we anticipate it would have a negative association with satisfaction. We sense that the use of a caucus would improve satisfaction, yet the data do not allow us to assess such changes.

A second set of procedural factors, less under the control of the mediators yet perhaps influenced by them, includes the degree to which a disputant felt understood, free to talk, comfortable, and angry. We also include mediator assessments of which party has the most power as a procedural factor, as disputant power in the mediation may be shaped to some degree by the mediator, and because power can vary across individuals and through time as the mediation proceeds.

The procedural factors we examine capture different aspects of the ongoing process of mediation. The fact that many of them may have similar effects on satis-



faction would bolster a general positive assessment of the role of procedural factors in mediation. However, such an outcome might also suggest that respondents were not answering individual questions independently but were providing uniform responses to all like questions. There are several reasons to suspect that persons responded to each question independently. The most salient is that the highest correlation among such closely associated measures as mediator control, feeling understood, and feeling comfortable was .52 for claimants and .41 for defendants.

The model illustrated in Figure 1 represents our interest in assessing the role of procedural and structural factors shaping satisfaction with mediation within the constraints of data collected in the MetroCourt Project. Although our model was developed separately from the work of Herrman, Hollett, and Gale (2006), it shows remarkable similarity to their general model of mediation, particularly what they term

Table 1
Mean Levels of Four Measures of Satisfaction^a

	Claimant	(N)	Defendant	(N)	Claimant - Defendant
Two Months After Mediation					
Satisfaction with Mediators	3.44	(232)	3.54	(231)	- .10
	3.47	(205)	3.55	(205)	- .08
Satisfaction with Outcome	2.66	(234)	2.78	(225)	- .12
	2.63	(200)	2.79	(200)	- .16
Cases in Six-Month Follow-up	3.16	(132)	3.24	(100)	- .08
	3.14	(79)	3.25	(79)	- .11
Six Months After Mediation					
Satisfaction With How the Agreement Worked:					
All Mediation cases	2.60	(143)	3.15	(110)	-.55
(Common Cases)	2.71	(87)	3.07	(87)	-.36
Cases in Two-Month Sample	2.62	(132)	3.16	(100)	-.54
(Common Cases)	2.73	(79)	3.11	(79)	-.38

^a Satisfaction was measured as follows:

1=Not at all, 2 = A little, 3 = Somewhat, 4 = Very.

N=Number of cases.

an application of their model from psychology (pp. 56-57). While our model clearly fits within their framework, it differs from their model by viewing class, gender, and ethnicity as structural factors.

RESULTS

Satisfaction with Mediation in Metropolitan Court, New Mexico. When we look at levels of satisfaction with mediators and with the outcome of mediation for claimants and defendants two months and six months after mediation, we find that both claimants and defendants were satisfied with mediation, particularly with the mediators (see Table 1, where we use mean scores). Defendants were modestly more satisfied than were claimants. The high level of satisfaction with mediators is seen in the mean scores of 3.44 and 3.54 for claimants and defendants, respectively, halfway between somewhat satisfied (3) and the highest score of very satisfied (4). The high scores suggest that mediators were performing in a manner appreciated by both claimants and defendants. Outcome satisfaction is lower than mediator satisfaction, with mean scores of 2.66 and 2.78.

The lower score for outcome satisfaction likely reflects that most outcomes will not be the very best for which either the claimant or defendant could hope.

Claimants might ideally expect the outcome to correspond fully and quickly to their claims, while defendants could hope the claims against them would be quickly dismissed. Reality assessments by each party could lower expectations, yet it seems reasonable that outcome satisfaction would be some distance from the highest score of very satisfied (4).

At least in assessing satisfaction six months after mediation, defendants appear slightly more satisfied than claimants. At two months, a t-test for the difference of means between claimants and defendants is not statistically significant. However, by six months, defendants are more satisfied than claimants by more than .50 points, and the .36 points difference for the common cases is statistically significant. The difference occurs mostly because of a modest drop in claimant satisfaction. For example, while defendant satisfaction remains fairly stable for the 100 cases with data at both two and six months (3.24 and 3.16), claimant satisfaction drops from 3.16 to 2.62 for the 132 cases with data at both times. The stability of defendant satisfaction, and modest drop in claimant satisfaction, may be explained by looking again at the position claimants and defendants find themselves in. The defendant likely wants to be free of the discomfort caused by a claim; the settlement alleviates some of that discomfort, and leads to a particular level of satisfaction. With time, the defendant's sense of having the issue behind him or her will likely not change, and the level of satisfaction will persist. In contrast, the claimant is the person who feels wronged, and, while there may be relief at having a conflict formally behind one, any gap between what the claimant had originally hoped for and the final settlement may become more salient as the claimant thinks about forgoing a possible optimal resolution. Thus, initial levels of satisfaction may decline for the claimant.

Structural and Procedural Factors Associated with Disputant Satisfaction. The results just discussed are congruent with prior research indicating general satisfaction with mediation. While important, such results do not provide insights into the factors responsible for individual variation in levels of satisfaction. We move toward such an understanding by examining the association of procedural and structural factors (Figure 1) with claimant and defendant satisfaction with the mediator and with the outcome of mediation (see Table 2).¹

The main finding in Table 2, where we present results only for relations that are statistically significant at the .10 level or less, is that every process factor shows a statistically significant association with claimant and defendant satisfaction in the expected direction, while almost no structural factors have statistically significant effects in the anticipated direction.

¹ Analyses providing the information exhibited in Table 2 are from unstandardized, ordinary-least-squares bivariate regression coefficients. Unstandardized coefficients were also estimated for the multivariate analyses that inform Table 3. This technique was used so one could examine changes in coefficients as one moved from bivariate to multivariate models, and as sample size changed. More detailed explanation of technical procedures and results appear in a technical appendix available from the authors.

Table 2
Procedural and Structural Factors Associated with Disputant Satisfaction^a

Independent Variables	Dependent Variables				Dependent Variables			
	Claim. Sat. w/ Med.	Def. Sat w/ Med.	Claim. Sat. w/ Outc.	Def. Sat. w/ Outc.	Claim. Sat. w/ Med.	Def. Sat. w/ Med.	Claim. Sat. w/ Outc.	Def. Sat. w/ Outc.
Process Variables: Mediator Controlled					Structural Variables: No Mediator Control			
Med. Controlled Mediation	+ **	+ **	+ *	+ **	Female ^b	—		
Allowed to Tell Story	+ **	+ **	+ **	+ **	Minority ^b			
Mediator Neutral ^b	+ **	+ **	+ **	+	Income	— *	+ **	— *
Caucus Held ^b			— **		Education	+ *	— *	—
					Claimant a Business ^b	+	+ *	
					Defendant a Business ^b	+ **		
Process Variables: Mediator May Influence					Claimant Prior Court Involved ^b			
Integration					Defendant Prior Court Involved ^b			
Felt Understood by Mediator	+ **	+ **	+ **	+ **	Claimant Lawyer Present ^b		—	
Felt Comfortable with Mediator	+ **	+ **	+ **	+ **	Defendant Lawyer Present ^b			
Anger and Hostility								
Felt Angry	— **	— *	— **	— **				
Hostility Between Disputants (M)	— **		— **					
Power								
Claimant Most Power (M)	+	—	+ *					
Defendant Most Power (M)	— **			+				

^a Analyses done for each cell.
 Entries for relations significant $\leq .10$ level.
 * for relations $\leq .05$ level
 ** for relations $\leq .01$ level
 M = Mediator assessment
 Number of cases ranged from 185 to 233

^b Coded 0 to 1, other variables coded 1 to 4

An array of procedural factors are strongly associated with disputant satisfaction in the expected direction. These factors are, to varying degrees, within the control of mediators. Specifically, we find greater satisfaction in mediation where the mediator appears neutral, is in control of the mediation, and allows participants to feel they are able to tell their story. Greater participant integration, less anger and hostility, and greater power in mediation also are linked to satisfaction. There is the anticipated negative association with satisfaction from having a caucus, likely a consequence of its use when mediation goes poorly.

In contrast to the array of process factors associated with participant satisfaction, structural factors, which are largely outside the control of mediators, show few and inconsistent links to satisfaction. The key structural factors of gender and minority status are never statistically significant. Measures of both prior court involvement, and whether a participant had an attorney present at the mediation, were not significant. There are also the interesting effects of the two measures of social class (income and education), and the measure of whether a participant represented a business.

While our main findings concern the importance of procedural factors in contrast to structural ones, it is informative to examine more closely the significant effects of some structural factors. Although the two measures of social class, income and education, were not always statistically significant, they both operate in the same direction, with either income or education showing a statistically significant association with satisfaction. Both these measures of social class have a positive association with claimant satisfaction and a negative association with defendant satisfaction. This finding was not anticipated, as we hypothesized that *both* claimants and defendants with higher measures of social class should be more satisfied as they have greater control and knowledge of legal processes. This appears to be the case for the claimant but not for the defendant. While the findings were not fully congruent with expectations, they make considerable sense when we realize that the claimant is the person filing the case and anticipating some compensation, while the defendant is the party most likely to lose something in the legal process. For the claimant, greater resources may increase a sense of being able to do well within the legal process. In contrast, for the defendant, more resources may represent a sense of power and status that could be undermined by loss to the claimant. Faced with a claimant seeking compensation, a defendant with greater resources may have substantial animosity toward a legal process that may not only generate a loss for the defendant but, perhaps more important, has provided a claimant with access to a process that helps level the playing field between the claimant and the defendant. The finding that when the claimant or defendant represents a business, there is greater satisfaction for the claimant is also of interest. Much as with the measures for social class, it is likely that in bringing an issue to court, a business has a greater sense of control and knowledge of the legal process, not only as a consequence of the substantial resources a business may have but also as a result of business claimants (e.g., landlords and collection agencies) having been in court many times before. Thus, a business claimant would have a greater sense of satisfaction, particularly with the outcome.

When we shift to a situation in which the defendant is a business, its greater resources may be associated with a sense of power and status that once again is undermined by a more-even playing field. The defendant's greater resources mean that the claimant has greater satisfaction as he or she has the possibility of a substantial award and is now able to confront a seemingly more powerful opponent on a playing field leveled by the mediator and the mediation process. Such an interpretation seems

Table 3
Multivariate Analyses of Procedural and Structural Factors Associated with
Disputant Satisfaction^a

Independent Variables	Dependent Variables and Equation Number				Analyses Continued			
	Claim. Sat. w/ Med.	Def. Sat. w/ Med.	Claim. Outc.	Def. Sat. w/ Outc.	1	2	3	4
	1	2	3	4				
Process Variables:					Structural Variables:			
Mediator Controlled					No Mediator Control			
Med. Controlled Mediation	+ **				Female ^b			
Allowed to Tell Story					Minority ^b		+	
Mediator Neutral ^b		+ **			Income	- **	+ *	- *
Caucus Held ^b			- **		Education			
Process Variables:					Claimant a Business ^b			
Mediator May Influence					Defendant a Business ^b			
Integration					Claimant Prior Court Involved ^b			
Felt Understood	+ **	+ **	+ **		Defendant Prior Court Involved ^b			
Felt Comfortable with Mediator	+ **	+ **		+	Claimant Lawyer Present ^b			
Anger and Emotion					Defendant Lawyer Present ^b			
Felt Angry				-	Outcome Control			
Hostility Between Disputants (M)					Defendant Agreed to Pay Money as Reported by Claimant			
Power					^a Analyses done for each cell.			
Claimant Most Power (M)					Entries for relations significant $\leq .10$ level.			
Defendant Most Power (M)					* for relations $\leq .05$ level			
					** for relations $\leq .01$ level			
					M = Mediator assessment			
					Number of cases ranged from 185 to 233			
					^b Coded 0 to 1, other variables coded 1 to 4			

especially plausible when we recognize that the unreported estimated value for claimant satisfaction is much greater for satisfaction with the mediator than for satisfaction with the outcome (.37 vs. .20).

We can add depth to the portrait provided in Table 2 by sorting out which factors associated with disputant satisfaction may be the most important. Table 3 pro-

vides results of analyses that attempt to do this by assessing the effect of each factor while taking into account all the other factors. The first noteworthy point is that many relations that are statistically significant in Table 2 are not significant in Table 3. This is largely because of the interrelation of the numerous factors in the analysis. Although many factors no longer produce statistically significant relationships, unreported results show that all but one of the Table 2 procedural factors continued to show results in the same direction in Table 3. More important, results in Table 3 suggest that processes that make disputants feel integrated (understood and comfortable) are the most important in explaining satisfaction, perhaps followed in importance by mediators appearing neutral and in control of the mediation. Having a caucus continues to show a negative relation to claimant-outcome satisfaction, again likely an indicator the mediation was not going well.

Although it seems that process counts in anticipated ways, structure also seems to count, yet less consistently, and not in the anticipated manner. Gender and minority status continue to show no statistically significant association with satisfaction, and unreported results show the direction is not always negative. Income is the only variable showing a statistically significant association with satisfaction, and, as in Table 2, the association is not always positive. In fact, the major finding is that income has a negative association with satisfaction for defendants. Defendants with more money may not be fully satisfied with a judicial process that appears to level the playing field. This suggests the judicial system is not universally and systematically under the influence of persons with more income.

CONCLUSION

The present research found high levels of satisfaction with both the process and the outcome of mediation, and indicated that procedural factors appear to play a more important role in shaping satisfaction than do structural factors associated with social class, gender, and ethnicity. Procedural factors that help disputants feel integrated appear most closely linked to satisfaction.

These results are good news for mediators, for they indicate there are processes within their control that can increase the level of satisfaction disputants experience with mediation. The results suggest that efforts to provide a sense of integration, control, and fairness can pay off in greater use and success of mediation, and concomitant declines in the time and costs of court litigation. This points to the importance of continued attention to training mediators so they may be able to help provide a sense of integration, control, and fairness. The mediation community has long known the vital role of training (e.g., reflected in Pou, 2005; Brown, 2005), and informative guidelines are currently in place (e.g., Bennett and Herman, 1996). The present research provides further justification for such training.

Our results also suggest the need for continued research on clarifying the dynamics of mediation and the need to codify and disseminate research findings to mediation practitioners and the general public. The mechanisms through which

mediators help disputants develop a sense of integration, control, and fairness are becoming increasingly clear. Research on framing illustrates how mediators may help shape the way disputants understand the mediation process, the way they see the prospects for success in mediation, and the manner in which disputants can see a future that moves beyond the current crisis. Such framing may facilitate a sense of integration, control, and fairness (Gray, 2006; Katz, 2006). Similarly, research on facework (Littlejohn and Dominici, 2006) and attention to the centrality of identity in human interaction (Schruijer and Vansina, 2006) provides insights on directing modes of interaction to facilitate integration and a sense of control. Knowledge of mechanisms to control the destructive effects of emotions (Jones, 2006) and awareness of the limits of coercion (Wissler and Dauber, 2005; Hedeem, 2005) are also instruments to facilitate integration and a sense of control.

While continued research should help refine and clarify emerging insights on mediation, it is just as important to codify these insights so they can be easily accessible to persons within and outside the mediation process. The work of Herrman, Hollett, and Gale (2006) in establishing a general model of mediation is an exemplar in this regard. While their work represents a major step in codification, it would be helpful to supplement models such as theirs with an image of social interaction and mediation that captures themes in the mechanisms noted above that facilitate satisfaction yet avoids the complexity of the Herrman, Hollet, and Gale model, that is, to suggest an image that provides a strategic position that directs the action of mediators. In one such image, mediation, and much of the ongoing flow of human activity, is viewed as consisting largely of interpreting the present in a manner that constructs the immediate and longer-term future. This is an image that likely reflects the operating assumptions of many mediators, and reminds us that mediation is not only an effort to confront the realities of the present conflict, but is also an effort to construct an interpretation of prior events in a manner that shapes the future. As mediation research illustrates, this is not an easy task and can run up against the exercise of power by participants, including efforts by some participants to use mediation in a manner only benefiting themselves. **jsj**

REFERENCES

- Bennett, M. D., and M. S. G. Hermann (1996). *The Art of Mediation*. Notre Dame, IN: National Institute for Trial Advocacy.
- Brockner, J., L. Heuera, N. Magnerb, R. Folger, E. Umphressc, K. van den Bosd, R. Vermunte, M. Magnerb, and P. Siegelf (2005). "High Procedural Fairness Heightens the Effect of Outcome Favorability on Self-Evaluations: An Attributional Analysis," 91 *Organizational Behavior and Human Decision Processes* 51.
- Brown, G. D. (2005). "A Community of Court ADR Programs: How Court-Based ADR Programs Help Each Other Survive and Thrive," 26 *Justice System Journal* 327.

- Clark, S. H., E. D. Ellen, and K. McCormick (1995). "Court-Ordered Civil Case Mediation in North Carolina: An Evaluation of its Effects." Institute of Government, University of North Carolina, Chapel Hill.
- Goerd, J. A. (1992). "Small Claims Mediation in Three Urban Courts." In Goerd, *Small Claims and Traffic Courts: Case Management Procedures, Case Characteristics, and Outcomes in Twelve Urban Jurisdictions*. Williamsburg, VA: National Center for State Courts.
- Goldberg, S. B., and J. M. Brett (1990). "On the Differences Between Mediation and Arbitration," 6 *Negotiation Journal* 249.
- Gray, B. (2006). "Mediation as Framing and Framing within Mediation." In M. S. Herrman (ed.), *The Blackwell Handbook of Mediation: Bridging Theory, Research, and Practice*. Malden, MA: Blackwell.
- Greenberg, J., and R. Folger (1983). "Procedural Justice, Participation, and the Fair Process Effect in Groups and Organizations." In P. B. Paulus (ed.), *Basic Group Processes*. New York: Springer.
- Hedeen, T. (2005). "Coercion and Self-determination in Court-Connected Mediation: All Mediations Are Voluntary, But Some Are More Voluntary Than Others," 26 *Justice System Journal* 273.
- Hermann, M., G. LaFree, C. Rack, and M. B. West (1993). *The MetroCourt Project Final Report*. Washington, DC: National Institute for Dispute Resolution.
- Herrman, M. S., N. Hollett, and J. Gale (2006). "Mediation from Beginning to End: A Testable Model." In M. S. Herrman (ed.), *The Blackwell Handbook of Mediation: Bridging Theory, Research, and Practice*. Malden, MA: Blackwell.
- Jones, T. S. (2006). "Emotion in Mediation: Implications, Applications, Opportunities, and Challenges." In M. S. Herrman (ed.), *The Blackwell Handbook of Mediation: Bridging Theory, Research, and Practice*. Malden, MA: Blackwell.
- Katz, N. H. (2006). "Enhancing Mediator Artistry: Multiple Frames, Spirit, and Reflection in Action." In M. S. Herrman (ed.), *The Blackwell Handbook of Mediation: Bridging Theory, Research, and Practice*. Malden, MA: Blackwell.
- LaFree, G., and C. Rack (1996). "The Effects of Participants' Ethnicity and Gender on Monetary Outcomes in Mediated and Adjudicated Civil Cases," 30 *Law and Society Review* 767.
- LaTour, S. P., H. L. Walker, and J. Thibaut (1976). "Some Determinants of Preference for Modes of Conflict Resolution," 86 *Yale Law Journal* 258.
- Lind, A. E., and T. R. Tyler (1988). *The Social Psychology of Procedural Justice*. New York: Plenum Press.
- Littlejohn, S., and K. Domenici (2006). "A Facework Frame for Mediation." In M. S. Herrman (ed.), *The Blackwell Handbook of Mediation: Bridging Theory, Research, and Practice*. Malden, MA: Blackwell.
- McEwen, C. A., and R. J. Maiman (1989). "Mediation in Small Claims Court: Consensual Processes and Outcomes." In K. Kressel and D. Pruitt (eds.), *Mediation Research: The Process and Effectiveness of Third-Party Intervention*. San Francisco, CA: Jossey-Bass.

- (1984). "Mediation in Small Claims Court: Achieving Compliance Through Consent," 18 *Law and Society Review* 45.
- (1981). "Small Claims Mediation in Maine: An Empirical Assessment," 33 *Maine Law Review* 237.
- Pearson, J., and N. Thoennes (1989). "Divorce Mediation: Reflections on a Decade of Research. In K. Kressel, and D. Pruitt (eds.), *Mediation Research: The Process and Effectiveness of Third-Party Intervention*. San Francisco, CA: Jossey-Bass.
- Pou, C. (2005). "Scissors Cut Paper: A 'Guildhall' Helps Maryland's Mediators to Sharpen Their Skills," 26 *Justice System Journal* 307.
- Pruitt, D. G., R. S. Peirce, N. B. McGillicuddy, G. L. Welton, and L. M. Castrianno (1993). "Long-Term Success in Mediation," 17 *Law and Human Behavior* 313.
- Roehl, J. A., and R. F. Cook (1989). "Mediation in Interpersonal Disputes: Effectiveness and Limitations." In K. Kressel and D. Pruitt (eds.), *Mediation Research: The Process and Effectiveness of Third-Party Intervention*. San Francisco, CA: Jossey-Bass.
- Schruijer, S., and L. S. Vansina (2006). "The Meaning of 'Social' in Interpersonal Conflict and its Resolution." In M. S. Herrman (ed.), *The Blackwell Handbook of Mediation: Bridging Theory, Research, and Practice*. Malden, MA: Blackwell.
- Shack, J. E. (2003). "Bibliographic Summary of Cost, Pace, and Satisfaction Studies of Court-Related Mediation Programs," *Center for Analysis of Alternative Dispute Resolution Systems (CAADRS) Publication*. Chicago: Center for Conflict Resolution.
- Sunshine, J., and T. Taylor (2003). "The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing," 37 *Law and Society Review* 513.
- Thibaut, J., L. Walker, S. LaTour, and P. Houlden (1974). "Procedural Justice as Fairness," 26 *Stanford Law Review* 1271.
- Tyler, T. R. (1987). "The Psychology of Disputant Concerns in Mediation," 3 *Negotiation Journal* 367.
- Tyler, T. R., and J. Cheryl (2004). "Profiling and Police Legitimacy: Procedural Justice, Attributions of Motive, and Acceptance of Police Authority," 42 *Criminology* 253.
- Tyler, T. R., and Y. J. Huo (2002). *Trust in the Law: Encouraging Public Cooperation with the Police and Courts*. New York: Russell-Sage Foundation.
- Vidmar, N. (1985). "An Assessment of Mediation in a Small Claims Court," 42 *Journal of Social Issues* 127.
- Wissler, R. L. (1995). "Mediation and Adjudication in the Small Claims Court: The Effects of Process and Case Characteristics," 29 *Law and Society Review* 323.
- Wissler, R. L., and B. Dauber (2005). "Leading Horses to Water: The Impact of an ADR 'Confer and Report' Rule," 26 *Justice System Journal* 253.