Introduction to the Special Issue on Mediator Style

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This issue of *Negotiation and Conflict Management Research* is devoted to the study of mediator style—the characteristic pattern of behaviors or tactics that mediators employ when assisting people in a controversy. A casual perusal of the daily media and academic literature reveals that the notion of behavioral styles is popular. One reads of contrasting decision-making and leadership styles, for example. Underpinning such reports is the belief, stated or not, that styles matter. For example, group leaders, it is generally held, will be more effective if they use a participative style for complex problems. And a military commander had better be autocratic when the barbarians are at the gates.

What is true in other domains has also been true in the world of mediation practice. Mediation practitioners and theorists increasingly promulgate differing styles and debate their relative merits (Bush & Folger, 1994; Lande, 2000; Love, 1997; Winslade & Monk, 2006). Disputants and their attorneys are sometimes urged to select a mediator on the basis of the mediator's stylistic orientation and to use the mediator's stylistic leanings as a guide for what to expect from and how to prepare for mediation (Alexander, 2008; Goldfein & Robbennolt, 2007). Similarly, courts and agencies offering mediation services have been urged to decide what mediator style they wish to promote (Alexander, 2008), and in one important instance—the U.S. Postal Service nationwide mediation program, the single largest mediation program in the world—this advice was explicitly followed (Nabatchi, Bingham & Moon, 2010).

Unfortunately, research on mediator behavior and its stylistic characteristics has tended to lag in the world of practice. In recent years that gap seems to be widening, even though mediation research is unfolding in a wide range of disciplines and is published in a wide variety of outlets. This gap and its growth are most unfortunate because mediators' behaviors are highly consequential and therefore should be studied. Our goal in assembling the papers in this Special Issue is to present in one place some of the most important recent investigations of mediator style where the methods and findings of researchers from very different backgrounds can be easily compared. We also have invited commentaries on the research studies from individuals who have been prominent contributors to mediation

scholarship for many years, and in our concluding chapter, we identify important conceptual and methodological issues that need to be addressed if we are to close the practice–research gap.

In this introductory chapter, we set the stage by situating research on mediator style within the broader context of mediation research and developments in the world of mediation practice.

Research on Mediator Style

In the 1950s and 1960s, the formal practice of mediation was largely confined to labor mediation or international conflicts. Reflecting perhaps this narrow scope of practice, there was relatively little scholarly work on mediation. The studies that existed were largely based either on personal experience or case studies. There were only a handful of empirical investigations, including two field studies of labor mediation, and a number of laboratory studies in simulated negotiation settings. None of this work, however, dealt with mediator style. (For a review of these early years, see Kressel & Pruitt, 1985).

In the 1970s and 1980s, the practice of mediation dramatically expanded into many new domains. This expansion was due in part to the social upheavals and conflicts in American life that characterized that period (e.g. the civil rights and feminists movements; the protests against the Vietnam war; and an increasing divorce rate) and developments in social psychology. The primary arenas of investigation at that time were the relative effectiveness of mediation compared with the prevailing use of lawyers and the courts, particularly in divorce and community conflicts, and descriptive studies of the behavior of mediators. These studies established that mediation was effective and satisfying for many users compared to an exclusive reliance on adversarial legal assistance. The mediation research also produced a number of important descriptive typologies of mediator tactical and strategic behavior (Kressel, 1972; Wall, 1981). The excitement and optimism that characterized this research period is vividly conveyed in the studies reported in Kressel and Pruitt's (1989) edited volume and in their concluding chapter.

In this expanding period of mediation practice and research, the empirical study of mediator style was an important theme (Baker & Ross, 1992; Kolb, 1983; Kressel, 1972; Shapiro, Drieghe & Brett, 1985; Silbey & Merry, 1986; Wall & Rude, 1985). A major finding in these studies was that mediators departed significantly from the "one size fits all" approach to mediation. They were not, as conventional wisdom once held, neutral, impartial, nondirective facilitators. Hints of this stylistic variability came first in a study by Kressel (1972), based on interviews with 13 experienced labor mediators. Kressel categorized the almost unlimited array of mediator tactics into three broad strategic groupings—reflexive (e.g., rapport building and diagnostic inquiry), nondirective (e.g., smoothing communications), and directive (pressuring the parties to come to agreement). Similar elaborations of variations of mediator stylistic behavior were reported by Wall and Rude (1989) for judicial mediation and Touval and Zartmann (1989) for international mediation.

Another influential study of mediator style in this period was Kolb's (1983) ethnographic study of labor mediators. Kolb identified two contrasting stylistic approaches—a more nondirective orchestrator model, focused on helping the disputants to find their

own path to agreement, and a more directive, dealmakers approach, in which the mediator intentionally shaped the contours of an agreement and applied significant pressure for settlement. Kolb maintained that these two contrasting styles were a function of the professional setting in which the mediator worked—more inhospitable circumstances leading to the directive dealmaker approach and more benign ones producing the more nondirective orchestrator style. Kolb's study inspired several other investigations in which the orchestrator-dealmaker dichotomy was largely substantiated and expanded to encompass related stylistic variations (see Kressel & Pruitt, 1989). Silbey and Merry's (1986) ethnographic investigation of community and family mediation further broadened the evidence about the scope of mediator stylistic variability by establishing that mediators often tacitly choose between a style that focuses on improving the disputants' relationship and mutual understanding (the therapeutic or person-oriented style) or one that is more concerned with reaching agreements on substantive issues (the bargaining style).

This period of research energy and enthusiasm has not continued, however. Starting in the early 1990s through the current day, the mediation style literatures of the practice and research communities have gone in contrasting directions. On the practitioner side, there has been a major intensification in reports of mediation styles. In this time period, there are close to 200 articles reporting on approximately 25 styles (e.g. analytic, bottoms up, differentiated, directive, evaluative, insight, neutral, narrative, pressing, storytelling, understanding-based; Wall & Dunne, 2012). Several of these styles have become extremely influential within the world of practice, shaping training programs and service delivery and at times fueling heated debates within the practitioner community. Among the most prominent practitioner generated styles are the transformative (Bush & Folger, 1994), narrative (Winslade & Monk, 2006), and evaluative and facilitative (Riskin, 1996) approaches.

In contrast with the ferment in the world of practice, research on mediator style since the 1990s has been relatively somnolent. Important work is being carried out, but from our vantage point, there is too little of it given the rich practical and theoretical opportunities. There are also long-standing conceptual and methodological issues as well as research constraints that we need to address if we are to close the research-practice gap. These are themes to which our contributors and we will return to in more depth in the papers that follow. It is useful, however, to briefly summarize the main ones. We have good and not-so-good news.

The good news is that research on mediator style continues at a slow but steady pace. By our count, there have been at least ten such studies in the past decade (Alberts, Heisterkamp & McPhee, 2005; Burns, 2001; Charkoudian, de Ritis, Buck & Wilson, 2009; Golann, 2000; Kressel & Gadlin, 2009; McDermott & Obar, 2004; Picard, 2004; Wall, Dunne & Chan-Serafin, 2011; and Wood, 2004). Much of this work takes place in real-world settings and turns directly on the styles of most prominence among practitioners. The accumulating record seems to indicate an important and reliable mediator stylistic dichotomy between task-oriented, settlement-focused styles, and styles with relational foci and objectives. There is also clear evidence that practitioners are strongly inclined to describe themselves as stylistically eclectic, that is, shifting from style to style. The research papers in this Special Issue are among the most vigorous illustrations of these positive developments.

The less good news: Most of the extant studies rely on self-report methods despite sounds of alarm for nearly two decades (Kressel & Pruitt, 1985, 1989; Wall & Chan-Serafin,

2009) that observational studies are badly needed. There are also no investigations using randomized experimental designs (or any other kind of design for that matter) to compare the relative impact of differing mediator styles, despite the obvious need for such investigations. In addition, there is conceptual vagueness as to the precise definition of mediator style and how to distinguish it from cognate terms such as model, frame, or script. Implicit in this definitional muddle is vagueness about the relative importance of and relationship between cognitive and behavioral components of mediator style and how to reliably operationalize these components. In a final somber note, social psychologists, who had once been in the vanguard of mediation research, and whose training well equips them to address the aforementioned issues, have virtually stopped studying mediation (Pruitt, in press). We shall elaborate on these and related concerns in our concluding chapter.

Structure of the Special Issue

Our goal in structuring this Special Issue is to provide impetus and direction for mediation researchers, particularly those interested in practice–relevant researcsh. To this end, we have asked three prominent mediation style researchers to summarize their current work and invited three distinguished scholars of mediation research to serve as reflective discussants.

The first section is devoted to the research papers. Our research contributors represent diverse disciplinary backgrounds and methods for capturing the nature and impact of mediator stylistic variation. Patrick McDermott, a professor of law, reports on his and his coworkers' intensive exploration of mediator stylistic variation in the context of EEOC workplace conflicts. Drawing his data from more than 450 cases, his research focuses on the nature and frequency of mediator self-reported evaluative, facilitative, and hybrid mediator styles and their consequences. Lisa Bingham, a professor of public administration, summarizes her and her colleagues' important and influential research program on the nationwide use of transformative mediation in the U.S. Postal Service REDRESS program. Finally, Lorig Charkoudian, whose disciplinary background is in anthropology, describes her explorations of mediator self-response styles reports and actual styles, using a large sample of community and civil mediations in Maryland.

To produce a degree of consistency across these papers, we have asked the research contributors to describe the setting and context of their research, the conceptual and methodological underpinnings of their work (including their definition of style and any personal motives for their particular stylistic focus), and the impact of mediator style on the process and outcomes of mediation.

The second section of the Special Issue is devoted to papers by our three reflective discussants, who have made important and influential contributions to the study of mediation—Dean Pruitt, Thomas Kochan and Dorothy Della Noce. We have asked them to comment on the general status and future of mediation research, including the implications that may be drawn from the papers of our research contributors.

To create a fruitful dialog across papers, we have also asked the research contributors and reflective consultants to respond to five vexing questions:

(1)   Where does style research rank in importance, relative to other important topics on mediation or mediator behavior?
(2)   Why has little progress been made in mediator style research?
(3)   What steps can be taken to stimulate research progress?
(4)   What are the most pressing issues with regard to style that need studying?
(5)   What kinds of methods/settings/mediators should be studied?

In a concluding chapter, writing as both editors and researchers who are themselves deeply engaged in the study of mediator behavior, we will attempt to give coherence and meaning to the whole by identifying common themes and by making specific suggestions for reinvigorating research on mediator stylistic practice.

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