Metaphorical Analysis and Coherence of Family Court Mediators

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Abstract

Florida family court mediation programs have predominantly been assessed using numerical data. To understand the complexity of mediation, programs may benefit from increasing systematic qualitative research. One attribute for consideration - metaphors, as they are snapshots of the mental models that mediators use. For example, mediation might be defined as a *journey* or the *peeling of layers from an onion*. This study was a qualitative content analysis of 85 Florida family court mediators' conflict metaphors, couched in relevant theories, providing insight into their experiences. A statewide questionnaire resulted in predominantly negative metaphors for conflict and mediation parties, and positive metaphors for mediation and mediators. Meta-metaphors emerged and findings were presented as major categories and subcategories, indicating coherence in their metaphors regarding conflict, mediators, mediation, people in conflict, divorce, anger, and forgiveness.

Introduction

Metaphorical analysis is the systematic, scientific study of mental models expressed through language. The seminal work of Lakoff and Johnson (1980) stated that metaphorical concepts can form coherent patterns in how individuals talk about particular phenomena. Metaphors structure not only perception, but also future action (Lakoff & Johnson, 1980). Since the ethical practice of mediation depends on what mediators deem as important (Fuller, 1971; Folger & Bush, 1994: Bush & Folger, 2005), metaphorical concepts that are institutionalized may have a profound impact (Press, 2003; Press, 1997; Fiss, 1985; Alfini, J., Barkai, J., Bush, R., Hermann, M., Hyman, J., Kovach, K., Bensinger, Liebman, C., Press, S., & Riskin, L., 1994).

The State of Florida has a comprehensive system for certifying family mediators for court appointed cases. Rules and model standards for mediation have created an organized system with rigorous statewide quality assurance (Florida Supreme Courts Commission on Trial Courts Performance and Accountability, 2011). In Florida, family divorce cases involving children are predominantly mediated by Florida Supreme Court certified family mediators. Content analysis of a group of 85 family mediators' conflict metaphors provided insight into their experiences.

Three questions guided this research. The first question began with the mediators themselves, *What metaphors do family court mediators use to describe themselves?* A family mediator, while an individual, is surrounded by culture and systems that may influence their meaning making. A second question was, *What metaphors do family court mediators use to*

describe mediation concepts? And finally, it was important to understand how mediators perceive their mediation parties. A third question was *What metaphors do family court mediators use to describe parties in mediation?* The three research questions supported three goals in this study: (1) to learn what metaphors this group of family mediators use to describe their experiences; (2) to identify metaphorical coherence among metaphorical concepts; and (3) to consider the potential impact of these metaphors in mediation.

We conducted a statewide questionnaire of 85 Florida Supreme Court family mediators. This paper presents the first stage of a two-stage complementary qualitative study. The reader is encouraged to review the second complementary study as it directly built upon this first phase questionnaire (Storrow & Georgakopoulos, 2012). The Stage Two phase of the study was comprised of phenomenological, in depth interviews that spawned rich descriptive data about the personal perspectives of family mediators so as to explore the lived experiences of a set of Florida family mediators in greater depth and breadth.

Metaphorical Coherence

The metaphor is a fundamental way of making sense of life (Lawley & Tompkins, 2000). It consists of the projection of one schema, considered the source domain of the metaphor, onto another schema or the target domain of the metaphor (Lakoff & Johnson, 1980; Moser, 2000; Gentner, 1983 and 1989). For example, *war* is a source domain that may be used to explain *divorce*, the target domain (Freeman, 1995; Lakoff & Turner, 1989). Metaphorical coherence is defined as perceptions that fit into existing metaphorical concepts, supporting what we deem as significant (Lakoff & Johnson, 1980). Shen and Balaban (1999) demonstrated that in natural language there is little apparent coherence, but metaphorical coherence may exist within a single discussion topic such as mediation.

Metaphorical analyses have popularly been conducted to understand and describe significant topics such as relationships, (Metts, 1993), psychology (Blashfield & Livesley, 1991), organizational leadership (Bryant, 2003), healthcare (Huttlinger, Baca, Benally, Drevdahl, Krefting, & Tree, 1992), and organizational management (Keys, 1991). Metaphors generally are presented as descriptions that have either positive or negative valences. There is a literal understanding of words, and there is a deeper underlying meaning that comes from the context in which one sees the world. Metaphors are symbolic meaning relationships that help individuals construct meaning. For example, as a young child or infant sees liquid poured into a bottle, they may associate the rising level of liquid as being good (Lakoff & Johnson, 1980). Association is continually reaffirmed each time an increase is seen and is then associated with a good result. Eventually, this association develops circuitry in the brain. This meta-metaphor is applied to a variety of areas such as emotions, as in feeling *on top of the world* or being *down in the dumps*, *living the high life* or *feeling down and out*. Mediators use metaphors as they try to help one party understand the positions, interests, and feelings of the other (Cohen, 2003).

Rationale for Qualitative Research

Buber (1970) cautioned that modern life may be submerged in the *It-world*. The It-world is a non-relational concept of the world, a lifeless system of acquisitions and objectives. Reliance solely upon quantitative data may reduce focus on the human factors in mediation programs to

numbers (Firestone, 1987; Creswell, 1998; Denzin & Lincoln, 2003). Indications of an *It-world* may be the discussions between attorneys in the family mediation waiting room prior to the session. They discuss the attributes of a case in legal language with a focus on financial settlement. Without mediator awareness, this language and metaphorical "world" might have unseen influences. As mediation becomes further institutionalized, it is more crucial to consider the complex nature of mediation practice and its place within systems (Alfini, et al., 1994).

Divorce is an emotionally complex process, and mediation should effectively address the range of issues that can arise. There has been research comparing the stages of divorce to the Kubler-Ross (1969) stages of grief, but no processes or psycho-social stages of divorce recovery have been confirmed by current research (Gastil, 1996). At best, factors such as gender, locus of control, and social involvement have been identified as having an impact in divorce (Amato, 2000). Qualitative research supported our investigation of these complex concepts.

Preface to Research

Since mediation practice continues to be a valued resource for court systems and business, it is timely to revisit how mediation is practiced and those who practice it (Lande, 2002; Moore, 2003). Mediation's alternative nature and flexibility stand in stark contrast with initiatives to regulate, systematize, and utilize its resource saving attributes (Fiss, 1985; Alfini, 1994; Bush & Folger, 2005; Press, 1997; Welsh, 2004). Mass mediation systems without reflection may produce gatekeepers that reaffirm the values of a dominant culture (McEwen & Milburn, 2007). This may exist in mediation language that is legalistic or professional jargon, challenging diverse participants or those without legal training.

To make fair and cost effective decisions, the Florida State Courts system must often make programmatic decisions based on evidence based practice and quantitative information (Florida State Courts Statistics, 2011) which may not fully capture the complex process of mediation. Qualitative research, including metaphorical analysis, has unearthed ethical implications regarding how mediators perceive conflict concepts. A review of the extant literature on the subject shows further study of this topic is merited.

Literature Review

Institutionalized forms of mediation have been criticized for fostering a less personal approach which can potentially dehumanize the process (Fiss, 1985; Alfini, et al., 1994). Metaphors reinforce these processes and include an analogy made up of two parts. There is the target domain to be explained such as *divorce*, and the base domain that serves as a source of knowledge such as *war* (Gentner, 1983, 1989; Lakoff & Turner, 1989; Freeman, 1995). New metaphorical concepts may logically fit, furthering coherence toward a dehumanizing process or they may be contrary like a *dance*, creating cognitive dissonance.

The first research question of this study began with the mediators: RQ1: *What are the perceptions of the family court mediators?* Mediator experiences and self-concepts were revealed through stated metaphors since perception of the world is structured by metaphorical concepts (Lakoff & Johnson, 1980). Mediator self-concepts may then be reinforced through repeated processes. Florida has an organized court mediation system documented in the Florida Dispute Resolution Center's Compendium of Standards of Operation and Best Practices for

Florida's Trial Courts (Florida State Courts Alternative Dispute Resolution website, 2011). Mediation is conducted using similar processes including an opening statement, discussion, caucus, and memorialization of an agreement. According to Lakoff and Johnson (1980), metaphors, whether cultural or personal, are partially preserved in ritual. These rituals form an indispensable part of the experiential basis for culturally based metaphorical coherence. This generated the second research question: RQ2: *What metaphors do family court mediators use to describe mediation?* The questionnaire asked mediators to state their metaphors for *mediation* and *conflict,* and for one possible outcome of mediation, *forgiveness*. It was important to consider the possible meanings situated in these metaphors (Lawley & Tompkins, 2000). Meaning making is a critical component of how we learn in relationship with others, producing the third research question, RQ3: *What metaphors do family court mediators use to describe parties in conflict?* In this qualitative study, theories were not included in the design process. We allowed questions to be based on the goals of this study, though the resulting data were discussed using the lenses of four interpretive theories.

Critique of Past Methods

Studies by Irving and Benjamin (1995) and Kressel (2000) indicated that the organizational setting, may have an influence on mediator orientation. According to their studies, private mediators' used more passive tools such as active listening, whereas, court mediators focused on facts and issues. Debra Kolb's (1994) book, *When Talk Works: Profiles of Mediators* used extensive qualitative interviews to examine the practice of mediation across several different industries. These in-depth interviews were some of the most revealing insights into the variation of styles and world views among mediators. Kolb did not, however, focus on how these styles evolved from basic understandings such as metaphors.

The Denver Mediation Custody Project (Pearson & Thoennes, 1986) was a three year comprehensive study of mediation comparing mediation and adjudication using metaphorical analysis. Although mediation is based on the parties' self-determination, divorce mediators were often found to *prod* and *bulldoze*. They observed that lawyer mediators tended to prefer structured, task-oriented approaches and mediators with a mental health professional background tended to be more attentive to emotional issues. Gulliver's (1979) portrayal of mediator roles showed a continuum ranging from passive to leader. Yet, Lang and Taylor (2000) suggested that many mediators are not clearly aware of how their metaphorical orientations impact their work. Kolb (1994) also cited a disparity between mediators' espoused orientations and actual practice. Shen and Balaban (1999) did not find evidence regarding coherence, or logical connection, to root metaphors when looking at scripts based on natural discourse. However, metaphorical analysis is a worthwhile methodological tool and has been used to understand the complex nature of phenomena, as in Finneran's (2006) study of metaphors used by students in their approaches to using computer software.

Rationale for a Qualitative Content Analysis

According to Krippendorf (2004) content analysis is the systematic coding of recorded text. It is an appropriate approach to use when the goal is to deepen awareness and understanding of particular phenomena, such as mediator metaphorical concepts. Qualitative content analysis has

been defined as a "qualitative data reduction and sense-making effort that takes a volume of qualitative material and attempts to identify core consistencies and meanings" (Patton, 2002, p. 453).

Content analysis has been used since the 18th century in Scandinavia to make sense of complex information (Rosengren, 1981), and in the United States as an analytic technique since the beginning of the 20th century (Barcus, 1959). The methodology's greatest strength is that it is unobtrusive and nonreactive (Marshall & Rossman, 1999). In this study, qualitative content analysis allowed metaphors and patterns to emerge freely, resulting in a truthful understanding (Denzin & Lincoln, 2003; Guba & Lincoln, 1994; Holloway, 1997; Kvale & Brinkman, 2009). It also supported the use of theories in the discussion of results without attempting to fit data into theoretical structures (Elo & Kynga¨, 2008; Krippendorff, 1980; Morgan, 1993). Our analysis included an *openness* to whatever meanings emerged (Sandelowski, 1995; Huberman, 2002).

Qualitative content analysis required an honest reflection and disclosure of researcher biases, which allowed for deeper understanding of the meanings generated (Elo & Kynga¨, 2008; Krippendorff, 1980; Morgan,1993). This provided a more complex knowing of how this group of mediators experienced family mediation, and a richer understanding than what could have been provided through quantitative methods (Marshall & Rossman, 1999).

Methodology

From all 2,173 family mediators certified by the Florida Supreme Court, 500 mediators were randomly selected and received questionnaires by US mail. Additionally, 100 questionnaires were sent by US Mail to the 20 judicial circuit court mediation programs. These 600 questionnaires produced 85 completed questionnaires, a 14% response rate. This is somewhat below the average e-mail response rates found to approximate 25% to 30% without follow-up e-mail and reinforcements (Yun & Trumbo, 2000). This lower return rate may be due to using US mail, which we chose to ensure mediators would understand the questionnaire was anonymous. We used the online mediator search function of the Dispute Resolution Center, the entity which manages Florida Supreme Court certified mediation (Florida Dispute Resolution Center, 2011). The anonymous questionnaire consisted of seven questions regarding the metaphors: *mediation, mediator, conflict, parties in conflict, divorce, anger,* and *forgiveness*. Analysis revealed themes which were discussed in terms of extant theory.

Participants

Participants included 85 Florida Supreme Court certified family mediators. Random sampling provided a group of Florida mediators presumably similar to the entire population of Florida Supreme Court certified family mediators. According to the Dispute Resolution Center's online mediator search (Florida State Courts Alternative Dispute Resolution Center, 2011), Florida Supreme Court family certified mediators self-reported as 8% Hispanic and 6% African American, 72% Caucasian, and 2% other. Demographics questions were not included in the questionnaires since mediators were not selected for the purpose of generalizing to others of the same types of groups. It did, however, provide general tendencies for this randomized group of Florida family court mediators.

Site Selection

The state of Florida was an appropriate site for this research due to the state's institutionalization of mediation in the court system. It was possible to explore diverse mediator responses within an organized system. As researchers who also practice mediation in Florida, we had accessibility and richer cultural context to effectively design and implement the questionnaire.

Analysis

Metaphors were first analyzed as having positive, negative, or neutral connotations. After determining general themes, the frequency of particular types of metaphors was identified. Data were coded and moved into categories and subcategories. Major categories, subcategories, and examples for subcategories are noted in Table 1. Common themes began to emerge and metaphors were categorized, a process called reduction, which allowed for identification of patterns and core meanings. We produced a complete analysis, fully abstracting the data, and not including too many metaphors within a single category (Dey, 1993; Hickey & Kipping 1996). Developing linkages between outstanding metaphors required painstaking consideration after the more common concepts were identified. When multiple related items saturated a category, it was labeled as a major category. The items that supported the major category were referred to as subcategories, so each major category could potentially hold a number of subcategories. Double coding, or use of two independent co-researchers, provided a level of trustworthiness to the process (Shenton, 2004). The qualitative approach allowed for our reflexivity to contribute to analysis (Denzin & Lincoln, 2003).

Researchers' Roles

The two researchers were Florida Supreme Court Family Mediators and were active in the field of conflict resolution. My experience as a mediator and mediation program manager and the second author's interest as a primary trainer for the Florida Supreme Court Certification Family Mediation Program grounded our desires to better understand family mediators in Florida. As a researcher, Kolb (1994) repeatedly stated her possible biases throughout discussion and interviews with mediators, thereby increasing credibility of her research. Our experiences, social group identities, and biases were clearly stated and critically considered throughout our process.

The qualitative approach to the study of mediators' experiences allowed us to utilize our experiences as mediation professionals. Since the researcher is the main instrument for obtaining knowledge in qualitative work (Marshall & Rossman, 1999), it was imperative to maintain the scientific quality of the study by using accurate and representative information (Kvale, 2009, p. 85). It is only another human being who can be an appropriate instrument to learn about the complexity of human existence (Lave & Kvale, 1995). We fully disclosed our subjective biases in determining the *what, why,* and *how* of this research (Fink, 2000). This process, called thermalizing, included a rigorous design methodology. In order for the research to be trustworthy, we needed to accurately examine the phenomenon intended for study. Data analysis

was a most time consuming activity, given the complexity and volume of the data requiring an effective analysis strategy and interpretation (Denzin & Lincoln, 2003).

Collection of Mediator Data

Data were derived from a statewide, seven-question questionnaire of Florida Supreme Court certified family mediators' conflict metaphors. The anonymous and self-reporting questionnaire included questions regarding *mediation, mediators, conflict, people in conflict, divorce, anger*, and *forgiveness*. Answers were single word or short phrase metaphorical concepts. Questionnaires, study information, and self-addressed stamped envelopes were sent to court staff mediators and private mediators.

Data Management and Metaphorical Analysis Strategy

Double coding and summative content analysis were used to organize stated metaphors. Repeating words were identified while giving equal weight to all responses. After identifying the repeating words, researchers independently explored their context and usage, referred to as manifest content analysis (Potter & Levine-Donnerstein, 1999). After further data interpretation, including possible latent meanings, themes were grouped and discussed between researchers and with some participants. This provided an objective approach to study the phenomenon (Babbie, 1995). Kvale (2009) referred to the metaphor of a traveler when conducting research. While no two mediators were alike, each researcher found some common essential metaphorical structures in their responses.

Phases of Analysis

Metaphorical analysis included six phases: (a) organizing the data, (b) generating categories, (c) searching for alternative explanations, (d) testing of emergent understandings, (e) searching for alternative explanations, and (f) writing of the report (Marshall & Rossman, 1999). As researchers, we functioned as coders, separately placing items in categories. Most items were placed in the same categories. However, we discussed any item when ambiguity surrounded its placement, and after listening to the coder's rationale, consensus was reached on placement. Thus, items were not viewed as static as they were in flux in relation to meanings developed and to the set as a whole. Kvale (1996) indicated that separate coders increase the reliability and indicated that two coders may be sufficient for establishing intersubjective agreement. From the recommendations of Miles and Huberman (1984) an interrater reliability coefficient was calculated by dividing the number of agreements by total number of agreements plus disagreements. This process yielded a reliability coefficient of .97.

Results

The findings of this study included a number of categories, resulting in "positive" metaphors for *forgiveness, mediation,* and *mediators*, and "negative" ones for *conflict, people in conflict, anger*, and *divorce.* See Figure 1 for the color coded positive, negative, and neutral valence metaphorical responses for the 85 questionnaires received.

Although subjectivity raised potential for errors, the Stage Two, concurrent study of a similar population provided additional context and confirmed determinations of positive and negative valences (Storrow & Georgakopoulos, 2012). We defined positive (blue) to include metaphors that were considered good things, such as "hope," "opportunity," and "peace." Metaphors that were considered bad things, such as "war," "pain," "injury," and "destruction" were included as negative (red). Metaphors that were not necessarily positive or negative, such as "parting of ways," a "seed," a "wave" or "current," and "two sides of a street" were grouped as neutral (green).

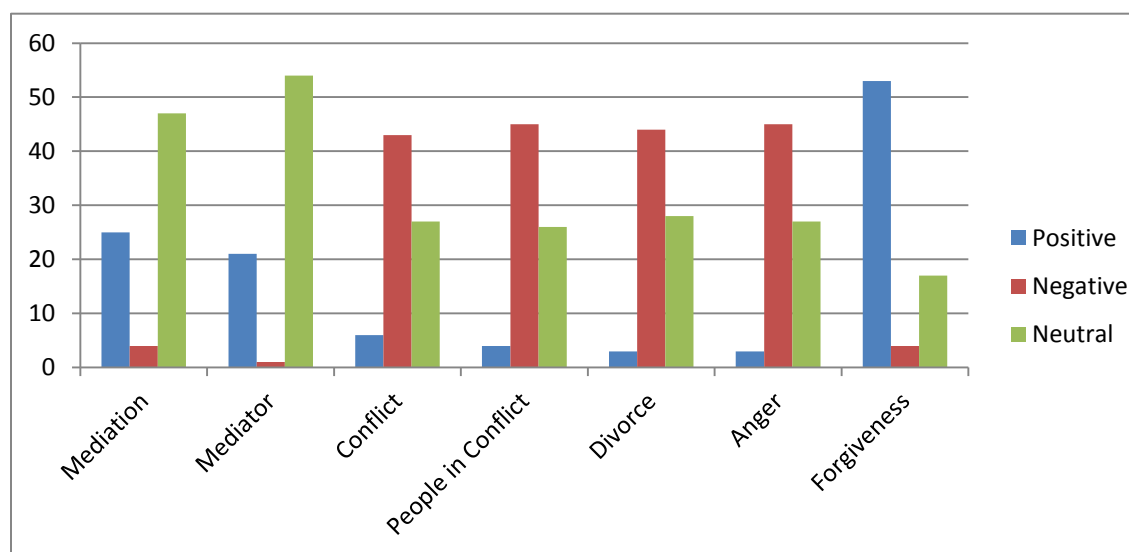Figure 1. Chart of Positive, Negative, and Neutral Metaphors

Figure 1. Chart of positive, negative, and neutral metaphors. Showing positive metaphors for forgiveness and mediation, and negative metaphors for conflict, people in conflict, divorce, and anger.

Forgiveness was the most positively regarded concept, followed by *mediation* and *mediators*. The four remaining concepts, *conflict, people in conflict, divorce,* and *anger* were more frequently negative. These initial results indicated that this group of mediators viewed themselves and their work as positive concepts and held a more negative perspective of *people in conflict, divorce, anger,* and *conflict*. This was similar to the concurrent mediator interview study in which mediators saw themselves as *experts* and used negative metaphors for *people in conflict* (Storrow & Georgakopoulos, 2012). Examples of questions that were used in the survey included the following: (1) Family mediation is like (a/an)? (2) A mediator is like (a/an)? (3) Conflict is like (a/an)? (4) People in conflict are like (a/an)? (5) Divorce is like (a/an)? (6) Anger is like (a/an)? and (7) Forgiveness is like (a/an)?

Table 1a and Table 1b show 16 major categories, 28 subcategories, and examples of conflict metaphors. The major categories and associated items generated by participants were: (1) *mediation* resulted in "opportunity" (8 items), (2) *mediator* resulted in "referee" (10 items), (3) *conflict* resulted in "battle/war" (10 items) and "animals" (10 items), (4) *people in conflict* resulted in "child(ren)/kids" (14 items) and "animals" (8 items), (5) *divorce* resulted in "death" (14 items), (6) *anger* resulted in "destructive acts of nature" (18 items) and "fire/flame" (11 items), and (7) *forgiveness* resulted in "soothing acts of nature" (5 items).

Table 1a: Metaphorical Content Analysis: Categories, subcategories and examples

Family mediation is like…		
Categories	**Sub-category**	**Example(s)**
Opportunity	Personal agency	Opportunity to take control of your life; An excellent opportunity to stop conflict; Opportunity to get it done, all done; An opportunity to participate in the solution
	Good opportunity	Opportunity in your life to show grace and mercy; Opportunity for something good to happen
Journey	Water/river/sea	Flowing river; Your first canoe ride; Entering an uncharted sea with the hope of a calm safe harbor at the end of the journey; Journey on the open sea in a small sailboat
Mediator is like…		
Categories	**Sub-category**	**Example(s)**
Skilled Expert	Judging	Referee; A make sense individual; Arbitrator; Teacher
	Non judging	Facilitator
	Peacemaker	Maker of peace; Diplomat; Pastor; Henry Kissinger; Interested observer who asks questions that help people find a place of peace
Leader	Director	Orchestra conductor; A film director; Circus ringmaster
	Guide	A guide in a labyrinth; Tour guide
Conflict is like…		
Categories	**Sub-category**	**Example(s)**
Destructive force	Battle/war	War; Battle; A sword fight
	Act of nature	Earthquake; A wave-big-small-tidal; Fire/flame
Unhealthy	Cancer/disease	Sickness; Cancer; Disease; Headache; Poison
People in conflict are like…		
Categories	**Sub-category**	**Example(s)**
Wild/irrational beings	Wild/irrational people	Angry children; Children fighting; Angry warriors who don't think clearly; Angry mob
	Wild/irrational animals	Scared animals; Scared rabbits or cornered rats; Pack of dogs; Wounded animals; Dogs biting their own ass
Act of nature		Storm that must pass; Surf crashing ashore; Volcanoes not at rest
Lost/Searching		People stuck in a maze; Helen Keller before Anne Sullivan; Sad souls wondering like Odysseus; Children lost in the scary woods

Table 1b: Metaphorical Content Analysis: Categories, subcategories and examples

Divorce is like…		
Categories	**Sub-category**	**Example(s)**
Destruction	Death	Death without a dead person; A death but also a new beginning; Ending and a new beginning
	Violence	Battle; War; Torture; Ripping apart the fabric of the world
	Act of nature	Tsunami; Parting of the sea; Tornado
Loss		A deeply grieved loss of fantasy; Amputation--you survive it, but there's less of you
Positive change		Opportunity to start fresh; End of drama; The hope for the future; Clearing the table
Anger is like…		
Categories	**Sub-category**	**Example(s)**
Destructive force	Act of nature	An erupting volcano; A tornado; A category IV hurricane; Fire/flame
Unhealthy	Poison	Drinking a poison and expecting someone else to die; Serpent striking nonstop
	Disease/Pain	Poke in the eye; Hurting yourself; An emotion which may injure the individual in which it is stored; Cancer
Forgiveness is like…		
Categories	**Sub-category**	**Example(s)**
Comforting Force/Change	Act of nature	Cool rain on a hot day; A flowing river of peace;
	Heat/warmth	Warm blanket; A warm, soothing feeling; Warm water; Sunshine
	Change	Moving on; The change in direction
	Beginning	A relief and a new beginning; Starting over
	Ending	Paying a bill off; Final resolution; Conclusion
	Water/river/sea	Taking a soothing bath; A waterfall
Freedom	Healing	Balm on poison ivy; Healing salve or ointment; Letting go to the current
	Cleansing/cathartic	Future relief; Gift to yourself that gives you freedom to think clearly; Letting go of blame; Weight being lifted from your shoulders; Exhaling after holding one's breath for a long time
	Spiritual	Blessing, enabling one to start anew; Relief is heavenly; Miracle; Soul release

RQ1: What are the perceptions of the family court mediators of themselves?

Mediators used predominantly positive, powerful metaphors to describe themselves, such as a "skilled expert," "leader," "referee," "peacemaker," or provider of "opportunity." Mediators often were credited with a special *skill* or *knowledge*. Some of the more intriguing metaphors were, "Sparkle in the diamond with all its reflective properties," "A force that calms a troubled

sea," "Whipping boy," "Cat in a china shop," "A friend to all," "Informed parent," "Friend leading you out of the firefight," "The good witch of the north," "Sales manager at a car dealership," "Circus ringmaster," "Agent of reality on steroids," and "Game show host."

Habitus and field theory helped us consider the origin of these metaphors and the fields of relationships that might have supported them. Habitus and field theory was initially established by Marcel Mauss (1936), and further elaborated by Max Weber (1947), Edmund Husserl (trans., 1983), and Pierre Bourdieu (1985). Bourdieu's theory of habitus and field explains the foundations of worldview. Habitus is the mental model people use to deal with the world. Field is the web of social relations and forces in a particular social strata or situation. These relationships reinforce metaphors and determine access to gatekeepers, influencing the culture of an institutionalized system (McEwen & Milburn, 2007). Responses to questionnaires demonstrated patterns of metaphorical understandings that may parallel the shared understandings of the American, middle class mediator field. According to a mediator search conducted using the Dispute Resolution Center's website (Florida State Courts Alternative Dispute Resolution Center, 2011), Florida Supreme Court family certified mediators seem to not be as diverse a population as their parties seen in Table 2, which may potentially create a sense of "otherness."

Table 2. Comparison of Florida Population and Florida Supreme Court Family Certified Mediators

	Florida Population	Florida Supreme Court Family Certified Mediators
White	75	72
African American	16	6
Hispanic	22.5	9
Reported Other	2.9	2

Note: U.S. Census Bureau website. (2011). 2010 United States Census
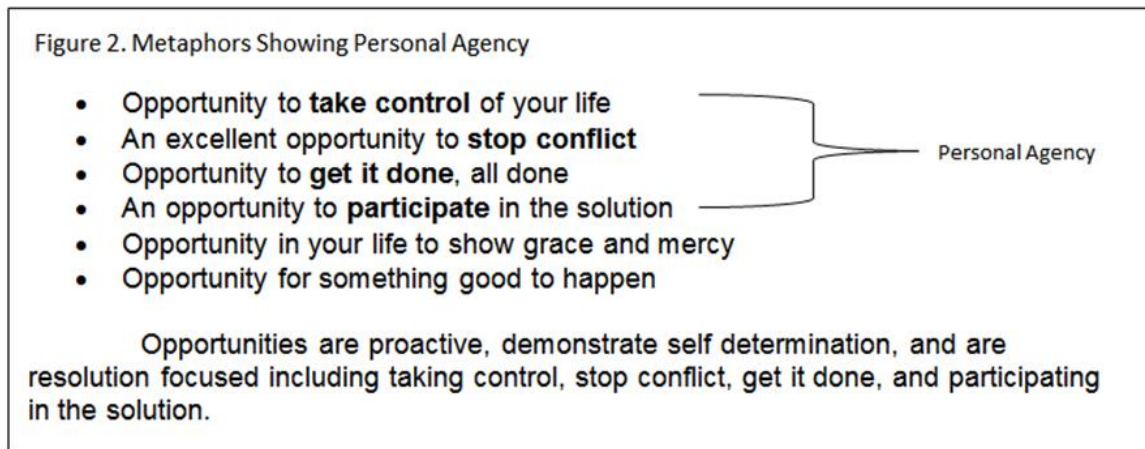http://quickfacts.census.gov/qfd/states/12000.html ; does not include all categories reported
Florida State Courts Alternative Dispute Resolution Center website. (2012). Mediator search.
http://www.flcourts.org/gen_public/adr/index.shtml ; does not include all categories reported

Florida family certified mediators were shown to have self-reported fewer Hispanics and African Americans than reported by Florida's 2010 Census. Certified mediator homogeneity may support particular mental models. According to habitus and field theory, each mediator has a particular worldview which may influence mediation style and perception of conflict. Mediators' metaphorical constructs may be reinforced through fields of relationships, life experiences, culture, gender, program reinforcement, or levels of resources. It may be interesting to explore how these influences confirm or disconfirm training that purports concepts such as conflict's positive potential or emotional intelligence.

RQ2: What metaphors do family court mediators use to describe mediation?

Mediation was predominantly stated as a positive metaphor. It was described as an *opportunity* or *journey*, which might be facilitated by the mediator since these mediators often described themselves as a type of "guide." This implies mediator expertise that might be needed or desired by the parties. Figure 2 shows metaphors for mediation as an "opportunity," which begs the question, "opportunity for what?" Of the eleven references to mediation as an "opportunity," six described "opportunity" as a step towards resolution of conflict. The first four specifically demonstrated personal agency.

Figure 2. Metaphors Showing Personal Agency

- Opportunity to **take control** of your life
- An excellent opportunity to **stop conflict**
- Opportunity to **get it done**, all done
- An opportunity to **participate** in the solution
- Opportunity in your life to show grace and mercy
- Opportunity for something good to happen

Personal Agency

Opportunities are proactive, demonstrate self determination, and are resolution focused including taking control, stop conflict, get it done, and participating in the solution.

Since *anger* was overwhelmingly described as a negative metaphor, an interesting clarifying question would have been regarding how anger affects the "journey" or "opportunity." And, if parties repeatedly reject the "opportunity" being provided by the "guide," how does the mediator react?

Structuration theory speaks to mediators' repeated tasks, strengthening perceptions and metaphorical concepts. In institutionalized mediation systems there is a power in repeated processes conducted by many mediators. Structuration theory states that "all structural properties of social systems … are the medium and outcome of the contingently accomplished activities of situated actors" (Giddens, 1984, p. 191). Mediators are situated in history, repeating activities, such as opening statements, caucus, and techniques. According to Lakoff and Johnson (1980), metaphors, whether cultural or personal, are partially preserved in ritual, such as the mediator *guiding* parties on a *journey* toward an *opportunity*.

RQ3: What meanings and metaphors do family court mediators use to describe conflict and people in conflict?

Mediators used mostly negative metaphors for *conflict* and *people in conflict*, such as "war," "battle," "tsunami," or "disease." There was very little recognition of conflict's potential for change, catharsis, or learning. Mediators often described *mediators* with a positive metaphor,

whereas parties were described as "lost or fighting children," "fighting animals," "dogs chasing their own tails," or a "destructive act of nature." These negative metaphors may have substantial effects on the process since they embody an almost hopeless discord unless there is some intervening action. The strikingly positive attitudes toward *mediators, mediation*, and *forgiveness*, stood in stark contrast to the negative metaphors for *conflict, people in conflict*, and *divorce*.

The making of meanings constitutes the significant learning that occurs in mediation. George Herbert Mead's (1956) theory of symbolic interactionism emphasizes the meanings that people assign toward things and people. Mead stated people are, in essence, products of their social environment, but also have the ability to be creative and purposeful, giving hope that our mediators can take this initiative.

Discussion

Interesting results of this research included the predominantly negative metaphors mediators assigned for *conflict, people in conflict, anger*, and *divorce*, with only a few exceptions. Positive benefits can result from conflict including catharsis, personal growth, disclosure of deeply held feelings, and deepening of relationships (Baron, 1991; Amato, Booth, & Loomis, 1995). In spite of mediator training reminding mediators potential positive aspects, we found a predominantly negative association. As structuration theory reveals, repeated experiences reaffirm process structures. Might the metaphorical coherence developed through experience dominate mediation training's focus on the positive outcomes of conflict?

"Death" was a resulting metaphor for *divorce* that seemed particularly rich in symbolism. Whether death is conceived as a loss or a transition may have effects on mediation style. Mediator training may be more effective with an experiential focus including emotional intelligence and empathy for parties (Moore, 2003), helping mediators to help parties identify these positive benefits during the mediation experience. Mediators who repeatedly see parties as "fighting children," "pack of dogs," or "wild animals," may find their experiences more impactful than continuing education that only discusses positive aspects of conflict, thereby reducing levels of empathy and emotional intelligence. Trainers may need to acknowledge that layered metaphorical concepts are powerful, and will require strong disconfirming evidence, such as experiential opportunities, to integrate a a new concept.

Family stress and coping theory (Hill, 1949; McCubbin & Patterson, 1983; Plunkett, Sanchez, Henry, & Robinson, 1997) and general stress theory (Pearlin, Menaghan, Lieberman, & Mullan, 1981; Thoits, 1995) have contributed to an appreciation of the difficulties that divorcing parties may experience. Since mediation was described frequently as an "opportunity" for parties, those who are not able to achieve personal agency may reaffirm mediators' negative metaphors regarding parties. Results of this research support the importance of using party surveys and debriefing with mediators to explore challenges they experience such as when parties are not receptive to mediation tools.

Other interesting results of this research included the predominance of positive metaphors for *mediation*, *mediators* and *forgiveness*. These positive metaphors may be a result of mediators' appreciation of the positive, experiential results of their work. More research is needed regarding mediators' self-concepts. Mediators who have very positive metaphors for mediation and

themselves and very negative perceptions of parties may have an increased sense of "otherness" that may reduce the ability to empathize.

Mediators who described themselves as "referees" may have a different experience of parties from those who described themselves as "peacemakers." A referee focuses on fairness and may allow parties to fight, intervening when fairness or "rules" are in jeopardy. A peacemaker may have a more defined goal, focusing on supporting a communal tone to the mediation. According to Silbey and Merry's (1986) interviews and observations, mediator strategies grow out of assumptions about the nature of conflict and they stress their authority, expertise, or affiliation more than commonality with parties. It may be possible that mediator strategies are also impacted by self-concepts revealed in metaphorical concepts.

Anger was described using metaphors such as "destructive acts of nature" and "fire" or "flame," whereas *forgiveness* was described with metaphors such as "a cool refreshing breeze" and "calm after the storm." Acts of nature are inherently outside human control, whereas in questionnaires, mediators frequently defined themselves as experts and guides. It would be interesting to know if mediators see themselves as the agents of parties' forgiveness, or if they see other factors facilitating it.

Mediation communication for people in divorce can involve unstructured, emotional discussion (Schreier, 2002). According to Umbreit (1997), most conflicts develop within a larger emotional and relational context characterized by powerful feelings of disrespect, betrayal, and abuse. Ting-Toomey (1988) showed that persons from different cultures have different ways of negotiating conflict. Habitus and field theory posits that mediators may have particular mental models regarding language and communication which may not be similar to those of parties. Differences in level of emotionality in communication may influence mediators' ability to connect and engage parties in a meaningful way.
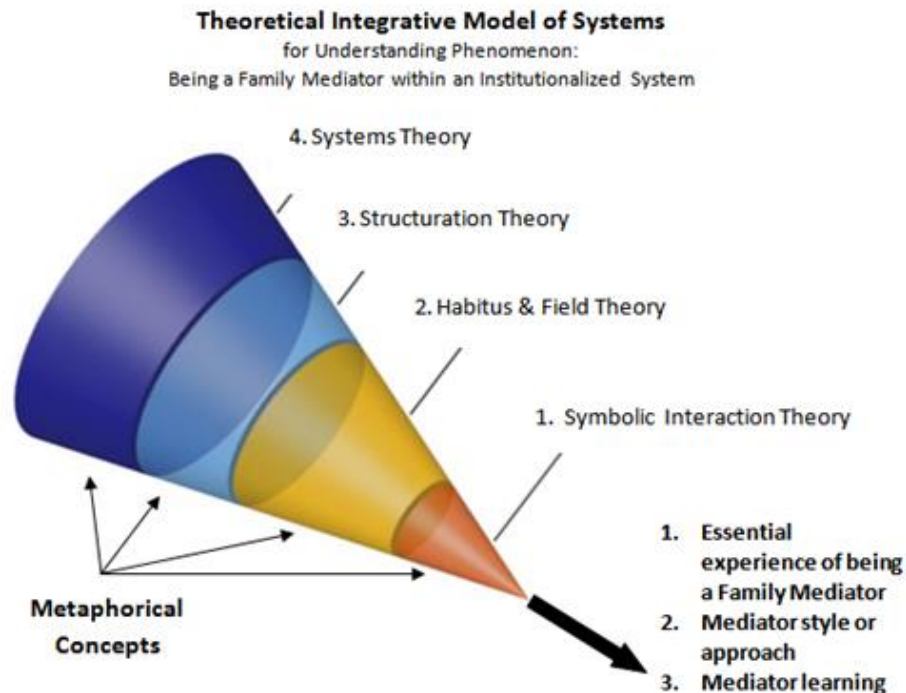
According to symbolic interactionism, constructed meanings influence interactions with the world. *Anger* was described as an "act of nature," inevitable and controllable. *Conflict* however, was described as a "battle" or "war" which would generally be considered a proactive and manmade event. It would follow that *anger* is a natural uncontrollable element, but the *expression of anger* or conflict might be controlled. Since mediators stated predominantly negative metaphorical concepts for both anger and conflict, and did not identify strong positive potential of conflict, it would be interesting to explore mediators' specific understanding of these two distinct concepts.

Theoretical Integrative Model of Systems (TIMS) for Understanding Phenomena: Being a Family Mediator within an Institutionalized System

In considering the resulting metaphorical data from both stages of this study, four interpretive theories organically arose as being both applicable and instructive. These four interpretive theories included systems, structuration, habitus and field, and symbolic interactionism theories. Each theory identified points of opportunity for training intervention in a series of layers for mediation programs. These layers ranged from generalized, structural shaping to specific, individualized meaning making. There may also be a confirming influence on significant learning when metaphors are coherent across these layers. Development of a synergistic layered model was not a goal of this study, but it emerged out of the repeated discovery of metaphors

residing in layers of mediator experience. The resulting model in Figure 3, the Theoretical Integrative Model of Systems (TIMS) gives a visual model for understanding the phenomenon, a graphic representation of the layers of metaphorical concepts that may influence how mediators experience, interpret, integrate new information, and express through practice – essentially what we call "mediation style."

Figure 3. Theoretical Integrative Model of Systems

Theoretical Integrative Model of Systems
for Understanding Phenomenon:
Being a Family Mediator within an Institutionalized System

4. Systems Theory

3. Structuration Theory

2. Habitus & Field Theory

1. Symbolic Interaction Theory

Metaphorical Concepts

1. Essential experience of being a Family Mediator
2. Mediator style or approach
3. Mediator learning

Systems theory is the most externalized layer, including rules, statutes, symbols, goals, and values. This creates an environment which cultivates structuration theory's "natural" redundant actions such as standard operating procedures or best practices. Ritualized actions are rewarded by the system and, in turn, consistent performance of these actions by many mediators strengthens the system. For family mediators, this might include opening statements, discussion, caucus, and memorialization of agreements in compliance in accordance with accepted ethical standards. Habitus and field theory identifies the mental models which emerge from the language and behaviors that are valued in the field of mediation. These mental models, such as the value of communication or mediation tools, become accepted reality and a lens through which mediation is perceived. Mediators do continual meaning making as the coherent metaphorical concepts that reside in each of these layers of influence are funneled into practice. Each mediation or training brings new metaphorical concepts which must be interpreted and either assimilated or rejected, depending on their coherence with existing concepts and value added. Symbolic interactionism theory reveals the most personalized form of meaning making, in terms of a stimulus, followed by mediator interpretation, and finally a response to the stimulus. The

TIMS model portrays the four intervention points at which there may be the most advantageous training, assessment, and intervention opportunities. Quality assurance may be supported through achieving the goals in this study - understanding the essential experience of being a mediator, developing self-reflective practice by exploring meaning making, and supporting experiential mediator learning through metaphorical analysis. Although the results of this study cannot be extended to other groups, the TIMS model may facilitate the exploration of similar phenomena in which there are institutionalized layers of metaphorical concepts shaping practice, such as for nurses or teachers.

Conclusion and Implications of the Research

Divorce creates many new relational dynamics for families (Amato, 2000). There is increased risk to children in divorce, with greater responsibility for restructuring families falling to the courts. This group of mediators' predominantly negative perceptions stated for conflict and parties in conflict could be addressed more thoroughly in continuing mediation education that uses experiential opportunities to challenge existing concepts. If, according to Lakoff and Johnson (1980), gatekeepers of resources are instituted through metaphorical constructs, it is essential to thoroughly examine our metaphors in mediation practice to support empathy and emotional intelligence. Deep reflection of experiences and observation can support greater understanding of the "other" and expand mediation focus beyond settlement. When *opportunity* in mediation is equated solely with settlement, the tangential benefits of conflict and mediation may be devalued.

   Lund (2000) has shown that training to understand and manage strong emotions helps a mediator build tolerance for expression of emotion, reduce stress, increase patience and promote conflict resolution. Continued mediation education that includes cultural and experiential origins of communication styles may increase mediators' tolerance and effectiveness when faced with emotional or diverse communication styles.

   Requiring regular opportunities for observation of other mediators could foster richer discourse and debriefing between mediators since it is based on the meaning making of a shared experience. Ongoing qualitative assessment of mediation, alongside the existing quantitative approaches, could help program directors, the court, and the public understand the complex nature and benefits of mediation. With increasing social pressures that arise from a challenging economy, increased global interactions, increased mediation regulation and institutionalization, and changes in traditional social structures, it is important that mediators are equipped with all the essential tools for deeply reflective practice, including rich, qualitative understanding of the metaphors they use.

Future Directions

Qualitative content analysis opens opportunities for quantitative content analysis, in that with a larger sample size, a follow up quantative content analysis might allow for generalizations beyond this set of mediators. Additional forms of metaphors could be explored in future studies so as to present a comprehensive set of metaphors within their relative categories related to this area. Extensions to this study could spawn theoretical development towards understanding family mediators and their experiences. Comparative studies across various states and countries

would present another type of extension to the current study so comparisons could be made between mediators as this study was limited to family mediators within the Florida Family Court system. Ultimately, the study calls for future research utilizing metaphorical analysis in exploring phenomena in the complex field of conflict resolution.

References

Alfini, J., Barkai, J., Bush, R., Hermann, M., Hyman, J., Kovach, K., Bensinger Liebman, C., Press, S., & Riskin, L. (1994). What happens when mediation is institutionalized? *Ohio State Journal on Dispute Resolution*, *9* (307), Retrieved from http://ssrn.com/abstract=1435602

Amato, P. (2000). The consequences of divorce for adults and children. *Journal of Marriage and the Family, 62*(4), 1269-1287. doi: 10.1111/j.1741-3737-2000.01269.x

Amato, P., Booth, A., & Loomis, L. (1995). Parental divorce, marital conflict, and offspring well-being during early adulthood. *Social Forces, 73*(3), 895-915.

Babbie, E. (1995). *The practice of social research* (7th ed.). Belmont, CA: Wadsworth.

Barcus, F. (1959). *Communications content: Analysis of the research 1900-1958 (A content analysis of content analysis).* Unpublished doctoral dissertation, University of Illinois, Urbana-Champaign.

Baron, R. (1991). Positive effects of conflict: A cognitive perspective. *Employee Responsibilities and Rights Journal, 4*(1), 25-36. doi: 10.1007/BF01390436

Blashfield, R. & Livesley, W. (1991). Metaphorical analysis of psychiatric classification as a psychological test. *Journal of Abnormal Psychology*, *100*(3). doi: 10.1037/0021-843X.100.3.262

Bourdieu, P. (1984). *Distinction: As social critique of judgment of taste.* Cambridge, MA: Harvard University Press.

Bryant, S. (2003). The Role of Transformational and Transactional Leadership in Creating, Sharing and Exploiting Organizational Knowledge. *Journal of Leadership & Organizational Studies 9*(4) 32-44 doi: 10.1177/107179190300900403

Buber, M. (1970). *I and Thou: A new translation, with a prologue and notes by Walter Kaufmann.* New York: Charles Scribner's Sons.

Bush, R. & Folger, J. (2005). *The promise of mediation: The transformative approach to conflict (second edition).* San Francisco: Jossey-Bass.

Cohen, J. (2003). Adversaries? Partners? How about counterparts? On metaphors in the practice and teaching of negotiation and dispute resolution. *Conflict Resolution Quarterly, 20*(4), 433–440. doi: 10.1002/crq.36

Creswell, J. (1998). *Research design: Choosing among five traditions.* Thousand Oaks, CA: Sage Publications.

Denzin, N. & Lincoln, Y. (2003). *The landscape of qualitative research: Theories and issues* (2nd ed.). Thousand Oaks: Sage Publications, Inc.

Dey, I. (1993). Qualitative data analysis. A user-friendly guide for social scientists. London: Routledge.

Elo, S. & Kynga¨, S. (2008). The qualitative content analysis process. *Journal ofAdvanced Nursing 62(1), 107–115.* doi: 10.1111/j.1365-2648.2007.04569.x

Fink, A. (2000). The Role of the Researcher in the Qualitative Research Process. A Potential Barrier to Archiving Qualitative Data. *Forum: qualitative social research, (1)*3.

Finneran, C. (2006). Metaphor Analysis as a Method for Holistic PIM Research. *School of Information Studies Syracuse University.* Retrieved from http://www.pdfgeni.com/book/metaphor-analysis-pdf.html

Firestone, W. (1987). Meaning in method: The rhetoric of quantitative and qualitative research. *Educational Researcher, 16*, 16-21. doi: 10.3102/0013189X016007016

Fiss, Owen M. (1984). Against Settlement. *The Yale Law Journal, 93*(6), 1073-1090. Retrieved from http://digitalcommons.law.yale.edu/fss_papers/1215

Florida State Courts Alternative Dispute Resolution Center website. (2011). Retrieved from http://www.flcourts.org/gen_public/adr/index.shtml

Florida Supreme Courts Commission on Trial Courts Performance and Accountability website. (2011). Recommendations for alternative dispute resolution services in Florida's trial courts. Retrieved from http://www.flcourts.org/gen_public/court-services/bin/ADR%20Mediation%20Report%2008-2008.pdf

Folger, J. & Bush, R. (1994). *The promise of mediation: Responding to conflict through empowerment and recognition.* San Francisco: Jossey-Bass.

Fuller, L. (1971). Mediation: Its forms and functions. *Southern California Law Review, 44*, 305-339.

Gastil, R. (1996). The process of divorce recovery: A review of the research. (Doctoral dissertation). Retrieved from Education Resources Information Center. (ED397365).

Gentner, D. (1983). Structure mapping: A theoretical framework for analogy. *Cognitive Science, 7*, 155-170.

Gentner, D. (1989). The mechanisms of analogical learning. In S. Vasniadou & A.

Ortony (Eds.), *Similarity and analogical reasoning,* 199-241. London: Cambridge

Giddens, A. (1984). *The constitution of society.* Berkeley, CA: University of California Press.

Guba, E. & Lincoln, Y. (1994). Competing paradigms in qualitative research. In N. K. Denzin & Y. S. Lincoln (Eds.), *Handbook of qualitative research* (pp. 105-117). London, UK: Sage Publications.

Hickey, G. & Kipping, E. (1996). A multi-stage approach to the coding of data from open-ended questions. *Nurse Researcher 4*, 81–91.

Holloway, I. (1997). *Basic concepts for qualitative research*. Oxford, UK: Blackwell Science.

Huberman, A. & Miles, M. (2002). *The Qualitative researchers companion*. Thousand Oaks: Sage.

Huttlinger, K., Baca, E., Benally, A, Drevdahl, D., Krefting, L., & Tree, P. (1991). "Doing battle": A metaphorical analysis of diabetes mellitus among Navajo people. *American Journal of Occupational Therapy, 46*(8), 706-712.

Irving, H. & Benjamin, M. (1995). *Family mediation: Contemporary issues*. Thousand Oaks: Sage Publications, Inc.

Keys, P. (1991). Operational research in organizations: A metaphorical analysis. *The journal of operational research, 42*(6), 435-446.

Kolb, D. (1994). *When talk works*. San Francisco, CA: Jossey-Bass.

Kressel, K. (2000). Family mediation. In M. Deutsch and P.T. Coleman (Eds.), *The handbook of conflict resolution.* San Francisco, CA: Jossey-Bass.

Krippendorff, K. (1980. Content analysis: An introduction to its methodology. Sage Publications, Newbury Park.

Kubler-Ross, E. (1969). *On death and dying*. New York, NY: Macmillan.

Kvale, S. & Brinkmann, S. (2009). *Interviews: Learning the craft of qualitative research interviewing* (2nd ed.). Thousand Oaks, CA: Sage Publications, Inc.

Lakoff, G. & Johnson, M. (1980). *Metaphors we live by*. Chicago, IL: The University of Chicago Press, Ltd.

Lande, J. (2002). Using dispute system design methods to promote good-faith participation in court-connected mediation programs. *UCLA Law Review, 50*(69). Retrieved from http://law.missouri.edu/lande/publications/lande%20good%20faith_system%20design.pdf

Lang, M. & Taylor, A. (2000).*The making of a mediator: Developing artistry in practice*. San Francisco: Jossey-Bass.

Lave, J. & Kvale, S. (1995). What is anthropological research? An interview with Jean Lave by Steinar Kvale. *Qualitative Studies in Education, 8*(3), 219-228.

Lawley, J., & Tompkins, P. (2000). *Metaphors in mind: Transformation through symbolic modeling.* London, UK: The Developing Company Press.

Lund, E. (2000). **A** focus on emotion in mediation training. *Family and Conciliation Courts Review, 38*(l), 62-68.

Marcel, G. (1984). *The philosophy of existence* (R.F. Grabow, Ed. and Trans.). Philadelphia: University of Pennsylvania Press.

Marshall, C. & Rossman G. (1999). *Designing Qualitative Research* (3rd ed.)Thousand Oaks: Sage Publications.

Mauss, M. (1936). Les techniques du corps, *Journal de Psychologie 32* (3-4). Reprinted in Mauss, *Sociologie et anthropologie*, 1934. Paris, EU: PUF.

McEwen, C. & Milburn, T. (2007). Explaining a paradox of mediation, *Negotiation Journal, 9*(1), 23-36. DOI: 10.1111/j.1571-9979.1993.tb00687.x

Mead, G. (1956). *George Herbert Mead on social psychology: Selected papers, edited and with an introduction by Anselm Strauss*. Chicago, IL: The University of Chicago Press.

Metts, S. (1993). *Self disclosure.* Newbury Park: Sage.

Miles, M. & Huberman, A. (1984). *Qualitative data analysis: A sourcebook of new methods*. Newbury Park: Sage.

Moore, C. (2003). *The mediation process: Practical strategies for resolving conflict* (3rd ed.) San Francisco: Jossey-Bass.

Morgan, D. 1993. Qualitative content analysis: A guide to paths not taken. *Qualitative Health Research 1*, 112–121.

Patton, M. (1990). *Qualitative research and evaluation methods* (2nd ed.). Newbury Park, CA: Sage Publications.

Potter, W. J. & Levine-Donnerstein, D. (1999). Rethinking validity and reliability in content analysis. *Journal of Applied Communication Research*, *27*, 258-284.

Press, S. (1997). Institutionalization: Savior or saboteur of mediation. *Florida State University Law Review*, *24*, 903-917.

Press, S. (2003). Institutionalization of mediation in Florida: At the crossroads. *108 Pennsylvania State Law Review, 108*(43).

Rosengren, K. (1981). Advances in Scandinavia content analysis: An introduction. In K. E. Rosengren (Ed.), *Advances in content analysis*, 9-19. Beverly Hills: Sage.

Sandelowski, M. (1995). Qualitative analysis: What it is and how to begin? *Research in Nursing & Health,18*(4), 371-375.

Shen, Y. & Balaban, N. (1999). Metaphorical (in)coherence in discourse. *Discourse Processes, 28*(2), 139-153.

Shenton, A. (2004). Strategies for ensuring trustworthiness in qualitative research projects. *Education for Information*, *22*(2), 63–75.

Schreier, L. (2002). Emotional intelligence and mediation training. *Conflict Resolution Quarterly, 20*(1), 99–119. doi: 10.1002/crq.13

Silbey, S. & Merry, S. (1986). Mediator settlement strategies. *Law & Policy, 8*(1), 1-32. doi: 10.1111/j.1467-9930.1986.tb00368.x

Storrow, R. & Georgakopoulos, A., 2012. *Mediators and metaphorical coherence: A phenomenological study of florida family court mediators* (Unpublished doctoral dissertation). Nova Southeastern University, Florida.

Ting-Toomey, S. (2005). The Matrix of Face: An Updated Face-Negotiation Theory. In W. Gudykunst. (Ed.) *Theorizing about intercultural communication*. 211-233. Thousand Oaks, CA: Sage.

Umbreit, M. (1997). Humanistic mediation: A transformative journey of peacemaking, *Conflict Resolution Quarterly, 14*(3), 201–213. doi: 10.1002/crq.3900140305

U.S. Census Bureau website. (2011). 2010 United States Census. http://quickfacts.census.gov/qfd/states/12000.html

Weber, M. (1947). *The theory of social and economic organization*. London, UK: Oxford University Press.

Welsh, N. (2004). Stepping back through the looking glass: Real conversations with real disputants about institutionalized mediation and its value. *Ohio State Journal on Dispute Resolution, 19* (2),573-678.

Yun, G. & Trumbo, C. (2000). Comparative response to a survey executed by post, e-mail, & web form. *J Compu-Mediated Com*. Available online at: http://jcmc.indiana.edu/vol6/issue1/yun.html Accessed June 17, 2013.