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DISPUTE RESOLUTION WITHOUT DISPUTING: HOW THE INTERACTIONAL ORGANIZATION OF MEDIATION HEARINGS MINIMIZES ARGUMENT*

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Mediation is an institutional interactional system in which disputing parties discuss and resolve differences with the help of a third party. Conflicts can be resolved with minimal confrontation or argument in part because mediation de-emphasizes the adversarial nature of the situation and encourages cooperation. By analyzing the interactional organization of mediation hearings I show how mediation promotes agreement and minimizes argument. Mediation accomplishes these goals by an interactional organization that constrains how accusations and denials are positioned and formulated. Because this organization precludes the use of disputing techniques routinely used in ordinary conversation, disputes can be discussed and agreement reached without argument.

Coser [1956] (1964) provisionally defined conflict as “struggle over values and claims to scarce status, power and resources in which the aims of the opponents are to neutralize, injure or eliminate their rivals” (p. 8). In his study of the latent functions of conflict outlined by Simmel [1908] (1955), Coser (1964) pointed out that conflict has many positive effects on groups, institutions, organizations, and societies as a whole, e.g., by aiding group formation (p. 31), contributing “to the maintenance of group boundaries and prevent[ing] the withdrawal of members from a group” (p. 8), creating balance between groups in a social system (p. 34), and helping to “maintain the total system by establishing a balance between its component parts” (p. 35).

Although conflict clearly has positive functions, these can often be realized only if the conflict is ultimately resolved. Institutionalized dispute resolution procedures like trials, counseling, and mediation are specifically organized to manage conflicts that occur within societies and groups.

In ordinary conversation, disputing and dispute resolution may be one and the same pro-

cess.¹ Some arguments may lead to resolution of the conflict, e.g., by one side giving in (Vuchinich 1990)—others may not. People seek institutional conflict resolution procedures when their disputes are not resolved by informal means. Therefore, to be effective institutionalized conflict resolution procedures should differ in some way from informal disputing. The parameters on which these procedures differ include the roles of the participants, authority/power of specific role holders, normative expectations, procedures followed, and interactional organization.

I use mediation hearings as a case study of an institutional conflict resolution procedure and compare them to the interactional organization of disputing in ordinary conversation. I argue that institutional conflict resolution procedures (e.g., mediation) resolve conflict by eliminating specific conflictual processes from the interaction. In particular, the type of arguing that occurs in ordinary conversation by participants in informal disputes is eliminated in the mediation process. Mediation accomplishes this by implementing an interactional organization that constrains the presentation of accusations and denials, provides opportunities for disputants to respond selectively to accusations, and provides for mitigated formulation of accusations and denials. Because this organization precludes the use of disputing techniques used routinely in ordinary

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¹ Sacks, Schegloff, and Jefferson (1974) distinguish two types of talk: institutional talk and informal talk (or “ordinary conversation”).

conversation, issues can be discussed and agreement reached without argument. When arguments do occur, mediation provides an interactional organization for terminating them that is absent from ordinary conversation.

DATA

Disputants in mediation hearings negotiate an agreement with the help of a third party rather than by handing decision-making authority over to a third party as in small claims court. Mediation emphasizes cooperation and compromise (Worley and Schwebel 1985) and de-emphasizes the adversarial nature of disputing, which tends to be exacerbated in litigation (Girdner 1985). Practitioners believe that mediation reduces the antagonism between disputants, gives them an opportunity to listen to and understand each other's positions, and promotes reconciliation (Bottomley 1985, p. 162; Dingwall 1986, p. 10; Roberts 1988, p. 538; Folberg 1983, p. 9).

I evaluate a mediation program sponsored by a California county. This program serves as an alternative to small claims court for disputes such as landlord-tenant disputes, monetary disputes involving small sums of money, and disputes between neighbors or family members.

I videotaped all hearings (nine total) held during a six-month period in 1987. In two cases the disputants had additional problems after the initial hearing and a second meeting was held. Since the structure of these two follow-up meetings differed from the initial mediations, the follow-ups are not analyzed. Disputants were told about the study before each hearing began and all agreed to be videotaped. Although the recording equipment was visible, its intrusiveness was minimized. The mediators in this ongoing program are volunteers from the community who receive five days of training from the director of the program. The nine hearings involved a total of 43 people (including mediators, disputants, and witnesses) and ranged from 40 minutes to almost three hours in length. More than 20 hours of audio tape were transcribed using a modified version of Gail Jefferson's transcription system (see Atkinson and Heritage 1984, pp. ix-xi).

Mediation programs vary greatly in their organization. In this program, each hearing is chaired by two mediators who open the hearings by making introductions, describing the rules, and getting the mediation agreement signed.² The

² The seventh hearing was assigned only one mediator.

mediators then solicit extensive stories from the disputants, and then lead a discussion period. When a solution is reached, the mediators write up the agreement and close the hearing. The disputants (referred to as *complainant* and *respondent*) represent themselves. If a mediated agreement is not reached, the mediators arbitrate a decision for the disputants.

THE ORGANIZATION OF DISPUTING IN ORDINARY CONVERSATION

To understand how mediation provides an interactional structure that minimizes disputing, it is necessary to understand how people conduct disputes in everyday situations.³ The disputing process depends on the speech exchange system of ordinary conversation. Speech exchange systems (Sacks et al. 1974) are unique interactional organizations that can be distinguished on the basis of the turn-taking system and participation framework employed.

The turn-taking system as described by Sacks et al. (1974), consists of the rules and procedures participants use to exchange turns talking. In ordinary conversation, turn transition properly occurs at the end of a "unit type" (e.g., sentence, clause, or phrase). Speakers can select another to speak (e.g., by asking a question). If the current speaker does not select a next speaker, any participant may speak. If a next speaker does not self select, the current speaker may continue. Turns at talking and types of turns (e.g., questions and answers) are not predetermined or controlled by conventions, structures, or individuals outside the interaction, but are negotiated in the context of the talk itself.

For any given interaction, the participation framework describes what patterns of participation and address occur (Goffman 1981). Participants in ordinary conversation negotiate their participation status (e.g., ratified participant vs. bystander, addressed vs. nonaddressed recipient) in the context of the talk.

Many of the arguing techniques used in disputes derive in part from the interactional organization of ordinary conversation. Research on arguing in ordinary conversation in informal settings shows that it involves adjacent, directly addressed exchanges of oppositional turns. Techniques children use to dispute include aggravated

³ The organization of talk in institutional settings derives from the organization of ordinary conversation (Greatbatch 1988, p. 402; Sacks et al. 1974, pp. 730-31, Heritage 1987, p. 257).

Table 1. Conventions for Transcribing Conversations

Speakers are identified at the left with the initials of their institutional roles: C is the complainant; R is the respondent; M is the mediator.

If more than one person holds a specific role, the parties are labelled A and B (e.g., M_A is Mediator A). The transcripts have been simplified for ease of reading. Pseudonyms have been used for all proper nouns.

Symbol	Definition
.hh hh	Inhalations and exhalations, respectively
ta::lk	Colons indicate a syllable is drawn out
that-	Dash indicates a word was cut off abruptly
<u>lot</u>	Underlining indicates stress or emphasis
YOU	Capital letters indicate increased volume
°cost°	Degree symbols indicate decreased volume
(1.4)	Numbers in parentheses indicate length of pauses (in seconds)
(talk)	Words in parentheses are tentative transcriptions.
()	Empty parentheses indicate nontranscribable talk.
..?!	Punctuation indicates intonation, not grammatical structure.
heh, hunh, henh	Laughter particles are transcribed as pronounced.
A: [a copy] B: [I have]	Brackets indicate simultaneous speech.
A: yeah= B: =in order	Equal signs indicate one utterance or word is attached to another.
⇒	Arrows point out lines in excerpts that illustrate concepts described in text

rather than mitigated disagreements (M. Goodwin 1983), repetition of the previous speaker's utterance (incorporating partial repeats into the oppositional utterance is referred to as "format tying" by Goodwin and Goodwin [1987]), escalation of volume, acceleration, and denying or negating the previous speaker's utterance (referred to as "inversion" by Brenneis and Lein [1977, p. 56-57]). Research on adult arguing shows that it follows similar patterns. For example, the "contrastively matched counter" used by adults in argument sequences (Coulter 1990, p. 195) is analogous to the "format tying" found by Goodwin and Goodwin (1987) in children's disputes.

Serious disputes, or "verbal fights," show more clearly the parallels between children's and adults' disputing techniques. A tape recording of a domestic dispute between three adults was played as evidence in a mediation hearing. In Excerpt 1, Stan is arguing with his ex-wife over who wrote a rude comment on his last support check. (Table 1 provides a summary of the transcribing conventions used in all excerpts.)

Excerpt 1:

- 1 Stan: I want to talk to you ()=
2 Karen: =I DE:DN'T: (.3) HAVE ANY
3 THING,=
4 Stan: =YOU HAD (RIGHT) TO DO
5 WITH=IT!
6 Stan: [(YOU ARE ALWAYS)]
7 Karen: [YOU KNOW THAT IS]
8 BULL I DIDN'T
9 Stan : [YOU ALLOWED IT]
10 Karen: [(see it)]=I DIDN'T EVEN DO
11 THAT CRAP I DIDN'T SEE THAT.

Stan begins this sequence in a normal tone of voice (line 1). Karen escalates the volume to a yell in her response (lines 2 and 3). Stan's next turn matches the volume of Karen's response. They maintain this high volume until line 10 in which Karen escalates the volume to a high-pitched scream.

This excerpt also illustrates the exchange of accusations and denials. In lines 2 and 3 Karen disclaims responsibility for the problem Stan has complained about: "I didn't have anything." Stan counters this claim in lines 4 and 5 with an oppositional utterance: "You had right to do with it." Karen overlaps this utterance to deny Stan's accusation: "You know that is bull I didn't . . ." Such exchanges of oppositional utterances occur frequently in ordinary disputes (also see Coulter 1990, p. 184).

These disputing techniques require the flexible speech exchange system of ordinary conversation where a disputant can place a response to an utterance adjacent to that utterance. For example, to produce an aggravated disagreement, the disagreement must be placed adjacent to what is being disagreed with. A disagreement that is delayed or displaced is a mitigated disagreement (Pomerantz 1975, 1984). Such disputing techniques are used in the turn-taking system of ordinary conversation which does not limit when a given party can take a turn.

Second, the speech exchange system of ordinary conversation does not restrict who can speak to whom. Thus, disputants typically use techniques like repetition, escalation, and inversion in utterances addressed to the other disputant. This may lead to escalation because the co-disputant is thereby selected as next speaker, giving him or her the floor to produce a disputational response.⁴ In sum,

⁴ This observation is consistent with data cited in M. Goodwin (1983), Goodwin and Goodwin (1987), and Coulter (1990).

the potential for directly addressed adjacent exchanges makes disputing possible.

Preference for Agreement

Besides the speech exchange system, preference organization also affects arguing and disputing in ordinary conversation. One way that talk can be said to have a preference organization is that some types of utterances (e.g., invitations) imply/project a specific type of response (e.g., acceptance or refusal of the invitation) in the next turn space (Schegloff and Sacks 1973; Schegloff 1987; Sacks 1987). These two-utterance sequences are referred to as adjacency pairs. The initial utterance is the *first pair part*, and the response is called the *second pair part* (Schegloff and Sacks 1973, p. 295). The type of response *preferred* depends on the nature of the first pair part. Preferred responses occur more frequently, are explicitly stated, and are produced without delay, while "dispreferred" responses are produced with delays, accounts, or other mitigating techniques (Pomerantz 1984, p. 64).

Pomerantz (1984) and Heritage (1984; 1988) argued that recipients follow preference organization because of a normative constraint favoring social solidarity. A response that is not what was projected is formulated as a dispreferred second pair part to display orientation to the fact that the preferred response should have been produced. The preference system thus reflects the moral order as people's responses demonstrate solidarity with their co-interactants.

For most utterance types, there is a preference for agreement (Pomerantz 1975, 1978a, 1984; Sacks 1987). Disagreements are formulated or placed to demonstrate their dispreferred status (Pomerantz 1975; 1984). However, Pomerantz (1984, p. 81) noted that support for one's co-interactant is demonstrated by disagreeing with self-deprecations, not by agreeing with them. Similarly, the preference for agreeing with assessments should lead to the acceptance of compliments, but this puts one in the position of praising oneself (Pomerantz 1978a). Recipients cope with these conflicting constraints by, for example, downgrading compliments or shifting the referents of compliments (Pomerantz 1978a). Compliment acceptances are thereby produced as dispreferred rather than preferred second pair parts.

Accusations also operate contrary to the "preference for agreement." Preference for agreement would lead to an admission of guilt as the pre-

ferred response to an accusation. But, for accusations, denials are the preferred response because the absence or delay of a denial may be interpreted as an admission of/evidence of guilt (Atkinson and Drew 1979, p. 112-13; Heritage 1984, p. 269). The preference system, which minimizes and mitigates disagreements, is not being followed. Accusations can therefore lead to arguing or disputing.

Maintaining and Escalating Disputes

Once an argument has begun, its structure contains the seeds of its continuance. Research on the organization of children's disputes shows that children often bypass opportunities to resolve conflict and instead "actively work to maintain a state of contradiction" (M. Goodwin 1983, p. 661; see also Corsaro 1985, p. 212-19; Goodwin and Goodwin 1987, p. 206).⁵ Children's disputes (M. Goodwin 1982; Corsaro and Rizzo 1990, p. 28) and intergenerational disputes (Vuchinich 1984, p. 219) are commonly unresolved.

Once begun, arguments may be difficult to stop because accusations engender return accusations, counter-assertions (Coulter 1990), or denials. Denials are preferred second pair parts (hence produced without the delay that might allow accusers to repair or mitigate accusations). Such denials lack accounts that might lead to a resolution of the disputants' divergent positions; other mitigating techniques that might lessen the face-threatening impact of the denial are also absent. Accusations lead to departure from a preference for agreement, and this departure is re-invoked by the preferred response of denial.

Denials are also a direct disagreement with the prior speaker, putting him or her in a position of either backing down (which is face-threatening) or defending him or herself. If the accuser maintains his or her stand and re-issues the accusation, the dispute continues for another adjacency pair because the second accusation also invites departure from a preference for agreement and may provoke a second denial. The departure from a preference for agreement that accusations make relevant can thus be maintained over a series of turns (e.g., see Whalen, Zimmerman, and Whalen 1988, p. 353-54).

⁵ There may be cross-cultural differences in children's tendencies to aggravate or mitigate disputes. For example, Boggs (1978) described an argument in which two Japanese children used mitigated and indirect arguing.

Likewise, once a dispute has begun, there are interactional *disincentives* for ending it. Breaking the cycle of oppositional utterances may involve some degradation of self. Coulter (1990, pp. 189-90) described how participants retreat from argumentative sequences by "backing down" from a previously stated position. Such retreats from explicit disagreements may result in loss of face (see Emmison 1987, 1988; Greatbatch forthcoming; Katriel 1985; Corsaro 1985, p. 219; Vuchinich 1990). Thus, once disputes are begun, a motivation for continuing them may be built into the talk itself.

In sum, the speech exchange system of ordinary conversation provides an interactional environment in which disputing techniques can be used to continue or escalate disagreement. What differences in the speech exchange system of mediation hearings make dispute resolution more likely than escalation?

THE SPEECH EXCHANGE SYSTEM OF MEDIATION

Turn Taking

The turn-taking system of mediation differs in several respects from that of ordinary conversation. Mediation is partly a pre-allocated system, as are trials (Atkinson and Drew 1979), and news interviews (Clayman 1987; Greatbatch 1988; Heritage and Greatbatch 1991). A mediator opens the hearing, explains the mediation process, makes introductions, and then elicits the complainant's story. The order of story-telling is thus set — the complainant's story precedes the respondent's. Disputants do not begin their stories until after the mediator solicits them, thereby displaying their orientation to the mediator's control of the progress of the hearing.

After the initial stories are completed, mediators may solicit second or even third stories from the disputants. The disputants may not interrupt each other during their stories, but the mediators may interrupt to ask questions or refocus the topic. The story-teller will typically use the "current speaker selects self" turn-taking option to continue his or her story after answering a mediator's question. For example,

Excerpt 2:

- C: =I've been diyo:rced five years. (.2)
 °uhm° (.2) °so::°, .h (.5) °u:hm°, (.1) We
 have three CHILDrEn?, (1.0) The eldest
 SHARon, has been li:ving with me, (.1)
 for (.4) just about two years.

(.3)

M: °She's twelve?°

(.2)

C: ⇒ She's twelve. (.5) And the:n, we had
twi:ns?, (.3) who have been li:ving at
 ho:me with- with KA:Ren, (.2) uhm, since
 the dissolu:tion.

(.3)

M: °The name of your twins?°

(.1)

C: ⇒ uh, STAcey and Ariel, (1.9) For the most
 part, (.1) u::h in the la:st five years, we've
 (.2) had an O:N and off: (.8) flexibility,
 (.3) type of arra:ngement. . . .

While disputants have the floor to tell their stories, they are free to self-select as next speaker, and to speak even when not selected by a mediator. However, they do not use the full range of turn-taking options that would be available to them in ordinary conversation. Specifically, disputants refrain from using the "current speaker selects next" option to select a co-disputant to speak. However, they may use the "current speaker selects next" option to ask a mediator a question.

Disputants who are not telling a story rarely speak during a co-disputant's story, and when they do their utterances display orientation to the turn-taking system in mediation. For example, a disputant may speak during the other disputant's story if it is in response to a mediator's question. Excerpt 3 is part of the respondent's story in a dispute between neighbors in an apartment complex. The respondent is explaining why she and the other tenants wrote a letter requesting eviction of the complainant ("Mrs. Norton").

Excerpt 3:

R: Because we have A:LL had repeated?,
 (.6) up sets?, (.3) from Mrs. °Norton.° (.8)
 A::nd, if there would be some way to work
 this ou::t!, I would li::ke to do it. (.2)
 bu::t, (.3) I don't fee::l, and no one else
 feels because (1.9) A:LL the reasons that-
 s:h[e claimed]

M_B: ⇒ [Have you] seen this?
 (.2)

C: ⇒ No, I haven't?

When there are two or more complainants or respondents in a hearing, brief asides between "partners" are allowed. In Excerpt 4, the complainant argues that the respondent neglected to visit his children. Respondent B urges her husband to write down his response to this accusa-

tion, since they're not allowed to speak during the complainant's story.

Excerpt 4:

C: He WASN't (.1) he didn't even SEE:: them for=the- (.2) you=know?, (.5) BAREly saw them at a:ll, for a couple uh=years. (.5) Right A:fter the divo:rce. (.5) A::ND (.4)

R_B: ⇒ °Write it down° (.9)

C: A::ND DU::H (2.5) you know!, (.2) I=I=don't=know what he WA:NTS:=uh me:: . . .

The non-storytelling disputant occasionally requests or provides clarifying information or repairs errors in the disputant's story. Mediators generally let such brief intrusions pass, even when addressed directly to the co-disputant.⁶ In Excerpt 5 from the neighbor's dispute, Mediator A has just read aloud the respondent's eviction letter.

Excerpt 5:

R: °Okay, and° that was jus::t: (.2)

M_B: hm::h?, (.1)

M_A: And [thi:s wa]s A:pril second?

R: [on:e] (.3)

R: Yes. That was the [first time this was turned in]

C: ⇒ [Was that organized] by you? (.4)

R: No. This was organi:zed, by Tess . . .

The disputants and the mediators display an orientation to the turn-taking system of mediation when they request permission to speak or employ sanctions. Throughout the hearings, the disputant who is not telling a story may select self to speak for purposes other than those de-

⁶ These findings differ somewhat from Greatbatch's forthcoming findings for news interviews. The news interview is designed to show disagreement while mediation is designed to produce agreement. This may account for differences between mediation and news interviews in how clarification requests are used and responded to. In mediation, brief interjections that clarify a point may be helpful for the conflict resolution process, and hence are allowed. Mediators intervene only when clarifications or error corrections develop into arguing.

scribed if they use "action projections" at turn-beginnings to request permission to speak. Action projections are utterances like, "Can I ask you a question?" which, by projecting an action (e.g., a question), create a space for preliminary information before performing the projected action (Schegloff 1980). Disputants phrase these action projections as questions addressed to the mediators and they do not produce the projected action until a mediator has granted permission.

Excerpt 6:

R_A: She was: very very upset about that!=and (.1) .h (.4) made it perfectly clear that she=didn't want (.1) anything °that had° to do with Ben! (.3) °after tha:t?°=

C: ⇒ =COULD=I- (.1) could=I a:sk a question °at this point?° (.1)

M_B: °Sure!° (.2)

C: Was: (.3) wa:s: (.2) he:r: (.9) u::h inte:nt, in °you=know?, uh° (.3) Did it SOU:ND to you: that she was TE:LLing you:?, . . .

In Excerpt 6, from a family dispute, the complainant selects himself to speak after the respondent's story. The complainant's action projection, "Could I ask a question at this point?" is formulated and intonated as a question. The complainant then pauses. After Mediator B's response ("Sure!") the complainant asks the projected question.

By getting permission from a mediator to continue the disputant transforms a self-selected utterance into a response to a mediator's utterance, which is consistent with the turn-taking system of mediation.⁷ Although disputants do not always

⁷ While disputants in these hearings routinely use action projections as requests for permission to speak, mediators use action projections at turn-beginnings as preliminaries to preliminaries (Schegloff 1980):

M_A: That's fair enough 'cause you might s- be sitting here another hour A:nyhow! (.1.3)

R: °Sure.° (.1)

M_B: ⇒ .hh ah Let me s:ay I- It depends a lot on your layer, I- d- uh- know that- There are good ones and there are bad ones.=

Mediators' action projections at turn-beginnings are generally phrased and intonated as statements (e.g., "let me ask you a question") rather than as questions (e.g., "can I ask you a question?"). Pauses within rather than at the end of unit-types, or the absence of pauses, indicate that a response is neither expected nor pro-

request permission before speaking, such requests indicate that they (and the mediators) are oriented to the expectation that disputants not self-select during the other disputant's story.⁸

Disputants rarely produce utterances during the other disputant's stories that do not display orientation to their limited right to speak. When disputants use the "next speaker selects self" option to respond to an accusation during the other disputant's story, mediators usually intervene. In Excerpt 7, a father (R_A) criticizes the stepfather's (C) treatment of their children.

Excerpt 7:

R_A: . . . the CHILDren coming ho::me and him (.4) ta:king them into the BA::throom, (.4) and looking in their EYE:S!, because their: pupils might be di=h=lated 'cause they've had=too=many- (.1) too much sugar from milkshakes that they drink in at my HOU:SE!
(.2)

C: ⇒ °That's [not true at all°]

R_A: [And=MY- M]Y KI:DS: (.2) my kids have cry: (.1) cried over [that.]

M_A:⇒ [Excuse] me for interrupt for just=a=minute.=I forgot to, (.1) mention, one=of=the GROU:ND ru:les!, (.2) and that i:s when- (.2) you're telling your story, (.7) you say nothing.

Mediator A sanctions the complainant for speaking during Respondent A's story.

In sum, the disputants' requests for permission to speak and the mediators' sanctions show that participants treat the mediation hearing as having specific turn-taking norms.

The Participation Framework

While participants in ordinary conversation are not restricted as to when they can be the recipient of an utterance or select specific others to speak (Sacks et al. 1974), disputants' participation statuses in mediation hearings are predetermined.

vided for. Responses are generally not forthcoming, demonstrating that the parties interpret mediators' action projections at turn-beginnings as preliminaries to preliminaries rather than as requests for permission to speak.

⁸ Participants in news interviews also use requests for permission to speak when departing from the turn-taking system of that institutional setting (Greatbatch 1988; Clayman and Maynard 1990; Heritage and Greatbatch 1991).

Disputants address their utterances to the mediators rather than to their co-disputants. In Excerpt 8, a dispute over vehicle repairs, the complainant provides information that the other disputants already know but that the mediator might not know, demonstrating that this utterance is designed for the mediators, not the respondent.

Excerpt 8:

M_A: Okay, .h Dan?, If you'd like to go ahead then=and (.2) and tell us your side of the story?
(.6)

C: Okay. (.3) U::h, (.5) think=it=was approximately: u:h (.1) °think it was in eighty six° (1.9) the date was u::h (.1) FI::ve uh seven eighty °seven I believe an' I-° took the: motor ho::me, to u:h Mark's Auto. (1.0) .hh chu! (.1) for:=a see (.1) replace fan belts, repla:ce upper=radiator hose, (.2) inspect the air conditioning:, unit.

The complainant specifies the date the vehicle was brought to the shop, the shop's name, and the purpose of the visit for the benefit of the mediators. The complainant gazes down at his notes initially, then lifts his gaze to the mediators during this utterance.

Disputants can also indicate that the utterance is addressed to the mediators by referring to co-disputants in the third person. In Excerpt 9, the respondent refers to the complainant in the third person ("DAN", "he").

Excerpt 9:

R_A: Whe::n (.7) DAN was ca:llled, and was told that the water pump housing:, (.2) was lea:king, . . . When he came dow:n and he picked up the car:, right before=the coach (.4) °uh° before it was adequately road tested.

Recipient responses provide further evidence that disputant's utterances are addressed to the mediators. Minimal responses (e.g., "um hmh," "yeah"), when provided, are produced by mediators, not by co-disputants.

Excerpt 10:

C: At tha:t sta:g:e, (.2) it is true that (.1) volunteer=help=that I=had (.2) sugge:sted could be- (.2) available, (.1) didn't- (.1) didn't work out.
(.2)

M_B:⇒ °um=hmh.°=

C: =But- the=eh- (.6) she was NOT- (.4) SHE: nor=anybody=in=my family

was=the pri:mary, (.3) volunteer help on
which the- budget was (.2) ma:de . . .

The direction of the complainant's gaze also indicates he is addressing the mediators — he switches his gaze from one mediator to the other and does not look at the respondent, who is seated next to him.

In addition, co-disputants often engage in side activities like note-taking during the co-disputant's utterances. Thus, mediators and disputants display orientation to the convention that disputants' utterances are addressed to the mediators.

Discussion Format

In addition to the storytelling during which a disputant has the floor for an extended turn and the co-disputant remains silent, these mediation hearings have extended periods of discussion, primarily comprised of question-and-answer sequences. The organization of these discussion periods differs from ordinary conversation in that mediators control the topic of discussion and who participates. The mediators use directed questions to switch the talk from one disputant to the other. Excerpt 11 is from the end of an extended exchange of questions and answers between the mediators and the respondent in a landlord-tenant dispute. In the arrowed utterance, Mediator B asks the complainant whether he, as landlord, was aware of the respondent's poor earning capacity. After the complainant's response, Mediator B directs a question to the respondent.

Excerpt 11:

- M_B: Could you tell us, (.3) what your income was, prior to. (.4) .h in other words, (.3)
- R: Prior to that ti:me? (.3)
- M_B: Au:gust. (.3)
- R: We::ll, I=don't- (.4) I can I'm=not=sure=if I can reme:mber!, hh (.1) u::hm: (.5) it was very lo:w. (.5)
- M_B: Very low. (.1)
- R: Very [low u::hm]
- M_B: ⇒ [Were you awa:re of that] Paul (.9)
- C: Ye:s:: WE:LL?, (.2) .h I didn't- you=know?, (.1) make any u:h investigation? (.2) I was a ve::ry, u:hm (1.6) um: (1.2)

rosy ey:ed, (.9) first time landlord . . . ((9 lines omitted)) . . . I just winged it?, (.3) you=know?, I just- trusted that that was:=

- M_B: ⇒ =hh What rent were you: paying?, (.4) prior to Paul's purchase. What were you: (.1) what were you paying to the o:ther landlord? (.9)
- R: Ei:ther two fifty, or three hundred, . . .

Excerpt 12, from the vehicle repair dispute, also illustrates mediator control of disputants' involvement in the discussion and of shifts in topic: Mediator B changes the focus from the bill for the air-conditioning repair to whether the vehicle had been road-tested or not.

Excerpt 12:

- M_A: How about the air-conditioner?, What- (.1) money, was spent there?=
R_A: =Thirty seven fifty. (.5)
- M_A: And that's simply charging? (.4)
- R_A: That's correct. (.2) And then you have- (.2) uh you should have freon, somewhere, (.1) the:re. (.5)
- M_A: °Okay, plus° (.5)
- R_A: The::re, should be some freon charged on it (.3)
- M_B: °There is.° (.5.0)
- M_B: ⇒ .h Did you=know=the time you picked up the vehicle it had not been road-tested? (.6) Were you told that? (.1)
- C: No, the guy- (.1) u:h Tim (.1) u:h called me about I think it was a DA::Y before two days before he said du:h (.7) .h EV'RYTHING'S SET to go except, bu::t we've- . . .

During discussion periods, disputants continue to address their utterances (including accusatory utterances) to the mediators.⁹ Responses to accusations are also addressed to mediators, thus resulting in mediated talk. For example, in Excerpt 13, from the landlord-tenant dispute, the complainant asserts that the respondent is consistently behind in her rent. Mediator A shifts the

⁹ Directly addressed exchanges between disputants are infrequent — exchanges of three or more turns are rare. Mediators often intervene in such exchanges.

focus to the respondent without changing the topic. The respondent then responds to the substance of the complainant's complaint (by admitting that she cannot, in fact, pay the rent) in the context of a response to the mediator's question:

Excerpt 13:

- C: She- in fact hasn't ma:de the payments as I: (.5) requested here (.2) in: (.2) [Ma:y]
- M_A: [And=she] certainly hasn't made the July payment.
(.3)
- C: Correct.
(.5)
- M_A: Okay. (.3) Now you a:nswered, (.3) that=you're unable to make these payments at this time. .hh (.4) To rephra:se tha:t?, (.3) as a que:stion, (.2) Does=that mea:n that you can=not pay, eleven hundred and sixty five dollars?, (.2) per month rent.
(.2)
- R: °Ye:s it does.° (.9) At this time.

Departures

During storytelling and discussion periods, disputants usually address their accusations to the mediators.¹⁰ When a disputant departs from the participation framework of mediation by addressing the other disputant directly, the mediator may attempt to restore mediator address.¹¹ One technique is for mediators to produce minimal responses, even though the utterance was addressed to the co-disputant. For example, in Excerpt 14, from a divorced couple's dispute, the complainant criticizes the respondent (his ex-wife) for going on vacations and dating:

Excerpt 14:

- C: =She's gone to Mexico, and to Arizona, and L.A. with your boyfriends too? (.2) so don't give me tha:t?
(.3)
- M: ⇒ °um hm°=
- C: =Okay? (.1) Tit is for TAT here. .h u:hm, .hh (.2) I do not agree with, (.5) three DA:ys? (.3) a week . . .

¹⁰ Only 8 percent (25 out of 321) of the accusations in the nine hearings had second-person attributions of blame.

¹¹ See Clayman and Whalen (1988/1989) and Schegloff (1988/1989) for analyses of departures from the speech exchange system of another form of institutional talk — the news interview.

The complainant first refers to the respondent as "she," then switches to direct address ("your"). The mediator's minimal response ("um hm") re-establishes the framework in which the complainant's complaints should be addressed to the mediator — the remainder of the complaint is addressed to the mediator, not the respondent.

In Excerpt 15, from the same hearing, the disputants have been arguing over who has more time with the children.

Excerpt 15:

- C: You've ha:d them, a majority! of the last Saturdays!, .hh It was MA:ry's birthday party, Friday night at the boardwalk. (.1) .hh About=a- (.2) you=know?, (.2) six eight weeks ago, .h I had those same plans!, I relinquished to you in that thing. .hh Next weekend, it was the park. (.1) .h The next weekend it were- a- a few weekends ago:, it was=like you had=duh dental appointment on a Saturday at one o'clock!, .h The=LA:st weekend was the parade! (.5) you=know? (.2) It's lik[e- it-]
- M: ⇒ [It S]OU:NDS like your flexibility, (.1) .hh is working?,
(.9)
- C: Right! But it's infringing upon my ti:me! (.3) And- maybe if you can make the PLA:NS: you=know=for- (.2) for SATurday!, evening instead=of FRIDA:Y, (.4) Friday evening=and .hh
(.1)
- M: ⇒ °hm=[hnh°]
- C: [an]d, and SA[turday?]
- M: ⇒ [A comp]mise?
(1.8)
- M: ⇒ °um=hnh.° (.4) Stan how long have you been married?

The complainant departs from the participation framework of mediation by addressing his complaints to the respondent instead of the mediator. The mediator attempts to restore mediator address by asking the complainant a question, using minimal responses, and initiating a topic change.

Adjacent accusations and denials are also subject to sanction by the mediators. In Excerpt 16, from the neighbors' dispute, the respondent sparks conflict by addressing a challenge directly to the complainant.

Excerpt 16:

- 1 C: =The SA:ME woman that organized
2 that parked: °eh°=so that I could not
3 get out=of my co:-h-mplex.=

- 4 M_B: =um::?,
 5 (.2)
 6 R: You were parked=
 7 C: =one morning.
 8 (.2)
 9 R: She was parked, in
 10 h[er space and she]
 11 M_B: [yeah, chum! yeah but=I=WAS]=JUST
 12 [SAYING I- I REMEMBER y]ou
 13 R: [(parked next) to you:]
 14 M_B: you SA:Ying, you=know?,
 15 C: [There was nowhere else to park.]
 16 M_B: [that you felt you] were o:::ver,
 17 whe::lmed, with [peop]le.
 18 R: [You still] (.2) can not park in
 19 [some one el[se's parking place.]
 20 M_B: [um so I thought]
 21 C: [It] ha:pens a::ll thuh ti::me
 22 [jea:n,] why doesn't she
 23 M_B: [Yes]
 24 C: do it with other people, an' that's
 25 [(not)]
 26 M_A: [I DON'T WANT ANY CROSS
 27 TALK, thank you.]

In lines 1 to 3 the complainant attempts to lessen the credibility of a tenant on the respondent's side of the dispute by recounting an occasion when the tenant blocked her into a parking space. In lines 6, 9, and 10 the respondent then departs from the turn-taking system of mediation and responds with a counter-assertion (Coulter 1990). She gazes at the complainant during the initial portion of her utterance ("you were parked") but then turns her gaze back to the mediators as she repairs her utterance to address the mediators and to refer to the complainant in the third person ("she was parked, in her space"). Mediator B's attempt to cut off the incipient dispute by shifting the conversation back to a prior topic in lines 11, 12, and 14 ("but I was just saying I remember you saying, . . .") appears to be unsuccessful (see Clayman and Whalen (1988/1989) for an analysis of unsuccessful attempts to restore the speech exchange system of news interviews). The complainant does not comply with Mediator B's bid for a change of topic, and continues the exchange with the respondent. She defends her action ("There was nowhere else to park") in line 15. Ignoring Mediator B's continuing utterance, the respondent replies to the complainant in lines 18 and 19 ("You still can not park in some one else's parking place"). The complainant then responds directly to this utterance in lines 21, 22, 24, and 25, addressing the respondent by name and turning her gaze toward her.

The two disputants are now engaged in a full-fledged argument. They have abandoned the speech exchange system of mediation for the speech exchange system of ordinary conversation which enables them to engage in disputing — here, the exchange of accusations and denials. In line 26 Mediator A breaks in and sanctions the two for "cross talk", thus attempting to restore the mediation exchange structure.

Summary

The interactional organization of mediation hearings differs from that of ordinary conversation in several ways. In some respects, mediation is a pre-determined speech exchange system. Some turns (e.g., story requests, stories, openings and closings of hearings) are pre-allocated to specific individuals on the basis of institutional roles. Access to turn-taking options is also tied to institutional roles — disputants typically do not self-select during the other disputant's story, but mediators are free to self-select as next speaker throughout the hearing.

Disputant self-selection is not treated as a departure from the turn-taking system if it is framed as a request for permission to speak, an aside, a repair, or a request for clarification. Utterances responding directly to the substance of the other disputant's complaint are treated as departures.

In the participation framework of mediation, disputants direct their utterances to the mediators rather than to each other. Although all participants are recipients of the stories, the other disputant is not the *addressed* recipient and does not have the right to reply immediately to the story (C. Goodwin 1987). The participation status of participants in mediation hearings is therefore subject to constraints that do not exist in ordinary conversation.

When disputants depart from the speech exchange system of mediation and use the turn-taking rules and participation statuses of ordinary conversation, their talk takes on the character of an argument. Mediators attempt to restore the speech exchange system of mediation by using sanctions, changing topics, redirecting a question, uttering minimal responses, and other similar techniques.

IMPLICATIONS

In mediation, the adjacent and directly addressed oppositional utterances that constitute argument generally do not occur. In effect, the speech ex-

change system of mediation limits “disputing” to those occasions when disputants depart from the turn-taking system and participation statuses characteristic of mediation. Four characteristics of the mediation process enable participants to manage accusations and denials while saving face (Goffman 1967) which enables them to avoid arguments. (1) Accusations and denials are not adjacency pairs in mediation — because a denial is not immediately relevant, an accusation does not engender an oppositional response as a next action. (2) In the participation framework of mediation, accusations and denials are addressed to mediators instead of to co-disputants — denials occur as responses to mediator queries, hence, they are not “disagreements.” (3) The delay of denials provides disputants with the option of selectively responding to denials, potentially reducing the number of issues under dispute. (4) The interactional organization/normative order of mediation provides for mitigated rather than aggravated accusations and denials. This interactional organization has several implications for the dispute resolution process.

The Placement of Accusations and Denials

In ordinary conversation, accusations are first pair parts of adjacency pairs, and denials or admissions of guilt are possible responses. Denials are typically preferred responses, and tend to be placed immediately after the accusation, without delay, accounts, or other mitigating techniques. Accusations therefore make disagreement relevant and thus provide an interactional environment for escalation into disputes and arguments. Accusations and denials can provide an interactional basis for disputing techniques like the exchange of accusations and denials (M. Goodwin 1983) or other techniques that depend on adjacency (e.g., escalation, repetition, format tying, or contrastively-matched counters), and providing a motivation for their use.

The speech exchange system of mediation precludes the use of many of these disputing techniques by eliminating adjacent exchanges between disputants. This is done by breaking up some courses of action that could otherwise occur as adjacency pairs. Disputants cannot respond adjacently to accusations without departing from the turn-taking system of mediation — respondents may not speak until after the complainant has finished his or her “story” and a mediator has solicited the respondent’s story. In addition, mediators may ask the complainant questions dur-

ing and after the story. Hence, a denial or an admission of guilt is not the relevant next action after an accusation.¹²

The complainant in the neighbors’ dispute produces many accusations in the course of her story, but the respondent’s denials do not occur until much later in the hearing.¹³ For example, early in the hearing the complainant accuses the respondent (Jane) of vandalizing her car.

Excerpt 17:

- C: My car was vandalized!, hh (.3) early in the mo::rning, (.1) I came ba:ck I was away (.2) for the night (.) I came back, and there was paint!, (.6) on the interior?, (.7) uh latex paint, (1.5) garbag:e. (.8) powdered milk. (.4) I’ve got pictures of that=if- (.3) you’d like to see it.
(.4)
- M_A: °um=hmm.°
(.2)
- C: °What that looked like.° (2.1) A::nd: the only conceivable person: (.3) that=it= could =do:: (.4) that would be responsible whether she did=it=or not herse:lf?, (.1) would be Jane!, . . .

The respondent shakes her head “No” as her name is mentioned, but does not gaze at the complainant. Since the complainant is looking at the mediators, it is not clear whether she sees this ges-

¹² What is an adjacency pair first pair part may depend not only on the type of utterance (e.g., greeting, invitation, accusation), and its construction, e.g., as a question (Schegloff and Sacks 1973, p. 295), but also on the speech exchange system in which it is produced. Accusations in ordinary conversation have different implications for the next turn space than do accusations in mediation hearings. For an analogous argument with regard to news interviews, see Clayman and Maynard (1990).

¹³ The impact of nonverbal responses to accusations is minimized in these hearings because the disputants are seated on the same side of a long table, with the mediators opposite them. Disputants must therefore turn their heads 90 degrees to make eye contact with their co-disputant. Facial expressions are therefore primarily visible to the mediators, and may be produced for their benefit. Because only one video camera was used, there is no record of mediators’ nonverbal responses to disputants’ nonverbal actions. In Excerpt 17, the respondent on two occasions shakes her head “no” after the complainant voices an accusation. This gesture is probably not visible to the complainant and is not responded to verbally by the mediators. Respondents may also indicate their objections to an accusation by note-taking activity, thus showing an intent to respond when they get the floor.

ture, but neither she nor the mediators acknowledge it. The respondent does not reply to this accusation until over half an hour later.

Excerpt 18:

- R: At the ti:me, (.1) we first started this, (.2) there=was=uh (.2) nu:merous people at that co:mplex, with ma:ny reasons (.1) to do vandalism,=CHILDREN?, (.2) e:very-body. (.1) .hh I had no:thing to do with it?

Because accusations in mediation hearings are not first pair parts, they do not make an oppositional response relevant in the next turn space. Therefore, accusations in mediation typically do not make arguing relevant, thereby removing one source of dispute escalation.

Denials, Not Disagreements

Not only are denials in mediation delayed, but because they are not second pair parts to accusations they do not constitute a disagreement with the immediately prior utterance. The respondent's response to the accusation occurs as a response to a mediator query rather than as a denial of an accusation. Thus, denials in a mediation context are less likely to provoke disputational responses.

Because accusations and complaints are addressed to the mediators rather than the co-disputant, blame cannot be addressed directly to the co-disputant without departing from the speech exchange system of mediation. Therefore, attributions of blame are typically formulated in the third person.¹⁴ For example, in Excerpt 19 from the neighbors' dispute, the complainant describes an incident in which the respondent verbally abused her.

Excerpt 19:

- C: The=first: (.3) kno:wledge I had of her dislike, u::hm (.2) .h uhm aggravation with me, one time she:: (.9) I was co:ming: (.2) from the car, with my child who=was about two at the ti:me?, (.6) And her dau:ghter came up to me and said u:hm (.8) °get her out of the wa:y or something and she said.° (1.1) .h you=know?, She=just (.1) hu::rled a lot=of accusa:tions. I don't=know how much de:tail it's worth, going into. But=it=was=a=lot=of (.1) you=know?, (.5) ra:ther, (.1) vi::le obscenities, that:, (1.0) I only use if I'm (.2) furi- (.1) you=[know?,]
- M_A: [°um=hmh] yeah.°

The complainant addresses the mediators and refers to the respondent with the pronouns "she" and "her." The complainant is thus able to avoid direct accusations. Mediator A responds to the complainant's solicitation of a minimal response ("you know?"), demonstrating that she interprets this utterance as addressed to her. The respondent's failure to respond indicates that she does not interpret the utterance as addressed to her. Thus, accusations in mediation may be less face-threatening than those in ordinary conversation (Pomerantz 1978b). This is another reason escalation into argument is less likely.

In mediation, adjacent exchanges between disputants can be terminated if they occur. If a disputant departs from the turn-taking system by placing a denial adjacent to an accusation or addressing an accusation directly to a disputant, mediators intervene to prevent a full-fledged argument.¹⁵

The speech exchange system of mediation therefore precludes the use of the disputing techniques found in ordinary conversation. Mediation allows for the production of accusations and denials while preventing their use as oppositional moves in argumentative sequences. The substance of the dispute can be discussed without argument.

Selective Responses to Accusations

In ordinary conversation, accusations and denials are adjacency pairs and an omitted denial

¹⁵ In this excerpt from the divorced couple's dispute, the mediator terminates a dispute.

- C: YEA:H, I- (.) you=know?=I- I still don't feel good=about=it, because like this is my fle:sh and blood!, you=know?,=and (.2) you=know?, (.3) uh- I['m yeah-]
- R: [But] you shouted abortion, for nine months:![with Sharon]
- M: [Listen, we] are no:t=
- C: =Hey,=
- M: =ta:king (a[bout])
- C: [WHO] had the abortion? (.1) Y[ou wanna get] SMA:RT?
- M: [Wait a minu:te!]
- (.1)
- C: DIDN'T SH[E JUST] HA:VE? ONE?
- M: [Hey wait!]
- (.2)
- M: HO:LD IT!, (.3) WE'RE NOT IN HERE TO TALK ABOUT THAT. I DIDN'T TALK ABOUT MY: PROBLEMS, OR WHAT- EVER=WE'VE A:LL GOT A STORY. (.2) °.h That's no: one's business:!°

¹⁴ Greatbatch (1988) and Clayman (1987) found similar patterns of address in news interviews.

would be noticeably absent and subject to pursuit. The absence of the preferred response (denial) implies the dispreferred response (admission of guilt). In the mediation context, however, disputants can fail to respond to accusations without implying guilt.

After one disputant has completed his or her story, the mediator gives the floor to the other disputant. Most disputants tailor their stories to respond to accusations made by the other disputant. However, the institutionalized delay of responses to accusations in mediation provides an opportunity for strategic moves. A disputant may choose to bypass some accusations, focus on the more important accusations, or ignore accusations she or he cannot credibly deny. Thus, the speech exchange system in mediation facilitates the resolution of conflict by allowing for selective response to accusations.

For example, in the neighbors' dispute several of the complainant's accusations are never responded to by the respondent. The complainant accused the respondent of verbally assaulting her in the garden of their apartment complex. She also complained of banging noises coming from the respondent's apartment, and of grass damaged by the respondent's tenant's motorcycle. These accusations were not referred to again in the hearing by any of the participants.

If a respondent fails to respond to an accusation, the complainant may reissue the accusation after the respondent has completed his or her story. For example, in a dispute over vehicle repairs, an accusation originally produced in the complainant's story (Excerpt 20) is reissued by the complainant during the discussion period after the respondent's story is completed (Excerpt 21).

Excerpt 20:

- C: And THEN HE said- (.1) u:h (.1) he called me up about uh DA:Y after- it was (three=clock) suppose to pick it up. (.4) He said you got a leak in your water pump (.8) housing now. (1.2) I=said well,=I= didn't=have a leak when I brought it in here. (.6) so, I didn't kno:w!, (.1) what- what =the- (.1) the=problem was here. (1.1) u:h (.6) And it TURNED OU:T that=it NEE:ded a: a- the- WAtEr- (.3) the water pump housing was cracked. (.6) Now I don't know whether that was: (.3) it was cracked (.2) whether- when=the me-CHANic was working= on=it?, .h or it was cracked before I brought it in. But it wasn't leaking when I brought 'o it in.^o (.1) That I kno:w. (.4) I would have seen puddles in my driveway.

Excerpt 21:

- C: We're A:lso forgetting the WAtEr pump was not leaking when I brought it in there! (.5) Somebody could=uh WHACKed it with=a HAMmer for all I:=know!

In these hearings, bypassed accusations are typically allowed to lapse. Thus, strategic selection of which accusations to respond to appears to be an effective technique to redirect the debate or minimize the number of accusations "on the table." Delay of denials reduces opportunities for argument by minimizing situations in which disputing techniques can be used, and by providing for strategic moves on the respondent's part — e.g., selective responses to accusations.

The Formulation of Accusations and Denials

Mediation provides a "protected" interactional environment for producing accusations and denials. However, disputants in these hearings do not take advantage of this protected environment to produce aggravated accusations, perhaps because the goal of the mediation process is to resolve conflict in a nonadversarial way. Mediators emphasize the goals of compromise and non-competitiveness at the beginning of each hearing.¹⁶ Disputants display an orientation to these norms by making accusations and complaints less strong than is possible given the turn-taking system of mediation. Techniques used by disputants to mitigate accusations include elision of the agent, displacement of the agent relative to the complaint, collective representations of the agent, and other techniques to downgrade accusations.¹⁷

Elision of agent. Disputants in these hearings often construct accusations with the agent elided. This makes the attribution of blame implicit rather than explicit. This does not suggest ambiguity in who is to blame — only that disputants are formulating accusations less strongly. They

¹⁶ In addition, mediation is voluntary and presumably disputants are there because they want to resolve the conflict.

¹⁷ O'Barr and Conley (1985, pp. 685, 689) found that disputants in small claims court also tended to avoid explicit attributions of blame in their narratives.

Although the interactional contexts of mediation and news interviews are somewhat similar, the tendency of participants to escalate or lessen conflict is very different (see Greatbatch forthcoming). This may be because in a news interview the goal is to "win" an argument, while in mediation the goal is to "come to an agreement or compromise."

are thus displaying an orientation to the nonadversarial, cooperative norms of mediation.

Elision of the agent is most often accomplished by using the passive voice. Occasionally, it is achieved by other methods, such as using an active construction but not stating the subject.

Excerpt 22:

- C: U:::H (.3) .h LOT=OF=the U::h (.5)
the=la- the LAbor that was u::hm (.2) .hhh
conducted on the motor home was: was not
done in=uh- in=uh profe:ssional (1.6)
°in=uh° (.8) wa:y!, (.2) °I=mean°= basi-
cally, (.3) °it wasn't, tuh° comple:ted, pro-
fessionally it=wasn't- .hh it is MY=uh- in
MY: estimation it=wasn't=completed at all!

In this excerpt, the complainant does not say who performed the labor on the motor home. He could have specified the agent while using the passive voice (e.g., “the labor that was done by the mechanic”) but he formulates his complaint so that the agent of the “wrongdoing” is implied rather than stated.

In Excerpt 23, the complainant in the stepparents' dispute summarizes his complaint against the respondent:

Excerpt 23:

- C: I'm=not sure how to put=it I FEE:L that I
BEEN:: physically: and emotionally as-
saulted!, (1.0) A::ND: (1) I'd like to change
tha:t to a more se:nsitive (.9) °u::hm° (1.5)
more sensitive communica:tion.

The complainant frames his accusation in the passive voice and elides the actor. He could have framed these complaints in the active voice while still addressing his utterance to the mediators (e.g., “Stan assaulted me” or “Stan is insensitive”). Overall, 38 percent (121 out of 321) of the accusations or complaints in these hearings were constructed with agent elided.¹⁸

The use of implicit references in accusations may minimize conflict-provoking threats to face, and hence departures from the turn-taking system of mediation. By not referring explicitly to the blamed party, the “blow” is softened and a defense from the blamed party is not immediately relevant.

These findings are consistent with Pomerantz's (1978b) findings that the passive voice and other techniques for eliding the subject were used in

ordinary conversation to refer to “blameworthy” persons. The passive voice enables the complainant to make accusations without specifying the wrongdoer. Complainants can thus accomplish the delicate task of making accusations while maintaining politeness and avoiding face-threatening utterances.

Displacement of agent. Disputants can also display orientation to the normative order of mediation by displacing the agent from the accusation through delay, hesitation, or sentence structure.

In Excerpt 24, the complainant from the landlord-tenant dispute is explaining why the respondent's continuing tenancy in his house would be problematic:

Excerpt 24:

- C: It's been difficult for us this year because
of the: (.6) .h coincidence! of my
delivering her mail every day and seeing
u:h (.8) °u:h° (1) business practices that
I=don't- (.2) think help pa=h=y the
re=heh=heh=nt! . . .

The agent is not completely elided (the complainant refers to “her mail”), but she is not specified in the actual complaint: “business practices that I don't think help pay the rent.” Hesitation, pauses, and “turn holders” further separate the agent from the accusation. (The presence of laughter may also serve to mitigate the complaint.)

In a divorced couple's dispute, the respondent accuses her ex-husband of lying about his income.

Excerpt 25:

- R: He sent some pay checks: to: (.1) u:hm,
(.3) my attorney?
(.1)
M: °um=hm?°
(.2)
R: uhm, (.2) Which I don't think were quite
corRE=heh=CT! but,

The agent (“he”) is placed in the first part of this utterance, which ends with question intonation. The respondent then pauses, and the mediator provides a minimal response. After another pause, the respondent produces a turn holder (“uhm”) followed by another pause. She then produces the accusation: “Which I don't think were quite correct.” In addition to displacement, the respondent uses the qualifier “quite” to minimize the accusation and the uncertainty marker “think.” The reversal of the negative (“I don't think were correct” instead of “were incorrect”) also serves to mitigate the accusation (Huebler 1983). In ad-

¹⁸ Elision of the agent is only one technique for mitigating accusations. However, 60 percent (191 out of 321) of accusations were mitigated in some way.

dition, we again see the mitigating laughter particles ("corRE=heh=CT!").

Collective representation of agent. Disputants may also display orientation to the nonadversarial norms of mediation by referring to the agent of wrongdoing as a collective agent. One way to do this is by incorporating self as a blamed party. In Excerpt 26 from a dispute between two brothers, the respondent includes an admission of his own guilt in a complaint that his brother has been harassing him:

Excerpt 26:

R_A: Since the beginning of this: (.2) yea:r,
we've been (.2) harassing each other . . .

In Excerpt 27 from the stepparents' dispute, Respondent B is trying to persuade the complainant to stop interfering with the raising of her husband's children (the complainant's stepchildren).

Excerpt 27:

R_B: I just think that .hh we just have to know
our place?, (.3) and that (.1) we have to
SHU:T=up a little bi:t, and let the
PA:Rents:, (.1) raise the children. .h And
we're THERE as the (.1) .h the- the (.1)
you=know?, to=HE::LP!, to nurture, to
LOVE them, .hh and um to let the:m, deal
with it.

Every one at the hearing knows it is the complainant who has been interfering in the raising of the stepchildren, but Respondent B's use of "we" (the stepparents) mitigates her complaints and displays orientation to the norms of mediation.

Downgrading accusations. Accusations can be mitigated by downgrading them. Excerpt 28 shows the complainant's initial formulation of his complaint in the dispute over vehicle repairs.

Excerpt 28:

M_A: °Okay.° (.2) Improper
mechanic[al] work:?
C: [(Yeah)]
(.1)
C: Yeah=im::proper u::h (3.2) work
completed by the mechanic
I=would=imagine, =PArt of it was done,
(.2) u::h (.4) okay, (1.2) but there=were-
(.2) two=or three things that were (.2)
that=weren't (.1) completed (.1) properly.

The complainant first specifies the party who performed the improper work ("the mechanic") but then immediately qualifies this with an uncertainty marker: "I would imagine." Attached to the uncertainty marker is an acknowledgement

that some of the work was done correctly ("part of it was done okay"). The complainant then reiterates his complaint, but in a way that minimizes the problem: "two or three things that weren't completed properly." This is a hedged or understated form of "were completed improperly" (Huebler 1983).

In Excerpt 29, from the divorced couple's dispute, the complainant complains that the respondent (his ex-wife) ignores their eldest daughter, who lives with him.

Excerpt 29:

C: I'm not saying this to=HURT=you=uh-
uh- I think you=shou- (.3) m:maybe make
an E:ffort to- even ca:ll her! once a week!,
(.2) to=find out how she's doing=or: .hh
(.1) or: (.2) you=know?, make a special
night=a week?, (.2) for her!,

This potentially threatening accusation begins with a "pre-delicate" (Schegloff 1980), and incorporates hesitations, uncertainty markers ("I think") and tentative words ("shou-" and "maybe"). The complainant leaves the actual accusation unsaid ("you neglect your daughter" or "you never pay any attention to your daughter"), and instead implies it by specifying how she could correct this problem ("call her once a week").

SUMMARY AND CONCLUSIONS

Disputing techniques in ordinary conversation depend on a locally managed turn-taking system and participation framework that allow participants to adjacently and directly address each other. Thus, denials can be placed immediately after accusations and formulated with explicit attributions of blame, thereby providing the interactional context for escalation into argument.¹⁹

In contrast, the interactional organization of mediation precludes the use of disputing techniques found in ordinary conversation. The turn-taking system of mediation institutionalizes non-adjacent accusations and denials. The delayed placement of denials reduces argument by mini-

¹⁹ Some types of institutional talk provide for argument. O'Donnell (1990, p. 214) studied a union-management meeting in which the goal of avoiding conflictual and confrontational talk was not achieved. In contrast, turn-taking rules and patterns of address in trials preclude arguing between disputants (see Atkinson and Drew 1979). Small claims courts also appear to preclude direct exchanges between disputants (O'Barr and Conley 1985; Conley and O'Barr 1990).

mizing situations in which disputing techniques can be used. In addition, the opportunity to selectively respond to accusations can reduce the number of accusations under consideration and thus facilitate solution.

The speech exchange system of mediation also provides for accusations to be addressed to mediators rather than to the other disputant. This pattern of address results in third-person references to blamed parties. Direct challenges and attributions of blame thus do not confront the "blamed" party directly, lessening their face-threatening impacts.

Finally, the normative order of mediation as cooperative and nonadversarial encourages disputants to formulate their accusations (and denials) even less strongly than possible within the speech exchange system of mediation. This mitigation provides a further deterrent to escalation into a dispute.

These four aspects of the organization of mediation deter argument. These characteristics, and how disputants use them to avoid threats to face, may be one reason mediation often successfully resolves conflict without confrontation or argument.

To discover how mediation works as a technique for conflict resolution, the interactional process of mediation hearings must be examined. This interactional process minimizes "disputing" between participants who are meeting to resolve a dispute. Complainants and respondents contribute to this outcome by how they position and formulate references to others in their complaints, accusations, and denials. Thus, part of mediation is mitigating accusations by indirect formulations and delayed placement of denials. The advantage of mediation over other types of dispute resolution (e.g., trials, counseling, arguing) may lie not in characteristics of mediators or the difficulty of the dispute, but in the interactional organization of mediation itself.

The objective of this analysis is to show how a specific type of conflict resolution is organized and how that organization enables it to accomplish its goals. While the interactional organization of mediation derives from organizational principles of ordinary conversation, it differs from ordinary conversation in ways that specifically prevent argument from occurring.

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