

# POWER IMBALANCE AND SPOUSE ABUSE IN DIVORCE DISPUTES: DECONSTRUCTING MEDIATION PRACTICE VIA THE 'SIMULATED CLIENT' TECHNIQUE

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## ABSTRACT

The issues of spouse abuse, power imbalance, and neutralist versus interventionist styles continue to generate much controversy in the field of family mediation. There remains a paucity of reliable data about the precise nature of the interventions of family mediators in cases of power imbalance and spouse abuse, and the degree to which they incorporate particular items of divorce law and current divorce-related research into their practice in relation to these issues. This paper presents the results of a study examining the working methods of a group of Canadian family mediators using a 'simulated client' data gathering technique, in which mediators were briefed to interview the researchers as a divorcing couple who had come to them for an initial mediation session. The study yielded rich data that is systematic and comparable, shedding light on how mediators manage these cases.

Relatively little systematic data has been gathered about the working methods of divorce practitioners, and the precise manner in which they deal with situations identified as 'problematic' in the mediation field. In particular, there is little reliable information about what actually occurs during the initial phases of the family mediation process, from pre-negotiation to clarification of issues in dispute, between mediators and disputants in cases where power imbalance and a history of abuse compromises the ability of one of the parties to adequately represent interests in the negotiation. Conventional research methods such as structured survey approaches have been found wanting in generating this data, and recent analyses have begun to use a variety of more direct and in-depth qualitative methods examining what family mediators actually do in these cases.

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This paper presents the results of a study examining the interventions of a group of Canadian family mediators via a data gathering method, the 'simulated client', in which mediators were briefed to interview the researchers who had assumed the personae of a divorcing couple who had come in for an initial mediation session. The study was part of a larger project examining and comparing the working methods of two groups of divorce practitioners: lawyers and mediators. The study yielded data that is systematic and comparable, in relation to how mediators tailor their methods and strategies to the particular context facing them, to the unique characteristics of the dispute and the unique needs and situation of the disputants. Specifically, the research examined how mediators respond in a situations of power imbalance and spouse abuse, and their choice of a neutralist versus interventionist mediator approach in handling these cases. Although the following discussion is limited to these issues, the project generated a large body of data in regard to mediator awareness, interpretation and incorporation of divorce law reform; mediator awareness, interpretation and incorporation of current divorce research; management of the initial phase of the mediation process; mediators' position in relation to core issues and debates in the family mediation field, the strategies and interventions they employ, and theoretical models guiding their practice; mediators' handling of substantive issues in dispute, including post-divorce parenting and financial arrangements; and the impact of mediators' professional background, practice setting and an array of other factors on mediators' perception of practice issues and use of strategies and models, and handling of substantive issues in dispute.

## 1. THE SIMULATED CLIENT METHOD

The 'simulated client' data gathering technique was developed in an attempt to overcome many of the methodological limitations of traditional research methods (Wasoff and Dobash, 1992; Wasoff and Dobash, 1996). It combines elements of both participant observation and the structured survey, and yields data that is both systematic and comparable, while reflecting the diversity and complexity of a natural social setting. Our purpose in using this technique in the realm of family mediation was to observe the mediation process in an in-depth manner, in a setting which was as natural as possible, while at the same time covering a specific set of issues for study in a way that would allow direct comparison across mediators in relation to the same set of issues.

The method is distinct from participant observation, which is difficult in the context of family mediation for reasons of professional-client confidentiality, and which poses serious problems for comparing mediators in relation to a set of specific research issues. Participant observation does not allow researcher control of the mediation context; that is, con-

control over the types of client and dispute characteristics to which the mediator is exposed. The level of variation of naturally occurring cases confounds examination of specific research issues and questions. The simulated client method allows the researcher to compare how different mediators handle the same case, and thus provides data about the range of variation in relation to specific research issues.

The simulated client method, in providing direct access to mediators' working methods and strategies in a natural setting, also overcomes many of the limitations of conventional interview methods, in which respondents may provide the 'professionally acceptable answer' to difficult issues. In asking mediators to 'just do it', rather than talk about how they would do it, the simulated client design demands less of a departure for practitioners than a self-conscious discussion and recall of their work.

The development and piloting of the simulated client method with a sample of mediators involved a number of discrete stages:

- Identification of specific issues for study: analysis of data from a national survey examining Canadian family mediators' position on core debates in the field, working methods and use of practice models (Kruk, in press), revealed that there are four issues around which the field is particularly divided at the moment: the role of the mediator as therapeutic versus structured toward negotiation; the neutrality of the mediator in regard to both process and outcome; the place of mediation in situations of spouse abuse and marked power imbalance; and handling situations where one of the parties has not come to terms with the ending of the marriage and is hoping for a reconciliation (with the other ready to proceed).

- Construction of two detailed case studies that served to examine mediators' handling of these four issues: two distinct case studies were constructed, each meant to examine two of the four issues for study. Further, if the researchers and their two research assistants were to assume the personae of two divorcing couples in an unselfconscious and convincing manner, they needed to feel that they could genuinely 'play the part'. Four separate case histories thus needed to be constructed, one for each of the players, and each had input into this process.

- Development of a questionnaire to be administered after the simulated client interview: Together, the case histories for each simulated client and the questionnaire constituted the data collection instrument for use with mediators.

- Generation of a sample of twenty family mediators (ten per case study): a random sample of mediators (in private practice, court-based and non-profit community agency settings, and drawn from the legal and mental health fields) in Vancouver, Canada was obtained. Potential respondents were made aware of the study and the method by letter, followed by a telephone call. Consent for tape-recording the actual

session(s) was sought, as this was a necessary component of the research. Those agreeing to participate were briefed to proceed with the researchers just as they would with a genuine divorcing client or couple from the point of initial telephone contact, through to the end of the first session, or to the point of clarifying issues in dispute, whichever came later.

- Piloting of the instrument with mediators, who were 'interviewed' and 'observed' in their natural setting: the researchers thus presented themselves to the mediator as a divorcing couple, first by telephone and then in a face-to-face meeting. The skill of the researchers was essential in establishing the credibility and authenticity of the simulated client couple, both in the construction of the case study and their enactment of same during the mediation session. Importantly, however, in keeping with the usual practice of mediators, the process was led by the mediator. At the end of the session, the researchers broke from the natural setting and the simulated client role, and assumed the role of researchers, administering a brief questionnaire about the mediator's working methods.

Although the researchers were 'in role' as a hypothetical couple, it is important to emphasize that mediators were able to conduct the session as they normally would with a divorcing couple, behaving in ways familiar to them and in a setting in which they naturally enact such behaviour, and thus not 'role playing' in the traditional sense. Extensive preparation resulted in a limited amount of improvisation being required on the part of the researchers during the mediation sessions. The researchers each presented the same persona to ten different mediators, allowing them later to assess the degree of variation in regard to the specific issues under study.

In sum, the simulated client design provided the researchers with direct access to various forms of mediator intervention in the beginning phase of the mediation process and their impact on the parties, as well as the nature and degree of influence of various disputant behaviours and dispute characteristics on the mediator. It allowed the researchers to compare and contrast the working methods of twenty mediators, and to note key areas of similarity and difference across ten mediators exposed to the same case study and set of disputant and dispute characteristics.

### *A. Case Studies*

The two case studies developed each represented situations in which one of the parties would be disadvantaged in the negotiation context: their ability to represent their interests in mediation was compromised. The two divorcing couples were each in their late thirties, and had two children of the marriage, a boy eight years of age and a girl three years

old. In the first case study, the wife's unresolved marital attachment put her at a disadvantage in mediation: she had not come to terms with the reality of the divorce and found it very difficult to begin to work through the issues that her husband was eager to process. In the second case, a dominating and abusive husband created a situation of marked power imbalance in mediation: his wife deferred to him in fear of her own safety, and could not, without mediator probing and explicit safety measures built into the mediation process, name the abuse or identify her fear of retribution and further abuse at the hands of her husband. The second case study is the focus of this article.

### *B. Data Analysis*

The mediation sessions were transcribed at a relatively broad level: exact wording, filler speech, vocalized pauses and silences were noted; we did not attempt to capture voice stress patterns, exact positioning of overlaps and interruptions, or the non-verbal behaviour of the participants. Given the prior construction of the case studies, which were largely based on previously-identified research questions and theoretically derived, categories for analysis were to some degree established prior to data collection. However, new theoretical categories emerging from the data were developed to accommodate what the mediators themselves introduced to the sessions, which was not anticipated.

We approached data analysis with an initial set of assumptions about the goals and purposes of family mediation, drawn from our knowledge of the literature and our experience as mediation practitioners and researchers. In keeping with a communication perspective on mediation, we focused our analysis on the contextual influences on mediation practice and mediation as a mutual influence process between mediator and disputants. We thus examined how mediators directed the mediation process and influenced outcomes, and how they were impacted by certain dispute and disputant characteristics, and assessed the level of variability among mediators in this regard.

## 2. POWER IMBALANCE AND SPOUSE ABUSE

This case study involved a low income couple who had been married for almost ten years. They had been separated for one month at the time of contact with the mediator. The wife had initiated the separation, moving out of the family's rented accommodation with the two children, back to her parents' house. The husband, who had not had any direct contact with his wife or children since the separation, had initiated the contact with the mediator. There had been violence in the course of the couple's relationship, mainly directed by the husband toward the wife, consisting of pushing and shoving and resulting in a black eye on one occasion. In addition, the wife had been the target of verbal abuse,

jealousy, and demeaning and 'controlling' behaviour on her husband's part for many years; her fear now was that his anger had escalated as a result of her leaving and that she was at risk of more serious violence. She did, however, have the support of her family and *with safety measures in place*, would be a good candidate for mediation. The scenario called for the husband to be clear about the issues and to minimize his abusive behaviour; the wife was to also minimize the degree of control and abuse in the relationship, and agree to mediation out of an unexpressed fear of retribution by the husband. Her hope was that if she just co-operated maybe things would get sorted out and she could end the relationship. With mediator probing, the wife would describe her husband as someone with a short fuse who gets angry easily and is sometimes mean; with safety measures built into the process, she would be more forthcoming about previous violent episodes and her fears about escalating abuse.

The key issue in this case was how the mediator handled the imbalance of power and spouse abuse in this relationship. The mediation literature is clear about the dangers of mediating such cases without a number of safety mechanisms built into the process (Girdner; 1990; Toronto Forum on Woman Abuse and Mediation, 1993). We wanted to examine the extent to which mediators were able to probe and identify the abuse, and then how decisions were made in regard to proceeding to the next stage of the process. The main question examined was: did the mediator assume a neutralist or interventionist stance in the initial phase of working with this couple? The mediation literature is clear that in the face of mediator neutrality, abused women in mediation are not only in a less powerful position to represent their needs and interests in negotiation, but seriously compromise their safety at a time during which violence is likely to escalate.

We found that most mediators assumed a highly interventionist approach in this case, beginning with the initial telephone call by the husband, through to the point of identifying issues in dispute between the couple. All ten mediators insisted on speaking with the wife by telephone prior to any meeting, even though the husband did not reveal any abuse concerns in his initial telephone call. Six of the ten mediators directly asked about violence in the relationship in the initial telephone call with the parties, and six of the mediators chose to meet with the parties separately for the initial session. Seven mediators were able, by the end of the initial phase, to identify abuse in the relationship. As mentioned, this required considerable probing as neither partner was forthcoming in this regard. Four mediators directly questioned the appropriateness of mediation in this case; three of these recommended that the couple proceed to negotiation within a 'shuttle mediation' format of meeting the parties separately throughout the process (which they referred to as 'conciliation'), and one halted the process. The others

held joint sessions with the parties, some making use of caucusing as part of the session.

Mediators' interventionist approach to this case was reflected in their constructing the situation as one in which they were faced with two fundamental mediation principles in direct conflict with each other—client self-determination and client safety—in which client safety clearly took precedence over client self-determination. Although they attempted to encourage the wife to make decisions for herself, they essentially took over decision-making regarding the structure of the initial session, whether or not to proceed to negotiation, and the format of the negotiation session. The discourse of safety prevailed throughout this process of mediator decision-making.

Mediators assumed control of decision-making at three points in the beginning phase of work:

*A. The Initial Meeting: Separate Interviews and Screening for Abuse*

As mentioned, subsequent to the husband's initial telephone call, all ten mediators contacted the wife by telephone prior to arranging an initial appointment. Six mediators asked directly about violence and abuse concerns in the initial telephone call; three of these followed up with separate initial sessions, where they probed further regarding abuse. Three of the four others who did not ask abuse-related questions over the telephone arranged separate initial meetings. Six mediators in all thus chose to meet with the parties separately for the initial session.

The separate interviews mainly focused on screening regarding power and abuse; most included detailed questions to each party about power and control in the relationship, and voluntariness, motivation and safety to mediate. Several mediators' assessments focused on the impact of the abuse, and the wife's capability of representing her needs and interests without fear or threat of intimidation. Their questioning reflected a good understanding of the continuum of abusive behaviours. Finally, several mediators were able to introduce the notion of a safety plan for the wife in their private meetings with her.

Although the parties had expected the initial session to be a joint one, mediators introduced a discourse of safety in explaining to each why they had arranged initial separate sessions, and those who picked up on the abuse dynamics indicated to the wife that their paramount and overriding priority would be to ensure her safety at each stage of the process. As part of this discourse, they made it clear that they (the mediators) would have to be persuaded that mediation was appropriate in this case; this was the first suggestion that whether or not mediation would proceed was largely the decision of the mediator.

Mediator: Jane, I am asking these questions, not because I'm trying to get into matters that are really private between the two of you, but I am getting, I am

asking these questions because in order for the two of you to successfully mediate this matter you really have to feel comfortable negotiating with each other and I have some concerns when I hear that in the past you've actually been hurt in one of these fights and then I begin to be concerned about whether or not you might not feel . . . safe in terms of trying to work things out with him. I would not want to be involved in a mediation when either partner might feel intimidated by the other because of either past experiences and based on that, future fears of what could happen or just based on some future fear period. And it sounds like the two of you have gotten into some fairly hot and heavy arguments recently and certainly at least one of them where you were hurt, even though . . .

Wife: That was a while ago . . . it wasn't you know . . .

Mediator: You see I'm also tied into the fact that you chose to leave the family home and go stay with your parents when he wasn't there because you were concerned about how he might stop you and I'm also concerned about the fact that you have chosen to have absolutely no contact with him for the last six to eight weeks. And when I put all that together I can't help to wonder about whether or not you have some fear associated with having contact with him.

*B. Decision-Making Regarding Shuttle Mediation: Client Safety over Client Self-Determination*

In the six initial separate sessions, after the process of screening *vis-à-vis* power and abuse dynamics was completed, decisions needed to be made regarding next steps. At this point, with the discourse of safety firmly established, mediators were able to assume responsibility for decision-making regarding whether mediation would be offered and if so, in what format. Three mediators recommended shuttle mediation, two proceeded to joint sessions, and one decided to terminate the mediation process.

Although with safety measures in place both within and outwith mediation (such as mediation ground rules, independent legal representation, use of support persons in mediation, protective restraining orders, women's support services, and therapeutic services), joint mediation sessions may have enabled the wife to identify her interests and negotiate directly with her husband, three of the four mediators who were the most probing in regard to power and abuse dynamics in the initial separate sessions, and who identified abuse in the relationship, recommended 'conciliation' to the parties, a form of shuttle mediation in which the parties would have no face-to-face contact. The other decided that mediation was not appropriate in this case. They justified their assumption of decision-making in this regard in terms of their overriding concern for the wife's safety. This was not an easy matter; each spoke in different ways of the need to try to accommodate both client safety and self-determination, but found it impossible to do so in this case:



Mediator: I'm kind of . . . I feel like I'm sort of . . . I've got a conflict going here, I feel like I'm almost trying to almost dissuade you from sitting down at the table with him and I don't want to do that. I want that decision to be yours. There have been lots of other situations in the past, Jane, where I'm very clear the two people should not be sitting at the same table with each other and I wouldn't even be doing a mediation in the circumstances but I kind of can't get a grasp of the level of potential intimidation there is here. It sounds like you've had some pretty serious arguments in the past and there's been some pushing and shoving and in one situation, even though it might have been accidental, you were injured. And that going on and having gone on . . . it . . . you can't just wipe that out of your mind so . . . if that's going play a role in your being able to stand up for yourself and negotiate on your own behalf then I wouldn't want to, I wouldn't want to be a participant in that, is what I want to say. And I wouldn't want to lead you into a belief that I can do something here that will create a situation that, in spite of your own fears and in spite of your own potential intimidation, you're going to be able to still negotiate for yourself. I don't want to set you up for that either. So it's a real kind of a push-pull for me. In the end I don't want to take your decision making power away from you if you believe, that at this point you can do it, then we can give it a shot.

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Mediator: Mediation means you've got to be here feeling strong, not worrying about will I upset him. I'm wondering if that makes any sense because what you're saying to me is that you want to make sure that he's happy and if he's happy then it will work.

Wife: Well, I kinda' feel like having made him happy in one regard I can, it gives me the slack to make him unhappy in another. Does that make sense to you?

Mediator: Well, that's very clever, its very clever, I just don't want you to get stuck in the old way which was in the end you lose. At least that's what it sounded like it was feeling for you.

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Mediator: The other thing that we can do is that we can have sessions like this separate from each other and you and I talk about the kids, the plan, and then I spend time talking with him so that you don't have to initially meet. It's like what we've done here except this isn't mediation this is just deciding if we're going to do it, but you and I could start by saying OK let's put down some of the issues and then I could spend time with him.

Wife: Mm . . . Mm . . .

Mediator: How does that . . .

Wife: Well that sounds OK too.

Mediator: That means you wouldn't be working face-to-face.

Wife: Yeah, but it would be mediation?

Mediator: Well it's called conciliation. It doesn't matter what we call it. But it's working on the issues separately and we can start. Because it sounds like there are some key things that need to be solved pretty quickly.

Wife: Yeah.

\* \* \* \* \*

Mediator: Yup. So on the one hand you are feeling more powerful now because you have stood up for yourself, you have taken a stand and I guess the flip side of that is from his perspective, he will feel less powerful and less able to influence or control you and the children, and I've not met Grant so I'm only going on what I do know in my fifteen to twenty years of work in this area which is that very often that escalates his sense of needing to regain control and needing power. That's the concern I mentioned to you on the phone.

Wife: Right.

Mediator: And it's a concern that I have about bringing the two of you together at this time to work on these issues.

Wife: Mm . . . Mm . . .

Mediator: How are you feeling about that there are really two options right now . . . three perhaps . . . in looking at trying to work things out. You have some practical questions; you've mentioned a few already. Practical decisions that have to be made one way or the other. One way is to do that through mediation where the two of you come together. We encourage that if people are willing and able to come together and not hurt each other and be respectful and work through to a good agreement. Um the middle step is where each of you, your intentions are good and you really do want to negotiate something that will make life stable and strong for all of you and yet it is hard to control yourselves because of the emotional impact of what you are doing and because of the history of your relationship. That to me sounds to me like where you are. The third option is where things are so out of control that, and you feel so intimidated by standing up for yourself that mediation is increasingly risky. And in those cases we really encourage you to look at the other options which are putting into to place some legal sanctions and legal advise and more security for yourself to the degree that you can build that. So as I lay out that spectrum where are you seeing yourself to be?

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Mediator: It's not just his decision for the mediation to proceed and it's not yours. It's mine as well and the concerns that have been brought up here today have been my concerns. I, I'm pointing out some things I've heard from you and some things I've seen from you that have led me to think that mediation may not be the wisest thing to take place. It may not be the appropriate forum for decisions to be made and it's my decision that mediation not proceed, OK?

Wife: Mm . . . Mm . . .

*C. Decision-Making in Joint Sessions: Mediator as Spokesperson for the Weaker Party*

Four mediators met with the parties jointly for the first session; two of the six mediators who met separately with the parties also proceeded to joint session. In joint sessions, the power imbalance between the parties quickly became apparent as the husband attempted to dominate the session, making repeated demands on his wife and trying to force across his agenda. Mediators used several tactics to maintain control of the process. At times, however, these tactics also served to influence outcomes which were not necessarily in the client's best interests. This was particularly evident when mediators assumed the role of spokesperson or advocate for the wife, representing and in some cases arguing for her perceived interests with the husband.

An example of this was a case where the mediator, rather than protecting the wife's own voice, was pulled into speaking for her in an attempt to challenge her husband's inclination to speak on behalf of his wife. Her desires regarding the living arrangement for herself and the children was at issue. Her wish was to return to the family home and have the husband move out, but was afraid of expressing this directly, anticipating her husband's anger and opposition. The mediator's intervention served to further disempower the wife. She was in effect placed in the middle of a power struggle between the mediator and husband: they got into an argument over what the wife actually wanted, in front of her, effectively silencing her. The mediator then asked her to clarify the situation. As a result, she became caught in a double bind and 'no-win' situation: expressing her true wishes would incur her husband's wrath; disagreeing with the mediator (her 'knight in shining armour') would cause him to lose face with the husband, which could have negative repercussions. She was prevented from expressing what she actually wanted, and her response was ambiguous and evasive, reflecting a high degree of discomfort:

Husband: Yeah, and it also sounds like she'd like to introduce in the back door moving back into our house and I assume that means that I move out and uh, I mean the way I see it happening, right, is she leaves with the kids to her folks' place and this doesn't work out. She's got the kids, she'd like to move back in. Well, this sounds real reasonable to everybody and the reasonable next stop of course is for me to move out. Where am I going to live?

Mediator: Um . . .

Husband: Yeah, what's going to happen to me?

Mediator: I can appreciate the concerns you have about that. From the point of view of the mediation process here, um, Jane has not indicated that um this is what she's up to, what she has said is that she has spoken about her need

to move to a different space. I did not hear her indicate of her desire to move back into the space where you are now. OK?

Husband: Why don't you just ask? Is that what she had in mind?

Mediator: Um . . .

Husband: 'Cause that's what it sounded like to me.

Mediator: OK. And certainly it did not sound like that to me. What Jane had expressed was, um, a need to find a living arrangement which was more convenient to her and the kids right now.

(Long pause)

Husband: But she said, it would be nice for them to be in their bedrooms in the beds with their blankets.

Mediator: OK.

Husband: How are they going to do that if they don't move back into the house?

Mediator: OK. Um . . . certainly the impression I got was that having the kids, having the kids have a place that they can call their own. There was certainly no indication to me that um it was specifically your other view in terms of saying you have to be out of there, we're going to be back in there. (Pause) You, you seem . . .

Husband: OK, well I mean I read it different.

Mediator: OK. Well um Jane um certainly there's a difference in the impression I've drawn and the impressions Grant has drawn and I think for the purposes of moving the process ahead here we may need to try and solve this. When you spoke about a space other than, um, a space at your parents' place, um, can you explain maybe what you were making reference to?

Wife: Well um, I just thought, um . . . well you see it's very hard to find housing in that area, um, I want to be back in that neighbourhood 'cause that's where I work and where the kids go to school and where all our friends are and where I have friends, um, and where we've, you know, I've lived for a decade and we've lived in that house for . . . for uh five years and I suppose if something can be found cheap, you know, with as good a rent and as good a kind of location, you know, 'cause as far say \$800 for a duplex and three bedrooms and . . . you know with a basement and that's really hard to find. Um but I can't, I mean, I can't afford it right now. I mean I suppose it would be OK to, if there was someplace else. It's just that . . . it has to get sorted out pretty quickly.

Mediator: Mm . . . Mm . . .

Wife: Right.

Mediator: I guess, I guess for the purposes of the mediation, I guess that some clarification is needed in terms of you, are you here specifically for the purposes

of um asking.. to move back into the space you were before or a similar space in the area? (Pause)

Wife: I don't . . . I don't know.

Mediator: OK. OK. Um . . .

Wife: I guess wherever.

Three of the mediators, all lawyers for whom mediation was an adjunct to their family law practice, did not pick up on the abuse dynamic in this case, despite their attempts at initial screening in this regard. Two of them conducted the joint session as an exploratory interview, relying mainly on closed questions to obtain specific information, and were able to maintain the appearance of control of the session in this fact-finding manner. In the third case, which was much more open-ended, the mediator lost control as the husband used bullying and browbeating tactics to gain concessions from his wife. It became clear from this session in particular that an interventionist approach, with the mediator holding tight reigns on the process, was essential; and that mediator control over decision-making in regard to recommending shuttle mediation in the interests of the wife's safety was probably the best strategy in this case.

### 3. CONCLUSION

The results of this study demonstrate the importance of context and the influence of dispute and disputant characteristics in shaping the behaviour of family mediators. They also demonstrate mediators' control of process and outcome, and their use of 'selective facilitation' (Greatbatch and Dingwall, 1990). In the context of spouse abuse and power imbalance, seven out of ten mediators were highly interventionist in response to the wife's disadvantaged position, and in the interests of her safety, either controlled decision-making regarding the format of mediation or attempted to hold tight reign over the joint sessions. They selectively responded to those elements of the parties' communication that reinforced their decisions regarding the format of the mediation process, and their interpretation of the needs of the parties in negotiation. In making decisions regarding the format of mediation, mediators made their decisions in a careful and considered way, in a manner that led the wife to concur with their decision, and in a way that she felt empowered. In the joint sessions, however, whether the mediator took her voice or failed to maintain control, the effect was highly disempowering.

In the situation of power imbalance and spouse abuse, in which one party is at a disadvantage in regard to her ability to negotiate on an equal footing with her husband, most mediators assumed a highly

interventionist approach. This may reflect the high degree of public attention and scrutiny in the realm of mediation and woman abuse, and mediators' growing sensitivity to these issues. The degree of control that they exercised in regard to process and outcome, however, had a largely disempowering effect on the abused spouse.

The simulated client data gathering technique allowed us to observe these responses in an in-depth manner, in a setting which was as natural as possible, across a set of mediators exposed to the same context, and dispute and disputant characteristics. While there were a number of important variations in how different mediators handled each case, our results suggest that in regard to certain issues, mediators respond in fairly patterned ways, adopting, in the interests of client safety, a highly interventionist but ultimately disempowering approach in a situation of power imbalance and abuse.

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