

1-1-2015

# A Phenomenological Study of Notable Family Mediators: An Examination of Family Mediator Effectiveness

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A Phenomenological Study of Notable Family Mediators:  
An Examination of Family Mediator Effectiveness

by

Paula Bell

A Dissertation Presented to the  
Graduate School of Humanities and Social Sciences of Nova Southeastern University  
in Partial Fulfillment of the Requirement for the Degree of  
Doctor of Philosophy

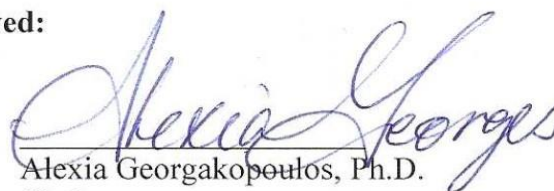
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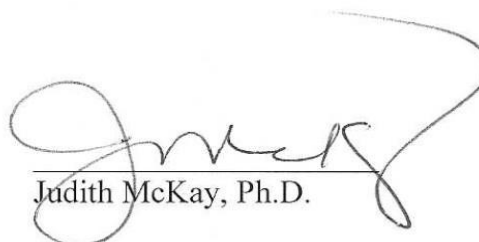
**Nova Southeastern University**  
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This dissertation was submitted by Paula Bell under the direction of the chair of the dissertation committee listed below. It was submitted to the Graduate School of Humanities and Social Sciences and approved in partial fulfillment for the degree of Doctor of Philosophy in Conflict Analysis and Resolution at Nova Southeastern University.

**Approved:**

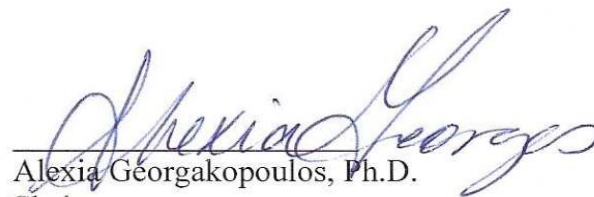
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## Dedication

This dissertation is dedicated future, current, past family mediators who have the passion to change the lives of families for the better.

## Acknowledgements

I would like to acknowledge everyone who has helped me on this journey. First and foremost, I would like to thank my family. To my parents: David and Shirley, even though you are not here on earth, I know you are with me in spirit. I would like to thank you for your guidance. To my siblings who have passed: Susan, David and Albert, I want to thank you for watching out for me. To my sister Laura, you pushed me to continue toward my goals, thank you.

I would like to acknowledge Dr. George Gregoriou who asked me as an undergraduate at William Paterson “what do you want to do when you graduate?” You assisted me to become ‘like you’ which was my answer. You will always be my first of many mentors.

Then, there are the tremendous people at Nova Southeastern University; my thank you comes straight from the heart. I would like to acknowledge Dr. Georgakopoulos for your unyielding belief in me when I did not have it in myself, thank you. Dr. McKay for giving me the chance to present at Peace Place and encouraging me push me beyond my limits, thank you. Dr. Marquez, thank you, for your input and wisdom in this dissertation process. To all of the professors at Nova Southeastern University that I have had the pleasure interacting with, without your insight and support I would not be where I am now, thank you.

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## **Abstract**

This study defined family mediator effectiveness as ‘having a lasting positive impact on parties after mediation has concluded’. The purpose of this research was to uncover the nuances that give some family mediators effectiveness. This study used Husserl’s transcendental phenomenology as presented in the book, *Idea: General introduction to pure phenomenology* (Husserl 1962/1913). Since this was a phenomenological study, advanced family mediators shared their lived experience to provide valuable information. Participants for this study were selected for their family mediation experience. A group of 18 advanced family mediators who had at least 15 years of experience and at least 75 mediated cases in the area of adult family and divorce (all issues) were selected from Mediate.com. The data analysis process for all five research questions yielded 1,750 horizons with a final 224 themes. The final outcome was an integrated phenomenological framework for understanding family mediator effectiveness.

## Chapter 1 Introduction to the Study

What is family mediator effectiveness? This question can be hard to answer. There could be a number of ways to define effectiveness. This study defined family mediator effectiveness as ‘having a lasting positive impact on parties after mediation has concluded’. Researchers have studied effectiveness in various fields, in order to identify the aspects of it. Performing studies with individuals who have been successful at their craft can shed light on their respective techniques and skills. Provided the masters were conscious of their thoughts, feelings and actions as they occurred, they have the ability to provide their lived experience to the inexperienced thus improving that discipline (Riskin 2004).

This study followed in the tradition of exploring effectiveness by attempting to uncover how advanced family mediators perceived family mediator effectiveness. The participants interviewed gained prominence in the field and the ability to share their life experience and knowledge with current, new or future mediators. This study provided them with the opportunity to enhance overall family mediator effectiveness. This was a phenomenological study, so what family mediators perceived to be effectiveness was not known as they recounted their experience in the field. Each experience was unique to the participants and could not be compared with other family mediators.

Family mediators typically have a professional background in “mental health professionals, social workers, marriage and family therapists, psychologists, and psychiatrists...and lawyers (Milne, Folberg, & Salem 2004, p.9)”. They mediate cases that would normally be referred to family court such as: divorce, separation, alimony, child support, child custody, parental visitation, elder care, probate, guardianship, and

family care-giving. Family mediator has to adhere to state laws as well as to standard mediator ethics when they practiced mediation (Milne, Folberg, & Salem 2004).

Family mediators can be court appointed and/or in the private sector. Family mediators attempt to resolve disputes in a specific time period before they have to send it back to family court. They mediate a number of cases during a day. Court appointed family mediators linked to the court system, assist in the matters of child parenting plans, custody, visitation, and in some financial issues are dependent on the state laws (Milne, Folberg, & Salem 2004). Family mediators attempt to resolve disputes in a specific time period before they have to send it back to family court. They mediate had a number of cases one day in family court. Court appointed family mediators typically do not have the ability to select or reject cases that were tied to the court docket. The private family mediator provide broad or narrow services based on the need of the parties as they had the ability to select cases and schedule accordingly (Milne, Folberg, & Salem 2004). The private family mediator can be flexible in their choice of mediation models as time is not an issue compared to court mandated mediation.

### **Purpose of research**

Many states have turned to alternative dispute resolution to alleviate court dockets for issues such as: divorce, interfamily conflict, elder care, and special needs children. When families have problems or couples are looking to separate, family mediation can be a viable solution to the traditional court system. Since “almost all parties enter mediation in anger...family mediation has higher anger than the others” which had been a result of close personal ties to the other party. Therefore, it is important for the family mediator to create an environment where change can occur without major disruption to the family

(Taylor 2002). The court system had been known to increase anger and potentially add to the disruption of the balance of the family and the future of co-parenting.

Families can conflicts between: siblings, parents, children, or among parent and children. External or internal issues, i.e., drug abuse, alcohol use, parental absenteeism, mental illness, allocation of responsibilities, or will/estate discrepancy had been known to create tension and disagreement between family members. Many parents or adult children take full responsibility for a special needs child or elderly parent which require additional care either inside the house or at an outside facility. Finally, the most common family issue is divorce and separation. In divorce and separation, items such as cumulative property division, alimony and matters of custodial custody, child support and visitation have to be settled before the marriage could be severed for co-parenting to begin.

The purpose of this research was to uncover the nuances that gave some family mediators effectiveness. Ultimately, the results of this study were to assist practicing and future family mediators to be more conscious of their behavior. Since this study was a phenomenological, the results were not known when conducted. The purpose was for advanced family mediators who shared the lived experience to provide valuable information. Thus other family mediators could emulate effectiveness, transforming relationships between themselves and the parties. Additional research needs to be conducted to provide superior services in the area of family and family mediation.

### **Background on Families**

The idea that marriage had been about love is not based on fact. The idea is a relative recent Western concept. Historically, marriage was an arrangement between

family members in order to secure wealth and power in affluent families (Coontz 2005). For poorer families, an arranged marriage is a source of income, the dowry or bribe price, system transferred money from the women's family to the men's family or from the men's family to the women's family, respectfully. In farming families it was a unification of two families into one thus ensuring additional children to work for the whole (Coontz 2005).

Coontz (2005) argued the Western concept of love marriage or "traditional" marriage has weakened the institution of marriage because of the idealized image of what it was supposed to fulfill. The idealized marriage has been hard to realize even though the Western culture has perpetuated it through the media. In reality, the idealized version of marriage continued to be strived for yet it has been replaced. In the post-modern era, traditional marriage had been substituted for co-habitation, children out of wedlock, single parenthood, high rates of divorce and remarriage (Coontz 2005). The post-modern era is not new but has become more acceptable than previous in time periods (Coontz 2005). The result, post-modern society created what is deemed unconventional families in the West.

With that being said, families can be defined as a group of two or more people connected emotionally, financially and/or socially to each other. Most families had a structure and composition as they provide "four emotional needs of an individual: affection, belonging, fun and freedom (Taylor 2002, p.12)". Economically, two person income has provided more stability. In addition, it had allowed parents to participate in the consumer driven society that less fortunate are unable to do. Many families generated

a social circle that could include: extended family, friends from each partner, colleagues, and neighbors. These social networks had been known to support the family unit.

This study concentrated on the Western culture because the advanced family mediators practiced their craft in the United States. The family structure and composition played key roles in how conflict would have had been addressed. An egalitarian relationship had been considered a functional family. The functional families stood open to change yet, were protective over their family values (Taylor 2002). “The four most destructive behaviors to marital happiness are criticism, contempt, defensiveness, and stonewalling (Schwartz & Scott 2012, p.267)”. Criticism can take the form of: personal attacks, contempt, negative attitude, and defensiveness, shifting responsibility, stonewalling which breakdown communication (Schwartz & Scott 2012). These challenges happen in a marriage but, those that respond with constructive and resiliency were able to work out their differences (Schwartz & Scott 2012).

No-fault divorce allows partners to file for divorce without mitigating circumstances i.e., physical, mental, sexual abuse or extramarital affairs. Acrimony remains high as the shift in personal happiness changed. This is noticeably in high conflict cases where divorce proceedings increase hostility (Ver Steegh 2008). It is believed, typical court divorce proceeding where the former couple were placed against each other, intensified the tension and anger because the dynamic of winning and losing are introduced by attorneys. As a result, parenting coordinators were introduced in high conflict divorces. Parenting coordinators in assist families in making decisions conducive to child and parental schedules (Ver Steegh 2008). According to Ver Steegh



(2008), “Children benefit from healthy ongoing relationships with both parents” especially with an active father post-divorce (p.660).

Families that have little or no structure which make family life chaotic and stressful for all of the family members’ roles become tentative and unpredictable (Taylor 2002). Families, who fell into dysfunction, typically have trust issues due to unreliability, absenteeism or substance use. One parent would become solely responsible for the tasks of the family. Resentment between parents rise due to the imbalance of power and the unequal weight of responsibilities.

Codependency is a psychological condition that has been known to occur in dysfunctional families (Taylor 2002). Codependency is a behavior which one member of the family assumes the position of martyr to “rescue all other members of the family from the negative feelings” (Taylor 2002, p.37) of the non-functioning family member. Ironically, the codependent may have said “they wanted change” however, when offered they were resistant to accept the help (Taylor 2002, p.37). In some cases, spouses have developed Parental Alienation Syndrome (PAS) (Taylor 2002). PAS is, a condition, when one parent criticized or has contempt for the other parent which could make the child despise the ‘marked parent’ (Taylor 2002). Codependent relationships and PAS remained filled with anger and predisposed to “high conflict and negative triangulation” (Taylor 2002, p.45) in divorces with child custody arrangements.

Domestic violence has remained controversial within mediation circles. Domestic violence which is physical, verbal or emotional abuse could manifest in different ways (Ver Steegh 2008). Those who mediate in cases of domestic violence are “experienced and specially trained” to navigate those sensitive cases (Ver Steegh 2008 p.666). Most

family mediators screen for domestic violence. Many family mediators refuse to mediate domestic violence cases.

### **Goals of this dissertation**

There were several goals for this study. In previous studies, mediation itself had been documented as effective in dispute resolution (Folger & Baruch Bush 1996; Jones 2009; Jones & Georgakopoulos 2009; Lande & Herman 2004; Mantle & Critchley 2004; MACRO 2004; Mayer 2013; Maxwell 1992; Spangler 2003; Wall, Jr. & Lynn 1993; Winslade 2006; Zumeta 2000). Previous studies had also focused on the mediation models and on the aspects of mediation such as: confidentiality (Harvard Law Review 1984; Landau & Landau 1997; Lobel, 1998; Wall & Chan-Serafin, 2009), neutrality/impartiality (Bernard, Folger, Weingarten, & Zuma, 1984; Cobb & Rifkin, 1991; Greig, 2005; Rock, 2005; Smith, 1994), trust and confidence building (Greig, 2005; Kydd, 2006; Landau & Landau, 1997). There were journal articles that concentrated on mediator characteristics (Bowling & Hoffman, 2000; Kemp & Bader, 2004; Krivis & Zadeh 2006; McGuigan 2009; Starr & Page 2005; Volkema 1988) and the role of the mediator in mediation. Typically, studies looked at the mediator in general terms and suggested skills, techniques and/or attributes (Carnevale, 1986; Greig, 2005; Kimsey, Fuller, Bell, & McKinney, 1998; Noll, 2009; Riskin, 1996; Wood, 2004; Zartman, 2001; Zubek, Pruitt, Peirce, McGillicuddy, & Syna, 1992). Studies typically grouped mediators into one category “mediators” thus ignoring the intricate dimensions of family mediators. This could have been the result of confidentiality within the field of family mediation.

This study had five research goals of understanding: (1) How advanced family mediators perceived themselves in the context of their role as family mediators, (2) How advanced family mediators defined and perceived “family mediator effectiveness”, (3) If family mediators believed there were specific characteristics or attributes that promoted family mediator effectiveness, (4) How advanced family mediators defined and perceived family mediator ineffectiveness, (5) If possible, how advanced family mediators envision making ineffective family mediators effective.

Goal one: Understand how advanced family mediators perceived themselves in the context of their role as family mediators.

This study attempted to uncover how family mediators see themselves and their role. Staying within the phenomenological tradition, family mediator provided insight into how they perceived their role (noesis) and reflected on their role (noema). During their interview, family mediators were asked to describe what they did for a living. Their reflection on being a family mediator was their lived experience. How they described what they did provided the rich textural description, indicative of the noematic and noetic experience.

Social construction of reality (Berger & Luckmann 1976) and role-set (Merton & Sztompka 1996), were used to understand how family mediators interpreted their role, and how ingrained it is to their role-set within their field. They clarified the level of consciousness through recounting their lived experience.

Goal two: Understand how advanced family mediators define and perceive “family mediator effectiveness”.

Many people define effectiveness through success. Success, however, can be subjective. This study examined what advanced family mediators deemed effective through their own definition and perception. Since this was a phenomenological study, the goal was to find the essence of family mediator effectiveness. Advanced family mediators, as defined by this study, have been mediating in family mediation for over 15 years. They have the experience to personally evaluate family mediator effectiveness using reflection of the noema.

Goal three: Uncover what advanced family mediators believe are specific characteristics or attributes that promote family mediator effectiveness.

If there were specific characteristics, attributes, or features that advanced family mediators perceived to assist them in their effectiveness they would help current and new family mediators with their practice. Since this was a phenomenological study, it was not known what advanced family mediators would state to be the specific features of family mediator effectiveness or even if there were attributes of effectiveness. However, in phenomenology it was important to be aware of their present or noesis. As well as understanding the fruitfulness of the structural intention of their noetic experience. Most family mediators had been quick on their feet to deal with conflict of the family members in front of them. Advanced family mediators, upon reflection, provided what they perceived to be the characteristics of effectiveness.

Goal four: Understand how advanced family mediators defined and perceived family mediator ineffectiveness.

Similar to effectiveness, the definition and perception of family mediator ineffectiveness can vary between individuals based on what they deem unsuccessful. It

was useful to understand how advanced family mediators defined ineffectiveness because it would shed light on both effectiveness and ineffectiveness. It was interesting to discover how they attached meaning to different aspects of their definition and perception of family mediator ineffectiveness. As with family mediator effectiveness, the family mediator has to reflect on their practice by using the noetic experience. They had to evaluate what had been effective versus ineffective in relation to their practice in order to define ineffectiveness.

Goal five: Uncover how advanced family mediators envision making ineffective family mediators effective.

Advanced family mediators have the ability to reflect upon what they had done within the last 15 years or more of their mediation experience. They have a keen understanding of their process, strengths, weaknesses, and can illuminate how they became effective. They can provide on insight in how family mediator effectiveness manifests. Advanced family mediators can describe their techniques, skills, characteristics, attributes or features that made them who they are today.

## **Theoretical Framework**

### **Transcendental Phenomenology**

Phenomenology is a philosophy of the interpreted lived experience. By the use of phenomenology subject's words, emotions, feelings, senses, and perceptions they capture the essence of the phenomenon. Edmund Husserl developed the practice of transcendental phenomenology which transcended the surface of experience into its essence (Husserl 1962/1913). This study used Husserl's transcendental phenomenology

as presented in his book, *Ideas: General introduction to pure phenomenology* (Husserl 1962/1913). It is within this book, that Husserl detailed the steps of transcendental phenomenology as well as the importance of this methodology for the search of universal truth. This study investigated the lived experience of advanced family mediators.

Using this analysis allowed the participants to use their own words to describe how they saw the world. Phenomenology does not hypothesize, anticipate or infer results of an experience; it reveals how people intended and interpreted aspects of their lives. The reason for using this methodology was to explore the characteristics of family mediator effectiveness from family mediators who had experienced it themselves, without adding the researcher's presuppositions or influence of previous studies. I asked advanced family mediators to recount their experience using open-ended questions. After the prescribed open-ended questions were asked, they were asked additional questions to elicit more information regarding the phenomenon. These questions were in direct relation to what the participants had stated. In transcendental phenomenology, rigorous steps were used to ensure the subject's experience remained intact while a deeper investigation through reduction enriched the understanding of the essence of the phenomenon.

Moustakas (1994) asserted there were nine principles to obtain the core of the human experience:

1. The natural standpoint: "appearance of things as they occur in everyday life" (p.58).
2. Intentionality: "examining from phenomenon many sides until unified vision is achieved" (p.58).

3. Consciousness: “seeks meaning at essence through reflection on conscious acts” (p.58).
4. Noema: “descriptions of experiences...the original texture of things” (p.58-59).
5. Noesis: “passionate involvement in whatever is being experienced” (p.59).
6. Intentionality: “Subject and object are intertwined” (p.59).
7. Signitive and intuitive intention: “Intersubjective reality is part of the process” (p.59).
8. Epoché: “Data of experience, my reflection” (p.59).
9. “Portrayal of the phenomenon is vital, rich, layered in its textures and meanings” (p.59).

Participants in this study, viewed the world through what Husserl called the “natural standpoint” and the “natural attitude” (Husserl 1962/1913, p.45). This study used the term natural standpoint to indicate the perspective of the first person or as Husserl states: “I and my world about me” (Husserl 1962/1913, p.91). The ego-centric view of the world is how life presented itself to the subject, unadulterated (Husserl 1962/1913). The natural standpoint tended to reveal the infinite and finite possibilities while also housing the known and unknown opportunities of that moment (Husserl 1962/1913). In the natural standpoint, one can control aspects of the world by giving something attention while simultaneously ignoring other features. Family mediators have experienced the natural standpoint while in mediation. What family mediators perceived as real or what they considered phantasy is locked away in their consciousness as the natural standpoint unfolded and became the natural attitude (Husserl 1962/1913).

The natural standpoint could orient one's perception whereas the natural attitude is relational to the perceptual intention. In phenomenology, once the natural standpoint had been obtained in order to locate their intention, the researcher performs a reduction to reveal the participant's natural attitude. Sokolski (2000) referred to the natural attitude as "our default perspective" (p. 42). The natural standpoint stemmed from, how much attention or lack thereof, memories which could be awoken through memories.

Moustakas (1994) described intentionality as "consciousness toward something (real or imagined, actual or nonexistent); that the noema gives consciousness its direction toward specific objects" (p.68). One's intentions were acknowledged during the time of phenomenological reduction as family mediators recalled their experience in vivid detail. In this phase, every event was considered intentional as it took on the form of objects (Husserl 1962/1913). For example, a mediation session has a location, furniture, parties and emotions. The family mediator had been taught to suppress their personal feelings and emotions during mediation in order to assist disputing parties to resolve their issues. Therefore, they embed their intention in their subconscious, only to be recalled during phenomenological reduction.

The required phenomenological reduction was to capture what family mediators were experiencing, feeling, and thinking about family mediator effectiveness. Family mediators were aware of the party's intentions when they mediated disputes to which they had to remain neutral or impartial. Neutrality has been defined to mean the family mediator's behavior toward the parties is unbiased (Moore 2003). Whereas, impartiality has been defined to mean the family mediator does not have bias or takes a position during mediation (Moore 2003).



In the phenomenological reduction, the noema and noesis highlight the intentionality of family mediator effectiveness. The noematic phase emphasize the recollection of and how one attached meaning to the experience (Moustakas 1994). Husserl (1962/1913) described noema as “perceived as such” or the connection between emotions of an individual and the experience (p. 240). In the noematic phase, one had to be aware of their consciousness, to be able to disengage from it in order to evaluate it as reality (Husserl 1962/1913). Each intention which Husserl considered an object contained “the present and the possible (Husserl 1962/1913, p. 243)”. “The present” is known as the actual i.e., the location, furniture, parties and the parties’ emotions; whereas “the possible” is known as the emotion the family mediator placed in an intention (Moustakas 1994, p.29). It is not uncommon for the family mediator to have memories of the location or furniture which conjure up feelings from a different time. They could also have negative emotions stimulated by the parties as they discussed their relationship.

Reality does not have to be real or right. Reality means something to the individual based on its “worthfulness”. In other words, worthfulness is the worth the individual places in the essence of the experience. Worthfulness can be compared to jewelry. It is not the worth of the jewelry (worthfulness) but the value placed upon it through memories; hence, noema is enhanced if the family mediator placed value upon the aspect they deemed effectiveness through their intention.

In the noesis phase, the family mediator attaches meaning to what is going on during the mediation. The noesis is considered real time, as the person is experiencing it. The individual, at that time, does not apply full meaning to the experience until it is recalled. It is not that the family mediator is a robot performing proscribed routines but

the actions and perceptions cannot be appreciated during that moment. That does not mitigate the perception of that moment. If one is present, mindful, and reflective of one's feelings, thoughts and emotions, they are more apt to appreciate the experience and assign a meaning to it as the noesis occurs. Again, not every family mediator is aware of their consciousness; therefore, the noesis would be drawn out to discover its meaning to the participant (Moustakas 1994).

The intentionality is further developed by what is called the signitive and textural intentions. They present themselves during the noematic and noetic phases. In the signitive intention, one can be conscious of their awareness, but lack appreciation of what they are intending (Moustakas 1994). So, in the example of the house using the signitive intention, one can be conscious of the house physically and aware of its significance to people. In the intuitive intention, one is not only conscious of the experience but also of the meaning (Moustakas 1994). The house, in the intuitive intention, could represent not just the physical house but also, the life and death, struggles of the family, good and bad memories, the history of the neighborhood, people's purpose in life, and the linking of everyone to the human continuum. Intuitive intention can assist the family mediator to direct their mental energies to "determine its object" (Moustakas 1994, p. 78).

Within the scope of intentionality lies the texture and structure. The textural intention is meant to describe the vivid detail of the noematic experience of the individual (Moustakas 1994). It could be like viewing a painting, by examining each brush strokes, color and finally its personal meaning. The structural intention is part of the noetic experience. The structural intentional is meant to bring forth the reflected consciousness of the everyday while recalling memory (Moustakas 1994). The textural and structural

relies on each other to provide a holistic picture of what the family mediator experienced and what they had experienced (Moustakas 1994).

Phenomenology is about attaching meaning to experience. I concentrated on the essence of how the participants defined family mediator effectiveness. When family mediators were questioned about “family mediator effectiveness”, it is not quantifiable but subjective. Husserl had used the terminology of noesis and noema to differentiate how one perceived an event and how one had perceived an experience (Husserl 1962/1913). In family mediation, the family mediator relies on verbal and nonverbal communication, disposition, and the emotion of clients which could be objectified and analyzed but the exactness of what constitutes effectiveness is undetermined until they defined it.

This study explored the noesis and noema of intentionality to understand what family mediator effectiveness and ineffectiveness were from the perspective of advanced family mediators. Open ended questions were utilized to gain texture and structure of the noematic and noetic of the lived experience. Participants gave details of how they perceived their events and how they perceived their experiences. This allowed me an inside view of the how family mediators perceived effectiveness. By the end of the study, advanced family mediator’s own words exposed how they viewed family mediator effectiveness through themes and patterns. It is through advanced family mediators that we discovered what family mediator effectiveness was and what it was not. In essence, future family mediators and current family mediators could apply what was learned through the experience of advanced family mediators and incorporate certain aspects that they deem worthy in their practice.

## **Epoché**

Epoché is removing one's assumptions from research (Moustakas 1994). The main focus of this research was the phenomenon. I attempted to uncover the objective and subjective reality of the participants (Moustakas 1994). The objective reality was their personal view, without interpretation (Moustakas 1994). An example of objective reality would be the number of clients a family mediator would set-up for mediation. The subjective reality was the how a person interprets what they viewed (Moustakas 1994). In subjective reality a family mediator might have perceived the tension between the family members. Together, objective and subjective reality is believed to take a snapshot of what the participant experienced.

I removed myself from the research by creating a distance. Distance was my lack of experience in the field of family mediation. This distance allowed me to observe and interpret the essence of the phenomenon without imparting my own judgment. If I were to add my perception of reality to their experience it would invalidate the essence of their phenomenon.

## **Role-set**

Social status is considered to be one's position in society, as well as one's potential mobility within that society (Merton & Sztompka 1996). Society created expectations in statuses for its population to achieve. Within the realm of social status are roles. Roles are behaviors that are also established by society for the population to achieve. Depending on the society, a role could be rigid or flexible. For example, in a rigid society, one's status is dictated by birth and there is little change. In a flexible

society, a person can have upward mobility and they can change their status. In both cases, the role of the family mediator is typically a third party intermediary who assists parties create a solution problem.

A role-set is a corresponding expectation of a role and the social obligation it has with others within that status (Merton & Sztompka 1996). In the example of family mediator, each has an obligation to be a third party. When a family mediator perceived their role different than others within the role-set; it creates “conflict with the expectations” of others within that role-set (Merton & Sztompka 1996, p.115). The definition of the role could be influenced by economic, political and social backgrounds. Different definitions create strong opinions which could make congruency in family mediation difficult.

Role-sets has social mechanisms and established expectations. Accordingly, there are six social mechanisms established in role-sets: “1) relative importance of various statuses, 2) difference of power of those in the role-set, 3) insulation of role-activities from observability by members of the role-set, 4) observability of conflicting demands by members of the role-set, 5) mutual social support among status-occupants and 6) abridging the role-set (Merton & Sztompka 1996, p.116-121)”. In relative importance of various statuses, one’s status competes with other statuses within the society. The value placed on one’s status dictates the level of importance (Merton & Sztompka 1996). If most family mediators consider their role as a primary role the relationships within the role-set would be intense. However, if the role-set of family mediators varied, so too did the level of intensity of relationships.

Power in the role-set depends on the members within the group. Power could manifest in a two dominant ways i.e., monopolization or coalitions (Merton & Sztompka 1996). In the family mediator field, power displays can be unified yet covert as family mediators work predominantly in a field of isolation. If one is intensely immersed in the field, power dominance or differentials would be felt by those within that role-set. However, family mediators are insulated from observability by members of the role set because of confidentiality in mediation. Many organizations have been established to develop cohesiveness and elevate isolation. A mechanism that had presented an issue is the conflicting demands by members of the role-set. This occurred when individuals in the role-set does not conform to the overall expected behavior of family mediators. Merton stated that the individual is not responsible for nonconformity (Merton & Sztompka 1996). It is the majority of the role-set to exert power to compel the deviant to conform (Merton & Sztompka 1996). Finally, mutual social support among the status-occupants either on the local level or through associations i.e., Association for Conflict Resolution, Mediate.com or the Academy of Professional Family Mediators, to name a few, remind family mediators there are fellow family mediators in the role-set to give support and that they are not alone.

Role-sets are one aspect one have to take into consideration when looking at family mediators and their role. The other role is role identity. Role identity is when individuals identify with their societal role which becomes part of the self-identity (Callero 1985). It is believed that if one identifies with their role it directly affects their self-esteem and how they perform the role (Callero 1985). "I am a mediator" is self-identifying with a role, as opposed to, "I am someone who mediates" which identifies

their occupation (Bowling & Hoffman 2000, p.14). Self-identification with one's role allows a person to see the parties' perception of reality as they are sensitive to interaction with parties (Bowling & Hoffman 2000; Callero 1985). This is a part of mindfulness. If one is mindful, experiencing all internal and external energy, a family mediator is at one with their role.

### **Social Construction of Reality**

Social construction of reality is the interpretation of the world around you (Berger & Luckmann 1976). Typically, this theory is used to explain actions within the modernity period, specifically how social interactions affect people's perception. In social construction of reality, individuals moved through a socially constructed world of norms and values which are society specific. Norms are behaviors that are deemed appropriate for said society, while values are society's definitions of good and bad. An example of socially constructed norms and values in American society, are that men and women get married for love. The woman wears "a white veil to show her purity and virginity" (Schwartz & Scott 2012, p.246). Her father "gives her away to another man who would then be responsible for her care" and "by taking on his last name" (Schwartz & Scott 2012, p.245). They "consummated their relationship during the honeymoon" and "remains monogamous married until death per religious context and as a commitment" (Schwartz & Scott 2012, p.240). These traditions did not appear overnight but occurred through the amalgamation of America's immigrant past and through interaction between its members to solidify and strengthen these norms and values.

Conformity of societal norms and values has been particularly strong in regard to status and language. The dynamic of hierarchy in post-modern America means that

power and status change the relationship between individuals (Berger & Luckmann 1976). This could happen in families, between married couples, separating couples, children and parents. Language can act as a vehicle to assert power over the less powerful.

Social construction of reality, phenomenology and postmodernism share three common elements: reality, knowledge and consciousness. Reality and knowledge are subjective to the individual who perceives the event (Berger and Luckmann 1967). This could mean two individuals could have had two different interpretations of what has occurred. Therefore, during mediation, the family mediator has to obtain a story from each person in order to get an accurate picture of the complete experience. They also must be conscious of their perceptions and assumptions while acknowledging parties. Consciousness, considered an intentional act, presents itself to a person in real time (Berger & Luckmann 1967). The thought was that when two people interacted, it enhances awareness and consciousness (Berger and Luckmann 1967).

Consciousness and the internalization of reality requires one to reflect on previous experience and the contributions of one's knowledge. According to Berger and Luckmann (1967), "Only a small part of the totality of human experience is retained in consciousness" therefore, one has to extract it through discussion (p.67). Consciousness is the awareness of one's reality while knowledge is constructed by society. As the family mediator's circle of influence validates its knowledge of what it perceived as a reality, it also solidifies the roles. As the family mediator's society, or circle of influence, validates its knowledge of what it perceives as a reality. It also solidifies the roles of the people within it. The family mediator's role is constructed by a certain subscribed



behavior from previous individuals in the role-set. The role is reinforced by society at large; compliance is demanded and legitimized (Berger & Luckmann 1967).

Knowledge is not always based in fact but serves to align society (Berger & Luckmann 1967, p.65). Knowledge, or what society “knows”, is the social script (Berger & Luckmann 1967, p. 3). Social scripts are composed of previous knowledge and experience which later accompanies the role-set. Knowledge can be created from training, association or education. Knowledge can be transmitted through validation of the social script. The validation process occurs when a learned individual performs an action or says a statement which is perceived to be congruent with the role-set. If an advanced family mediator performs certain procedures which a novice mediator found to be indicative of the role, it became validated. The novice family mediator perceives the knowledge as reality, and it is replicated. The role-set of family mediators has been created through knowledge and the incorporation of the validation of social constructed reality.

To Husserl, consciousness is how one interprets the world or their perception of reality (Husserl 1962/1913). The theory corresponds to the post-modern ideology that reality is the individual's knowledge of the world they lived in and how they perceive it (Kvale 1996, p.43). This corresponds to Berger and Luckmann (1967) link to culture. Culture had been considered the backbone in all societies. Culture exists because of norms, values, mores and folkways. Mores are described as the moral compass of the society. Folkways are described as the unwritten rules of how society functions. In family mediation, a mediator should know the culture of the parties. Western societies are individualistic, whereas Eastern societies tend to be collectivist. Differences in values

and social expectations affect how parties interact with each other and the construction of reality.

These theoretical frameworks were selected because they appear to compliment the research. Transcendental phenomenology (Husserl 1962/1913) unlike other methodologies allowed the participants to verbalize their thoughts in an open format to capture their perception of their lives as family mediators. The beauty of transcendental phenomenology is the analysis which relies only on individual testimony to convey meaning. Phenomenology provides a wealth of information which is converted to data that is unique in its contribution.

Role-set (Merton & Sztompka 1996) was selected because it concentrated on the role of individuals within the group they inhabit. Since this study selected a specific group of advanced mediators, they represent a unique group unlike any other group studied. They have been at the beginning of family mediation, they are crucial at creation of guidelines, they trained hundreds of thousands family mediators, and they have set up various associations, etcetera. Therefore, to understand how they perceive themselves and their role is critical.

Social Construction of Reality (Berger & Luckmann 1976) was chosen because it complimented phenomenology and how family mediators understood reality in different ways. Social Construction of Reality (Berger & Luckmann 1976) was created in modernity but its application in social research the theory is timeless. It can be applied to how family mediators perceive themselves, their observation of their practice, their perception of effectiveness and ineffectiveness. Hence, the theory has been valid in the

understanding of people and their perception of reality as it relates to their world which aligned perfectly with this study.

## **Chapter 2 Literature Review**

This study selected some of most discussed topics in family mediation. This did not mean these were the only topics discussed in the field. In order to provide a well-balanced research study, the following topics were selected: attributes, verbal communication, nonverbal communication, trust and confidence, impartiality and neutrality, mediation models, mindfulness and family mediator ineffectiveness. These topics were selected intentionally. Attributes, characteristics and traits were selected to identify if certain personal qualities added to effectiveness. Verbal communication was included as it represents transmitting of information and knowledge. Nonverbal communication was selected because most people use it to convey feelings, trust and confidence, and deception (Bolton 1979; Katz & Lawyer, 1992; Krivis & Zadeh 2006; Landau & Landau 1997). Impartiality and neutrality were selected because they were considered the hallmarks of mediation and has been debated if they can be applied in real life. It appears in the literature, that researchers and authors have preferences in mediation models. Those models were fairly rigid; this study wanted to know if advanced family mediators felt the same way. Since this study used phenomenology, total awareness which is recalled during the noema and noesis, it was important to include mindfulness. Finally, many individuals assume that family mediator ineffectiveness was the opposite of effectiveness but, without researching the topic this researcher cannot conclude that hypothesis.

### **Family Mediator Attributes**

Family mediation has been used in “prenuptials, divorce, child protection, care of the elderly, conservatorship, estates, adoption, etc.” (Mayer 2013, p.34). In the

beginning of family mediation in the United States, there were two key founders: O.J. Coogler and John Haynes (Mayer 2013, p.35). Their techniques became divergent after several years; Coogler took a more rigid structured approach, while Haynes took a more fluid specialist style (Mayer 2013). While most mediators elected to use the fluid style, the mediation process still remains fairly structured (Mayer 2013). The structural history from these pioneers remains yet are being refined by current family mediators.

Nations all over the world have practiced family mediation. However, not all of those nations practiced the same type of family mediation. The family mediation practiced in the United States, is a Western style, where individualism and personal interests superseded the collective mind-set of the East (Wang 2013). The process for mediation, in China, can be described significantly different than the West (Wang 2013). In China, intact families had been considered a positive reflection upon the state; family mediators were encouraged to reconcile disagreements and to keep the marriage intact (Wang 2013). They accomplished this by influencing the parties verbally (Wang 2013, p.76). This harkens back to their perception of marriage where two families were joined in the union of marriage and conformed to the rigidity of patriarchal society (Wang 2013, p.92). If the mediator was successful in reconciliation, the court system would attempt to enforce the system of marriage (Wang 2013).

In Kolkata India, “far more women than men file for divorce (Basu 2012, p.477)”. Similar to China, this part of India reconciliation was preferable to divorce or separation (Basu 2012). The reason for keeping the family intact was “economical, emotional, and spatial solution” (Basu 2012, p.481). There are family courts that handle grievances, however, judges have discretion. According to Basu (2012), it has been in the parties

“judge’s mediation rather than their own (489)”. Parties relying on the judge’s discretion which was partial to reconciliation gives women a disadvantage in India; pushing women’s rights back (Basu 2012, p.489).

There have been several studies which explored attributes, characteristics, and effective mediators. These studies analyzed characteristics of mediators (Kravis & Zadeh 2006; McGuigan 2009; Starr & Page 2005; Volkema 1988), personal traits (Bowling & Hoffman, 2000), leadership style (Zaccaro, Kemp & Bader, 2004), self-identity (Bowling & Hoffman, 2000), verbal and nonverbal communication (Starr & Page, 2005) and mediator strategies (Carnevale, 1986; Greig, 2005; Kimsey, Fuller, Bell, & McKinney, 1998; Noll, 2009; Riskin, 1996; Wood, 2004; Zartman, 2001; Zubek, Pruitt, Peirce, McGillicuddy, & Syna, 1992). Unfortunately, there have been few studies which explored family mediator effectiveness specifically. This study had to infer that mediator characteristics that involve effectiveness, whatever the genre, included family mediators. The assumption supposed effectiveness was transferable family mediators. This literature review considered research that referred to mediators to include family mediators.

Many researchers have tended to shy away from family mediation due to the difficulty in recruitment of participants. This could be due to a number of factors that were a part of family mediation. Confidentiality is an intrinsic part of family mediation (Harvard Law Review 1984; Landau & Landau 1997 Lobel, 1998; Wall & Chan-Serafin, 2009). Neutrality and impartiality is perceived to be the hallmarks of mediation (Bernard, Folger, Weingarten, & Zuma, 1984; Cobb & Rifkin, 1991; Greig, 2005; Rock, 2005; Smith, 1994). The ability to build trust and confidence and establish rapport with

parties is considered crucial in any mediation (Greig, 2005; Kydd, 2006; Landau & Landau, 1997). Isolation is another part of the mediation factor. Some family mediators joined associations or created groups to reduce isolation. Any one of these issues can be preventing family mediators from participating in research studies. There is also the issue that many participants used mediation services only once particularly in court mediated cases.

Quantitative methodology which attempts to understand family mediator effectiveness through statistical calculation predesigned the results through the Likert scale. Results from a survey could be generalizable as in the cases of: mediator competence (Lieberman, Foux-Levy, & Segal 2005; Stahler, DuCette & Povich 1990; Vanderkool & Pearson 1983), trust building (Stimec & Poitras 2009), and demography (Goettler, Herrman & Gale 1999). However, since the study's design was based on previous research results, the answer was not a verbatim count of what the mediator believed to be true using their own words. Hence, this study explored family mediator effectiveness using the phenomenological perspective which allowed the participants the avenue to express their personal life experience. Staying true to phenomenology, the results were not known prior to the study. In addition, the study did not assume the attributes of family mediator effectiveness applied to other disciplines of mediation or that the life experience was universal to all family mediators. *RQ 1: How do advanced family mediators perceive their role?*

### **Verbal Communication**

Family mediators have to use communication as an indispensable technique during mediation. Communication comes in two forms i.e. verbal and nonverbal. In

order to have parties communicate within the dimension of conflict, family mediators have to use a number of skills to make parties feel comfortable. A family mediator could not compel parties to communicate however; they can use their charisma, empathy, humor, patience, perseverance and creativity, to gain their trust.

Communication has long been thought to be the vehicle to transmit ideas, feelings and emotions. In this phenomenology study, verbal communication expressed by the family mediator was essential to understanding their lived experience. Verbal designations highlighted not only what family mediators deemed important, but also what they listened for during the mediation process. There is a whole discipline dedicated to elements of communication. Since family mediators use verbal and nonverbal communication to resolve conflict, it was impossible to ignore communication's contribution as a vital skill in the family mediator's resources.

The words a family mediator uses and the tone in which it is delivered can affect the climate and outcome of mediation. The American Bar Association (ABA), Section of Dispute Resolution, created a "Task Force". The Task Force performed a cross-country study on civil mediation involving focus groups, surveys and client interviews (2008). The study utilized the responses of 322 participants (ABA 2008, p. 4). The aim of this study was to find high-quality mediation practices in order to improve the overall mediation quality. The Task Force believed that if the practices of successful mediators were known they could be applied to other mediators. Even though this study focused on mediation, it explored the contribution of mediators to mediation success or failure. Noteworthy in this study, were the characteristics mediators and parties perceived to be important to the high-quality mediation: "preparation of the mediator, case customization,



analytical assistance and persistence of the mediator” (ABA 2008, p. 3). Although this study specifically concentrated on civil mediators and mediation; the information gained from this study could be used in family mediation and in particular to family mediators. The dimension of attorney versus non-attorney could have had an effect on how participants viewed mediator effectiveness. In civil mediation, attorneys were more likely to be present during the mediation. Attorneys could have had an effect on the outcome of mediator effectiveness as they were more likely to have had their party’s interest in mind thus circumventing self-determination.

Lande and Wohl (2007) were a part of the ABA Task Force to improve mediator quality. It was through that study, that Lande and Wohl (2007) identified important mediator skills and published their results in an additional article. Within the original study, a focus group of mediation users were asked which skill was key to a good mediator; their response was to “promote constructive and creative communications between the parties” (p.20). Such communication would have allowed family mediators to assist parties past destructive aspects of conflict where they could collaboratively build a future.

Verbal communication inclusion words like “we” and “us” build a collective atmosphere compared to the accusatory “you” and “I” which separates people. The collective atmosphere has been known to build bridges between parties. It also establishes through words that the family mediator is committed to helping the parties through a rough time in their lives. The selection of words, coupled with effective mediation techniques such as reframing, active listening, empathy, and the ability to educate the parties on conflict resolution can help family mediators facilitate

communication (Lande & Wohl 2007; Noll 2009). Moore (2003) described reframing as to clarify a discussion by exposing each interest in a non-threatening way (p.237). The benefit of reframing allows one party to listen to the other party's point of view which prior to mediation; they may have tuned out or interpreted negatively (Noll 2009). This could be accomplished by "depersonalizing" the dialog and using neutral language to show the family mediator's non-biasness (Moore 2003, p.243). Active listening could be described as not just hearing but listening with undivided attention as if the person speaking was the only person in the world. In active listening the family mediator listened to what was said, unsaid and the emotions and feelings behind it. Empathy, or the capacity to relate to another person's feelings and emotions by placing yourself in their shoes, was considered innate (Goldberg 2005). There is disagreement on whether or not one can be trained to be empathetic. This trait has been noted to be vital to building trust and confidence in the mediator. The education of parties on the mediation process has the ability to empower the parties as well the potential to last after the dispute has been resolved (Bush & Folger 1994). This can be done through empowerment and self-determination (Bush & Folger 1994, p.82). Thus, verbal communication can be an element of family mediator effectiveness.

Family mediators work with parties during one of the most hectic times in their lives. Some mediators use humor to relax and reduce tension between the parties so they were more conducive to the mediation process (Fox & Ceppos, n.d.; Goldberg 2005; Meers 2009; Smith 1994). Those who had embraced humor said it enhanced their effectiveness (Meers 2009). Humor can permit the mediator to place the dispute in an abstract light so the parties could evaluate the importance of an issue and the implication

of the various options (Fox & Ceppos, n.d.). The idea of distance also allowed the parties to focus on what mattered to them and not the feelings tied to their perception. The disengagement of emotions, power and status could create equality, even if it were temporary (Fox & Ceppos, n.d.). Humor could reduce one's guard which allows the powerful and the powerless to disregard their status and concentrate on the underlying issues that caused the conflict (Fox & Ceppos, n.d.). Parties could see the other's point of view without personal investment when humor was employed. Some individuals have found humor inappropriate in mediation (Meers 2009, p. 657). Used incorrectly, humor could trivialize the mediation process and challenge the authority of the mediator. Therefore, humor had to be used wisely, if at all, for mediator effectiveness.

Gwartney, Fessenden, and Landt (2002), performed a content analysis on newsletters for community conflict resolution. They examined four newsletters over the course of 21 months. Gwartney, Fessenden, and Landt (2002) described in detail, the quantitative coding method. A very interesting dimension they used was the tone of the newsletter negative, neutral, and positive. When the tone of the newsletter was graphed, one could see a pattern emerge. The study demonstrated how content analysis could be used to expose the attitude of a group of people through text. This type of study would be interesting in family mediation because of the possible publication of results.

### **Nonverbal Communication**

There were conflicting numbers in the literature as to what percentage of a person's communication was through nonverbal communication or body language. The ability to read nonverbal communication for the family mediator is considered essential. The family mediator can read the nonverbal communication of parties and understand the

parties without articulation. Bolton (1979) stated, that words convey a specific message whereas nonverbal communications expressed feelings (p.79). Nonverbal communication can occur through gestures, use of space and vocal intonations. There are two distinct cues family mediators had looked for during mediation: openness and congruency. Family mediators need to pay attention to word selection and tone of voice openness; when coupled with facial and body gestures it shows congruency of their statements (Bolton 1979, p.81). Most family mediators were taught to look for discrepancies through what a party said and how their body conveyed the meaning. Typically, in the United States, many studies have concentrated on Western cultural traits. Western cultural traits do not have the same meaning in Eastern cultures (Abramson 2006). Consequently, a diligent mediator would have to communicate prior to mediation to assess the cultural background in order to serve clients adequately.

In studies, the place of mediation and its environment has been thought to play a role in mediator effectiveness (Katz & Lawyer 1992; Krivis & Zadah 2006; Starr & Page 2005). The mediator concentrates on the environment and themselves to convey a calm and safe aura. The décor of the office such as a table, chairs, space, and the added elements of nature can assist in the peaceful atmosphere. According to studies, a table can reflect equality, the use of a square or round table, and spacing participants in a symbolic way to imply closeness and help discussion between parties (Katz & Lawyer 1992, p.29; Modonik 2001; Moore, 2003; Starr & Page, 2005). The chair has to be comfortable, yet instrumental (Modonik 2001). An instrumental environment is designed for a specific purpose however, some can be cold. An accommodating yet instrumental

design of an office allows the openness of the environment to flow. Positive energy environments transform the parties and the mediator.

The atmosphere can be enhanced by the mediator's disposition. The mannerisms of a mediator should exude calm, patience, perseverance, and authority (ABA 2008; Moore 2003). Patience is the ability to wait, to listen, to tolerate others and to endure silence. When a mediator has patience, they allow the parties to work through their problems by giving them freedom to explore them deeply. A calm demeanor in the face of turmoil and crisis present an air of control. This control over emotions can transfer to the parties as they witness how to compose feelings in order to solve problems. Persistence can be difficult when in the midst of mediation hence, a patient mediator with control demonstrated that information transmitted, even if it was delayed, is noteworthy. Listening to what is said, the tone it was said, and what was omitted in a discussion ensures the mediator was actively listening (Bolton 1979; Katz & Lawyer 1992; Starr & Page 2005). This skill requires patience and awareness to evaluate the verbal and nonverbal communication being presented. Mediators have to confront conflict as well as silence during the mediation process; there can be intense emotion, possibly yelling, and deafening silence. Silence can occur if the mediator asked the parties to reflect. Silence can make some people feel uneasy. A mediator who can endure the silence with patience transmitted the essence of calm.

In three studies conducted by Goldberg (2005) and Goldberg and Shaw (2007), patience and determination were considered important to mediators and advocates as it helped build trust in the mediator. Perseverance was the ability to keep parties on track even though they had or wanted to veer off topics. In an offering for the Standing

Committee in Luxembourg, Lee (2003) argued mediation was awash with emotion and suffering. The situation is made worse by parties who defined their emotions through suffering. The parties can be fixated on one issue while the mediator tries to address the underlying problem, which takes perseverance. A family mediator has to be patient and persevere through the sadness, anger, frustration, confusion, and anxiety (Lande and Wohl 2007; Smith 1994).

Moore (2003) suggested that “direct control may take the form of asking parties variously to (1) face or look at each other when they are speaking (if strategically or culturally appropriate); (2) look at or speak only to the mediator and avoid eye contact with the opponents; (3) stop tapping feet or fingers when they are frustrated; or (4) adjust their body position so that they are sitting in a posture likely to induce cooperation rather than competition” (p. 201).

Kravis and Zadeh (2006) stated that parties use deception when they enter into mediation. In mediation, deception has been known to occur when the parties feared of losing control over what they had left. Deception could manifest in the voice, eyes, and body twitching (Kravis & Zadeh, 2006). An adept mediator, can read nonverbal communication and discover deception. Mediators that are astute to increased pitch, multiple speech pauses and errors were more likely to catch a party in a deception (Kravis & Zadeh, 2006). The eyes are thought to carry messages of an individual especially if a party cannot maintain eye contact or blink incessantly (Kravis & Zadeh, 2006). Finally, fidgeting and subtle changes in the party’s normal body posture can alert the mediator to apparent deception (Kravis & Zadeh, 2006). For the mediator, the key to success in deception has to be looking for congruency in statements and body posture (Kravis &

Zadeh, 2006). The literature reviewed in this study only used Western cues of deception which were inconsistent in Eastern cultures (Barkai 2008). Cultures communicate in different ways. The cultural traits of other cultures should be known prior to mediation (Barkai 2008).

### **Trust and Confidence**

Katz & Lawyer (1992) defined trust as, “unquestioning belief in and reliance upon yourself, another, or a group” (p. 9). Since trust requires unquestionable beliefs, most trust has to be earned, especially among strangers. Trust can be hard to achieve and can take a short or long time to acquire. Broken trust within the dynamic can be a challenge for mediators to build. Stimec & Poitras (2009) stated that “There are...two types of trust in mediation: the trust that exists between the parties and the trust that exists between each party and the mediator” (p. 318). A skillful mediator must build a progressive trust between the parties and themselves (Landau & Landau 1997; Poitras 2008; Stimec & Poitras 2009). In mediation, parties can have trust lost between each other and therefore, the mediator has to build a bridge so the parties could discuss their issues. Landau and Landau (1997) stated to reach an agreement that will be honored after mediation; a mediator has to build trust. If trust was not built between the mediator and the parties or between two parties, the mediator “will feel themselves increasingly pulled into the world of conflict (Landau & Landau 1997, p. 98)”. Landau & Landau (1997) suggested several ways to build confidence, aside from talking and listening, the most notable way to improve relationships is to be able to have parties apologize to each other.

A way to gain trust can be through the act of building support in the mediator (Kydd 2006). Stimec and Poitras (2009) identified three levels of trust: “(1) calculus-based, (2) knowledge-based and (3) identification-based (p.319)”. Calculus-based was grounded on rational choice; parties weigh the benefits and costs in trusting the mediator (Stimec & Poitras 2009). If the parties perceived the cost too much, they tend not to trust the mediator (Stimec & Poitras 2009). Once trust is gained, the relationship continued, the parties can identify patterns of behavior from the mediator (Stimec & Poitras 2009). These behaviors, predictable or erratic, contributed to the party’s knowledge base (Stimec & Poitras 2009). The central component of knowledge-based is power within that trust “knowing a person is based on the predictability (or unpredictability) of his or her behavior” (Stimec & Poitras 2009). More erratic and unpredictable, the behavior of the parties tend to revoke trust. Finally, in identification- based, the mediator has to gain the trust of the parties when they feel like they “shared values, standards, and interests” (Stimec & Poitras 2009, p.319). In the final stage, the parties’ feel they are similar to the mediator and trust them implicitly to assist in the resolution of their dispute (Stimec & Poitras 2009).

The Harvard Law Association (1984) reported mediators that were effective built a “climate of trust” (p. 446). A climate of trust can be created with the parties by ensuring confidentiality. Confidentiality means any privileged information discussed during mediation was not to be transmitted outside of mediation. Depending on state laws, mediators do not have to testify in court or turn over evidence in legal proceedings (Moore 2003). Mediators typically discuss confidentiality and privacy laws within their state to the parties to be transparent (Moore 2003). Transparency has been a way for the



mediator to describe the rationale behind their actions. Transparency has been known to empower parties. This is a result of being apprised of the mediator's actions prior to resolution of the problem.

Goldberg (2005) stated that “the key to mediator success lies in developing rapport with the disputing parties” (p. 365). Katz & Lawyer (1992) define rapport as the establishment of a connection between individuals (p.23). Poitras (2009), found that “*chemistry*”, which could be considered rapport between the mediator and parties had heightened trust (p. 317). Rapport can be established by verbal and nonverbal communication (Katz and Lawyer 1992). Rapport can be defined as a conscious and subconscious alignment between individuals (Katz and Lawyer 1992, p. 23). In essence, the mind and body harmonization between the parties and the mediator (Katz and Lawyer 1992). When mediators create rapport they address the consciousness by mirroring language to that of the parties. Mirroring language is done by consciously listening for specific words and then using them to build a rapport (Katz and Lawyer 1992). Language is particularly valuable to a mediator. When the mediator decides to use the same words as the parties, it made them feel like they understood. Another way to build rapport is through the subconscious. Katz and Lawyer (1992) suggested that pacing or mimicking another person's posture, breathing, and emotion subconsciously sends the message the mediator and the party are in harmony (p. 23).

Goldberg (2005), explored the “secret to successful mediators” by use of a survey of thirty experienced mediators in commercial and the employment field. Goldberg's (2005) study concurred with the ABA Task Force (2008) which uncovered the success of mediators depended on building rapport. The participants also indicated that empathy

was a trait that helped build rapport. Goldberg and Shaw (2007) conducted two additional studies to identify how mediators built rapport or gained confidence. In Study Two, 329 mediator advocates were surveyed and asked two questions regarding their interaction with a mediator. Both questions were looking for the mediator's success however, the orientation of the questions differed. The first question asked personal attributes that the mediator advocates believed helped parties move toward settlement (Goldberg and Shaw 2007). The second question focused on the perception of success of the mediator. With a 216 respondents, the first study indicated that rapport, empathy, neutrality and high integrity were attributes of success (Goldberg and Shaw 2007, p.398). Since, empathy was to place oneself in the situation of another; respondents felt it was more likely to connect with the parties. Empathy is not only advantageous as an attribute but also rapport and confidence building as a mediator. Neutrality, like empathy, can build rapport and confidence by not aligning with one party or the other. Finally, high integrity can be defined as being above reproach (Goldberg and Shaw 2007). To exude trustworthiness, a mediator would have to have a reputation of high integrity.

These three studies highlighted the importance of mediators in the mediation. The strength of these studies was the identification of personal characteristics which contribute to mediator effectiveness. In addition, the definition of success was measured through settlement which might not be how all mediators' measure success. Notable in their study, Goldberg and Shaw (2007) was they established rapport as a necessary skill of mediators. It was essential for the mediators to gain trust of the parties at the time of transition in their lives.

Bowling and Hoffman (2000) highlighted (cited in Kottler 1991) that effective psychotherapists had used charisma and positive energy which gave them power during sessions. They implied that if mediators used charisma and positive energy, they too can have effectiveness. Charisma can be defined as a personality which welcomes and radiates friendliness (Bowling & Hoffman 2000). Charisma, in the area of mediation, has been considered necessary to reach parties and make them feel comfortable. Friendliness can help parties feel more at ease with the mediator while empathy allows them to feel like they were understood (Smith 1994).

Goldberg (2005) reported, in his first study, that one of the keys to a mediator's success was empathy. According to the mediators interviewed in the study, empathy allowed parties the recognition they were searching for from the mediator (Goldberg 2005). If a mediator was empathic, they can make the parties feel safe then trust and confidence can be built, all of which would contribute to mediator effectiveness (Astor 2007; Bolton 1979; Goldberg 2005; Poitros 2009; Ury 1991).

Another way trust can be built is by the practice of impartiality, this demonstrates to the parties that they did not have a stake in the outcome (Harvard Law Review 1984; Poitros 2009). Impartiality is believed to allow the mediator to help facilitate parties to a mutually agreed upon resolution. Maxwell (1992) used the data collected by the Cleveland Prosecutor Mediation Program to explore gender differences in mediator effectiveness. Maxwell (1992) took a random sample from the database which was approximately one-third of the participants. After performing a chi-square test, Maxwell (1992) found gender was not statistically significant in mediator effectiveness. Maxwell (1992) then computed phi for each dispute which then provided

a difference between the two genders. Therefore, gender can be looked upon as a negligible factor in trust and confidence building.

### **Impartiality and Neutrality**

Impartiality and neutrality were deemed important characteristics for mediators to possess and utilize (Jessani and James 2006). There are differences between impartiality and neutrality even though many practitioners used the terms interchangeably.

Impartiality has been referred to as not having bias or taking a position during mediation (Moore 2003, p.53). This requires mediators to distance themselves mentally during the mediation process to maintain impartiality. Neutrality has been defined as treatment to a party that had shown an unbiased position (Moore 2003, p.53). The purpose of neutrality had been to treat both parties identically regardless of the mediator's feelings, thoughts, or emotions concerning the participants or the resolution of their conflict. This might seem like semantics however, there is a debate in the mediation field if impartiality and/or neutrality were possible.

When constructing the working definition of impartiality and neutrality many mediators differ on exactly how they manifest in practice (Astor 2007; Cobb & Rifkin 1991; Exon 2008). Researchers and mediators who define impartial as unbiased thinking and neutral as unbiased behavior toward parties were more likely to posit that biased mediators were ineffective (Beber n.d.; Heisterkamp 2006). Language can assist mediators to overcome bias by using conversational footing (Heisterkamp 2006). Conversational footing has been defined as speaking or using utterances to imbed oneself into a discussion (Heisterkamp 2006).

In conflict resolution, conversational footing occurs when the family mediator reframes events for parties. A party in mediation recounts their story in a frame. The mediator listens to the story, while aware that it was a frame. Typically, the mediator, conscious of the possible inflammatory nature of the frame, restates it for the other party, so it's more palatable. Mediators use conversational footing such as “we” and “our” are more likely to enter the dispute discussion. The mediator, as the intermediary, takes the perceived realities and reframes it in a way that does not make either party defensive while clarifying statements. For example, if a divorcing couple has been arguing that the other party was not adequately participating in their child’s activities, a family mediator could reframe the interaction. The mediator could state: ‘I am hearing “we” need to support all of “our” child’s activities to make him happy and well adjusted’. By using inclusive words, it can remove the bias from the mediator, but also focus on both parties’ mutual interests while minimizing disagreements (Heisterkamp 2006).

The mediator, historically, is to facilitate communication between parties and assist them in creating a solution of their own creation. The mediator does not have a vested interest in the outcome of the mediation (Hyman 2004). If a mediator had attempted to control the mediation process by providing parties equal latitude in expressing their feelings, emotions, and interests they are behaving impartial and neutral. The mediator is a third party, whose responsibility was to provide the environment for communication.

Bush and Folger (1994) stated the transformative approach assures the mediator would remain impartial and neutral. The influence of the mediator becomes a source of empowerment as opposed to guiding the mediation to a desired conclusion. The

empowerment is derived from the parties deciding their future as the mediator supported parties' decision making process without asserting their will. An impartial and neutral mediator would not be concerned with justice and fairness while mediating parties. Justice and fairness should be defined by the parties as they create a resolution to their conflict (Hyman 2004). If a mediator defines justice and fairness, their bias would influence the resolution (Hyman 2004).

The practice of mindfulness would make the mediator conscious of their emotions and assumptions and stop potential bias (Rock 2005, p.349). The role of the mediator has not been to judge the fairness of the solution, but to assist the parties to that end. Mediators can be considered impartial and neutral if they were controlling the mediation process and not a solution.

In a study, "Which side are you on? Bias, credibility and mediation" Kydd (2006), argued that bias mediators were effective. In a follow-up study, Kydd (2006) measured speech strategies as they related to building trust. Kydd, like Noll (2009), believed that an effective mediator was a biased one. That does not mean a biased mediator could not be trusted, but they can protect the perceived weaker party from being exploited by the powerful (Kydd 2006, p. 59).

The task of impartiality and neutrality can be difficult as mediators listen to both parties describe the dispute from each perspective (Gerami 2009, p.436). Mediators like other individuals within a culture, have been socialized. Socialization establishes the norms and values of society, particularly of right and wrong. Value judgments of the mediator, does not cease while mediating (Wing 2009). In order to be impartial, mediators need to suppress their values and not judge parties while mediating (Gerami

2009, p.436; Wing 2009). To suppress one's bias, a mediator has to be conscious of their assumptions; this requires mindfulness. Mindfulness has been defined as being aware of one's thoughts, feelings, and emotions (Riskin 2004). Heightened awareness can make the mediator aware of patterns of their behavior (Rock 2005, p.353). The implication of pattern awareness is to assert impartiality and neutrality. Mediators can have an opinion regarding parties' views; however they cannot have a preference or influence in the outcome of the mediation to be impartial (Astor 2007; Hyman 2004; Moore 2003, p.53; Rauchhaus 2006, p.217; Wing 2009). Compromised impartiality jeopardizes "the mediator's future effectiveness" and affects their credibility as a mediator (Beber n.d., p.3; Harvard Law Review 1984, p. 456). In a role that relies on impartiality as a form of credibility, biasness would erode a mediator's trustworthiness.

In some mediations, the mediator is aware of power dynamic in the room. Not all mediators attempt to control the power shift so, one party can be more powerful than the other. Since the mediator does not create the solution, some mediators have been known to control the mediation process to ensure equidistance (Smith 1994). "Equidistance" has been defined as balancing power between parties so that one party does not dominate the other (Cobb & Rifkin 1991, p. 43; Smith 1994). The idea behind this theory is fairness can be reached or power is balanced once equidistance has been achieved. (Cobb & Rifkin 1991, p. 40).

Neutrality in mediation, like biasness, has been studied by many researchers. Cobb and Rifkin (1991) deconstructed neutrality and the role of mediators in the attempt to be neutral. The authors postulated that neutrality was socially constructed by the participants within the mediation particularly when mediators used the narrative method

of mediation (Cobb & Rifkin 1991, p.39). Cobb and Rifkin (1991) allege the first party who shared their perception of reality create the reality (p.52). The second party then attempts to refute that reality. Hence, the only reality was established by the first party. Neutrality is nonexistent because the power has been shifted to the first party with the understanding that the reality was the correct one. The authors advocated equidistance because neutrality was not possible.

Mediators can be privy to information that parties attempt to hide from each other (Beber n.d.; Rauchhaus 2006; Savun 2008). This lack of information can increase the escalation of conflict as asymmetric information can be disclosed which can translate as lack of trust between the parties. The mediator can use rational choice to decrease the likelihood of tension between each side. In the course of mediation a mediator can choose to orient the conversation to other topics. This rational choice places the mediator in a position of power. Trust can be maintained as impartiality remains.

Noll (2009) indicated that mediator effectiveness involves resolving disputes. Mediators use numerous skills such as active listening, emotional support, advocacy, and leadership in the mediation process (Bolton 1979; Moore 2003; Zumeta 2000). Noll (2009) reported that some mediators use “constructive deception” to assist in the resolution of conflict (p.44). Constructive deception entails assisting parties towards settlement yet not providing benefit to any one party (Noll 2009, p. 44). A major weakness in disclosing that the mediators used deception when mediating, can give the impression that they have a stake in the outcome. As Lobel (1998) stated, "the role of the mediator was not to make a decision" (p.44). However, mediator effectiveness reframe through devise orientation in a dispute can bring a different perspective on conflict



(Lobel 1998). The parties can perceive that the mediator was lying to them and therefore mistrust the mediator and the process. Constructive deception can potentially create new problems not solve them.

### **Mediation Models**

There are several mediation models available for mediators to use to solve disputes. This study concentrated on the three most studied mediation models; facilitative, evaluative, and transformative. These models are used throughout all of the disciplines of mediation and can overlap (Mayer 2013, p.36). There has been a debate on whether the mediator or the mediation processes were “responsible for the fairness, justice and effectiveness” (Mayer 2013, p.36). According to Lande and Wohl (2007), mediators who are in control of the process of mediation effectively are considered skilled mediator. This study did not research the effectiveness of mediation models. In addition, this study did not concentrate on mediation models per se, but recognized mediators can have a preference to a specific model. *RQ 2: How do advanced family mediators perceive family mediator effectiveness?*

#### **Facilitative**

The facilitative model has been described as ‘power to the parties’. In the facilitative process, there has been discussion of two versions. In the first version, mediators remain impartial and did not suggest solutions but guided parties through the mediation process (Alexander 2008). In the second version, the role of the mediator is to inform parties of options, provide resources and assist them in communication but not to guide them to a solution (Greig, 2005; Mayer [Facilitative Mediation], 2004; Zumeta 2001). Ideally, the facilitative mediator was to provide information to the parties so that

they can make the best informed decision (Zumeta 2001). In both models, responsibility of the outcome and the solution belonged to the parties (Greig, 2005; Mayer [Facilitative Mediation], 2004; Wall, Dunne, & Chan-Serafin 2011).

Mediators who use the facilitative model do not ask directive questions, ignore some issues in favor of others, or provide advice (Zumeta 2001). Mediators who said they used the facilitative approach believe it empowers parties by allowing them to make the decisions. Parties create the agreed upon solutions and therefore parties are more inclined to follow through with the conditions of the memorandum of understanding. This mediation model is perceived to give mediators effectiveness because of empowerment (Wall, Dunne, & Chan-Serafin 2011, p.130).

There has been two cited problems with the facilitative approach which are the power dynamic and the lack of legal expertise disseminated to the parties (Alexander 2008). Critics of the facilitative approach have stated that because the mediator has allowed the decision making to the parties, the dominant party can take advantage of the weaker party.

Part of the facilitative approach has been the use of storytelling to help parties visualize the conflict and resolution in a new light. The narrative approach borrowed its style from the history of storytelling. Winslade (2006) stated, "The goal of narrative mediation could be described as the production of discursive shifts" or the change of two narratives into one new shared story without conflict (p.502). The theory behind the narrative approach was to lay to rest previous realities in favor of a new jointly constructed reality. Winslade (2003) said, "The possibility of contradiction of discursive positioning is necessary for the possibility of change" (p.5). During the narrative

approach, mediators listen to each party and their viewpoint, than use the tools of reframing.

The narrative approach has been criticized by some as it established “good versus bad” by allowing the first party to create the reality (Cobb & Rifkin 1991, p. 52). The second party would attack the first reality, thus making it true (Cobb & Rifkin 1991). By the establishment of ground rules before storytelling, the mediator can be conscious of this potential problem. An aspect of the narrative approach has been the venting process. Venting allows parties to release their stress; however, if left unchecked it created a surge of anger that can be difficult to calm parties into further mediation (Ellinghausen 2006; Fisher, Ury, & Patton 1991).

### **Evaluative**

Evaluative process is a form of mediation where the mediator takes an active role in the guidance of the parties to resolution of the conflict. There are several different versions of evaluative models. Also known as the problem-solving approach, the mediator can strongly suggest a solution or push for a compromise. In the evaluative method, the mediator has the ability to “evaluate and point out the strengths and weaknesses to each side” (Wall, Dunne, & Chan-Serafin 2011, p.131). The result of this type of mediation is to have a win-win resolution or a balanced solution.

In med-arb, the evaluative process is used first (Barsky 2013). The mediator discusses options for each party after all of the information has been gathered and presented in front of the parties’ attorneys (Santeramo 2004). The objective in med-arb is to have the parties negotiate an agreeable solution before a mediator is to take on the role of arbitrator. “As with most hybrids, there was little published research on the

effectiveness of med-arb in separation-divorce cases” (Barsky 2013, p.645). More studies have to be conducted on med-arb.

There is an alternative dispute resolution that some consider part of mediation while others would disagree, collaborative law. In collaborative law, attorneys represent each party while they mutual agree to practice the evaluative method, without aggression and animosity (Ver Steegh 2008). If the couple does not agree on an outcome, the same attorneys have the ability to resolve to take the case to court for settlement which would be legally binding (Ver Steegh 2008).

There has been a study that has considered the mediation approach based on the mediator’s professional and educational background (Alexander 2008). Mediators, in the study, typically have a background in social work; family therapy, psychology, psychiatry and law (Milne, Folberg & Salem [The Evolution of Divorce and Family Mediation: An Overview] 2004, p.9). In other studies, it was noted that the function of the mediator in relation to the judicial system or private practice was more likely to show the professional or educational background (Milne, Folberg & Salem [The Evolution of Divorce and Family Mediation: An Overview] 2004, p.9).

### **Transformative**

Baruch Bush and Folger (1994) coined the term “transformative mediation”. Mediators who practiced the transformative method are taught to focus on resolution of the conflict through the transformation of the relationship between parties. “Empowerment” is “the restoration to individuals of a sense of their own value and strength and their own capacity to handle life’s problems” (Baruch Bush and Folger 1994, p.2). Empowerment can occur as mediators emphasize positive attributes in each

party during their time of crisis. Folger and Baruch Bush (1996) stated to establish empowerment, the mediators actively listen for moments where “goals, resources, options and preferences” can be explored by both parties (p.264). Goals are what each party truly want and why (Spangler 2003). Resources are what are available to the parties and how to obtain them. The parties are exposed to all of their options during the mediation but the mediator allows the parties to select their preference of the resolution.

A characteristic of empowerment is to allow emotions to enter into mediation. Emotions are a form of nonverbal communication that a mediator should not ignore. Mediators have to read emotions then convert raw emotions into opportunities of enlightenment, empowerment, and recognition. For example, Folger and Baruch Bush (1996) stated, that an expression of frustration can be a chance for empowerment because it allows others to recognize each other (p. 271). Empowerment is to restore what has been lost during conflict such as; “loss of a person; loss of a relationship; loss of property; or loss of control” (Gehris 2005, Recognizing emotion section, para. 10). A mediator has the ability to understand how emotions manifest and look for the avenues to empower.

“Recognition” is the acknowledgment of the contribution each party has made to the relationship by the other party (Baruch Bush and Folger 1994, p.2). Mediators listen carefully to parties and try to find moments to empower. In a study, Astor (2007) believed that a “mediators should acknowledge their position” and work with it, as opposed to against it (p.230). Astor (2007) perceived that if one embraced their tendencies, it would provide congruency in their style. Congruency in behavior can build trust.

It is believed empathy cannot be taught however, attentive listening can be used in place of empathy to build a rapport (Goldberg 2005). Language is important when mediators communicate about delicate issues. A mediator can practice by the selection of particular words that are not loaded with values (Cobb & Rifkin 1991). A teaching of mindfulness in family mediation training can help mediators to be conscious of their feelings, attentive listening, language, and biasness so it can increase mediator effectiveness (Riskin 2004).

### **Mindfulness**

This study explored the consciousness, also known as “mindfulness”, of advance mediators. Mindfulness, within the theory of phenomenology, is the natural attitude (Shapiro, Carlson, Aston & Freedman 2006, p.376). In phenomenology, the researcher asks questions to elicit what the participant are aware of during and after the phenomenon. When mediators practice mindfulness, they are able to articulate the noema and noesis with clarity.

Riskin (2004) defined mindfulness as, “being, moment to moment, without judgment, of one’s bodily sensations, aware of thoughts, emotions, and consciousness” (p. 23). Rock (2005) stated, that neutrality should be “internal and external” (p.355). This internal and external awareness is essential to a mediator’s impartiality and neutrality as they were conscious of their feelings of partiality and appearance of biasness. Rock (2005) believed through mindfulness a mediator can remove “emotions, values, and agendas” from one’s mind and through appearance (p.355). Mindfulness’ purpose is to center one’s mind and focus internally then externally (Shapiro, Carlson, Aston & Freedman 2006). Reflexivity in mindfulness allows the practitioner to

appreciate what is in their mind. Investigating mindfulness of a mediator effectiveness can illuminate a part of the mediation technique to transcend the mechanics of the mediation process (Bowling & Hoffman, 2000; Riskin, 2004). *RQ3: What are the specific features that promote family mediator effectiveness?*

Mindfulness was originally practiced in Buddhism during meditation (Riskin, 2004; Shapiro, Carlson, Aston & Freedman, 2006). Mindfulness is not a technique but a way of life; “it is a way of being, of seeing, of tapping into the full dimensionality of our humanity” (Kabat-Zinn 2010, p.xi). There are “three axioms of mindfulness: intention, attention and attitude” (Shapiro, Carlson, Aston & Freedman 2006, p.375). Intention is one of the founding principles in Buddhist meditation where practitioners channel their energy into a purpose. For example, a mediator would concentrate on building trust, confidence, neutrality, or being impartial in the intention phase. These attributes in the intention phase, hold the why of practice (Shapiro, Carlson, Aston & Freedman 2006 [Bishop, Lau, Shapiro, et. al.] p.376). Attention is usually what most researchers’ document in mediation. Attention is more important than what objects appear to the person attending. Mindfulness, in the attention phase, requires the return to the natural attitude (Shapiro, Carlson, Aston & Freedman 2006). Husserl’s natural attitude is being in the here and now, by giving it direct attention. The mediator feels and observe with their senses in the present (Shapiro, Carlson, Aston & Freedman 2006). Finally, attitude is how one approaches mindfulness. Characterized in Buddhist practice as compassion; attitude can also be openness (Shapiro, Carlson, Aston & Freedman 2006). The attitude of a mediator during mindfulness can later be expressed in the form of empathy. Many argue that mindfulness is foreign and does not keep with the American culture

(Ellinghausen 2006). This can be asserted because historically America has practiced more of an adversarial system of conflict resolution. Mindfulness is relatively new to the United States in mediation.

There were several aspects of mindfulness that have been proven useful to mediator effectiveness. Mindfulness helps mediators to pay attention to their mood, anger, positive and negative emotions (Freshman, Hayes & Feldman 2002; Riskin 2003). When mediators are aware of their senses, they can detach from mood and emotion and concentrate on the parties. Mindfulness has the ability to work with reactive such as; emotions, judgment and increased of patience and understanding (Ellinghausen 2006; Kabat-Zinn 2010, p.x; Riskin 2003).

Riskin (2004) noted that, “a positive mood enhances performance (p.86)”. A positive mood translated into a sense of calm to the parties (Riskin 2004, p.86). “Venting” or the expression of emotion is seen as controversial for those practicing mindfulness, as it changes the mood of the interaction and increases anger (Ellinghausen 2006). The positive or negative emotions mediators effects the rapport with the parties. McGuigan (2009) stated that, “negative emotions that we experience...lie concealed just beneath the surface”, if acknowledged than it can be addressed in a productive manner (p. 353).

Mediators who practice mindfulness can distance their emotions, feelings, and bias during the mediation and focus in on the matter at hand, the assistance of conflict resolution in a calm manner (Riskin, 2004; Rock, 2005; Phipps Senft, 2011; Ury, 1991). The mindful mediator has a heightened awareness of not only their consciousness but also the parties (Ellinghausen, 2006; Rock, 2005; Phipps Senft, 2011; Shapiro, Carlson,



Astin & Freedman, 2006; Ury, 1991). Mediators can separate parties' interest from their reactive and defensive words (Rock 2005, p.352). The distance can help the mediator feel the energy of the room so to reframe negative accusatory statements into neutral language which create mediator effectiveness.

### **Ineffectiveness**

There are not many studies researching family mediator ineffectiveness. Typically, people look for what works as opposed to what does not work. Most researchers infer that family mediator ineffectiveness is the antithesis of family mediator effectiveness. *RQ 4: What do advance family mediators perceive as family mediator ineffectiveness?* Using this assumption of family mediator effectiveness attributes such as lack of communication, mistrust, lack of confidence, partiality, absence of training, and deficiency of knowledge can attribute to family mediator ineffectiveness. The hypothesis was too simplistic. Needless to say, this conclusion can be completely incorrect. This study asked family mediators directly to ascertain their experience of family mediator ineffectiveness. This can increase studies that focus on the exploration of family mediator ineffectiveness.

This was the case in the Goldberg and Shaw's (2007) study on "The secrets if successful and unsuccessful mediators". Even though most of the participants had not experienced mediator ineffectiveness, they indicated the opposite of mediator effectiveness was ineffectiveness. According to the participants of the Goldberg and Shaw (2007) study, attributes of mediator ineffectiveness were lack of integrity, self-absorption, lack of control over the mediation process and lack of evaluation skills (p.411). More studies and analysis needed to be made in this genre.

Kimsy, Fuller, Bell & McKinney (1994) created role-plays which highlighted four different types of strategies that mediators use during mediation: integration, pressing, compensating and correlation. There were a total of 59 role-plays or 15 per style and 14 for inaction. The participants, in the role-play, completed a survey about the mediator. Of the 118 participants, 89 responded which was a 75 percent completion rate. It discussed ways to overcome mediator ineffectiveness through integration of methods (Kimsy, Fuller, Bell & McKinney 1994). *RQ 5: How can family mediators who are ineffective become effective?*

## Chapter 3 Research Method

### Phenomenology

“Reality is experienced” phenomenology explores what is lived through reflection (Husserl 2012/1913, § 79 Critical Excursus, location 5219 of 12859, 39%). It questions the reality of the “natural attitude” but does not disregard it. Husserl (1962/1913) believed that there were two worlds, one of objects and the other of subjective meaning. In transcendental phenomenology, objects present themselves through space and time (Welton 1990, p.60). Objects exist whether people are conscious of them or not an element of phenomenology places objects aside (Welton, 1990, p.60). For example, if a chair was constructed in 1954 and was placed in a corner until the present, it has existed whether a person notices it or not. To understand the subjective meaning people give to an event, reflection on the experience has to occur.

The other world of phenomenology is subjective meaning. It is only through intentionality that one can intertwine objective and subjective meaning (Smith, Flowers & Larkin 2013). In order to uncover the essence of the world of objects, an eidetic reduction is performed (Smith, Flowers & Larkin 2013, p. 14). This study used the Husserlian transcendental phenomenology as presented in the book, *Ideas: General introduction to pure phenomenology* (Husserl 1962/1913). This type of phenomenology explores the existence of objective and subjective reality as it presents itself to advanced family mediators. This study did not attempt to predict what advanced family mediators would have said nor did it infer results.

## **InterView**

This study utilized Kvale's (1996) InterView method. The InterView method involved conducting two interview styles: like a miner and a traveler. In the miner metaphor, the researcher attempted to uncover information hidden deep within a person, like a miner looking for gold (Kvale 1996, p.3). While in the traveler analogy, the researcher journeys with the participant, as they discover the spoils as they travel along the memories (Kvale 1996, p.4). The two styles corresponded to Husserl's transcendental phenomenology as the participants re-experience their reality through retrospection.

I had to uncover the unconscious of the participants in order to expose the noema and noesis of the phenomenon. The noematic intention gives the context of the InterView a means to uncover the participants' emotion and textual description. The noetic intention in the InterView process exposes the structural aspect that give the participants a framework of their experience. An aspect of InterView is not just to have an interview but to have a conversation that changes both the participant and the researcher through the process of interaction.

There are many dimensions of the postmodern philosophy. "Postmodernism" is how we interpret the world in which we live in presently or after modernity (Kvale 1996). This study utilized a version of postmodern philosophy which concentrated on the construction of reality, perceived social interaction and internalization of the idea of role-set. Kvale (1996) used social construction from the postmodern philosophy as well as the dialectical framework.

This study used Kvale's (1996) seven stages of an interview. The seven stages of interviews are:

1. Thematizing,
2. Designing,
3. Interviewing,
4. Transcribing,
5. Analyzing,
6. Verification, and
7. Reporting (Kvale 1996, p.87-88).

Thematizing, a process of honing in on what one was researching was used first (Kvale 1996, p.88). In this study, the purpose was to identify what family mediator effectiveness was and how they obtained it. Designing was the creation of the study and how to elicit information from the participants. The design of this study focused on the reality of life experience of advanced family mediators via interview. The interview stage was the construction of the interview, the interview itself, and interaction with participants.

This study included 18 advanced family mediators who were interviewed in a semi-structural manner for approximately one hour. The interviews were transcribed verbatim by me. They were analyzed using Moustakas modification of the Van Kaam (1994) method of phenomenological data analysis. Verification and clarification took place during the interview with follow-up questions. The follow-up questions were in response to the answers provided by the participants. Each statement was evaluated after the interview by treating all expressions equally, by reporting examples throughout the

report. Verification of data analysis was ensured by double coding. The coding was performed by two coders: Paula Bell and Alexia Georgakopoulos, PhD.

## **Participants**

Participants for this study were selected for their family mediation experience. This study utilized criterion sampling with the use of Mediate.com. According to Creswell (1998), criterion sampling is strategic recruitment (p. 118). For this study, criterion sampling, was used to select participants who could best provide assistance in understanding the phenomenon. A group of 18 family mediators had at least 15 years of experience and have mediated at least 75 cases were interviewed.

According to Smith, Flowers & Larkin (2013), in phenomenological studies interviewed participants could vary in sample size (p.52). This variation can be due to the richness of each participant's experience (Smith, Flowers & Larkin 2013, p. 51). Since family mediation can be practiced several different ways, and the perception could range drastically. It was determined that 18 advanced practitioners appeared to provide the level of saturation needed to have had an understanding of the phenomenon. The participants in this study were unique. They were pioneers in the field of family mediation. They were in the family mediation when the field was developing. Locating 18 advanced family mediators in the areas of divorce (all issues) and adult family, within the study's parameters, ensured the richness of the phenomenon.

This study was exploring the characteristics of family mediator effectiveness; therefore, individuals who were advanced family mediators who fit the criteria of the study. Eighteen participants were enrolled in this study. Subjects were advanced family

mediators who had at least 15 years of experience and at least 75 mediated cases in the area of adult family and divorce (all issues). Individuals had to speak English and be over the age of 18 years old. Known experts in the field of family mediation were sent an invitation letter, via encrypted email, inviting them to participate in the study. Potential participant's emails would be obtained by the website: Mediate.com.

### **Mediate.com**

All participants were selected from Mediate.com. Mediate.com describes itself as “bridge between professionals offering mediation services and people considering mediation services” (<http://www.mediate.com/aboutris/aboutus.cfm>). Mediate.com is a public site; one does not have to be a member to access mediators and/or mediator information. Mediate.com does offer, however, two types of memberships: basic and premium. Membership is actually advertising mediators and not exclusivity to site information. The basic advertising is free, whereas Featured placement costs a fee, as does the Premium placement. Featured and Premium placements allow prominent placement in advertising. Mediate.com sorts mediators based on various variables. For example, when one searches for a mediator in Florida, whose specialty is in divorce (all issues) the Premium advertising is presented first and showcased. One could access the basic members after scrolling past the Premium advertisers. Mediate.com automatically randomizes advertisers by changing the order of venders every time one selects “a mediator”. This study used the Mediate.com list of mediators from adult family and divorce (all issues) datasets.

Subjects were sent an invitation, which was approved by the Nova Southeastern University (NSU) Institutional Review Board (IRB), to participate in the study. The

subjects that wanted to participate replied with affirmation to the email. Upon confirmation of interest, I contacted the subjects through a standard telephone line. Potential participating subjects were briefed on the study's design, any risks or benefits, confidentiality, the right to refuse participation, and the ability to withdraw from the study without penalty. Participants were asked if they had any questions or concerns at that time and given my contact information.

Participants were sent an Informed Consent form via NSU encrypted email. Consent was then formalized by signing/initializing the Informed Consent Form. Participants could send the Informed Consent via the NSU encrypted email, secured fax machine or through the United States Postal Service. Once the signed Informed Consent form was received, a telephonic interview was scheduled. The interview would be scheduled either by e-mail communication or contact through telephone. Participants were asked if they had any questions and if they objected to being recorded.

The purpose of a semi-structured interview was to have advanced family mediators describe in their own words what was family mediator effectiveness. The semi-structured interview allowed for elaboration in answers as I guided discussion. There were ten questions that were asked of all family mediators participating in the study. The first five were demographic questions such as, place of practice, number of years in practice of family mediator, educational and professional experience, and the estimated number of cases they had mediated in a year as well as throughout their career. The remaining five questions were all open-ended questions designed to elicit their experience as advanced family mediators.



The five open-ended questions consisted of family mediator's perception of effectiveness, attributes, ineffectiveness and ways to become effective. These questions were created after review of the literature. The first question was to ascertain how family mediators perceived themselves, in terms, as the role they portray. This question corresponds to Merton's (1957) role-set and the social expectations established by society. In order to pinpoint how family mediators perceived effectiveness, the most accurate and efficient way to address the question was to ask them directly. The third question was influenced by studies conducted by: American Bar Association Section of Dispute Resolution (2008), Goldberg (2005), and Goldberg and Shaw's (2007) which addressed of there were specific attributes, features, or characteristics contributed to mediator effectiveness. These studies did not focus on family mediators which made me question if there were specific features that family mediator believed helped them in their effectiveness. This led to the questions regarding family mediator ineffectiveness and ways to become effective. One would assume that those who are ineffectiveness lack effectiveness however, I would have to ask professionals in the field of family mediation to determine if that statement was true. In addition, I asked family mediators if they thought if ineffective family mediators can become effective. The last question I envisioned advanced family mediators having the experience and knowledge to share with others and to enhance the field.

Prior to the interview, I practiced "Epoché". Epoché was "the freedom of suppositions...prejudgments, bias and preconceived ideas" (Moustakas 1994, p.85). Epoché allows the focus on a phenomenon from an objective viewpoint. The memory of an experience is anew with different clarity than that of naïveté. These memories can be

bracketed, what Husserl deemed an extremely important characteristic in Epoché. Not all experiences can be bracketed; if one had a difficult memory, it can be hard to separate oneself from the phenomenon (Moustakas 1994). The difference between Epoché and bracketing: is that bracketing is an individual thought compared to a perception of the whole entire systemic perception (Epoché). An interesting but very important aspect of Epoché is that “only my own perception, my own acts of consciousness, must remain as pointers to knowledge, meaning and truth”; therefore, every experience is unique and points to the understanding of life (Moustakas 1994, p. 88).

### **Ethics**

Processes for this dissertation including the data collection were as follows:

1. I followed the guidelines of Nova Southeastern University (NSU).
  - a. I completed the form entitled: “Nova Southeastern University, Institutional Review Board for Research with Human Subjects (IRB), New Protocol Submission.
  - b. I completed the invitation letter.
  - c. I completed the Informed Consent for adults.
2. I obtained expedited review and approval from the NSU’s IRB.
  - a. I received approval of study, invitation letter, and Informed Consent.
3. I searched Mediate.com for potential participants.
  - a. I sent an invitation letter to 200 potential participants that met the criteria for study through Mediate.com.
    - i. Family mediators who had at least 15 years of experience,

- ii. Had at least 75 cases in the area of adult family and divorce (all issues), and
    - iii. Speak English, over the age of 18 years old were included.
- 4. I set up appointments to review Informed Consent and provide a brief study synopsis.
  - a. I asked if I could send them the Informed Consent.
- 5. I sent Informed Consents through secured NSU email and received them through secured NSU email.
  - a. An Amendment was made which allowed participants to send Informed Consent through secured fax machine or through the United States Postal Service, in addition to secured NSU email.
    - i. Approval was granted by the NSU IRB
- 6. I set up days and times which were convenient for the participants to be interviewed for one hour over a standard telephone.
  - a. I thank them for their participation
  - b. I emailed them the signed Informed Consent (by me) after the interview for their records.

Ethical research using human beings encompassed the following; voluntary participation with no harm to participants, anonymity, confidentiality, and adhering to the professional code of ethics (Babbie 2007). Voluntary participation is part of the nature of research. In this study, voluntary participation was ensured by providing all willing

participants with two forms of notification: invitation letter and Informed Consent. The invitation letter ([Appendix A](#)) and Informed Consent ([Appendix B](#)) was approved by the NSU IRB. In each, the invitation letter and Informed Consent stated that participation in this study was optional and at any time they would like to withdraw they could do so without penalty.

Prior to sending the Informed Consent, each participant was called on a standard telephone where they were read the Informed Consent and briefed on the study intention. At the end of the telephone call, all participants were asked specifically if they would like to participate and if I could send them the Informed Consent and if they had any questions about the study. Upon consent, I sent them the Informed Consent.

In ethical research, no harm can come to participants (Babbie 2007). Harm is considered psychological, social or economic to the participant. Harm was minimized, in this study, by paying close attention to the confidentiality and animosity of each participant. Each participant identity was closely held by giving them a number and initials. Their Informed Consent and interview were locked in a secure cabinet which had limited access. When writing the dissertation, participants were given unique names. For the purpose of discussion; names had little in relation to their real initials.

The code of ethics as discussed by Christians (2003) includes full disclosure of the study (Denzin & Lincoln 2003, p. 217). This occurred in the invitation letter, during the telephone call and in the Informed Consent. Many of the participants were aware of study requirements before the interview; however I asked them if they had any questions before we started the interview. This question was asked in case they had questions about the study design or they might have had misgivings in participating in the study.

Any doubts they had or reluctance before the interview would allow them to withdraw at that time or any time during the study. Another part of the code of ethics is accuracy (Denzin & Lincoln 2003, p. 219). All participants were alerted to the fact that they would be recorded for accuracy in data. Recording can potentially compromise their identity. Therefore, if the participants did not want to be recorded, they would not be included in the study.

## Chapter 4 Results

### Phenomenological Data Analysis

This study used Moustakas modification of the Van Kaam (1994) method of phenomenological data analysis. This method followed the phenomenological map of Husserl which focused on the participant's noematic and noetic perspective. The Moustakas modification involved eight steps; (1) listing and preliminary grouping, (2) reduction and elimination, (3) clustering and thematizing the invariant constituents, (4) final identification of the invariant constituents and themes by application, (5) individual textual description, (6) individual structural description (7) participant textural-structural description of the meanings and essences of the experience, and (8) composite description of the essence of the experience (Moustakas 1994, p. 120-121). After all of the data was collected, it was transcribed then analyzed by me. The analysis was performed, line-by-line, to explore the experience of advanced family mediators and their perceptions of effectiveness.

Husserl (1962/1913) described phenomenological reduction as "suspending all beliefs characteristics of the natural attitude, attitude of common sense and science" (p. XVII). In the phenomenological reduction, reality in the contemporary sense was suspended in favor of viewing it from the natural standpoint. The natural standpoint was known as "real" to the individual, even though it might not be acknowledged by the rest of society. Moustakas (1994) referred to this step as the return to seeing "the way things are", "listening with consciousness and deliberate intent" (p. 91-92). The suspension of ideology and open-mindedness has allowed the phenomenological reduction to provide

insight to the phenomenon. Family mediator effectiveness can occur by understanding their reality.

<b>Fictitious Name</b>	<b>Sex</b>	<b>Education</b>	<b>Years of Practice</b>	<b>Number of cases</b>	<b>Cases per year</b>	<b>Estimated Age</b>
Afton	W	MA, JD	31	≥1500	50	50s
Jannon	M	BA, JD	34	500	30	60s
Brogan	M	BA, PHD, LLM, JD, Post-Doc	32	>1000	250-260	60s
Kiernan	M	BS, JD	22	6000	150	60s
Camden	W	BA, JD	35	>100s, <1000	30-50	50s
Lafayette	W	BA, JD	23	600	55	40s
Darien	M	BA, M.Div, PHD	31	100	10	60s
Marston	M	JD	21	4000	≥250	60s
Egan	W	AA	15	150-200	25-30	40s
Nuala	W	BFA	23	500,600	50-60	60s
Fleur	W	BS, MA, MSW, JD	17	1500	100-150	50s
Olivier	M	BS, JD	30	>1000	40-50	60s
Gretchen	W	MA	29	100- 1000	>50	50s
Pandora	W	JD	22	>100	15-20	40s
Harper	W	MA, JD	22	>1000	>100	50s
Quinn	W	BS	29	>1000	30-40	50s
Iris	W	MA	30	*DK	30-50	70s
Rowan	W	college degree and graduate work	20	>100s	10-15	40s

Table 1. Demographics of participants

Note: Gender: W stands for woman; M stands for man. \*DK: Do not know, Too many to count

### **Step 1: Listing and Preliminary Grouping**

The first step was the listing and primarily grouping of statements from transcripts which were considered Husserl's horizons. Horizons are considered distant viewpoints that allowed one to reflect on the phenomenon (Moustakas 1994). Each horizon has equal value and were new and limitless (Moustakas 1994). When one reflects on a memory, each time the memory is like the first time. Each reflection can stand by itself

and the individual can reflect on the phenomenon time and again. When analysis of the data occurs, the horizons are exhibited by creating a list from the verbatim text of the participants. Horizontalization is performed by the review of all the statements made by the participants in search of references pertaining to the phenomenon (Moustakas 1994).

### **Horizontalization**

The steps toward uncovering the phenomenological significance for the participants in this study followed Moustakas modification of Van Kaam (1994). After transcription of the interviews of each participant, each participant was individually read for the purpose of capturing the phenomenon. In Excel, a program by Microsoft, each participant was given worksheet tabs where their statements were captured verbatim. Each horizon was placed under corresponding worksheet tab so that horizontalization could be performed for each participant. Each statement was reviewed as a separate entity not to be compared to any other statement either from the same individual or another participating in the study. It was then that listing or preliminary grouping occurred which was step one of modified version of Van Kaam's phenomenology.

All participants were asked the same five questions in order to obtain their experience as advanced family mediators. Each participant provided their own experience as they perceived it. In this step each participant were reviewed by themselves giving "every statement has equal value" (Moustakas 1994, p. 125). For example, Afton recounted how she told others what she did for a living, "I mediate divorce". This statement was not compared to her other statements or other participant's experiences. During this stage, Afton's experience was only hers. Her statements that pertained to her were listed on an Excel spreadsheet which created a listing and



preliminary grouping of statements. Each statement was copied verbatim from the Excel sheet. Each column represented the research questions. Each participant's response were printed and placed on colored index cards each representing the research question. This was done for all 18 participants. Yellow represented the first research question. Blue the second, pink the third, green the fourth and finally orange represented the last research question.

Using Husserl concept of horizons, each statement was treated as equal value and could not be compared with other statements; however, themes or consistencies in statements were apparent. These themes were noted predominantly in step three of the modification of Van Kaam method of phenomenological data analysis under clustering and thematizing.

## **Step 2: Reduction and Elimination Phase**

In the reduction and elimination phase, I concentrated on looking for “unique qualities of the experience, those that stand out” (Moustakas 1994, p.128). Each statement was reviewed for two criteria:

“Does it contain a moment of the experience that is a necessary and sufficient constituent for understanding it? Is it possible to abstract it and label it? If so, it is a horizon of the experience. Expressions not meeting the above requirements are eliminated. Overlapping, repetitive, and vague expressions are also eliminated or presented in more exact descriptive terms. The horizons that remain are the invariant constituents of the experience” (Moustakas 1994, p.121).

The first question allowed the statements to come alive and captured the uniqueness of the phenomenon. If the statement did not meet the standard of inclusion, it was eliminated. This was performed by reviewing each statement by itself within the context of the phenomenon. If the statements of the family mediators were labeled, they moved to the next step. This step was to ensure that the statements were indicative of being a horizon. Those included went on to step three, which was clustered and thematizing.

There were a total of 1,750 horizons in this study. Horizons were individual statements that captured the lived experience. According to Husserl, horizons were like memories that were alive, like a ribbon that tied the experience from the past, to the present and into the future of possibilities (Welton 1999). This allowed the experience to be recounted in vivid detail, indexed and clarified (Welton 1999, p.110). Two hundred and twenty four statements were kept through reduction and elimination.

This stage was dedicated to reading the transcripts of each participants and making notes for possible invariant constituents (Smith, Flowers and Larkin 2013). It was through the reading of transcripts and making initial, linguistic and conceptual comments that themes develop and the invariant constituents remained (Smith, Flowers and Larkin 2013). Since all of the interviews were transcribed verbatim and transferred on an Excel spreadsheet and then to index cards, it helped to validate the themes. Each individual was reviewed as a separate entity. Since this study looked at three separate ideas; a family mediator's role, family mediator effectiveness and family mediator ineffectiveness, an example of one participants answer with the corresponding invariant constituent displayed the different perceptions in the field of family mediation. Each

participant was highlighted at least once in these invariant constituents.

Below were the 19 invariant constituents (IC) derived from horizons with examples:

- I. Explain, in your own words, what you do for a living.
  - A. Facilitator
    - i. Jannon stated, “What I think I do is help people have conversation that alone would have difficulty. Having in the conversation has specific goals, set of goals”.
  - B. Occupation
    - i. Pandora said, “So, I use my mediation skills in my collaborative law practice and I also mediate”.
  - C. Mediator
    - i. Camden stated, “I am a mediator”.
- II. What is family mediator effectiveness?
  - A. Agreement
    - i. Egan stated, “So, just coming to a settlement. So, as not to be successful unless both people are happy with this and of course they don't have to sign if they're not happy with it but, I don't want anybody to go away feeling like you know I shouldn't have, I should've, all of that”.
  - B. Neutral
    - i. Lafayette stated, “Following their lead and staying neutral, in a sense of, staying impartial and not having a stake in the outcome, either through benefit or through pride”.

### C. Communication

- i. Darien stated, “I can take this over or whether I should see my job as being able to reopen the connection between the people and reconnect the people to deal with the alienation and estrangement between the parties so that once again they can talk with each other and they themselves can settle this we set our core principle in mediation”.

### D. Mediation Process

- i. Olivier said, “I also always at the beginning of the mediation would expect to happen in the mediation what the process would look like and what they think I will do”.

### E. Environment

- i. Rowan stated, “Well, the first thing I try to do is try to create a comfortable environment as possible”.

### F. Empathy

- i. Nuala believed, “So, I would say first of all, a family mediator needs to really have compassion for the party’s that are involved in this and to really understand how comprehensively threatening divorce can be for both parties”.

## III. What are the specific features that promote family mediator effectiveness?

### A. Self-aware

- i. Fleur stated, “The other thing is to do continual self-reflection about what you are doing, why you're doing what you're doing,

how you are doing what you're doing, what are your goals of mediation and how are your goals different, or similar to your client's goals for mediation”.

IV. What is family mediator ineffectiveness?

A. Bias

- i. Brogan said, “Becoming judgmental about one person being right and the other person being wrong; one person being deserving and the other person not being deserving”.

B. Ignorance

- i. Afton stated, “Number one ineffective is lack of expertise in knowledge in each area of divorce”.

C. Mediation Process

- i. Kiernan stated, “All of the trainings they do facilitative or transformative and the idea of facilitative they're going to let the parties make their own deal and it isn't only make in their own deal and make their own deal down the road”.

D. Control

- i. Olivier stated, “From my perspective mediator ineffectiveness would be telling people what to do”.

E. Unprofessional

- i. Quinn said, “Spelling, grammar mistakes, it's really kind of eye opening”.

V. How can family mediators who are ineffective become effective?

A. Self-aware

- i. Gretchen stated, “Mentoring, self-assessment, and a willingness to be ineffective and know it”.

B. Education

- i. Marston said, “Be open to the notion there are things that I still need to learn. You never stop learning”.

C. Experience

- i. Harper said, “You take a 40 hour training all right. Now, go out mediate. It takes years of working with people and trying to find your own rhythm and find what it is you're trying to do”.

D. Training

- i. Iris stated, “So, if a person is ineffective because they don't have the right knowledge to do the mediation issues. Then they have to be trained in a better way”.

### **Step 3: Clustering and thematizing the invariant constituents**

The labeling and clustering of the statements is a process that attempted to identify the “core themes of the experience” (Moustakas, 1994, p. 121). The themes have been reduced to the statements that capture the individual’s perception of the experience. During this state, 224 statements were kept through reduction and this stage was necessary to compile similar themes to establish patterns. It also identified the attributes of family mediator effectiveness and ineffectiveness.

In this stage, each individual who participated in the study was looked for overarching themes of their invariant constituents. Within this section, each participant

who had a recurrent theme was separated because the nature of this step requires that the participants were kept separate in the mind; therefore, the research question was presented with all of the participants below and with all of their themes.

**RQ 1: How do advanced family mediators perceive their role?**

*Afton's themes:*

Theme: Agreement; "I write up the actual divorce agreement"

Theme: Information; "I explain the law", "Give information"

Theme: Occupation; "I mediate divorce", "I train mediators"

*Jannon's themes:*

Theme: Agreement; "End of that work is not simply to the agreement", "will it be effective in a year from now?"

Theme: Facilitator; "Help people have conversation"

Theme: Mediator; "A mediator"

Theme: Neutral; "Not make assumptions"

*Brogan's Themes:*

Theme: Facilitator; "Find solutions to their problems", "Reach consensus on those words and asked them to commit to helping make those words real in the conversation"

*Kiernan's Themes:*

Theme: Agreement; "Help them reach agreement", "prepare a separation and property settlement agreement"

Theme: Negotiator; “You really negotiating a contract”

Theme: Neutral; “A neutral party”

*Camden’s Themes:*

Theme: Facilitator; “I help families divorce peacefully”, “help families restructure”

Theme: Mediator; “I am a mediator”

Theme: Neutral; “Being a neutral person”

*Lafayette’s Themes:*

Theme: Facilitator; “Helping parties reach the goals”, “whatever that goal is”

Theme: Neutral; “I am a neutral third-party”

*Darien’s Themes:*

Theme: Facilitator; “I think I clarify”

Theme: Mediator; “I’m a mediator”, “With me in the training, I have the opportunity and are forced to reflect as a mediator”

Theme: Trainer; “I’ve trained most of the people”

*Marston’s Themes:*

Theme: Facilitator; “Giving people a place to think creatively about how they want the future to look”

*Egan’s Themes:*



Theme: Agreement; “Stress that parenting agreements as children are going to grow up and get older it has to be somewhat flexible”

Theme: Facilitator; “I facilitate especially in divorce cases”

Theme: Mediator; “A mediator, including me, does not make any decisions they make all the decisions”

*Nuala’s Themes:*

Theme: Negotiator; “We are negotiating where somebody has a sense of belonging and self-esteem and self-actualization”

Theme: Occupation; “I mediate”

*Fleur’s Themes:*

Theme: Facilitator; “Really my job is to be the tour guide for your conversation”

Theme: Mediator; “I’m a mediator”

*Olivier’s Themes:*

Theme: Neutral; “I worked as a, what I call a neutral”

*Gretchen’s Themes:*

Theme: Facilitator; “I help people have the conversations they want to have”.

*Pandora’s Themes:*

Theme: Agreement; “collaborative when you have the agreement your golden it's very straightforward and simple”

Theme: Attorney; “I am a collaborative attorney”

Theme: Occupation; “I also mediate”

*Harper’s Themes:*

Theme: Facilitator; “Help people get a better understanding of themselves and the other person”

Theme: Occupation; “I provide mediation services, training, and parent coordination”

*Quinn’s Themes:*

Theme: Information; “We would hold for mediators, we would hold breakfast for area counselors, social workers, or attorneys and tell them and give them the mediation message”

Theme: Occupation; “I stopped up [to] part-time job and was just doing mediation full-time for a while”.

*Iris’ Themes:*

Theme: Agreement; “Plan to make arrangements which are appropriate for them to live in the future years”

Theme: Facilitator; “I help people try to structure the remaining part of their life”

*Rowan’s Themes:*

Theme: Facilitator; “I facilitate and help them navigate through a conflict”

Theme: Occupation; “I work as a mediator, conflict manager for conflict coach in helping people navigate through conflicts”

**RQ 2: How do advanced family mediators perceive family mediator effectiveness?**

*Afton's themes:*

Theme: Cost; “Number one factor by far is cost”, “They do not want to keep spending money than they are already spending”

Theme: Education; “They need to have a basic understanding of all areas of divorce which includes legal areas, taxes, all finances”

Theme: Knowledge; “So, what creates my effectiveness is knowledgeable on each and every area of divorce”

Theme: Mediation Process; “I do caucus occasionally”, “I say at least 90% are done in joint session”

Theme: Neutral; “Never taking sides”

Theme: Relationship; “It helps to retain a relationship between the parties”

*Jannon's themes:*

Theme: Conflict Resolution Skills; “There are some fundamental qualities and skills and knowledge”

Theme: Empathy; “You have to be compassionate”

Theme: Knowledge; “Need to have substantive knowledge”

Theme: Nature of conflict; “have some understanding about our the ways in which, some knowledge about, what is conflict and how people get into conflict and how conflict manifest and how conflict can be resolved”

*Brogan's Themes:*

Theme: Acknowledgement; “Looking for acknowledgment”

Theme: Conflict Resolution Skills; “transforming their stories about their conflict to eliminate the demonization, demonization and victimization”

Theme: Empathy; “I would say for the most part the capacity for empathetic listening”

Theme: Recognition; “Searching for the underlying emotional meaning of the content or significance of the contents how the person is interpreting it”

*Kiernan's Themes:*

Theme: Agreement; “Probably 80% wind up settling”

Theme: Educator; “Attorneys you meet with the very young and inexperienced and I'm spending a lot of time trying to educate”

Theme: Experience; “It's called experience”, “People call me all the time”

*Camden's Themes:*

Theme: Agreement; “You have an agreement that sticks”

Theme: Cost; “simply cost driven option it is clearly a less expensive option”

Theme: Mediation model; “even better if it's been there is a model of mediation, transformative mediation”

Theme: Outside sources; “I really encourage people having that type of relationship with a family counselor”

*Lafayette's Themes:*

Theme: Conflict Resolution Skills; “Improving communication, skills, organizing discussions, identify missing information”

Theme: Neutral; “Following their lead and staying neutral”

Theme: Outside Sources; “Knowing when things are beyond your expertise, and there's a need for somebody on the outside to give input or advice”

Theme: Self-aware; “Being able to recognize if you are the wrong their mediator”

*Darien's Themes:*

Theme: Acknowledge; “Acknowledge before problem-solving”

Theme: Communication; “So that once again they can talk with each other”,  
“reopen the connection between the people”

*Marston's Themes:*

Theme: Conflict Resolution Skills; “listening and understanding and part of it is just being present”

Theme: Environment; “They can do it in a forum that is conducive to them making decisions”

Theme: Mediation Process; “Let the process run at a speed with the timing that allows them to do the work that they need”

Theme: Outside Sources; “provide them resources, if they need resources”

*Egan's Themes:*

Theme: Agreement; “So just coming to a settlement so as not to be successful unless both people are happy with this”

*Nuala's Themes:*

Theme: Empathy; So, I would say first of all, a family mediator needs to really have compassion for the party's that are involved in this and to really understand how comprehensively threatening divorce can be for both parties"

Theme: Empowerment; "So, my goal is for it to be empowering and for them to understand"

Theme: Safety; "Of course, that there is domestic violence I don't take the case"

*Fleur's Themes:*

Theme: Communication; "They either have a better understanding of their own view of the conflict, or they have a better understanding of the other person's view of the conflict"

Theme: Conflict Resolution Skills; "Patient, persistence, nonjudgmental and to think of mediation as a conversation", "characteristic is reframing", "open ended questions, reflective questions"

Theme: Mediation Process; "I think of it as leading from behind"

Theme: Neutral; "I think you have to work very hard to be nonjudgmental"

*Olivier's Themes:*

Theme: Agreement; "If they are looking for resolution I can have them get to the point where they have the memorandum of understanding then I guess I am effective"

Theme: Communication; "I asked a lot of questions"

Theme: Goals; “I guess the answer depends on what the parties are looking for”

Theme: Mediation Process; “I also always at the beginning of the mediation would expect to happen in the mediation what the process would look like and what they think I will do”

*Gretchen’s Themes:*

Theme: Agreement; “So part of it is that I know they need to get certain things done in order to get the divorce or in order to get the separation complete”

Theme: Communication; “Family members to talk about whatever is important to them”

Theme: Energy; “I am absolutely not afraid of any emotion anyone can have; it's just energy”

*Pandora’s Themes:*

Theme: Environment; “They are in a safe place that they can safely express their views”

Theme: Neutral; “If you not showing up bias, as a mediator”

Theme: Self-determination; “You have to let the people come up with their own resolution”

*Harper’s Themes:*

Theme: Conflict resolution skills; “Excellent listening skills, excellent communication skills, and the ability to be comfortable with conflict”

Theme: Recognition; “So effectiveness is I am a honing the real issues of the conflict”

*Quinn’s Themes:*

Theme: Agreement; “I would say that these days almost all of them reach an agreement”

Theme: Environment; “An environment that they can say what they really think and what they want in a safer place”

Theme: Mediation Process; “The normal mediation process which, to me, use a combination type”

*Iris’ Themes:*

Theme: Agreement; “help people make the arrangements that are acceptable to both parties”

Theme: Neutral; “I know we talk about it but we all have our biases, but if we not aware of our biases they come into play very quickly”

Theme: Trust; “If we don't like the person what is the incentive to do what they're asking us to do and so I think likability is important, probably at the top”

*Rowan’s Themes:*

Theme: Agreement; “We get agreements; we write down what the agreements are”



Theme: Communication; “Facilitate dialogue that leads to both parties understanding where the other person is coming from or person’s if it’s a multiparty”

Theme: Environment; “Well, the first thing I try to do is try to create a comfortable environment as possible”

Theme: Neutral; “Neutrality on our part as a mediator is important”

**RQ 3: What are the specific features that promote family mediator effectiveness?**

*Afton’s themes:*

Theme: Power imbalance; “Power balance is the number one issue for clients who are divorcing by far”

Theme: Sexism; “Sexism is still rampant”

Theme: Status; “The person who has the time is often the one who does what’s not valued”

*Jannon’s themes:*

Theme: Empathy; “Maybe I don’t believe that we can be complete with what we do without having a measure of compassion”

Theme: Self-aware; “Self-knowledge or the self-awareness to understand”, “Type of learning that deals with self-assessment, self-reflection”

*Brogan’s Themes:*

Theme: Acknowledgement; “Generally, people feel under acknowledged by their other by the family members and they’re desperate for that

acknowledgment because they love them even if they don't think that they do”

Theme: Meditation; “I think it's extremely useful to have a meditation practice, which is about mindfulness, so you become much more attuned to, watching what is happening inside of you as you meditate”

*Kiernan's Themes:*

Theme: Self-aware; “A man has to know his limitations”

*Camden's Themes:*

Theme: Self-Aware; “Mediation really is that part of the mediator being self-aware”

*Lafayette's Themes:*

Theme: Self-aware; “The mediator might have their own unresolved issues that are touched on about something with the client is doing it triggers a relationship issue that has nothing to do with the parties in front of you”

*Darien's Themes:*

Theme: Acknowledgment; “Acknowledge before problem-solving”

*Marston's Themes:*

Theme: Authentic; “It has to be authentic but every conversation”

Theme: Energy; “As you're more relaxed they are more relaxed”, “As you're more comfortable they're more comfortable”

*Egan's Themes:*

Theme: Empowerment; “I think promoting each of them feeling validated”

Theme: Understanding; “I understand what they're saying”

*Nuala's Themes:*

Theme: Law; “I don't want to live in a place that doesn't have a rule of law but, by God, I want a rule of law and that is not a rule of law”

Theme: Safety; “I'm not going to regurgitate old traumatic history unless I feel that there some element of domestic abuse, domestic violence”

Theme: Status; “Deconstruct and reconstruct basically their whole life”

*Fleur's Themes:*

Theme: Curious; “When I do find myself becoming judgmental because I do as I'm a human being, converting my judgmentalness into curiosity”

Theme: Isolation; “I think is a huge challenge because this is isolated work when you are working with client it's just you and them”

Theme: Self-aware; “People have to realize they're not being effective”

*Olivier's Themes:*

Theme: Goals; “Each mediator has to determine what he or she is doing to be effective and set his or her goals”

Theme: Self-aware; “I pay a lot of attention to potential biases I may have and deal with them in sort-of an internal way, self-reflection”

*Gretchen's Themes:*

Theme: Education; “I educate myself” “notice power dynamics or personality issues”

Theme: Meditation; “Meditation can be taught to anyone”

Theme: Self-Aware; “So by paying attention to myself I can be more genuine in the meeting”, “Self-awareness is practice”

*Harper’s Themes:*

Theme: Self-aware; “I would love to think that I can become more effective than I already am”

*Quinn’s Themes:*

Theme: Intuition; “you have to have an instinct a gut reaction”

Theme: Self-aware; “Sometimes if I find myself thinking ‘oh, golly they should do this or that’ ...It's not your decision”

*Iris’ Themes:*

Theme: Charisma; “you better be a more likable person”

Theme: Self-aware; “First of all being aware of your own beliefs and values and a willingness to set them aside”.

*Rowan’s Themes:*

Theme: Emotions; “Warm and fuzzy is really important in my feel”.

**RQ 4: What do advance family mediators perceive as family mediator ineffectiveness?**

*Afton's themes:*

Theme: Bias; "Second, they show their bias"

Theme: Ignorance, "Number one ineffective is lack of expertise in knowledge in each area of divorce"

*Jannon's themes:*

Theme: Agreement; "When our focus is on agreement and our measure of success is based on agreement in a way that blinds us to things that we might have to attend to or causes our focus to be narrower than it otherwise should"

Theme: Ignorance; "People tried to do mediation where there is a need for the substantive knowledge and they lack it"

Theme: Inexperience; "They just keep talking and talking and talking", "trying to convince people of one way or another"

Theme: Lack of empathy; "They don't have a real measure of human compassion"

Theme: Lack of interest; "Mediators are bored", "The people I call in a rut"

*Brogan's Themes:*

Theme: Bias; "Becoming judgmental about one person being right and the other person being wrong, one person being deserving and the other person not being deserving"

Theme: Inexperience; "Every conflict is that impasse and will simply remain that impasse until we try various things"

Theme: Self-aware; "Not listening at a deep enough level inside yourself"

*Kiernan's Themes:*

Theme: Mediation Process; “They're going to let the parties make their own deal and it isn't only making their own deal and making their own deal down the road”

*Camden's Themes:*

Theme: Conflict unresolved; “You are really stuck and nothing has changed from the time they walk into [mediation until] the time they leave”, “they were there even angrier or even more entrenched or even less willing to compromise or resolve things”

*Lafayette's Themes:*

Theme: Bias; “Showing bias, allowing buttons to be pushed, not withdrawing when you need to withdraw”

Theme: Control; “pushing your own agenda”, “you know what they need and what they want, not listening well, putting your own goals ahead of the parties”

Theme: Inexperience; “not withdrawing when you need to withdraw”, “not referring to other experts when you are beyond your expertise”

Theme: Lack of control; “allowing buttons to be pushed”

Theme: Unethical Behavior; “If you ask me what is unethical it's going to overlap that too”

*Darien's Themes:*

Theme: Bias; “Having judgments having my own solutions that are better than yours”

*Marston’s Themes:*

Theme: Inexperience; “The more you do it the more efficient you will be”

Theme: Isolation; “Mediators have a very solitary life”

Theme: Lack of Humor; “missing an opportunity to help people lighten up about their life”

Theme: Mediation Process; “You have sort of a predetermined way that you do every case you do it the same way every time, so you lose your own flexibility”

*Egan’s Themes:*

Theme: Inexperience; “I don't think you can effectively mediate when there's alcohol or drug abuse involved”

*Nuala’s Themes:*

Theme: Unprepared; “give them time and be prepared”

Theme: Unprofessional; “People do not return phone calls”

*Fleur’s Themes:*

Theme: Bias; “Letting your bias get in the way”, “Judging people”

Theme: Conflict Averse; “Separating people when they start the holler at each other just because you're scared of the conflict”

Theme: Control; “Thinking that you have all the answers”, “Pushing the parties into doing something that they will not want to do”

Theme: Inexperience; “Being scared of people's conflict not being willing to talk about the things that are very important to them even though it may make you uncomfortable”

*Olivier's Themes:*

Theme: Control; “Telling people what to do”, “They take away their decision-making process, self-determination”

*Gretchen's Themes:*

Theme: Ignorance; “So when people just pull things out and they don't know why they were intervening or seeing the results of the intervention”

Theme: Inexperience; “she didn't see is the person stopped participating as a result of her actions”; “they don't trust the other person, and somehow the mediator says, either directly or indirectly ‘oh just trust them’”

Theme: Self-aware; “Not being aware of why you chose an intervention”

*Pandora's Themes:*

Theme: Bias; “When they also showing bias, favoritism to one person or the other”

Theme: Control; “When the mediator tries to take power, exert power over the couple when they influence them”

*Harper's Themes:*



Theme: Control; “Extremely directive and telling people what to do”

Theme: Inexperience; “Some or ways of just different ways of practicing and others in my opinion are unprofessional, unethical, inappropriate”

Theme: Unethical; “Unethical behavior, totally unethical behavior taking clients where you have a potential or a real conflict of interest”

Theme: Unprofessional; “They do things that are not qualified to do”

*Quinn’s Themes:*

Theme: Distrust; “The mediator can’t be effective if the parties ain’t trusting that mediator”

Theme: Ignorance; “lack of knowledge of our laws”

Theme: Unprofessional; “Spelling, grammar mistakes, it’s really kind of eye opening”

*Iris’ Themes:*

Theme: Agreement; “Not being able to get something acceptable to the parties”

Theme: Mediation Process; “I would ask them if they would try to stay within the process with me and then I would say if you don’t trust this, than trust what we are doing”

*Rowan’s Themes:*

Theme: Bias; “It’s always ineffective to take sides”

Theme: Time; “It’s ineffective to go too long or to go to short”

**RQ 5: How can family mediators who are ineffective become effective?**

*Afton's themes:*

Theme: Education; “They have to know the developmental issues of children”,  
“Wellbeing of their kids”, “The dynamics of clients with psychological  
issues”

Theme: Knowledge; “Extremely important to get the knowledge”

Theme: Learning; “They need to have a basic understanding of all areas of  
divorce”

*Jannon's themes:*

Theme: Self-aware; “You have to be willing to take the time for both the self-  
examination and in acquiring of new knowledge and skills”

*Brogan's Themes:*

Theme: Empathy; “Use empathy in a way of creating a deep connection with both  
people and then finding a bridge that can connect them”

Theme: Energy; “I mean, the feeling of by another person's energy as it moves  
and shifts and feeling that inside yourself emotional energy, especially”

Theme: Practice; “it's the sound made by the conflict”

Theme: Self-aware; “They need to calibrate their intuition”

*Kiernan's Themes:*

Theme: Education; “more continuing education”

Theme: Experience; “the obvious answer is more experience”

Theme: Teach; “the best way to learn is to teach; if you're gonna teach something by God you better know it”

*Camden's Themes:*

Theme: Charisma; “The mediator brings to the room which is not just the words that they say but it's their presence”

Theme: Education; “There are truly learnable skills but, there is a big piece in terms of personality and how you approach it”

Theme: Experience; “If you as the mediator may be the most important thing that we need to do is practice”

Theme: Self-aware; “that part of the mediator being self-aware”

*Lafayette's Themes:*

Theme: Mentor; “You know, having someone come on and do that one-on-one, or through a program”

Theme: Self-aware; “know enough to know what you don't know”

*Darien's Themes:*

Theme: Experience; “They do that the rest of life but here there are two people who are in disagreement, who are often alienated talking to each other ‘how I do it in this conflict situation’ that is one of the core skills of this field”

*Marston's Themes:*

Theme: Education; “Be open to the notion there are things that I still need to learn you never stop learning”

Theme: Experience; “3 to 5 years, in my view, to become effective”

Theme: Mentor; “Intern the mediator with an effective mediator co-mediate with an effective mediator get somebody to train you”

*Egan’s Themes:*

Theme: Impartial; “Generally, they have to be impartial and sincere about it”

Theme: Training; “Training they received”

*Nuala’s Themes:*

Theme: Professional; “You got a place to clients first and if you're not ready to do that you are in the wrong field”

*Fleur’s Themes:*

Theme: Observation; “Observe mediators who don't mediate like you”

Theme: Outside sources; “I have this huge network of colleagues locally, regionally, statewide, nationally that if I need help I can get it”

Theme: Self-aware; “People have to realize they're not being effective”, “Do continual self-reflection”

*Olivier’s Themes:*

Theme: Self-aware; “Recognizing what's not working”

*Gretchen’s Themes:*

Theme: Mentoring; “Any so the mentor doesn't even have to know that they're your mentor”. “More videos, YouTube, DVDs”

Theme: Observation; “Being able to move into the observing”

Theme: Self-aware; “If you don't know you're ineffective and you are boastful about it or making excuses”

Theme: Training; “A lead mediator and observer and being able to get training”

*Pandora's Themes:*

Theme: Self-aware; “Letting go of their ego is sometimes is involved being willing to give up that power”, “they have to be willing”

Theme: Training; “Additional training”, “There are mediators out there who do just the basic training out there”

*Harper's Themes:*

Theme: Experience; “It takes years of working with people and trying to find your own rhythm and find what it is you're trying to do”

Theme: Self-aware; “Anybody to wake up and say, maybe I shouldn't do it this way anymore”, “Really be focused in on what's happening in the room”

*Quinn's Themes:*

Theme: Education; “Go to a lot of conferences, workshops, and so forth and the most valuable tool for training”

Theme: Mentoring; “Forming peer consultation groups with other mediators”

Theme: Neutral; “Being neutral, not even seeming to favor one over the other which is really important”

Theme: Professional; “Doing what you say you're going to do; if you say you're going to have something ready for them”

*Iris' Themes:*

Theme: Observation; “Conferences are so important mediators can hear from a lot of different people”

Theme: Training; “They don't have the right knowledge to do the mediation issues then they have to be trained in a better way”

*Rowan's Themes:*

Theme: Environment; “You were able to see how everybody is connecting and they can see each other and they are in eye view of everyone”

Theme: Experience; “Because family mediation has to have the element of preserving the family relationship”

Theme: Self-aware; “Really want to want to become more effective or have they decided that they have an area they're not effective”

**Step 4: Final Identification and Themes: Validation**

The final identification of the invariant constituents and themes by application is the validation process. The validation process is to ensure that the statements that are collected under each theme reflect what the participant experienced. Polkinghorne (2007) stated that in narratives, the researcher is searching for “narrative truths” or what

the participants perceive to true (p.479). This is congruent with Husserl's essence of experience; therefore, at this stage the investigator must make sure the statements are within the context of the experience and express the essence. This was achieved through questioning if it is: "expressed explicitly", "compatible" and "relevant" to the experience. If not, they "should be deleted" (Moustakas, 1994, p. 121).

During this step, I reviewed all of the transcripts to validate if the statements accurately expressed the themes and overall description of the experience. Since there were 18 participants and a total of 224 themes, I had clustered all of the themes of the participants except for the idiosyncratic themes which were experience by one or two participants. There were some overlapping themes which were created into subthemes. The subthemes were apparent in the themes that were indicated most often.

#### **Double Coding for Validation**

Phenomenology required vigorous scrutiny of the data. Therefore, this study utilized all of the verbatim transcripts from the participants to code each experience. The first coder was me, Paula Bell. The second coder was the dissertation chair, Alexia Georgakopoulos, Ph.D. Two coders were necessary to ensure the data was analyzed with the same rigor. Moustakas (1984), perceived double coding as essential as it reduce subjective interpretation.

#### **RQ 1: How do advanced family mediators perceive their role?**

1. 12/18 defined their role as a facilitator.
2. 6/18 participants defined their role as an occupation.
3. 6/18 participants defined their role as an agreement maker.
4. 5/18 participants defined their role as a mediator.

5. 5/18 participants defined their role as a neutral.

The facilitator role described by 12/18 participants meant that they felt their role was to facilitate communication, assisting them in restructuring their lives, or helping the parties reach their goals. Participants who saw their position not as a family mediator but one who mediates or listed another occupation first, were clustered under the occupation role 6/18. Participants indicated that their role included making agreements 5/18. These participants defined agreements differently but it entailed ending the conflict with a resolution with an agreement. The participants that viewed themselves as a mediator were clustered under mediator 5/18. Participants who identified their role as a neutral or a neutral third party were 5/18. The rest were idiosyncratic themes: information, negotiator, trainer and attorney. Participants who thought their role was to provide information to parties represented 2/18. Individuals who perceived their role as a negotiator were 2/18. One participant saw their role as an attorney. One participant saw their role as a trainer. There were 40 themes for RQ 1.

**RQ 2: How do advanced family mediators perceive family mediator effectiveness?**

1. 6/18 Conflict Resolution Skills
  - a. 16/18 Verbal Communication (reality checking, empathy, reframing, generating movement (good questioning), facilitating the flow of communication and integration.
  - b. 11/18 Nonverbal Communication (active listening, nonverbal attending, patience)



- c. 7/18 Setting the Appropriate Environment (Decorum, setting, knowing when mediation is not appropriate and being able to refer to other professional and community resources when necessary)

For 8/18 participants, an agreement was considered a part of family mediator effectiveness. An agreement was a tangible way to measure effectiveness. For 6/18 participants, being neutral was defined as family mediator effectiveness. Many family mediators indicated that neutrality was an important feature to family mediator effectiveness. For 6/18 participants, identified conflict resolution skills as a way to effectiveness. Conflict resolution skills included: active listening, reframing, nonverbal communication, and aspects related to techniques in mediation training. For 4/18 participants, believed that the environment, physical and mental, assisted in effectiveness. For 5/18 participants, communication was helpful in family mediator effectiveness: three of the five participants also listed their role as a facilitator. For 3/18 participants, empathy made family mediator effectiveness. For 3/18 participants, stated outside sources such as; a network to call, therapists were necessary for effectiveness.

The rest were idiosyncratic themes: acknowledgement, cost, knowledge, and recognition represented 2/18 of the participants. The other idiosyncratic themes were identified as: educator (being one), empowerment, energy, education, expertise, goals (of the participants or mediator), mediation model, and nature of conflict, relationship (with parties), safety, self-awareness, self-determination, and trust accounted for 1/18. There were 61 themes for RQ 2.

**RQ 3: What are the specific features that promote family mediator effectiveness?**

1. 10/18 Self-aware

- a. Consciousness
- b. Mindfulness
- c. Self-awareness (of self, parties and mediation process)

Self-awareness was cited by half of the participants or 10/18. Self-aware meant one had to be conscious themselves in various ways. For example, paying attention to one's feelings, self-reflection, and being conscious of that one was not effective had been cited in the themes. The idiosyncratic themes were identified as; acknowledgement, meditation, and status (2/18). In addition, other idiosyncratic themes were identified as; authenticity, charisma, curious, education, empathy, emotions, empowerment, energy, goals, isolation, intuition, law, power imbalance, safety, sexism, and understanding accounted for 1/18. There were 32 themes for RQ 3.

**RQ 4: What do advance family mediators perceive as family mediator ineffectiveness?**

1. 8/18 Inexperience
2. 7/18 Bias
3. 5/18 Control
4. 4/18 Ignorance
5. 3/18 Mediation process
6. 3/18 Unprofessional

When it came to family mediator ineffectiveness, 8/18 participants thought inexperience contributed to family mediator ineffectiveness. Inexperience was considered not being in the field of family mediation long enough to have effectiveness. For 7/18 participants, they believed biasness led to family mediator ineffectiveness.

Biasness was expressed as: taking sides or having a judgment. Control, over the process, was perceived to contribute to family mediator ineffectiveness by 5/18 participants. Ignorance was considered by 4/18 participants to be an aspect of family mediator ineffectiveness. Ignorance ranged from lack of knowledge to mediating a case most family mediators would decline. The participants 3/18 claimed that the mediation process was a factor to family mediator ineffectiveness. The perception of why the process failed remained with the family mediator. Unprofessionalism was considered by 3/18 participants as factor in family mediator ineffectiveness. Unprofessionalism consisted of behavior of the family mediator. The other idiosyncratic themes were identified as: agreement, unethical behavior and self-awareness represented (2/18); while, conflict aversion, conflict unresolved, distrust, isolation, lack of control (over the process), lack of empathy, lack of interaction, lack of humor, and time (too long or too short) which accounted for 1/18. There were 46 themes for RQ 4.

**RQ 5: How can family mediators who are ineffective become effective?**

1. Knowledge
  - a. 13/18 Experience, mentorship (internship)
  - b. 9/18 Education, Qualifications, Training
  - c. 10/18 Development, Lifelong learning

When it came to convert ineffective family mediators to effective, 10/18 participants believed they had to be self-aware. For 6/18 participants, they stated that ineffective family mediators had to acquire more experience to be effective. For 5/18 participants, they perceived education would help the ineffective become effective. For 4/18 participants, a mentoring program in the form of co-mediation or internship would

assist ineffective family mediators to become effective. For 4/18 participants, they thought with the right training, ineffective family mediators could become effective. For 3/10 participants, they thought observing effective mediators would help ineffective family mediators become effective. The other idiosyncratic themes were identified as: professionalism (2/18), charisma, empathy, energy, environment, impartiality, knowledge, learning, neutrality, outside sources, practice, teaching which accounted for 1/18. There were 45 themes for RQ 5.

### **Step 5: Individual Textural Description**

The next two steps focused on extracting the individual textual and structural description of their experience, using their direct statements to demonstrate how they perceived reality. For Husserl, these steps were about the noematic and noetic intentionality. The noematic intention concentrates on what the participant's emotions, feelings and consciousness or the textual description of their experience. The meaning the advanced family mediator attaches to the experience was emphasized using their words to depict their perspective, while the noetic intentionality focuses on the recollection and the meaning the family mediator gives to the experience or the structural aspects. For this section, two participants were selected per research question. The two were selected based on their most textural descriptive experience.

### **RQ 1: How do advanced family mediators perceive their role?**

Fleur had an issue describing what she did for a living. She stated, "This is a very interesting question". When she contemplated the answer she thought, "sometimes when you tell people I'm a mediator; they don't know what that is". She continued, "So, the

way I explain it now is I work with people who are in conflict. I help people manage their conflicts. I work with people when they are not able and when they are struggling to make decisions for themselves to help them have productive conversations and trying to look at different options of how they might be able to manage the conflict and, if possible, help them come to an agreement about those conflicts”.

I asked, “You mentioned that initially you used to say that [you] used to tell people that you are mediator... You think that they didn't understand?” Fleur continued to explain her reason for explanation, “people think the mediator is a person who tells them what to do and in my definition, that's an arbitrator”. Fleur then clarified her role as she saw it, “So, I had to explain that, really, my job is to be the tour guide for your conversation. My job is to help you have a conversation to sift and sort everything that you need to be thinking about and have some clarity about what's really important to help you look at various options of how you might solve the problem and see if we can come up with some agreement that the both of you can live with”.

Jannon started his description of his role with a little story, “So, what you do dad? You said in your talk to people all day long? And of course there were the first to be critical of me, especially my youngest who was the most challenging and demanding intellectually and verbally. When I would try to intervene in fights between my kids, he put his hands on this little six-year-old hip and look at me and say ‘you call yourself a mediator?’”

Jannon then began to provide a more in depth picture of his role, “what I think I do is help people have conversation that alone would have difficulty having in the conversation has specific goals set of goals. They're not just easy, relaxed, happy

conversation. They are conversations with the purpose. The purpose is are to clarify and help them clarify what the conflict is all about because that's the first step finding out what they want to do". Jannon continued to state that, "sometimes in that process it means that they go through a period where the discourse is intensified for period of time as their differences become sharper and clearer, more focused for them and perhaps more intense and that conversation leads to decisions they make about what they want to do with their conflict; how they want to deal with it, whether they want to resolve it and if so, what kind of solutions are going to be useful to them and the people close to them, their children, other relatives, their family members and so on". Jannon was aware that the family mediator could be a tough role.

**RQ 2: How do advanced family mediators perceive family mediator effectiveness?**

Camden believed that family mediator effectiveness could be measured. "The easy measure would be having an agreement that, you know, resolves the immediate problem; but, I think a more sophisticated measure would be that you have an agreement that sticks" She stated. Camden believed that an agreement was good; however a lasting agreement would serve the parties better than a short term solution.

Camden than continued, "And even better if it's been there is a model of mediation, transformative mediation, you know, they feel that in some way this mediation process has enabled them to get a little bit back to their relationship was not so terrible. If, and this happens you know, the couple cries the tears well-up, they do sometimes thank me for, um, for helping them to see the best, not the worst in each other, for helping them see that their anger and grief at the moment is kind of transitory and

there other stuff that they can that hopefully will come back bubble-up, which will allow them to successfully co-parent together with their kids”.

Lafayette equated family mediator effectiveness with, “Putting the parties’ goals first, as opposed to the mediators. Following their lead and staying neutral, in a sense, of staying impartial and not having a stake in the outcome, either through benefit or through pride, staying humble in that you don't know all of the answers, being open to hearing could the parties are truly looking for, being flexible, being more perceptive if something is not working”.

Lafayette continued, “I think that resisting the urge to believe that by virtue of whatever, by virtue of experience, by virtue of training, by virtue of neutrality that you are in a position to see more than the parties what they need in their lives to be satisfied. You really need to be checking yourself on those assumptions, predispositions and recognizing your own humanity”.

**RQ 3: What are the specific features that promote family mediator effectiveness?**

Gretchen addressed mindfulness as it related to family mediator effectiveness. She stated, “Another piece of effectiveness is how genuine the mediator is themselves. So easier to be genuine with others if you first know yourself and you don't have a problem if I cry or something in sessions, it's no big deal; or if I get angry I'm able to recognize that anger and figure out for myself what's going on so I could speak about it and it may be anything from ‘I'm getting a little frustrated and angry and I'm wondering if that's happening for anyone else’”. Gretchen continues, “So, by paying attention to myself I can be more genuine in the meeting”.

Brogan was aware of mindfulness because he stated, “I think there are several techniques. The first is meditation. I think it's extremely useful to have a meditation practice, which is about mindfulness, so you become much more attuned to watching what is happening inside of you as you meditate. The second is with all cases you want to turn people inward to themselves”.

**RQ 4: What do advance family mediators perceive as family mediator ineffectiveness?**

When asked what family mediator ineffectiveness is, Marston said, “I think that's a hard question. I think it's hard; in part mediators have a very solitary life. We don't frequently watch other mediators do their work. So, it's a little tricky for me to answer that question. I don't know that I can”. Marston then began to describe ineffectiveness, “where you are impatient, you're not getting what the party saying, you're not understanding the other party's concerns or interests, you're moving them along too quickly, you are feeling limited in your own creativity to process the law, you have sort of a predetermined way that you do every case you do it the same way every time, so you lose your own flexibility. You lose your sense of humor”. What was interesting about Marston's statement was once he allowed himself to think about ineffectiveness, numerous ideas flooded his mind.

Pandora looked at family mediator ineffectiveness similarly, “I think that when the mediator tries to take power, exert power over the couple when they influence them”. She continued by asserting, “And telling the people what they should do and basically acting all-powerful like they are really in charge of it”. She then indicated, “I think you can also be ineffective when they also showing bias, favoritism to one person or the



other; or showing that they prefer it doesn't have to be really blatant that they prefer a certain outcome". Pandora recounted bias and favoritism after thinking about the topic.

**RQ 5: How can family mediators who are ineffective become effective?**

Afton quickly quipped, "It's called learning". When prodded with, "Any specific learning they need to do"? Afton responded, "They need to have a basic understanding of all areas of divorce, which includes legal areas, taxes, all finances. They have to know the difference between restricted stock and stock options. They have to know what capital gains means when you sell something. I have to know deferred comp. As a whole, they have to understand all of the areas in divorce, medical insurance, blah, blah, blah, everything". Afton perceived a lack of knowledge to be ineffective but the acquisition of knowledge would then make family mediator effectiveness.

Rowan stated that, "It's always ineffective to take sides". She continued her comments which concentrated on mediation models. "I have a problem with anything that is directive and evaluative mediations. I think they're important tools when you're stuck but I think transformative is the way to go because I believe the answers lay with the parties and not with the mediator and so I think it's ineffective when somebody walks in a room and you have figured it out what people are supposed to do and how they're supposed to be". She also perceived other problems with time, "It's ineffective to go too long or to go too short. I ask for three hours. I think after three hours everybody is drained. I know that I am. It is exhausting. Mediation is exhausting for everybody, including the mediator. It's usually a very emotional process". Rowan, like many family mediators, believed many problems contributed to family mediator ineffectiveness;

however, if they obtained the right skills, knowledge or training they could have family mediator effectiveness.

### **Step 6: Individual Structural Description**

Individual structural descriptions include the imaginative variation. The imagination variation is processed during the noesis phase in which one looks at the experience through different lenses or angles, using one's imagination (Moustakas 1994, p. 97-98). By using one's imagination, the investigator can see the structure and essence of the phenomenon in unique ways (Moustakas 1994). There were four steps to the imaginative variation: (1) the structural meaning, (2) underlying themes, (3) universal structures, and (4) development structural description of the phenomenon (Moustakas 1994, p. 99). The structural meaning are the noesis of the experience. The investigator reviews each statement and interprets and reinterprets it from several different angles to obtain all possible meanings of the phenomenon. The underlying themes are commonalities through each reflection. When reviewing the structural statements, the investigator explores what can be tying all of the reflections into a particular direction. Universal structures are the feelings and thoughts that precipitate the noesis (Moustakas 1994, p. 99). The investigator examines if there was a precursor to a particular perception, whether the family mediator stated it explicitly or inferred it using imaginative variation. Finally, development of the structural description of the phenomenon uses descriptive words to recount their experience. This phase of structural description was similar to the synthesis of the phenomenological reduction where the investigator describes their experience using their words. For this section, two

participants were selected per research question. The two were selected based on their most structural descriptive experience.

**RQ 1: How do advanced family mediators perceive their role?**

Darien started to discuss his role as if he was at a cocktail party, “So what do I do first of all, as a mediator and trainer, what I gotta do for clients: frame for them what this is about”. He then explained his role to them hypothetically, as if they were the parties, “Almost everybody who comes in misunderstands this. Is their expectations are really for something that I'm not gonna do and then they want to know if you're not going to tell us what to do, give us the law, how are you going to help us. We don't agree. Are you going to tell us who is right? No, I'm not actually going to do that”. It appeared Darien has encountered misunderstanding frequently as he tried to explain a number of thoughts at one time. Darien then clarified his role explicitly, “I think I clarify with people again and again things and that is a huge piece that they are struggling with things”.

Egan described her role as, “I facilitate especially in divorce cases”. When asked, “What do you mean by facilitate”? Egan responded with more detail, “Well, first of all, a mediator including me does not make any decisions. They make all the decisions, but you try to”. She then discussed her role in relation to other family mediators, “One thing that I explained to them of the importance of that the both parents been involved in them might not be a mediator's job but I do”. Egan was aware of her role and how it could differ from others. She refocused on specifically what she did during mediation, “I explained to them anyway. So, we work. I try to help them for them, to be able to come up with solutions that work with both of them; taking in consideration children and always try to stress that parenting agreements. As children are going to grow up and get

older, it has to be somewhat flexible”. Egan was conscious of what her obligations were and how to accomplish them.

**RQ 2: How do advanced family mediators perceive family mediator effectiveness?**

When Nuala was asked her definition of family mediator effectiveness her initial response was, “That is a really long and deep subject”. She continued, “I think first of all, a family mediator, you know a lot of people say how can you possibly do divorce? I mean it is so gruesome”. Nuala acknowledged that many individuals could not do what she does. She then clarified what effectiveness entailed, “So, I would say first of all, a family mediator needs to really have compassion for the parties that are involved in this and to really understand how comprehensively threatening divorce can be for both parties”. Nuala not only recognized that compassion was needed for parties to feel comfortable, but knew that divorce was threatening to both parties. “Family mediator has to be able to put structures in place, whether it’s the agreement to mediate or just the design of the room or whatever where they can lower their defenses as quickly as possible”. Nuala was conscious of how parties come into family mediation and the importance of structure.

Iris thought about the specific features that promoted family mediator effectiveness when she stated, “I think the two things that are put on top of the list would be likeability and being nonjudgmental”. Iris then gave justification as to why she listed those attributes, “So, I think if we think about it and we went into session and to get us to do something. If we don't like the person, what is the incentive to do what they're asking us to do and so, I think, likability is important probably at the top. If clients don't like us, we're not that, have much success. Nonjudgmental will be other things. We have to have

a great knowledge base. I put those other two things right up there”. This recognition by Iris regarding charisma and knowledge showed that she not only thought about personality in the family mediator but their neutrality.

**RQ 3: What are the specific features that promote family mediator effectiveness?**

“I pay a lot of attention to potential biases I may have and deal with them in sort-of an internal way, self-reflection” Olivier stated when he thought of mindfulness. He then described how he performed his self-reflection, “I ask myself a lot of questions and I tend to follow a structure”. When asked when his self-reflection took place, Olivier responded, “it takes place the first time I need them”. He clarified his statement of the first impression, “They can come in the office I immediately sensed body language on this one can be a tough one”. Olivier proceeded to illuminate the process of nonverbal communication as a family mediator, “That's an ongoing process. It's probably one of the most difficult things to learn is a mediator and then is one of the things when I train people. I talk a lot about its okay to have a bias. It's important to recognize it within yourself and make sure that the bias does not get in the way of your new neutrality”. Oliver was conscious of his thoughts during the mediation and addressed it through mindfulness.

Camden noted that, “mediation really is that part of the mediator being self-aware and the more I do this and the more I learn about it and the more I do yoga”. Camden took mindfulness outside the mediation room by performing yoga. Camden then transferred back to mediation and she stated that, “I suppose what the mediator brings to the room which is not just the words that they say but it's their presence. Their presence, I could say aura, it's a funky word, their optimism there. I am in the process, their ability

to instantly hold that confidence”. Camden was aware of her presence and the impact it could have on parties. She was conscious of her mindfulness as it related to family mediator effectiveness.

**RQ 4: What do advance family mediators perceive as family mediator ineffectiveness?**

When asked initially, Jannon gave a quick answer, “oh boy, how much time you have”? Upon further reflection on his experience, Jannon provided more detail, “When our focus is on agreement and our measure of success is based on agreement, in a way that blinds us to things that we might have to attend to or causes our focus to be narrower than it otherwise should”. Jannon discussed his own measure of success, “I measure it on the basis on whether the parties are satisfied with, both what they came up with and how they came up with that”. For Jannon, success was only achievable when the parties are satisfied, not through mediations completions. Jannon alluded to more ineffectiveness in the forms of boredom and lack of empathy. He stated “Secondly, this is something I've seen with experienced mediators are bored; the people I call in a rut. Third, they don't have a real measure of human compassion”. These may be controversial because experience has been equated with effectiveness. Jannon believed that might not be the case.

Fleur believed that family mediator ineffectiveness lay in inexperience, “being scared of people's conflict not being willing to talk about the things that are very important to them even though it may make you uncomfortable”. Conflict aversion has been known to occur in inexperienced family mediators. Fleur described conflict aversion in the form of caucusing, “separating people when they start the holler at each

other just because you're scared of the conflict". She also stated that inexperienced family mediators were, "having shallow, superficial conversations with parties when they are crying out in so many different ways for deeper conversations" as well as "talking too much. If you are talking more than the parties then you are talking too much". These attributes Fleur described were signs of inexperience and ineffectiveness.

**RQ 5: How can family mediators who are ineffective become effective?**

According to Harper, she believes there are ways family mediators could acquire effectiveness, "to me, drafting legally binding agreements, charging through the roof, because I [believe] it gives mediation a bad name. The people don't want to come to us because then they think we're scoundrels". Harper was asked if they can be effective, she replied, "yes, they can, sure they can. I am defining effectiveness as the way I see it, anybody can change". She then asserted, "Anybody to wake up and say, maybe I shouldn't do it this way anymore. Maybe I need to clarify some things for myself and what my purpose is [and] how I approach clients who asked me for advice". She gave insight into her own ineffectiveness and how she changed, "Sometimes, I make a mistake and I said 'oh I better clean that up'. I just had a moment where I wasn't thinking. I would love to think that I can become more effective than I already am". Harper saw that she changed and grew; therefore she saw ineffectiveness first hand.

Quinn perceived unprofessional behavior contributed to lack of trust, therefore she stated, "Returning phone calls, that's important. Sometimes people will call and leave a message and then the call back and say 'thank you for getting back to me so soon', that sort of thing. Doing what you say you're going to do if you say you're going to have something ready for them". Behavior that displayed trust would be, "You

remember their children's names. You remember their names. Every once in a while judiciously when they are in the right situation give a little of something personal about yourself. Just be honest with them”. Quinn believed that honesty about herself contributed to her effectiveness, “If you don't know something, tell them you don't know and you will find out and you will have found out by the next meeting”. She admitted that an area of weakness has been turned into strength.

### **Step 7 Participant Textural-Structural Descriptions**

The last step in the Moustakas (1994) modification of the Van Kaam model is the participant textural-structural description of the meanings and essences of the experience or synthesis. The synthesis process occurred at the end the phenomenological reduction, this process was the key in blending the textural and structural descriptions to reach the essence of the phenomenon. In this step, Moustakas (1944) discussed that each participant has an overall textural-structural experience which can be captured in themes. This step was performed on each individual separately. I weaved the noematic and noetic experiences of the family mediators so that the essence was exposed.

In this part of the data analysis process, all 18 participant's transcripts were reassessed for their textural-structural experience for each five research questions. Four different participants will be represented per research question by providing at least one overarching theme for each research question so that every participant has been highlighted at least once. There were a total of 164 overarching themes that were uncovered when I searched for the essence of their experience.

### **RQ 1: How do advanced family mediators perceive their role?**



Afton had one overarching theme which was agreement. When Afton described her role it revolved around making an agreement. She stated, “I walk them from A to Z”. Afton declared she takes “a very hands-on approach” in mediation which might be why she perceived her role might appear differently than other family mediators. Afton indicated she “explains the law” to each participant so they can understand their opportunities. Afton stated she liked to detailed the “advantages and disadvantages” to the parties in financial issues, in legal options so that they can make informed decisions. She even helped them “consider proposals” by displaying possible scenarios and outcomes. The parties come to a resolution and Afton than “writes up the actual divorce agreement”.

Jannon had two overarching themes: facilitator and mediator. Jannon perceived his roles as intertwined. Jannon stated he transitioned from being a lawyer to a mediator because he saw “the value” for “my clients” and “it suited me”. Jannon first identified himself as a mediator. He liked family mediation because it was “more rewarding than the practice of law”. However, when he described his role in more detail he discussed it more as a facilitator. He explained that he helped “people have conversation”. Jannon also discussed that he liked to “clarify and help them clarify” exactly “what the conflict is all about”. Jannon stated that he assists the parties with clarification because that is “the first step” to addressing “what they want to do”. Jannon likened his role as he saw the discord resolve and a new beginning occur.

Brogan had only one overarching theme that was facilitator. Brogan, a prolific writer on the subject of mediation, he stated that he knew “hundreds of techniques” and that each technique “ranges very, very widely”. He discussed that he used particular

words to help parties “reach consensus”. Brogan emphasized that he used action words to “make those words real” so parties are more likely to follow through on their promises. To Brogan, his role encompassed words to facilitate communication. He ended his discussion of his role by indicating “there are thousands” of examples he could give to demonstrate his role and how he uses communication to make it happen.

Kiernan had one overarching theme that of agreement. Kiernan had two different ways of explaining what he did for a living, a field version and an alternative version. His approach to his theme was overt. Kiernan stated that he “takes a proactive” approach as a family mediator. He told parties that they are “negotiating a contract”. His proactive role comprised of wordy agreements because Kiernan liked place everything in the agreement. He stated that lengthy agreements were a product of “years of practice” and the need to “cover everything” so that it does not have to be readdressed in the future. Kiernan’s role was to help parties create an all-encompassing negotiated agreement.

**RQ 2: How do advanced family mediators perceive family mediator effectiveness?**

Camden had three overarching themes: agreement, mediation model and outside sources. Camden noted several times that an agreement was one thing, but an “agreement that sticks” or “raw measure would be are these people ever going back to court”. For Camden, an agreement was not a measure of effectiveness but if the parties were satisfied with the resolution and did not go to court, that was success. Camden coupled the agreement with the transformative method of mediation. Camden perceived that the transformative mediation model would make the agreement stick as it has “enabled them to get a little bit back to their relationship was not so terrible”. Camden expressed to the parties that outside sources i.e., “family counselor” “mental health field

or counselor” would create a stable environment with the parties. Camden has attempted to prevent parties from “worrying about returning to court” by placing certain items in her agreements.

Lafayette had three overarching themes: conflict resolution skills, neutrality and self-awareness. Lafayette stated that family mediator effectiveness included the staples of conflict resolution skills which included, “improving communication skills”, “active listening, restatements”, and “asking open-ended questions”. Conflict resolution skills used in family mediation such as the ones Lafayette stated have been deemed crucial in clarifying communication between parties and assisting in resolution of their disputes. She felt that “staying neutral” or “staying impartial” by “not having a stake in the outcome” allowed her to be “flexible” with the process and “more perceptive” when it came to the parties. Lafayette noted that in order to have family mediator effectiveness one needs to be self-aware, acknowledged when there is “a mistake”. If one stayed humble, the family mediator knows when things are “beyond your expertise”. Self-awareness, in the case of Lafayette, was the ability to recognize her short-comings and admit them to the parties.

Darien had two overarching themes: acknowledgement and communication. Darien had stated it was important to “acknowledge before problem-solving”. He stated that family mediators have to counteract family “alienation and estrangement” in the conflict dynamic. Darien indicated to establish family mediator effectiveness; he had to “reconnect the people” first. He believed acknowledging where the parties are can be essential to “reopening the communication”. Darien thought in order to allow the parties to determine their future plans they need to communicate to each other. According to

Darien, many parties have not communicated to each other once the line of communication has reopened, then problem-solving can begin.

Marston had three overarching themes: conflict resolution skills, mediation process, and outside sources. He used her conflict resolution skills for “listening and understanding” the parties. Marston helped the parties get an understanding of the “other parties’ concerns” as well as “their own concerns”. A part of the mediation process has been to move at the pace parties are comfortable. Marston stated that he liked to create a “forum that is conducive to them making decisions”. Marston indicated that he allowed the parties to dictate the speed of the sessions as it “allows them to do the work that they need”. He stated that she provided them with all of the outside resources they need to make informed decisions such as; “accountant”, “business evaluator”, “attorney”, “tax advisor”, “therapist”, “counselor”. Marston recounted additional information can assist parties in choices that impact their present and their future.

**RQ 3: What are the specific features that promote family mediator effectiveness?**

Egan had two overarching themes: empowerment and understanding. For Egan, empowerment was important to her mindfulness. She stated that one of them most important matter was to have parties “feeling validated”. When asked how does she make the parties feel validated, she responded by “listening to them myself” which corresponded with her understanding of the parties. She noted that, “I can understand what they're saying” than the other party could do the same. Egan thought when parties feel validated and have “their needs met” they feel empowered and are more understanding of the other party. In addition, they have been more likely to follow the Memorandum of Understanding. In addition Egan indicated, “I don't agree or disagree,

but I always agree that I understand”. This was a different way of using mindfulness but for Egan it allowed her to be aware of others.

Nuala had one overarching theme which was safety. Nuala was very aware of the conflict dynamic of escalation. She noted that typically parties do not come into family mediation at a “at a lower level of escalation” this is particularly critical in domestic violence cases. Nuala stated that she tended to avoid cases where there was a potential of domestic violence present in the relationship. She then explained she saw conflict escalation in four stages; (1) “what did I do wrong?” (2) “open conflict”, (3) “battle stations” and (4) “crime”. Nuala stated that families go to mediation during the battle stations stage which is the verge of violence. If parties do not enter into family mediation in the small window between battle stations and crime, violence can ensue. Nuala said in order to prevent violence stage she likes to “do a timely” intervention. Nuala liked to place extra measures particularly safety and more structure for families to feel more secure.

Fleur had two overarching themes: isolation and self-awareness. Fleur noted that family mediators have a “huge challenge because this is isolated work”. Family mediators do work in isolation as they do not have a system of monitoring what they are doing for consistency. Isolation, according to Fleur, relied heavily on self-awareness and “continual self-reflection”. She stated a family mediator needs to know during mediation what they are doing and why they are doing it so that the optimal resolution can be achieved. At the end, Fleur believed that self-awareness or the ability to reflect on what you did and why you did it, would make family mediator effectiveness. The only issue

with isolation and self-awareness for family mediators has been “you can't make people want something if they don't know that they need it”.

Olivier had one overarching theme which was self-awareness. Olivier stated that he performed “self-reflection” to be aware of potential biases he might have had. Olivier proceeded to state that he did his self-reflection occurred when he met with them initially. He noted their “body language”, anger, or nice personality. Olivier said that part of self-awareness was to acknowledge certain aspects internally such as bias. He believed that “it's important to recognize it within yourself” so that it does not impact on neutrality.

**RQ 4: What do advance family mediators perceive as family mediator ineffectiveness?**

Gretchen had three overarching theme: ignorance, inexperience, and self-awareness. When Gretchen reflected on family mediator ineffectiveness she stated that some family mediators perform behaviors without knowing the reason why or stopping to see the results. She indicated several times that ignorance of some family mediators was apparent. Gretchen indicated that inexperience was an issue in that the family mediators want parties to trust each other when it is too early, “either directly or indirectly’ they say “oh just trust them”. She noted while conflict coaching that an inexperienced family mediator prevented a party from exploring themselves because the mediator felt uncomfortable. Gretchen stated that she neglected to see the repercussion of her actions “the person stopped participating”. Finally, she reiterated, that the ignorance was linked to lack of self-awareness, “not being aware of why you chose an intervention” was detrimental and a cause of family mediator ineffectiveness.

Pandora had one overarching theme which was control. She believed that family mediators who dominate or exert power over parties through “influence” constituted family mediator ineffectiveness. Pandora indicated when a mediator was “acting all-powerful” that was not consistent with facilitative mediation which she practiced. Power does not have to “blatant controlling”. She thought that “asserting themselves into the situation” was also controlling. Pandora believed that family mediator ineffectiveness is controlling the mediation in anyway.

Harper had three overarching themes: inexperience, unethical behavior and unprofessional behavior. Harper defined inexperience as ignorance in the practice of family mediation in her opinion inexperience encompassed; “unprofessional, unethical, [and] inappropriate” behavior. She reflected that if there is a “potential or a real conflict of interest” was an indication of family mediator ineffectiveness. Finally, Harper specified that some family mediators “are not qualified” to perform certain actions. They perform the actions anyway and give qualified family mediators “a bad name”. She then described how unprofessional behavior appeared to her, they had “awful solutions” which were questionable.

Quinn had two overarching themes which were ignorance and unprofessionalism. Quinn was appalled when she encountered memoranda and separation agreements which lacked the laws of the state in which they practiced. She indicated that they had applied for accreditation but were declined due to the fact of their ignorance of the law or unprofessionalism. Many had failed to meet professional standards Quinn recalled by having “Spelling” and “grammar mistakes” or they “can't even speak English correctly”. Quinn identified that “trust that the couple has in the mediator is really important”.

Therefore, a family mediators need to be well-informed about the law in their respective states and have a professional demeanor.

**RQ 5: How can family mediators who are ineffective become effective?**

Many advanced family mediators stated that it would depend on why the individual had ineffectiveness. Iris concurred, she stated that “it depends on why their ineffective”. Upon contemplation, Iris stated that if they lacked the “right knowledge” than she they needed “to be trained in a better way”. Iris did not elaborate on training; however she held that knowledge about the parties has been her way to connect with them. In addition, Iris noted that she liked to have conferences were she could “hear from a lot of different people”. Iris liked to consult with many individuals who could include a therapist and an attorney to help in her family mediator effectiveness.

Rowan had two overarching themes; experience and self-awareness. Similar to Iris, Rowan said initially that the answer depended on “why they are ineffective”. When asked hypothetically how family mediator ineffectiveness could turn into effectiveness she answered it would depend on if that person wants to “become more effective”. Rowan stated the family mediator ineffectiveness has to be discovered by the “they're not effective”. This self-awareness of ineffectiveness for Rowan does not occur spontaneously. She stated that she would “have to ask a lot of questions” to get to the root of their ineffectiveness. If the cause was inexperience Rowan could see it based on behavior of the family mediator or attorney. For example, if the family mediator or attorney was blasé regarding the environment of the mediation, Rowan took objection to the lack of attention to details. She indicated that she thought it was “really important” to ensure that parties were in making eye contact and she was “able to see how everybody is



connecting” emotionally and physically. Rowan had more family mediator effectiveness when she has that type of attention to details.

Afton had three overarching themes; education, knowledge and learning. Afton was very quick to point out how family mediator ineffectiveness can become effectiveness, “it’s called learning”. The essential aspect of learning that she thought was needed to produce effectiveness was knowledge in “all areas of divorce”. According to Afton, she recommends to family mediators to obtain information and expertise prior to conducting mediation sessions. She stated that she has been frustrated by family mediators “unwilling to gain more education” in the areas they have been deficient. Afton found it “really disheartening” that family mediators do not take the opportunities to improve themselves in training or courses that are available to them. She noted that “it takes years to become competent”. Afton was irritated that some family mediators think they can learn all that she accumulated, “in one semester, one course or one book”. She believed that “they need to gather a lot of information” which would be in the form of learning and education, ultimately that would give them knowledge but that takes years. Afton perceived that family mediator ineffectiveness can be achieved through hard work in additional education, training and self-awareness which can turn into family mediator effectiveness.

Jannon had one overarching theme which was self-awareness. Jannon believed that first they would have to recognize “that they could be more effective”. He elaborated that they need to be aware that they were “struggling with something” or that they can be stronger or “more adept, more resourceful, more helpful” that could contribute to family mediator effectiveness. He also stated that family mediators had to

be willing to perform “self-examination and in acquiring of new knowledge and skills”. Jannon recommended family mediators read the current literature, go to conference seminars for information, and redefine their idea of success in order to go from family mediator ineffectiveness to family mediator effectiveness.

### **Step 8 Composite Descriptions of all participants**

The final step of this data analysis was to review all of the participants’ statements from Step 7 and build a composite description for all of the participants. This composite was possible because of the methodical steps of Moustakas (1994) modification of Van Kaam method of research. It allowed the lived experience of all 18 participants to be revealed. This section will detail the results of the composite descriptions.

Each participant’s transcript was reevaluated during each step of the data analysis. During Step 7, the themes that were reoccurring to each participant was noted and documented. In this dissertation, four participants were selected in sequential order per research question to demonstrate that each life experience was unique. The themes were further reduced to reflect the group’s dominant themes. There were a total of twenty three composite descriptions for the 18 participating advanced family mediators. Each research question will be displayed with the corresponding themes with examples.

#### **RQ 1: How do advanced family mediators perceive their role?**

There were several themes throughout this study on how family mediators defined their roles. The participants were asked to describe what they did for a living, using their own words. Often, people give proscribed definitions of their role based on what was expected. This study was interested in the participants understanding of their role and what they believed it entailed. The roles that dominate were: facilitator 12/18, mediator

4/18, agreement maker 4/18 and occupation 3/18. The facilitator role included but was not limited to facilitating communication. Participants used statements “help people have a conversation”, “reach consensus on those words”, “I clarify”, “give people a place to think creatively” and “I facilitate especially in divorce cases”. Two participants used metaphors to explain their facilitating role “tour guide for conversation” and “navigate through a conflict”. Four participants identified themselves as a mediator using the exact words “I am a mediator” or “a mediator”.

Four participants perceived their role as obtaining an agreement. Agreement makers stated that they would “write up the actual divorce agreement”, “help them reach agreement”, “stress that parenting agreements” and “when you have the agreement you’re golden”. Finally, the last major composite theme was family mediators that characterized their role as an occupation which comprised of 3/18. They noted their role or roles as “provide mediation services, training, and parent coordination”, “what do for a living is exercise”, and “work as a mediator, conflict manager for conflict coach”.

**RQ 2: How do advanced family mediators perceive family mediator effectiveness?**

This study wanted to find out what the participants believed contributed to family mediator effectiveness. Two questions that were open-ended attempted to elicit their answers. There were seven dominate composite themes experienced by the majority of the participants: conflict resolution skills 6/18, communication 5/18, agreement 5/18, empathy 3/18, environment 3/18, mediation process 3/18, and neutrality 3/18. Conflict resolution skills were considered to consist of; “reframing”, “open-ended questions”, “reflective questions”, “asking questions that reveal options”, to get “beneath the surface to discover the real meaning” for the parties are considered classic conflict resolution

skills. Six out of the 18 participants stated that they found conflict resolution skills to be a part of family mediator effectiveness.

Communication, verbal and nonverbal, has been deemed important in conveying thoughts and meaning. Some family mediators (5/18) indicated that mediation creates a safe place where “people to want to be able to engage in a conversation”. Verbal communication was used by parties included “reopen the connection” of communication so that parties could “talk with each other”. The open communication allowed the parties “talk about would ever is important to them” as opposed to the court system, attorney, or family mediator. The mediator would “facilitate dialogue” which assisted in the “understanding where the other person is coming from” thus making them giving them effectiveness. Participants discussed “Small movements in terms of body language or tiny little shifts in tone of voice” indicated to advanced family mediators “that something important is happening”. That was why it was important “to pay attention to the words, to the tone, to the body to everything” so that the family mediator did not miss the subtleness in nonverbal and verbal communication.

Some family mediators perceived reaching a settlement or an agreement (5/18) in the form of a memorandum of agreement or documentation ready for submission to the court. Of the participants that discussed agreements they indicated that the “easy measure would be having an agreement”. What they differed on was the type of agreement. Some define effectiveness as “an agreement that sticks”, “your agreement” as opposed to their attorney’s, “client satisfaction”, and “arrangements that are acceptable to both parties”. Each believed that the parties overall happiness through self-determination or coaching from the family mediator.

Empathy was considered part of family mediator effectiveness by 3/18 participants. It was perceived that empathy in the form of “creating a deep connection” helped “bridge” between the family mediator and the parties. The family mediator’s ability for “empathetic listening” showed the parties that they were compassionate and willing to supporting them find an amicable solution. Empathy was also deemed useful because it gives family mediator’s “compassion”; “measure of compassion” assisted them in their time of struggle.

The environment was thought to be important to 3/18 participants. The environment was designated as either physical or emotional. In the physical sense, the family mediation room was a “very comfortable and friendly environment” where people can “see each other”. The room’s table allowed the parties to face one another and confront the issues they have together. In the emotional sense, the environment included a “safe place that they can safely express their views”. This participant also had a safety button in case of violence. Another participant said her environment was a, “safer place” than at home; it is “where people can speak freely” perhaps they could not speak at home. They “might be scared” to say what they meant the family mediation room provided the safe location.

Neutrality or being neutral was perceived to be important for 3/18 participants. The participants explained their version of neutrality in a number of ways. One participant stated she liked to “following their lead” of the parties by “staying neutral” or the “virtue of neutrality”. Another participant indicated that being “nonjudgmental” can be difficult because of values and beliefs but as long as the family mediator was aware of their bias they could keep them in control. Finally, a participant stated that neutrality

was “not showing up bias”. All of these definitions fall under neutrality, all of these participants believed that being neutral contributed to family mediator effectiveness.

The mediation process was not a particular model but the structure of family mediation provided effectiveness 3/18. For one participant, description to the parties of “what the process would look like” gave the parties’ time to construct their goals. One participant thought “a pretty effective mediation” would be one where they “get a little bit back to their relationship was not so terrible”. A participant believed that the mediation process had to “run at a speed” which the parties were comfortable but “move them along”. The gentle nudge toward resolution was to help parties in the “decision-making process”.

**RQ 3: What are the specific features that promote family mediator effectiveness?**

This question was designed to elicit the self-awareness of family mediators who participated in this study. There was not a specific question that was designated to obtain the specific answer because it was not known prior to the study. Most responses to mindfulness came from the question; ‘What are the specific features that promote family mediator effectiveness?’ The remaining of self-awareness was found in ineffectiveness. There was only one composite theme for the participants’ which was self-awareness 7/18. This section was divided into three types of self-awareness: mindfulness awareness, personal awareness and mediation awareness.

Mindfulness awareness was considered appreciating one’s thoughts, feelings and emotions as they occur. One participant described his mindfulness awareness as; “self-knowledge”, self-awareness”, “self-assessment” and “self-reflection” in relation to personal skills and knowledge critical to the features of a family mediator. Another

participant noted that she paid “attention to” herself which made her “more genuine”. She also stated that “more inward focused” or “self-awareness” takes “practice”.

Personal awareness was considered knowing one’s aptitude, experience and knowledge. One participant discussed his personal awareness as “a man has to know his limits”. Another participant stated that “people have to realize they’re not being effective”. Two family mediators noted that they have to be “aware of” their “own beliefs and values” and “potential biases” and “set them aside” to “deal with them” in an “internal way” through “self-reflection”. Finally, another participant wanted to “become more effective” as everyone can improve.

Mediation awareness was considered being self-aware and conscious of others during the mediation process. One participant noted that “mediation really is that part of the mediator being self-aware”. Another stated that a family mediator might have had issues “unresolved issues” at home which could be triggered in mediation. One family mediator discussed that she found herself thinking the parties “should do this or that” she corrected herself with “it’s not your decision”.

#### **RQ 4: How do advanced family mediators identify family mediator ineffectiveness?**

There was one question asked to all participants in an attempt to uncover what they perceived as family mediator ineffectiveness. There were six dominate composite themes experienced by the majority of the participants: inexperience 8/18, control over the process 4/18, bias 3/18, ignorance 3/18, mediation process 3/18, and unprofessionalism 3/18. When it came to inexperience 8/18, there was not a consensus as to what constituted as a pattern of inexperience. Participants listed several different factors they believed were due to lack of experience. For one participant an

inexperienced family mediator was more likely to “just talk at people” and “keep talking and talking and talking”. They lacked the knowledge to “listen carefully” as the experienced family mediator is more apt to listen than talk. Another participant stated that an inexperienced family mediator does “not refer” out to experts when they are “beyond” their expertise. Another family mediator believed the “more you do it the more efficient you will be” at family mediation. One participant stated that an inexperienced family mediator does not understand the repercussions of their actions such as “asking people to take too big of a step”. Finally, a family mediator noted that inexperienced family mediators can create “really awful solutions” she continued to state that “there was no way” they knew what they were doing.

Control was another issue advanced family mediators noted as a problem of ineffectiveness 4/18. One participated stated that controlling the parties such as “pushing your own agenda” and “putting your own goals ahead of the parties” was part of ineffectiveness. Another participant reiterated the same thing “pushing the parties” and added “into doing something that they will not want to do”. Another family mediator continued that line of thought with “they take away” “self-determination”. Finally, another participant noted that the family mediator that tries to “exert power over the couple” displayed ineffectiveness.

Bias was defined by participants as taking a position during mediation for an outcome or a party 3/18 and thought it was part of ineffectiveness. Two participants stated plainly that if a family mediator showed “their bias” they display ineffectiveness. While another elaborated a little further by stating “becoming judgmental” and thinking “one person” was “right and the other” wrong it would be a sign of ineffectiveness.



Three participants cited ignorance as a part of ineffectiveness. One participant indicated some individuals “lack of experience in knowledge”. Another participant stated there are family mediators who need “knowledge and they lack it”. Another participant specified that some family mediators “lack knowledge” of laws. These types of ignorance were thought to contribute to family mediator ineffectiveness.

Mediation process was viewed in a different light by all 3/18 participants. The first participant viewed transformative and facilitative models as ineffectiveness because they leave too many items “open to litigation if they don't agree” and that if the agreement is not specific it is “absolutely meaningless”. Another participant believed that if a family mediator used the same mediation process in a “predetermined way” or “lose your own flexibility” she considered ineffectiveness. The other family mediator indicated that ineffectiveness would be not stopping a controlling party; she advised the party to “stay within the process”.

Unprofessionalism was considered part of ineffectiveness by 3/18 participants. Unprofessionalism was considered not being qualified for the position of family mediator or lacking professional qualities. One participant said that someone who does not “return phone calls” or their “mailbox is full” has ineffectiveness. Another participant stated that when she sees “spelling, grammar mistakes” or hears the “English language” spoken incorrectly has family mediator ineffectiveness. One family mediator thought “blurring the lines” of being a family mediator and attorney as well as doing “things that they are not qualified to do” is ineffectiveness.

**RQ 5: How can family mediators who are ineffective become effective?**

There was one question dedicated to finding out how advanced family mediators perceived how those who have ineffectiveness transitioned to effectiveness. There were five solutions to effectiveness participants indicated: self-awareness 9/18, experience 5/18, mentorship 4/18, education 4/18 and training 3/18. Many of the participants stated that it depended on why the family mediator was ineffective.

Interestingly, many participants cited self-awareness as the main way family mediators can obtain effectiveness 9/18. The consensus of the participants was that family mediators need to know they are ineffective in order to acquire effectiveness. One participant stated they need “the self-examination” then they can change. Another participant said family mediators needed to “calibrate their intuition” which would then indicate they are ineffective. Two participants indicated that family mediators should “know” that “you don’t know” and they have “want to be more effective” in order to modify their behavior. Other participants noted “they have to be willing”, they have to recognize “what’s not working” and to “wake-up and say” things should be different. Through self-awareness the participants in this study believed people can change from ineffectiveness to effectiveness.

The next most common was experience 5/18. Participants believed that through experience ineffectiveness can be reversed into effectiveness. One participant thought that family mediators “need to” “practice”. Another participant thought it takes “3 to 5 years” to become effective. Other participants noted that they needed to practice “to find” their “own rhythm” and to “preserve the family relationship” as well as master the “core skills of this field” to obtain effectiveness.

Education was considered significant by 4/18 participants. One participant indicated that it was crucial for the family mediator to understand the “developmental issues of children” particularly for the “well-being of the children”. Three participants stated that ineffective mediators need “more continuing education” and going to “conferences, workshops” because “there are truly learnable skills” providing they have been exposed to educational opportunities.

Mentorship accounted for 4/18 participant who thought that ineffectiveness could be averted if new family mediators were to intern under those who had effectiveness. One participant asserted that “having someone” “one-on-one” would make ineffective mediator more effective and even make the “experienced mediator [a] better mediator”. Two participants reiterated, similar to the first, that to “intern” with an “effective mediator” would help especially to “debrief” and gain advice. In addition, to form “peer groups with other mediators” and stage “role-plays” where constructive criticism is welcomed can have an impact on effectiveness.

Training was considered important for 3/18 of the participants. One participant thought “hands-on training” would help with ineffectiveness. Another participant stated that “they have to be trained in a better way” because they have not acquired the skills or knowledge to have effectiveness. Another participant said some mediators received just basic training and therefore, they need “additional training” to address their ineffectiveness.

#### Invariant Constituents

There were a number of invariant constituents or IC. They represent the experience of the participant alone. During the reduction and elimination these horizons were not repeated and did not overlap (Moustakas 1994, p.121). For demonstration

purposes, the IC in this step was idiosyncratic horizons found during the process of analysis.

**RQ 1: How do advanced family mediators perceive their role?**

Many family mediators stated that they saw their role as facilitator, mediator agreement maker or occupation. Nuala had a unique IC when discussing her role. She discussed Maslow's hierarchy of needs in relation to her occupation. Nuala believed that Maslow's hierarchy of needs has a place throughout her family mediation practice. Maslow's philosophy is real important to her understanding of her role as she mediates. Nuala stated that, she works "with it daily". It has helped her assess where parties are when they enter mediation, where as they progress, and where they are upon completion. It aided her in the appreciation of how some are "threatened in a high conflict divorce" and how traumatic it can be for parties. To Nuala, she sees Maslow's hierarchy of needs intertwined with her role to mediate and her role to obtain effectiveness.

**RQ 2: How do advanced family mediators perceive family mediator effectiveness?**

When discussing family mediator effectiveness, there were four major characteristics noted by the participants: conflict resolution skills, communication, agreement, and empathy. Fleur noted communication as part of an important aspect in family mediator effectiveness. She stated a family mediator needed to have patience and "lead from behind". It was patience that allowed Fleur to help parties get through difficult times such as impasses yet being persistent. The patience and persistence also included "being comfortable with their conflict" for as "long as it takes". For Fleur there was a sense of freedom she had because did not have to finish in a timeframe. She

followed their pace. That did not mean Fleur was laissez-faire, she was an active mediator supporting parties, giving them homework, and offering suggestions.

**RQ 3: What are the specific features that promote family mediator effectiveness?**

There was only one overarching theme in this research question and that was self-awareness. There were some individuals that expressed aspects of self-awareness.

Afton, however, touched upon an aspect of life that can influence how inexperienced family mediators would approach parties and that was power imbalance coupled with sexism and status. Afton thought power imbalance was “the number one issue” when it came to mediation and parties. Afton was very mindful of power, within the marriage dynamic. She noted that the man usually has the power and status. She stated that she tended to flatter the male while she empowered the female with knowledge. Afton balanced the power during the mediation this way because it was subtle and she can control it.

**RQ 4: What do advanced family mediators perceive as family mediator ineffectiveness?**

The idea of family mediator ineffectiveness brought cohesion amongst a number of advanced family mediators. They selected: inexperience, control over the process, bias and ignorance as the major contributors to family mediator ineffectiveness. Marston however, noted that humor had a place in mediation and those that did not have humor had ineffectiveness. He used humor to lighten the experience. Marston “was not the funniest guy in the world” but he thought humor normalized the divorce which made him gave him more effectiveness. Marston thought humor was an equalizer. He reminded

the parties that they will survive this part of their life and that it was not as tragic as they perceived it.

**RQ 5: How can family mediators who are ineffective become effective?**

The overwhelming response applying what was stated previously: self-awareness with the addition of experience, mentorship and education. There were additional responses akin to education and mentorship namely training and observation. There was one participant who thought empathy was needed in order to obtain effectiveness. Brogan stated that through empathy a “deep connection” is created. Brogan elaborated that empathy cannot be taught through memorization but, they can connect with others. He believed that some mediators are nervous or frightened during the conflict of mediation but empathy would allow them to tune in to each party deeply. Brogan noted that it takes practice and time but with perseverance it can be done with mastery where the family mediator would notice the subtlest detail.

**Ineffectiveness**

This section highlights all of the advanced family mediators who participated in this study. They believed that ineffectiveness was not the antithesis of effectiveness. This is noteworthy as most individuals would think automatically that family mediator ineffectiveness was the complete opposite of family mediator effectiveness. Initially, some family mediators did state that it was the opposite of what they effectiveness however, upon further contemplation, they were able to draw out what they believed were attributes of ineffectiveness. The following are a synopsis of the main themes generated by the participants in this study.

1. 8/18 Inexperience; Inexperience was defined as not having sufficient experience in the field of family mediation. This manifested for many as ineffective use of conflict resolution skills.

Camden stated, that with inexperience there can be two scenarios, “You are really stuck and nothing has changed from the time they walk into the time they leave... I guess if he made it worse, that would even be worse”.

Fleur believed, “Separating people when they start the holler at each other just because you're scared of the conflict”.

Jannon mentioned, “New mediators they just talk at people. They just keep talking and talking and talking”. This was echoed by Fleur, and Lafayette.

Marston noted, “So, I think a lot of people who are ineffective aren't sufficiently experienced”.

Quinn thought, “The mediator can't be effective if the parties ain't trusting that mediator”. Gretchen concurred with Quinn.

2. 7/18 Bias; Biasness was another recurrent theme. This was characterized by the family mediator taking one side or the appearance of taking a side; it also could have meant having a particular favor in agreement.

Afton stated simply, “They show their bias”.

Brogan noted, “Becoming judgmental about one person being right and the other person being wrong, one person being deserving and the other person not being deserving”.

Darien believed this was showing bias, “Having judgments, having my own solutions that are better than yours”.

Lafayette thought it was, "Showing bias".

Rowan quipped, "It's always ineffective to take sides".

3. 5/18 Control; Control was viewed as controlling the whole mediation process.

Fleur stated that she considered this controlling, "Pushing the parties into doing something that they will not want to do".

Gretchen thought, "Asking people to take too big of a step". This to her was a controlling technique.

Iris looked at it different but still viewed control as a problem, "So I'm ineffective with real controlling people when they come in, real controlling people or those who have a bias against women".

Olivier noted, "From my perspective mediator ineffectiveness would be telling people what to do".

Pandora expounded on the idea of control, "I certainly know of cases where it's not suggested it is blatant controlling and 'oh you shouldn't do' that really asserting themselves into the situation. And telling the people what they should do and basically acting all-powerful like they are really in charge of it".

4. 4/18 Ignorance; Ignorance was considered lack of knowledge in the discipline of family mediation and the laws of the specific state that one practices.

For Afton, "Number one ineffective is lack of expertise in knowledge in each area of divorce".



Jannon stated that, "People tried to do mediation where there is a need for the substantive knowledge and they lack it. That's a place where mediators get really, really ineffective".

Quinn slightly angered, "Not knowing what your state laws are... And sometimes I am totally appalled at that the lack of knowledge of our laws of mediators or way they frame the couples decisions".

5. 3/18 Mediation process; Mediation process was the selection of the family mediation which turned out to fail laid solely in the hands of the family mediator.

Harper stated that, "I mean, I get cases where client say will this guy they went to a supposed mediator, he wrote their agreement for them".

Kiernan quipped, "I'm really so opposed to the transformative approach and that was the training I got. All of the trainings they do facilitative or transformative and the idea of facilitative they're going to let the parties make their own deal and it isn't only make in their own deal and make their own deal down the road".

Nuala focused on other forms of mediation, "I can't imagine how they can mediate by getting online and going into a chat room to do this with a computer. I'm sorry, you know. I don't care.

6. 3/18 Unprofessional; Unprofessionalism was considered behavior that was inconsiderate or reflects poorly on the overall profession of family mediators.

Egan stated, "I don't like to mediate or I won't is if there's alcohol or drug abuse involved. I don't think you can effectively mediate when there's alcohol or drug abuse

involved”. She believed that, “When you're dealing with a substance abuser there not consistent about anything, you know, it's like a mood thing”.

Nuala looked more at office protocol, “People do not return phone calls... Here they are, they want your services. They are in crisis. They leave you five voicemails and your voice mailbox is full. It just puts it terrible shadow on the whole profession”.

Quinn similarly was concerned over communication and standard operating procedure, “Spelling, grammar mistakes, it's really kind of eye opening. So, I can't think a person like that can be an effective mediator. If they can't even speak English correctly”.

Below is a pyramid which demonstrates how family mediator effectiveness how is perceived by advanced family mediators.

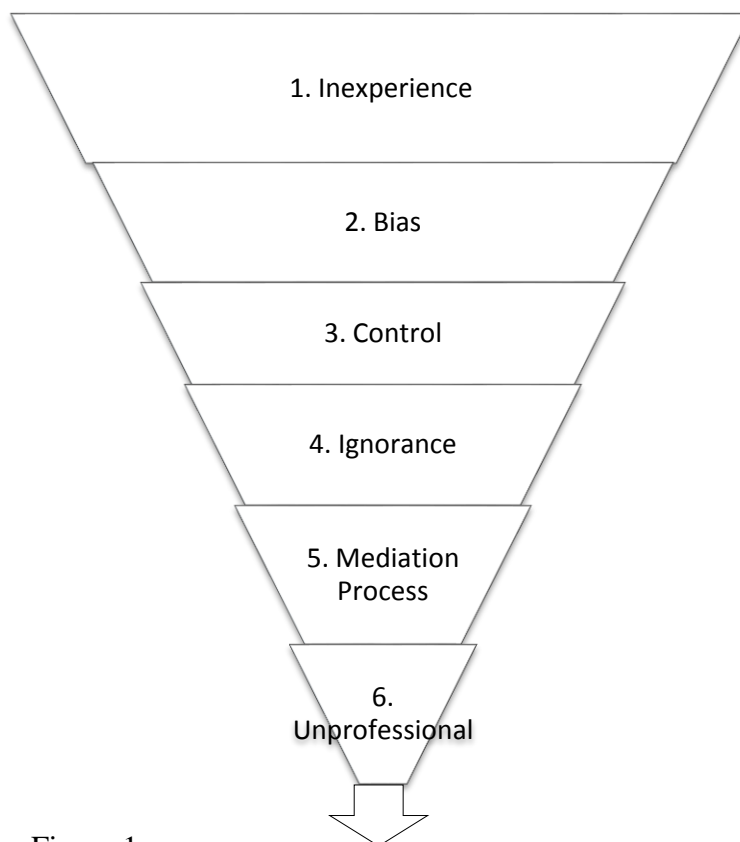


Figure 1.  
Ineffective family mediators

## **Chapter 5 Discussion, Conclusion, and Recommendations**

This study looked at three theories: role-set, social construction of reality and transcendental phenomenology. The theory of role-set while useful when understanding social structure mostly pertained to mediators as occupants prior to mediation. In Merton's (1957) theory there were five social mechanisms that contributed to the role-sets: importance of role-sets, power in role-sets, insulation, observability, and mutual support. The social mechanisms which paid close attention to relative power within the status group were society. This was noticeable when mediators did not pay much attention to their title concentrated on their role of assisting parties.

The power Merton (1957) alluded to in role-set theory was best seen in the hierarchy of those with authority that impose will through a social action (p.116). Power in role-set was not noticeable in the context of this study. The power dynamic usually felt between individual within the role-set was not apparent as this study focused personal family mediator effectiveness. The power was also not evident as the family mediators in this study did not discuss power within the social hierarchy because many of the family mediator were either of the hierarchy or slowly retiring from it.

There were two unique features that were discussed by some mediators when interviewed isolationism and observability. Some family mediators pointed to how, unlike work in an office, mediation can be isolating. Merton (1957) was concerned that those that are not able to be observed would not "live up to the minimum requirements of their status" (p.119). Family mediators were not concerned with requirements of status but providing proper service to their parties. Many of the family mediator solutions came

from observation of the skilled mediator. These thoughts by family mediators were not part of family mediation but pre-mediation.

The idea by Merton (1957) of mutual support was categorically different than what the participants in this study perceived support. For Merton (1957), he envisioned mutual support necessary as reducing conflict between the role-set expectations (p.120). For participants in this study, mutual support occurred at conferences, lectures, and training. They perceived mentorship or internship the beginning of support with continued mutual support through associations and learning. There was a disconnection between Merton (1957) and the participants in that the family mediators were honing in on personal development not on potential acrimony through missed expectation.

Social construction of reality by Berger and Luckmann (1967) stemmed its theory from three components: reality, knowledge and consciousness. The reality and knowledge that Berger and Luckmann (1967) referred to did not relate to whether it was real or valid (p.4). Reality and knowledge will be passed as true until there is contradictory information. The individual's consciousness, according to Berger and Luckmann (1967), created tension over the contradictory information created by society.

For this study, family mediators were asked of their experience which elicited their social construction of reality before and after mediation. The family mediators that were interviewed were questioned about their reality. First, they were asked about what they do for a living. This question was to serve the basis of how they thought of their reality prior to mediation; how family mediators saw their roles. The reality family mediators created directly affected how they interacted with parties.

Participants were asked questions regarding how they felt about their family mediator effectiveness. These questions were in direct relation to their perception to how they felt about their mediation attributes, techniques, and skills and how they utilized them. Berger and Luckman (1976) stated that some people within a discipline have a difficult time describing to lay people (p.26). This was not the case when the participants were describing what they did to prepare for mediation and during mediation. They were completely aware of what they did what they noticed during mediation. Each family mediator was conscious of different things. Some mediators concentrated on the conflict resolution skills while other mediators focused on verbal and nonverbal communication, others agreement. Their reality was shaped by what the parties deemed important therefore they construct an environment consciously where they can control communication so that the parties reach a new level of understanding.

It was also noticeable when participants discussed family mediator ineffectiveness and the inability of some mediators unable to recognize the needs of parties. These family mediators were deemed inexperienced, controlling over the process, biased, and ignorant. These characteristics can be attributed to their lack of consciousness prior and during the mediation process. Social construction of reality required the individual appraise the situation by using consciousness through observation and have the knowledge to adapt to whatever presents itself during mediation.

Knowledge was the third part of Berger and Luckmann (1976) social construction of reality. Knowledge is obtained from society (Berger and Luckmann 1976, p. 87). Knowledge has had separated individuals into specialties, for an example, doctors work in the field of medicine compared to attorneys will work and the field of law. The

knowledge can correlate to Robert Merton's role-set (1957) in that sets up-role specific importance. In the case of Berger and Luckmann (1967), it has not about the importance of being in the role; it was knowledge within that role that made it important. If a family mediator did not have knowledge prior to mediation or during mediation, that mediation was doomed to fail. In addition, if a family mediator has limited knowledge and does not possess consciousness, or a reality that fits within the parties needs the mediation will ultimately fail.

Phenomenology was essential in this study as it set the framework in understanding how family mediators lived their experience. This study concentrated on several phenomenological aspects: natural standpoint, intentionality, consciousness, noema, noesis and Epoché. The natural standpoint for the family mediators that participated in this study was important in understanding how they perceived “everyday life” (Moustakas 1994, p.58). Family mediators described what it was like to confront conflict daily in their own way. Participants recounted their techniques, unique characteristics and personal attributes that they brought to mediation. The natural standpoint was uncovered in the first question and the subsequent follow-up questions.

Intentionality and consciousness were a little more challenging to uncover as it relied on memory and re-experiencing feeling. For some family mediators, they recounted the location and the furniture and the intention of placement. For other family mediators, they recalled being aware of body language, feelings, emotions, of not only of the parties but of themselves. This intentionality and consciousness might have been overlooked had it not been for reliving the experience. Their perception of reality had to be re-awoken in the form of consciousness in in order to understand the intentionality of

the experience. In this study, intentionality was examined from all sides with questions and follow-up questions. Consciousness was explored through further reflection.

Another aspect of this study was to capture the participants' noematic and noetic experiences. For the noematic phase, participants recalled their lived histories while recalling what happened in family mediation. They recalled times family mediations where they had effectiveness and how they felt. According to Husserl (1962/1913), the noematic experience family mediator recalled memories that were important to them also known as worthfulness. In the noetic phase, it is what happened during real time that family mediators experience if they are aware of it at the time. Most individuals are not conscious and therefore the true meaning of the experience has to be drawn out during reduction (Moustakas 1994, p. 69). The participants in both phases described their memories in great detail using brilliant textural strokes yet structural intentional features of their memories.

Epoché can be defined as removing assumptions from research (Moustakas 1994). Epoché referred to the researchers distance themselves from their preconceived notions prior to the research. I remove myself from the research psychologically in order to allow participants to shine through using their own words and their life experience. I did not presuppose, infer or deduce the answers or the conclusion that the family mediators would provide. This would not only invalidate the study but negate the participant's experiences.

### **Significance of the study**

The design of this study was to research family mediator effectiveness. This study was conducted because of the limited resources specifically on family mediator

effectiveness. Mediation has been thoroughly researched and documented to work. This study took a different direction in that it interviewed advanced family mediators on their beliefs of effectiveness, ineffectiveness and how to reach effectiveness. This study was unique in that it selected experts in the field of family mediation to recount in their own words the method to their practice. Their position and time in the field of family mediation gave them a special perception on family mediator effectiveness. The study design of phenomenology did not portend to provide an answer. It allowed the participants to vocalize their life experience in the tradition of phenomenology.

### **Reflexivity**

Reflexivity is mindfulness; in other words, being conscious of your feelings, bias, and assumptions in research. It is impossible to detach one's experiences in everyday life. Researchers cannot remove themselves while conducting a study. Reflexivity helps researchers acknowledge their emotional and the socialized self. Once a researcher is mindful of themselves, they can distance their feelings, bias and assumptions.

This study relied on advanced family mediators' responses to questions posed by the investigator. The survey and interview were driven by the research questions. The investigator based the research and survey questions from previous research and personal experience. In addition to research and survey questions, this study used Moustakas modifications of Van Kaam (1994) to interpret responses. Categories were developed based on responses that the advanced effective family mediators provided after they contemplated their life experience and bias. The investigator had to be mindful of all, if not, only their biasness but that of their participants.



Since I, am not a family mediator, I had a distance that most researchers do not have when conducting research on this subject. It allowed me to reflect on their statements without bias or having life experience. I did not have preconceived notions on what the participants would state or what they would deem important. Finally, by having distance allowed me to ask the founders in the field of family mediation questions without infused emotions.

### **Limitations of this study**

There were some limitations in this study. Since this was a phenomenological research study only a few participants were recruited to provide the essence of the experience. The study design was selected to obtain unknown answers from the premier family mediators in the field of mediation. The study design sent 200 invitations to advanced family mediators throughout the United States. The study did not compare family mediators in the United States to any other country. The study did not take into account the various state laws where the participants practice family mediation. State laws could impact on how mediator uses their discretion. More studies have to be performed on this topic to understand family mediator effectiveness.

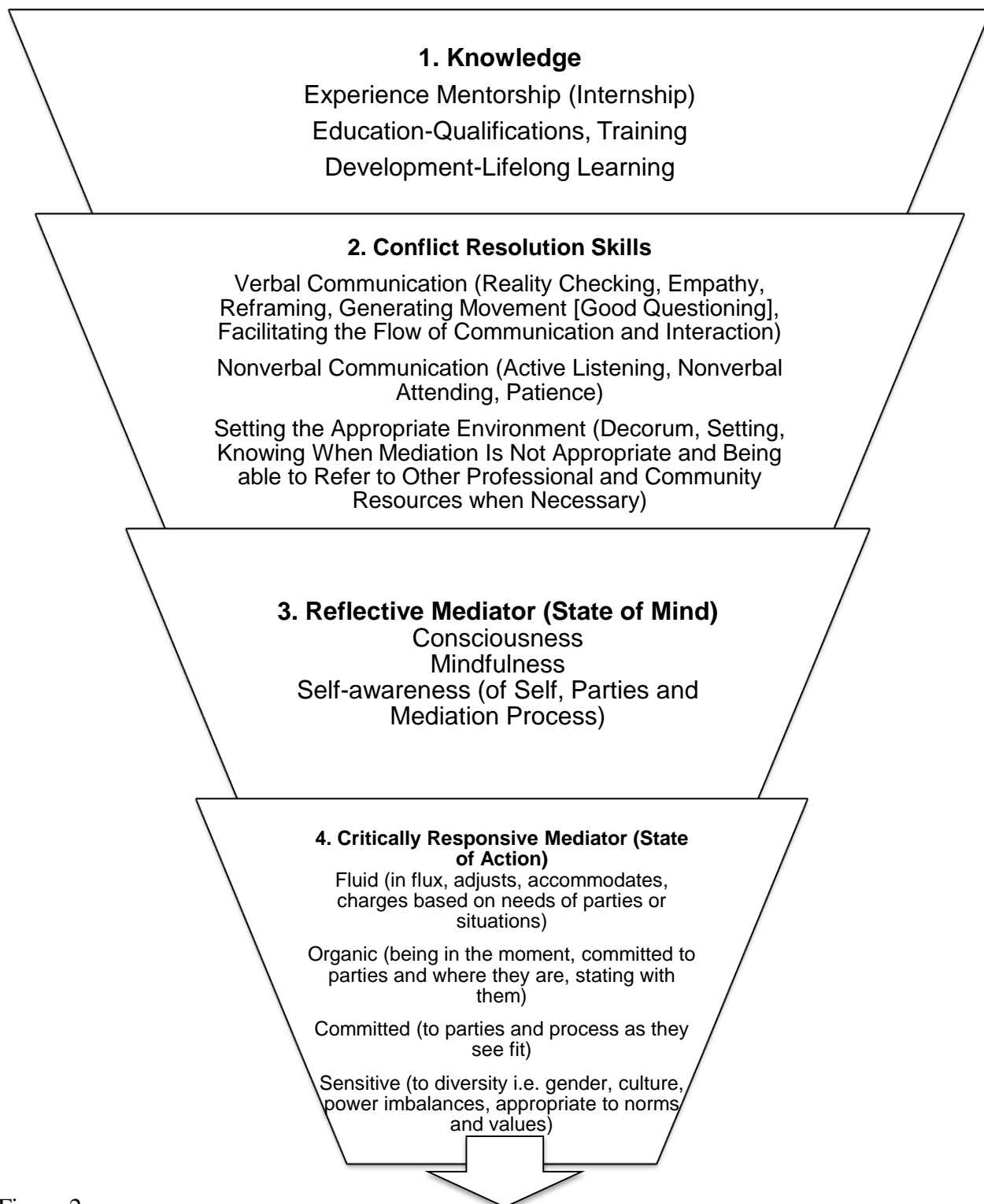


Figure 2.  
 Integrated Phenomenological Framework for Understanding Family Mediator Effectiveness

## **Integrated Phenomenological Framework for Understanding Family Mediator Effectiveness**

The integrated phenomenological framework for understanding family mediator effectiveness lied in the extracted information from the participants during the study. At the top of the cylinder-like figure, there was knowledge. Knowledge was the starting point for most family mediators that participated in this study. They had been educated and met the qualifications in the field in their respective states. Most had committed to life-long learning or personal development through continued training or additional educational courses. They also added, if in the beginning, new family mediators had training in the form of mentorship or internship they would be better prepared for the demands of fulfilling the needs of parties.

Conflict resolution skills were deemed crucial in the assisting of parties in resolving disputes. Family mediators who participated in the study noted three specific subcategories: verbal communication, nonverbal communication and setting the appropriate environment. Verbal communication included but was not limited to: reality checking, empathy, reframing, generating movement through good questioning, facilitating the flow of communication and interaction. The family mediators believed that making sure that the parties understood each other through reality checking and good questions would help move the parties forward. Techniques and skills like reframing, facilitation of discussion, and controlled interaction were used frequently to help family mediators resolve disputes. Nonverbal communication like active listening, nonverbal attending, and patience were considered as important as verbal communication by family mediators. Active listening has been considered different than hearing for several years

and conflict resolution in that one pays attention to the nuances of what a person said, how they said it, as well as what is said. Nonverbal attending was listed as purposeful, interpersonal skills such as nodding one's head and eye contact were necessary to connect with the parties. Setting the appropriate environment such as decorum, setting, knowing when mediation is not appropriate, and being able to refer to other professionals or other resources in the community when appropriate were thought to be a form skills necessary in conflict resolution. Some family mediators said environment is a form of communication in that it conveys a meaning hence they spend time on the setting of their mediation rooms. Other family mediators were very clear on that they would not certain parties', namely domestic violence cases. Some family mediators were also aware they were not specialists in all avenues of accounting, psychology, sociology, estate taxes, et cetera and did not have a problem referring to experts.

The reflective mediator or the state of mind of the family mediator was ever present in this study. Throughout the study family mediators kept mentioning being conscious, mindfulness, and self-awareness. These recurrent themes were stated when family mediators were discussing themselves and their strengths and weaknesses, effectiveness, ineffectiveness and how to improve family mediation. Family mediators stated that in order to provide parties with their professional skills they had to be self-aware of themselves, the parties and of the mediation process. They discussed how they need to be more conscious of what they were doing for effectiveness. Curiously, some family mediators stated that ineffectiveness needs addressed through self-awareness. When asked how one becomes self-aware when they are unaware, their answer was the family mediator has to become tuned into what they actions and rely on a support group.

The critically responsive mediator or the state of action is one of fluidity, pure organic, committed, and sensitive to the needs of the parties. Fluid was a word to describe how influx and adjustable and accommodating responsive family mediators were to the needs parties in various situations. Organic was used to describe how family mediators were in the moment while allowing the parties to dictate the speed as oppose to the mediators. It was important to many of the family mediators participating that the parties control the speed of the process as not to push them into anything that they would not ordinary do so that they would be comfortable. Committed described the family mediator's obligation to the parties and that they would support them to the best of their ability by the use of the best process. Sensitive referred to the family mediators' respect to diversity whether it was gender, culture, power imbalance, norms and values. Many family mediators were self-aware of gender and power imbalances in relationships therefore; they used a process that would provide parties the best outcome for which they were seeking. They were sensitive to cultural differences and the norms and values that change with cultures hence, family mediators used the appropriate norms and values to make the parties more comfortable.

It was all of these attributes, characteristics, techniques that created the integrated phenomenological framework for understanding family mediator effectiveness in this study. There was not one formula that gave family mediator effectiveness but a host of tangible, learnable skills. If knowledge, conflict resolution skills, reflective mediator (state of mind) or the critically responsive mediator (state of action) were removed the family mediator would face interference to mediation which would lead to ineffectiveness. This study made a point of asking participants in exhaustive detail

regarding family mediator ineffectiveness and how to make those who have ineffectiveness to acquire effectiveness. The answers were in the integrated phenomenological framework for understanding family mediator effectiveness.

### **Contribution of this study to the field of conflict analysis and resolution**

This study was to look at family mediator effectiveness using phenomenology. It contributed to the vast knowledge of conflict analysis and resolution research. What made this study unique was it highlighted four phenomena that has been overlooked and were explored with vigor. The four phenomena that emerged from this study which contribute to the field were: knowledge, conflict resolution skills, mindfulness, and family mediator.

There have been several hundred books on conflict resolution when one enters the field. Lacking in the field was how advance family mediators believed that knowledge should be utilized. The family mediators who participated in this study had at least 15 years. They were not subjected to a survey but an hour interview that allowed them to discuss their knowledge and what knowledge they believed family mediators needed for effectiveness.

Conflict resolution skills are taught in most training and education courses. What was not known prior to this study did these skills contribute to effectiveness. This study confirmed the conflict resolution skills work and they add to effectiveness. There were certain conflict resolution skills that were deemed more important than others or at least considered by the participants extremely necessary. There were two conflict resolution skills that some would say were not innate: empathy and patience. Empathy had been considered a personal trait that one was born with however, some family mediators stated

that empathy can be demonstrated through compassion and understanding. Patience while difficult for some individuals can be taught through mindfulness.

Mindfulness was ever present in this study yet, Western literature does not cover it. Even though this was a phenomenological study that focused on the participant's intentionality, many of the participants discussed self-awareness or consciousness. They were two family mediators that used the term mindfulness and discussed meditation. Other family mediators were conscious that they needed to be self-aware in various situations. Mediators that were had ineffectiveness need to be conscious of their ineptitude. This study has shed light on the importance of mindfulness throughout the family mediator's practice. Perhaps, mindfulness can be taught during mentorship, training, and lifelong learning to enhance the overall quality of family mediation.

Finally, the family mediator was noted in this study to be the key to effectiveness. The main focus of this study was on the family mediator using phenomenology to understand how they obtained effectiveness. There have been numerous articles and books on mediation rarely have the authors concentrated on the mediator. This study contributes to the study of conflict resolution and analysis because it concentrated on the family mediator. In addition, it asked them specifically their experience as a family mediator which provided rich detail to their answers.

### **Conclusion**

This study filled in some gaps in the research of family mediator effectiveness however; further research needs to be conducted. The literature in mediation is plentiful this topic needs further exploration. This study was deliberately conducted as phenomenology. I wanted to explore what advanced family mediators believed to be the

heart of effectiveness. The initial study was conducted through phenomenology to obtain rich and vibrant descriptions of their lived experiences. Using phenomenology also gave the participants an avenue to expound on their experiences using their own words.

Additional studies, especially in the forms of surveys, would bolster the information gained from this study and provide additional nuances.



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## Appendix A

### Invitation Letter

Invitation to Participate in a Research Study Entitled  
*A study on resolving conflicts: Family Mediators Effectiveness*

Dear friend or colleague,

My name is Paula Bell. I am in the final stages of completing my PhD degree in Conflict Analysis and Resolution at Nova Southeastern University. This spring, I will be compiling research information to complete my doctoral dissertation, exploring the characteristics of family mediator effectiveness. I would like to invite you to participate in my dissertation research.

This research will focus on advanced family mediators and their effectiveness in the field. By uncovering the nuances of family mediator effectiveness, current and future family mediators can incorporate these specific features into their practice and improve overall family mediator quality.

The research design is quite simple. Approximately twenty advanced family mediators will be participating in this study. Mediators will have at least 15 years of experience and have mediated 75 cases in the area of adult family and divorce (all issues). All participants must speak English and be over the age of 18 years old. Participants will be interviewed for one hour on their professional background and perception of family mediator effectiveness.

Please be assured that absolutely no intrusive questions will be asked of you. No record of your participation will be kept except in my personal research notes and files, which will remain permanently confidential. This project has also been thoroughly reviewed, critiqued and approved by the Nova Southeastern University Institutional Review Board, whose sole purpose is to ensure the safety of all research participants.

I sincerely hope that you will consider participating in this study. If you are willing, please reply to this email with your affirmation and any questions that you may have at the phone number or email address below:

Paula Bell  
pbell@nova.edu  
Cell: 973-979-3831

If you choose to participate, I will contact you on a standard telephone. You will be briefed on the study's design, any risk or benefits participating in study, confidentiality, the right to refuse participation and the ability to withdrawal from the study without penalty. You will be asked if you have any questions or concerns about the study.


You will then have the opportunity to sign a voluntary consent form that fully explains your right to discontinue participation at any time with absolutely no repercussions. I will call your office as soon as I have the voluntary consent forms to set up an interview.

I genuinely appreciate your time and consideration, and look forward to hearing from you!

With warm regards,



Paula Bell  
Doctoral Candidate  
Nova Southeastern University  
Graduate School of Humanities & Social Sciences  
Department of Conflict Analysis & Resolution  
3301 College Avenue  
Fort Lauderdale, Florida 33314

  
NOVA UNIVERSITY  
Institutional Review Board  
Approval Date: JAN 17 2012  
Continuing Review Date: JAN 16 2013

## Appendix B

### Adult Informed Consent



NOVA SOUTHEASTERN UNIVERSITY  
Graduate School of Humanities and Social Sciences

NOVA SOUTHEASTERN UNIVERSITY  
Institutional Review Board  
Approval Date: JAN 17 2012  
Continuing Review Date:  
JAN 16 2013

**Consent Form for Participation in the Research Study Entitled**  
*A study on resolving conflicts: Family Mediator Effectiveness*

Funding Source: None.

IRB protocol # 11161110Exp.

Principal investigator  
Paula Bell, M.A.  
37 Addison Drive  
Fairfield, NJ 07004  
(973)979-3831

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Alexia Georgakopoulos, Ph.D.  
3301 College Avenue  
Fort Lauderdale, FL 33314  
(954) 262-3054

For questions/concerns about your research rights, contact:  
Human Research Oversight Board (Institutional Review Board or IRB)  
Nova Southeastern University  
(954) 262-5369/Toll Free: 866-499-0790  
[IRB@nsu.nova.edu](mailto:IRB@nsu.nova.edu)

**What is the study about?**

You are invited to participate in a research study. The goal of this study is to explore the characteristics of family mediator effectiveness. The main objective of the study is to uncover what creates family mediator effectiveness. By uncovering the nuances of family mediator effectiveness, current and future family mediators can incorporate these features into their practice and improve family mediator quality.

**Why are you asking me?**

You are being asked to participate because you are currently an advanced family mediator. There will be approximately 20 participants in this research study.

**What will I be doing if I agree to be in the study?**

You will participate in an interview by the researcher, Ms. Paula Bell. The interview will be via standard telephone. Ms. Bell will ask you questions about your professional background and your perceptions of family mediator effectiveness. You will not be asked questions about cases you have mediated. The interview will last approximately one hour.

Initials: \_\_\_\_\_ Date: \_\_\_\_\_

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**Is there any audio or video recording?**

This research project will include audio recording of the interview. This audio recording will be available to be heard by the researcher, Ms. Paula Bell, personnel from the IRB, and the dissertation chair, Dr. Georgakopoulos. The recording will be transcribed by Ms. Paula Bell. Ms. Bell will use earphones while transcribing the interviews to guard your confidentiality. The recording will be kept securely in Ms. Bell's office in a locked cabinet. The recording will be kept for 36 months from the end of the study. The recording will be destroyed after that time by deleting the memory of the digital recorder. Because your voice will be potentially identifiable by anyone who hears the recording, your confidentiality for things you say on the recording cannot be guaranteed although the researcher will try to limit access to the recorder as described in this paragraph.

**What are the dangers to me?**

Risks to you are minimal to moderate, meaning they are not thought to be greater than other risks you experience every day. You will be interviewed for one hour over the standard telephone with means that there will be a moderate risk of loss of time and pay by participating in this study. To reduce the amount of time/pay loss, Ms. Bell will conduct the interview when it is convenient for you as well as end it in an hour. Since you will be recorded, there is a minimal risk of your identity being revealed. To secure your identity, your name will be replaced with initials and numbers. All hard copy information will be locked in a cabinet and recordings will be password protected. You will be asked about family mediator effectiveness and ineffectiveness; this may make you feel uncomfortable. You will also spend approximately one hour of your time in the interview. If you have questions about the research, your research rights, or if you experience an injury because of the research please contact Ms. Bell at (973) 979-3831. You may also contact the IRB at the numbers indicated above with questions about your research rights.

**Are there any benefits to me for taking part in this research study?**

There are no benefits to you for participating.

**Will I get paid for being in the study? Will it cost me anything?**

There are no costs to you or payments made for participating in this study.

**How will you keep my information private?**


The transcripts of the recording will not have any information that could be linked to you. As mentioned, the recording will be destroyed 36 months after the study ends. All information obtained in this study is strictly confidential unless disclosure is required by law. The IRB, regulatory agencies, or Dr. Georgakopoulos may review research records.

**What if I do not want to participate or I want to leave the study?**

You have the right to leave this study at any time or refuse to participate. If you do decide to leave or you decide not to participate, you will not experience any penalty or loss of services you have a right to receive. If you choose to withdraw, any information collected about you **before** the date you leave the study will be kept in the research records for 36 months from the conclusion of the study and may be used as a part of the research.

**Initials:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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**NOVA**  
 Institutional Review Board  
 Approval Date: JAN 17 2012  
 Continuing Review Date: JAN 16 2013

**Other Considerations:**

If significant new information relating to the study becomes available, which may relate to your willingness to continue to participate, this information will be provided to you by the investigators.

**Voluntary Consent by Participant:**

By signing below, you indicate that


- this study has been explained to you
- you have read this document or it has been read to you
- your questions about this research study have been answered
- you have been told that you may ask the researchers any study related questions in the future or contact them in the event of a research-related injury
- you have been told that you may ask Institutional Review Board (IRB) personnel questions about your study rights
- you are entitled to a copy of this form after you have read and signed it
- you voluntarily agree to participate in the study entitled *A study on resolving conflicts: Family mediator effectiveness*

Participant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Participant's Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Person Obtaining Consent: \_\_\_\_\_

Date: \_\_\_\_\_

  
 NOVA UNIVERSITY  
 Institutional Review Board  
 Approval Date: JAN 17 2012  
 Continuing Review Date: JAN 16 2013

Initials: \_\_\_\_\_ Date: \_\_\_\_\_

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## Appendix C

### Interview Guide

This study will involve a semi-structured interview which will take an hour to complete. The questions in the interview guide will be consistent through each interview to look at the phenomenon experienced by the subjects. The questions below will also be used in combination with follow-up questions, appropriate to the interview conversation.

1. What state do you practice family mediation?
2. Describe your educational background and your experience in family mediation.
3. How many years have you practiced family mediation?
4. If you were to estimate, how many family mediation cases you have conducted?
5. What is the average number of family mediation cases you mediate in a year?
6. Explain, in your own words, what you do for a living.
7. What is family mediator effectiveness?
8. What are the specific features that promote family mediator effectiveness?
9. What is family mediator ineffectiveness?
10. How can family mediators who are ineffective become effective?