

Divorce Mediation Outcome Research: A Meta-Analysis

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Results vary across divorce mediation and litigation outcome studies. Because a quantitative review has never been performed on this body of research, the present study conducts a meta-analysis on this literature. From five studies that met the established inclusion criteria, it was found that mediation produced a grand effect size of 0.36. This small-to-moderate effect size reveals that across the included studies mediation is a beneficial alternative to litigation for divorcing couples. Dependent variables measuring process satisfaction, outcome satisfaction, emotional satisfaction, spousal relationship, and understanding children's needs were aggregated across the studies, rendering moderate positive effect size.

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Over the past three decades mediation has made a name for itself as an alternative dispute resolution process for divorcing spouses. In the last few years, research comparing the outcomes of litigation versus mediation has grown. Although there is qualitative evidence to suggest that mediation is superior to litigation across several measures, an empirical review of the literature comparing the two has yet to be performed. Consequently, the present study conducted a meta-analytic review quantitatively summarizing the outcome of mediation when directly compared to litigation.

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A Review of Divorce Mediation Versus Litigation Literature

Mediation is used as an alternative to litigation because it is believed to render valuable benefits for divorcing couples. Emery, Matthews, and Wyr's Charlottesville Mediation Project (1991); Kelly and Gigy's Divorce and Mediation Research Project (DMRP; 1989); and Pearson and Thoennes's Denver Custody Mediation Project (CMP; 1988) are three major studies in the mediation and litigation literature that are widely cited. Overall, these studies have compared the relative effectiveness of mediation with that of litigation. Generally, these studies suggest that, across a variety of indices, mediation outperforms litigation. However, there are exceptions. Thus a closer look at this literature is warranted.

User Satisfaction with Process and Outcome. Participant satisfaction is inconsistent across these studies. Pearson and Thoennes (1988) found that individuals who were in mediation were much more satisfied with the process regardless of whether or not they reached an agreement. However, Emery, Matthews, and Wyr (1991) discovered a difference in satisfaction between mothers and fathers. Specifically, they observed that although fathers in mediation were significantly more satisfied with their process and outcome than fathers in litigation, mothers in litigation reported more satisfaction with the impact of court contact on their children than did mothers in mediation. This finding was contradictory to Emery and Wyr's initial study (1987) in which mothers in mediation reported significantly more satisfaction with the effect of the court experience on their children than did mothers in litigation. Even so, in the same study mothers in litigation reported more satisfaction with the final agreement than did mothers in mediation (Emery and Wyr, 1987). Moreover, women in the Pearson and Thoennes (1988) and Kelly and Gigy studies (1989) reported that mediation helped them understand their ex-spouse's point of view. Yet, interestingly, Kelly and Gigy also found that men who litigated rated their divorce process as more helpful in understanding their spouse's point of view than did men in mediation.

In other areas, this research strongly supports that mediation participants are more satisfied with the mediation process and its outcomes than participants in litigation are. First, mediation couples reported that mediation helped them focus on the needs of their children (Pearson and Thoennes, 1988), as well as increase their understanding of their children's psychological needs and reactions more than did litigation participants (Kelly and Gigy, 1989). Second, mediation participants enjoyed the opportunity to air

grievances and were reportedly able to identify the real or underlying issues through the mediation process (Pearson and Thoennes, 1988). Furthermore, women who mediated were most likely to report that the mediation process helped them stand up for themselves (Kelly and Gigy, 1989). Third, mediation respondents were significantly more likely to perceive that (1) spousal support was fair and (2) they had equal influence over the terms of their divorce agreement than were litigation participants (Kelly and Gigy, 1989). Fourth, mediation couples were more likely to report that they would have been comfortable with their spouse's settlement had it been their own; that is, they were more willing to exchange terms of agreement, suggesting a greater degree of perceived fairness (Kelly and Gigy, 1989). Fifth, Kelly and Gigy (1989) found the mediation group was significantly more satisfied with their property agreement at the completion of mediation compared to the litigation group's final divorces. Also, the mediation group was more likely to report that the custody and visiting arrangements they negotiated would be better for everyone in the family than litigation participants as a group were. Finally, mediators were seen by their clients as significantly more helpful in identifying useful ways to arrange custody and visitation than were attorneys, whereas the litigation group perceived that their attorney imposed his or her viewpoint on them (Kelly and Gigy, 1989). Overall, then, mediation outperformed litigation in helping participants focus on their children's needs, dealing with underlying issues, perceiving they had equal influence over the terms of the agreement, viewing their agreement as fair, and negotiating a mutually desirable custody and visitation plan.

However, there were some satisfaction variables on which no group differences were found, suggesting that mediation and litigation couples were equally satisfied. Specifically, both groups said that their process helped them identify very important issues and problems, felt they had sufficient understanding of details of their property and financial situations, deemed the amount of practical information or advice they were given to be adequate, and perceived the information to be sufficient to protect their own interests (Kelly and Gigy, 1989).

User Dissatisfaction with Process and Outcome. In other ways, Pearson and Thoennes (1988) found that mediation participants were dissatisfied with the mediation process. Half of the respondents in the DMRP described mediation sessions as tension-filled and unpleasant, while 20–30 percent of them described the process as confusing. Additionally, many DMRP respondents reportedly misunderstood the goal of

mediation (for example, some participants were annoyed because they thought the goal of mediation was to save their marriage, others interested in saving the marriage were upset that the mediator did not urge the partner to give the marriage another chance, and some thought the mediator would make the final decision or that mediation was another form of counseling).

Some mediation participants felt mediation was rushed, and women who mediated were more likely to report feeling pressured into an agreement by their ex-spouse, being uncomfortable in expressing their feelings, having anger during many of the sessions, and finding the mediator to be so directive that these female participants felt the terms of the agreement were handed to them (Pearson and Thoennes, 1988).

Compliance and Relitigation. Another discrepancy among these studies concerns compliance and relitigation of agreements. Emery, Matthews, and Wyr (1991) found that significantly fewer court hearings were held for partners who mediated custody. That is to say, twenty-seven of the thirty-five mediation cases ended in a verbal or written agreement, and only four of the eight unresolved cases went to court. However, Pearson and Thoennes (1988) found that the mediation couples are just as likely to return to court to modify their divorce agreement as litigating couples are.

Impact on Spousal Relationship. Research results are also inconsistent concerning the effect mediation has on a party's relationship with an ex-spouse. Pearson and Thoennes (1988) reported that mediation appears to have only a modest ability to change basic relationship patterns between divorcing spouses or to promote cooperation; that is to say, although mediation does not produce cooperative couples, it is less damaging than the litigation process. By contrast, Kelly and Gigy (1989) found that the mediation process was perceived as being more beneficial to the spousal relationship than litigation proceedings were. In fact, the litigation group was significantly more likely to report that the divorce process had caused deterioration in their communication compared to mediation respondents (Kelly and Gigy, 1989). Still, Emery, Matthews, and Wyr (1991) observed that fathers did not differ between groups regarding acceptance of marital termination or conflict in child rearing; however, mediating fathers were significantly more satisfied with the effect of the dispute resolution procedure on themselves, their children, and their relationship with their former spouse than litigating fathers. Yet mothers who mediated

reported significantly less acceptance of marital termination than mothers who litigated (Emery, Matthews, and Wyer, 1991).

Cost and Time Benefits. In some of this research, mediation saved participants a modest amount of money (about \$680) when an agreement was reached (Pearson and Thoennes, 1988). Others reported the mediation group reached agreement significantly more quickly than the litigation group (Emery, Matthews, and Wyer, 1991) and saved divorcing couples between 2.5 and 3.5 months in time to resolution (Pearson and Thoennes, 1988).

Custody, Child Support, and Visitation Agreements. Unlike some of the variables previously discussed, research literature agrees on the effect of mediation on custody, child support, and visitation. Specifically, significantly more joint legal custody awards were made in mediation than in litigation (Emery, Matthews, and Wyer, 1991; Pearson and Thoennes, 1988); however, there were no group differences on the amount of child support to be paid (Emery, Matthews, and Wyer, 1991; Pearson and Thoennes, 1988) or on the number of days the children were to spend with the nonresidential parent (Emery, Matthews, and Wyer, 1991).

Summary of Mediation and Litigation Studies

After reviewing the results of these three major studies, we conclude that divorce mediation does in fact provide more benefits than litigation for divorcing couples. However, several of these results show no difference between groups; some even favor litigation. Thus it is necessary that the mediation versus litigation literature be quantitatively reviewed to investigate the degree to which mediation is more effective than litigation. Although several researchers have qualitatively reviewed the mediation-versus-litigation literature, to date the mediation outcome literature has not been quantitatively summarized. This was the goal of the present study.

Meta-Analytic Technique

Meta-analysis is a technique used to survey research literature (Grimm and Yarnold, 1995). Beck and Fernandez's study (1998) described meta-analysis as a "quantitative procedure for evaluating treatment effectiveness by calculating effect sizes" (p. 65). The effect size expresses the magnitude of difference between treated and untreated subjects and is stated in standard

deviation units, allowing comparison among studies. Furthermore, effect size allows computation of summary statistics such as the grand effect size, a statistic that indicates the overall effectiveness of an intervention across studies.

The meta-analytic process is founded on the conceptual basis of sampling error (Arthur, Bennett, and Huffcutt, 2001). Sampling error is the difference between the distinctiveness of a sample and the population from which the sample was drawn. Because a sample usually represents only a small fraction of the original population, sampling error is likely to occur. Arthur and colleagues explained that sampling error has a similar application to classical test theory:

Classical test theory maintains that a person's actual score on a test is a combination of his or her true score plus an unknown (that is, random) error component. By extension, sampling error maintains that the relationship across all of the participants in a given study, whether represented by an effect size statistic (d) or by a correlation coefficient (r), is a combination of the true size of the relationship in a population plus an unknown (that is, random) error component.

Therefore each study included in a meta-analysis represents a sample. This sample is likely to differ from the population from which it was taken by an unknown amount of sampling error (Arthur, Bennett, and Huffcutt, 2001). Because sampling errors tend to form a normal distribution with a mean of zero (that is, the sampling errors in one direction balance the sampling errors in the other direction), when the mean sample-weighted effect is computed across all studies included in a meta-analysis the resulting value is mostly free of sampling error. As a result, the grand effect size (that is, the mean d value) is a direct estimate of the effect of an intervention if it were possible to test the entire population (Arthur, Bennett, and Huffcutt, 2001).

Despite its advantages over qualitative methods of review, meta-analysis has raised certain concerns that call for specific solutions. Of particular concern for this study is the so-called apples-and-oranges problem, mixing together disparate dependent measures into a grand effect size. Specifically, success in mediation could be judged across a variety of indices, ranging from money and satisfaction to the number of sessions. To handle different dependent measures, typically, along with the grand d , researchers compute effect size estimates for distinct groupings of dependent measures. Calculating effect sizes for aggregated dependent variables allows effectiveness to be

judged across many distinct dimensions. This procedure was adopted in the present study.

The Study

Because the results vary across divorce mediation and litigation outcome research, the effectiveness of mediation, as it is currently practiced, is unclear. For example, Emery, Matthews, and Wyr (1991) reported that mediation is helpful to divorcing couples, while Pearson and Thoennes (1988) found that mediation may not be more beneficial but is at least as helpful as litigation. To measure the efficacy of mediation, a quantitative review is needed. The goal of the present study was to use meta-analysis to review this literature quantitatively so that the difference between mediation and litigation may be statistically summarized. It is predicted that the meta-analytic comparison will render a positive grand effect size, indicating that mediation is more effective than litigation.

Methodology

Inclusion Criteria. A computerized database search of PSYCINFO and *Dissertation Abstracts International* using key terms such as *divorce mediation, mediation and litigation, family mediation, and mediation outcomes* was conducted. Additional studies were located by reading the reference lists of the identified studies. Only studies comparing divorce mediation and divorce litigation on outcome variables were selected. That is, for inclusion in the analysis studies had to (1) use a “between groups design” in which a mediation group was compared to a litigation group, (2) measure both groups on at least one outcome variable, (3) use mediation and litigation in a divorce context, and (4) report sufficient data to compute effect sizes. Applying these criteria rendered five usable studies for the final sample, including four published studies and one unpublished dissertation.

Characteristics of Individual Studies. As seen in Table 1, the final sample included a total of 71 divorcing couples, 569 divorce cases, and 320 participants (these distinctions are due to methodology differences in the included studies). Although the studies met the inclusion criteria, the studies varied on methodology characteristics such as random assignment, method of data collection, mediation setting, and issues mediated. The studies also assessed a variety of dependent variables. Table 1 summarizes these differences.

Table 1. Characteristics of Individual Studies Included in the Meta-Analysis

Study	N	RA/RS	Method of Data Collection	Mediation Setting	Issues Mediated	DV
Emery, Matthews, and Weyer (1991)	71 couples	RA/RS	SRQ, SI, CRD	Court-based	CC, V, CS	SP, SO, ES, OS, ISR
Jones and Bodtker (1999)	169 cases	No	SRQ, CRD	Court-based	CC	SP, SO, OS
Kelly (1989)	236 participants	No	SRQ, SI	Private	ADR	SP, SO, ES, OS, ISR, CN
Marcus, Marcus, Stilwell, & Doherty (1999)	400 cases	RS*	CRD	Private	ADR, FO	
Meyer (1992)	84 participants	RS	SRQ	Court-based	CC	SP, SO, ES, OS, CN

Note: N = number of subjects, RA = random assignment, RS = random selection, DV = dependent variable, MG = mediation group, LG = litigation group, SRQ = self-report questionnaire, SI = structured interview, CRD = court record data, CC = child custody, V = visitation, CS = child custody, ADR = all divorce-related, SP = satisfaction with process, SO = satisfaction with outcome, ES = emotional satisfaction, OS = overall satisfaction, ISR = impact on spousal relationship, CN = increased understanding of children's needs, FO = financial outcomes.

* Random selection occurred only for the litigation group.

Random Assignment/Selection. As indicated in Table 1, some of the studies used random assignment or random selection and others did not. Emery and colleagues randomly approached families about either attempting to resolve their dispute in the court's new mediation program or participating in an evaluation of the court's services. Therefore, the Emery study used both random selection (that is, randomly selecting the sample included in the study) and random assignment (randomly assigning the selected sample to treatment and control groups). Using another method, Meyer (1992) called 84 randomly selected participants from a pool of 300 prospective subjects and asked them if they had mediated or litigated child custody issues. Because these participants had already completed mediation or litigation, random assignment was not possible; however, Meyer was able to use random selection. Like Meyer, Marcus, Marcus, Stilwell, and Doherty (1999) gathered subjects by obtaining a list of previously mediated and litigated cases. Although Marcus and colleagues were able to select litigated cases for the sample randomly, mediated cases were not randomly selected. Specifically, Marcus and colleagues asked mediators to send only cases that were mediated from start to finish. The remaining two studies did not use random assignment or selection.

Method of Data Collection. Furthermore, these five studies also differed concerning method of data collection. Table 1 shows that most of the studies used self-report questionnaires and structured interviews to compare the mediation and litigation groups on dependent outcome variables such as satisfaction. In particular, Kelly's Divorce and Mediation Research Project (1989) collected information from participants using self-report questionnaires at the beginning of the study, when mediation was completed, and when the divorce was final. Furthermore, Emery, Matthews, and Wyer's Charlottesville mediation project (1991) collected demographic and court record data on the participating families when initial contact was made. After mediation was completed, members of the Emery research team visited each family's home, where the structured interview took place and self-report questionnaires were completed. Other studies such as Jones and Bodtger (1999) and Meyer (1992) used archival court record data to identify mediation and litigation participants and mailed self-report questionnaires to them. As for Marcus, Marcus, Stilwell, and Doherty (1999), who were interested in comparing mediation and litigation groups just

on financial outcomes, the researchers were able to gather information using only court record data.

Mediation Setting. Table 1 also points out that some of the studies used private mediation settings while others used court-based mediation. Although the differences in private and court-based mediation are not fully examined in this study, it is important to note the variation in mediation settings across the included studies. For example, Kelly's private mediation (1989) took place outside of the court, and participants voluntarily came to mediate divorce issues. In contrast, Jones and Bodtker's court-based mediation program (1999) mandated that all couples filing for divorce with custody-related issues be evaluated by a hearing officer, who determined whether the couple was referred to mediation or the normal adversarial process. However, Emery, Matthews, and Wyer (1991) used court-based mediation in which participants were able to choose their own dispute resolution process.

Issues Mediated. Moreover, the studies differed on the types of issues included in mediation. As indicated in Table 1, studies either included all divorce issues in mediation or limited mediation to only child-related issues such as custody. Specifically, Kelly (1989) and Marcus, Marcus, Stilwell, and Doherty (1999) used all-inclusive mediation while Emery, Matthews, and Wyer (1991); Jones and Bodtker (1999); and Meyer (1992) limited mediation to child-related issues.

Definitions of Outcome Variables. All of the included studies measured mediation and litigation groups on outcome variables. As can be seen in Table 1, four of the five studies measured the groups on outcome variables that were comparable with another included study. Specifically, all four of these studies measured process satisfaction, outcome satisfaction, and overall satisfaction. Additionally, emotional satisfaction was studied by three of the included studies, while impact on spousal relationship and increased understanding of children's needs were variables measured by two studies. Because these variables were compared across studies, it is of particular interest to note how each study defined these dependent variables.

To begin, Kelly (1989) described process satisfaction as mediator or attorney effectiveness, mediator or attorney impartiality, empowerment in the process, and impact on spousal relationship. Emery, Matthews, and Wyer (1991) defined process satisfaction as the participant's satisfaction

with the court's role, his or her own role, fairness of decision, and participant control over decisions; felt that rights were protected; and knew about available options. Although Emery and colleagues included impact on spousal relationship as a variable, it was not used to define process satisfaction. Nevertheless, it seems that Kelly (1989) and Emery, Matthews, and Wyr's definitions of process satisfaction derived from two shared subvariables: (1) empowerment in the process for the participant and (2) satisfaction with the court's role. Interestingly, Meyer's definition of process satisfaction (1992) resembles Kelly's in that it includes spousal relationship issues (that is, clarifying issues and resolving disagreements with one's former spouse regarding the parenting plan and resolution of parenting disputes in general). In addition, Meyer's definition is similar to that of Emery and colleagues in that it includes fairness in handling the agreement and consideration of both parties' needs. Furthermore, unlike the definitions by Kelly or Emery and colleagues, Meyer includes helpfulness in putting aside anger with one's spouse and focusing on the children's well-being as a dimension of process satisfaction. Different from these three studies is Jones and Bodtger (1999), who directly asked participants one question: "Were you satisfied with the mediation/litigation process?" Although the included studies' definitions are similar and overlap on several dimensions, all the studies defined process satisfaction slightly differently.

As noted earlier, outcome satisfaction was measured by four of the studies included in the meta-analysis. Emery, Matthews, and Wyr (1991) used satisfaction with decisions, winning what one wanted, and the durability of the agreement to define outcome satisfaction, while Kelly (1989) used emotional satisfaction, satisfaction with financial agreements, satisfaction with custody and child support, and understanding children's needs as defining characteristics of outcome satisfaction. Similarly, Meyer (1992) measured outcome satisfaction with the participants' perceptions of fairness of the child custody agreement, satisfaction with the agreement, and how accommodating the parenting agreement was for everyone in the family. As with process satisfaction, Jones and Bodtger (1999) simply asked participants if they were satisfied with the outcome of their dispute process. In summary, the overlapping subvariables used to define outcome satisfaction seem to be (1) the participants' perception of fairness of the agreement and, as expected, (2) satisfaction with the final agreement.

Additionally, emotional satisfaction was quantified in three studies. Specifically, Emery, Matthews, and Wyr (1991) used the Beck Depression

Inventory, the Acceptance of Marital Termination Scale, and the Acrimony Scale to measure emotional satisfaction. Similarly, Meyer (1992) defined emotional satisfaction by feelings of anger and tension toward one's ex-spouse as well as satisfaction with the agreement. However, Kelly (1989) simply defined emotional satisfaction by a participant's willingness to trade settlement agreements with a former spouse (for example, comfort with spouse's agreement if it were his or her own). Therefore the common theme across these studies in defining emotional satisfaction appears to be peacefulness with one's former spouse. It seems the researchers agreed that emotional satisfaction could be defined by the lack of negative feelings between spouses.

Impact on spousal relationship was defined by Emery, Matthews, and Wyr (1991) as the degree to which the dispute resolution method caused or settled interspousal problems. Likewise, Kelly (1989) defined this variable as improving or worsening communication and reasonableness between the divorcing couple. Also, increased understanding of children's needs was defined by Kelly (1989) as helpfulness in the custody and visitation arrangement, understanding of psychological needs, and understanding the cost of raising a child, whereas, according to Meyer (1992), increased understanding of children's needs was defined by the helpfulness of mediation or litigation in understanding children's experience in divorce, children's needs and reactions during divorce, and participants' helpfulness in arranging a parenting plan and custody arrangement that meets the growing needs of the children.

Last, overall satisfaction was calculated by aggregating all satisfaction subvariables. In particular, overall satisfaction was defined by Emery, Matthews, and Wyr (1991) as satisfaction with process and outcome, and impact on self, children, and spousal relationship. In the same vein, Jones and Bodtker (1999) also measured satisfaction with process, outcome, fairness of the agreement, and parenting plan. Included in Jones and Bodtker's definition (1999) was also that participants felt their concerns were heard and that they did not feel pressured to go along with something they did not want. To calculate overall satisfaction for Kelly's study (1989), the previously mentioned subvariables of process satisfaction (for example, mediator or attorney effectiveness, mediator or attorney impartiality, empowerment in the process, and impact on spousal relationship) and outcome satisfaction (emotional satisfaction, satisfaction with financial agreements, satisfaction with custody and child support, understanding children's needs) were combined. Finally, for Meyer's study (1992),

overall satisfaction was defined by combining these four variables: emotional, process, and outcome satisfaction as well as increased understanding of children's needs.

Results

Overview of Analysis

To review, after five studies were identified as suitable to meta-analytic study, effect sizes were calculated. For the studies that reported means and standard deviations, an effect size (d) was computed (in other words, the mean of the mediation group was subtracted from the mean of the litigation group and then divided by the pooled standard deviation of the groups) for the mediation and litigation groups. Where means and standard deviation were not reported, effect sizes were estimated using t -values, correlation coefficients, and F -values. Specifically, t - and F -values were converted to r , and r was then converted to d .

Effect sizes were treated in two ways. First, they were averaged across variables to generate a mean effect size for each study. Subsequently, the mean effect sizes for all the studies were averaged to produce the grand d effect size, illustrating the difference between the mediation and litigation groups across the analyzed studies. Second, the effect sizes for those dependent variables that were comparable across two or more studies were averaged to express an effect size for the comparable dependent variables. All effect sizes were computed so that a positive d indicated mediation was superior to litigation.

Calculation of Grand d . Individual d s and the overall grand d are reported in Table 2. As shown, all studies rendered positive d s, indicating that mediation outperformed litigation. It is important to note that, according to Arthur, Bennett, and Huffcutt (2001), an effect size of 0.2 is considered a small effect, and 0.5 is regarded as a moderate effect while a d of 0.8 is judged as a large effect. Effect sizes ranged from 0.21 to 0.56. Specifically, the Marcus study (1999) and the Emery study (1991) yielded fairly small effect sizes of 0.21 and 0.28, respectively. From Jones and Bodtker's study (1999), a small-to-moderate effect size of 0.34 was calculated, while a moderate effect size of 0.42 was obtained for Kelly's study (1989). Last, Meyer's study showed a moderate effect size of 0.56. Also, as predicted, the meta-analytic comparison

Table 2. Effect Sizes for Individual Studies and the Grand Effect Size

<i>Study</i>	<i>d</i>
Emery, Matthews, and Wyrer (1991)	0.28
Jones and Bodtker (1999)	0.34
Kelly (1989)	0.42
Marcus, Marcus, Stilwell, and Doherty (1999)	0.21
Meyer (1992)	0.56
Grand <i>d</i>	0.36

Note: *d* = effect size.

rendered a positive grand effect size, indicating that mediation is more effective than litigation. As indicated in Table 2, averaged across all studies the grand effect size was 0.36, a small but moderate effect. Overall, the present study quantitatively indicates that mediation is superior to litigation across many measures.

Calculation of Aggregated *ds*. To investigate the difference between mediation and litigation, dependent variables that were comparable with one or more studies were combined further. As previously mentioned, four of the five studies measured variables that were comparable to at least one other study. Because the Marcus study (1999) measured only financial outcome (that is, a variable not measured by any other included study), it was not included in Table 3. As illustrated in Table 3, the aggregated variables were process satisfaction, outcome satisfaction, emotional satisfaction, overall satisfaction, impact on spousal relationship, and increased understanding of children's needs. As shown, effect sizes ranged from -0.01 to $+0.81$ for individual *ds*. With the exception of Emery and colleagues' emotional satisfaction variable (1991), all individual *ds* were positive in value. For the aggregated variables, effect sizes ranged from 0.34 to 0.67. In particular, effect sizes obtained from outcome satisfaction and emotional satisfaction were moderate at 0.34. Overall, satisfaction and increased understanding of children's needs calculated moderate effect sizes of 0.41 and 0.42, respectively. Furthermore, the *d* for process satisfaction was 0.45, another moderate effect size. Impact of spousal relationship obtained the largest effect size of 0.67; that is, mediation appeared to have a fairly large positive effect on a divorcing couple's relationship with one another. On the whole, compared to litigation, mediation rendered low-moderate to moderate effect sizes on all aggregated variables.

Table 3. Figure Aggregated Effect Sizes for Dependent Variables

<i>Study</i>	<i>Dependent Variable</i>					
	<i>SP</i>	<i>SO</i>	<i>ES</i>	<i>OS</i>	<i>ISR</i>	<i>CN</i>
Emery, Matthews, and Wyer (1991)	0.25	0.08	-0.01	0.32	0.53	-
Jones and Bodtker (1999)	0.27	0.57	-	0.34	-	-
Kelly (1989)	0.47	0.36	0.35	0.42	0.81	0.35
Meyer (1992)	0.81	0.35	0.67	0.56	-	0.42
Aggregated <i>d</i>	0.45	0.34	0.34	0.41	0.67	0.42

Note: SP = satisfaction with process, SO = satisfaction with outcome, ES = emotional satisfaction, agreement, OS = overall satisfaction, ISR = impact on spousal relationship, CN = increased understanding of children's needs.

Discussion

Summary of Results

Across the five included studies, mediation has been shown quantitatively to be superior to litigation in dealing with divorce cases. Interestingly, Erickson (1988) noted that in most cases the mediation and adversarial systems share exactly the same goal: present the court with a settlement agreement. That is to say, both systems urge settlement. Furthermore, Erickson pointed out that the mediation and legal processes are similar in that they both require full disclosure in the discovery process, use experts (accountants, appraisers), and make sure all essential issues are discussed and included in the agreement.

Therefore the question is raised: What distinguishes mediation from litigation? Erickson (1988) gave this explanation:

The mediator and attorney may both produce an agreement, but they differ in the process used. The mediator helps the parties negotiate their settlement, while in the traditional legal process the two attorneys advise and negotiate a settlement on behalf of their clients. Attorney negotiations are based on the assumption that an adversarial, competitive approach to conflict allows the attorney for each spouse to argue and compete for the best result. The attorneys define the most common divorce issues in a way that reflects the basic assumptions inherent in the adversarial court process, in terms of competitive, win-lose outcomes. In contrast, mediators define divorce issues in mutual, cooperative terms [pp. 106–107].

As Erickson noted, the processes of mediation and litigation differentiate these two systems from one another. Furthermore, mediation and litigation produce different kinds of agreements. In litigation, the attorney acts as an interpreter to the client about what is fair in the eyes of the court; attorneys advise their clients about what would happen if their case went to court, whereas mediation asks clients to create their own laws of fairness. Thus mediation often produces unique agreements that deviate from the norm because they are tailor-made by the couple to fit their circumstances and desires. In contrast, because the court does not have the knowledge or the time to customize agreements for every divorcing couple, it uses a set of procedures that produce very similar outcomes. For these reasons, mediation is more desirable. These differences distinguish mediation from litigation and contribute to mediation's higher performance, shown in the present study.

As previously stated, the purpose of this study was to use meta-analysis to review divorce mediation and litigation outcome literature quantitatively. Although the literature had been reviewed qualitatively, prior to the present study it had not been statistically summarized. It was predicted that the meta-analytic comparison would render a positive grand effect size, indicating mediation to be more effective than litigation. As expected, meta-analysis of divorce mediation and litigation outcome literature produced a small but moderate positive grand effect size, confirming the researcher's hypothesis. At the same time, each of the five included studies yielded an individual positive effect size (as seen in Table 2), and a positive effect size was also generated for each aggregated variable (as seen in Table 3). These findings suggest that the popularity of mediation as an alternative to litigation for divorcing couples is justified by its effectiveness in producing desirable outcomes.

Implications for Research

This study attempted to summarize the findings of the mediation-versus-litigation outcome literature to date. From the presented study, several implications for future research are offered.

To understand the effectiveness of mediation better, more studies comparing divorce mediation and litigation outcomes are needed. Although some of the earliest divorce mediation and litigation outcome studies were conducted almost thirty years ago, this literature is considered "young" because of the small number of studies conducted. As more studies are carried out, the effectiveness of mediation will be more clearly revealed. Also,

as more research is executed implications will likely be discovered that cause new challenges for the practice of mediation. For example, as noted in the literature review, some studies have found significant gender differences in satisfaction with divorce mediation (Emery, Matthews, and Wyr, 1991; Kelly and Gigy, 1989; Pearson and Thoennes, 1988). Yet these findings do not show consistent trends. Thus more research is needed to understand these gender differences and their implications for improving the practice of mediation.

Furthermore, several adjustments may be made in the sampling, methodology, and design of future studies. The subsequent implications are specific guidelines for improving the quality of future studies. First, although many possible studies were gathered as candidates for analysis, several were unusable and did not meet the inclusion criteria. There were two issues that most commonly excluded studies from inclusion in the meta-analysis. First, several studies measured mediation on outcome variables without including litigation as a control group. Moreover, several studies did not report effect sizes or include the rudimentary statistics needed for the researcher to compute an effect size. In particular, Pearson and Thoennes's CMP and Kelly and Gigy's DMRP (1989) are two major divorce mediation projects that include a total of 959 participants. However, because the necessary statistics for effect size calculation were not reported, neither project was included in the meta-analysis. Furthermore, the DMRP study also did not use litigation as a control group but compared three mediation programs on outcome variables. Overall, it is necessary for future studies to include litigation as a control. Additionally, effect sizes should be included in future studies, or at least means and standard deviations should be reported so that effect sizes may be computed.

Second, external and internal validity may be improved in future studies. In his book *Research Design in Clinical Psychology*, Alan Kazdin (2003) describes external validity as the extent to which the results of a study can be generalized to other populations and settings. Therefore it is important to note that external validity can be increased in future studies by using random selection. Because random selection increases the population from which the sample is taken, generality of the results increases as well. Moreover, internal validity is defined by Kazdin as the extent to which the experimental intervention can account for group differences. Internal validity is therefore especially important in studies attempting to show treatment effectiveness. Because divorce mediation outcome literature is attempting to show the effectiveness of mediation as an alternative to litigation, internal

validity is important. To increase internal validity in future studies, random assignment may be used. Specifically, random assignment is used to ensure that the treatment and control groups are similar prior to treatment. Consequently, if the groups are as similar as possible before the intervention, then change in the treatment group is more likely to have occurred as a result of the intervention. By prioritizing random selection and random assignment in future studies, one can make meaningful inferences about the effectiveness of mediation and generalize to other populations and settings.

Implications for Practice

Finally, it is important to consider how the results of the present study affect the current practice of mediation. This section discusses the present study's implications for practice concerning the role of mediation and litigation in society, the costs and benefits of mediation, the profession of mediation, and credentials for becoming a mediator.

The Role of Mediation and Litigation in Society. Specifically, it has been implied that mediation is a useful option and can serve divorcing couples in ways that the adversarial process cannot. For example, the present study indicated that mediation had a more positive effect than litigation on spousal relationships, as well as increasing the parents' understanding of the children's needs. According to Beck and Beck (1985), a child's adjustment is positively affected by a cooperative and supportive relationship between spouses during divorce. The results of the present study also indicated that mediation participants were more emotionally satisfied than litigation participants. In this same vein, Beck and Beck explained that, although the adversarial process tends to compound adjustment, mediation assists the adjustment process during divorce, increasing the long-term welfare of divorcing spouses. Furthermore, in the present study mediation participants showed greater satisfaction with process and outcome, suggesting the methods used and the agreements made in mediation are more suitable to divorcing couples than litigation procedures and contracts are. The role of mediation in society is therefore to give divorcing couples a more satisfying alternative to litigation, one less likely to affect the adjustment of the spouses or the children adversely.

Nevertheless, there seems to be at least one situation in which mediation may not be the best option for divorcing couples. Several of the studies included in the present analysis screened for and excluded cases in which

domestic violence existed. Therefore exclusion from the analyzed studies may imply that litigation is a more suitable process for divorcing couples dealing with domestic violence issues. Thus, like mediation the adversarial process also serves the public by offering protection to divorcing spouses dealing with domestic violence.

The Costs and Benefits of Mediation. In addition, to investigate the implications for the practice of mediation further, it is necessary to discuss the costs and benefits of mediation. In particular, as the present study quantitatively reviewed divorce mediation outcome literature, the benefits of mediation were shown to outweigh the costs. According to the included studies, the benefits of mediation included process satisfaction, outcome satisfaction, emotional satisfaction, increased understanding of the children's needs, and a more positive effect on the spousal relationship than litigation. Beck and Sales (2001) also note that divorce mediation gives participants empowerment and self-determination in their own divorce agreement by allowing them to draft the laws of fairness. As a result, parties develop more satisfying agreements, increasing the chances of compliance by the participants and the durability of the agreement. Furthermore, parties get to air their grievances and feel heard by the other party, making mediation a less hostile process than litigation. It has also been argued that mediation is faster and less expensive, increases child support payments, teaches parents problem-solving skills, deals with the root causes of problems and conflict that exist between a divorcing couple, and benefits the legal system by lessening its caseload and providing a process that more effectively deals with the relationships and emotional issues involved in divorce (Beck and Sales).

However, for several subvariables small to moderately negative effect sizes were calculated and may be considered costs of mediation: (1) under the outcome satisfaction variable for the Emery study (1991), litigation participants were more likely than mediation participants to report that they "won what they wanted"; (2) in the same study, under the variable "emotional satisfaction," mediation participants were less accepting of marital termination and more depressed than litigation participants; (3) Jones and Bodtker (1999) reported that mediation parties were more likely to feel pressured to go along with something they did not want than were litigation parties; and (4) in the study by Marcus and colleagues (1999), women who mediated received a lesser percentage of the family's income in the divorce agreement.

Overall, it seems that these variables reveal the cost of seeking a win-win solution and decreased hostility in mediation. For example, because mediation focuses more on the relationship between divorcing spouses and the needs of children, it may focus less on substantive issues. As a result, mediation participants may not win as much substantively as litigation participants do. Moreover, mediation participants may be more likely to experience depression and struggle with accepting termination of the marriage as a result of mediation's focus on renegotiation of the spousal relationship and decreased hostility between spouses. Last, because one goal of mediation is to come to a mutually acceptable agreement, participants may report feeling more pressure to go along with something they do not necessarily want than litigation participants do. That is, because hostility is considered unhelpful to the mediation process, mediation participants may be more likely to go along with something they do not want out of fear of appearing to be hostile. Therefore, although mediation has many benefits, it is important that these costs be noted so that in the future mediators will better understand the emotional and substantive losses experienced by some in mediation.

Conclusions

Meta-analysis of the divorce mediation outcome literature not only permitted statistical summarization of mediation's effectiveness but also offered implications for future research and the practice of mediation. As more studies are conducted testing the effectiveness of divorce mediation, the practice of mediation will be sharpened. As a result, divorcing couples will be given more effective mediation services that will better meet their needs.

References

- Arthur, W., Bennett, W., and Huffcutt, A. *Conducting Meta-Analysis Using SAS*. Mahwah, N.J.: Erlbaum, 2001.
- Beck, C. J., and Sales, B. D. *Family Mediation: Facts, Myths, and Future Prospects*. Washington, D.C.: American Psychological Association, 2001.
- Beck, E. A., and Beck, C. E. "Improving Communication in Divorce Mediation." In C. Everett (ed.), *Divorce Mediation: Perspectives on the Field*. New York: Hawthorn Press, 1985.
- Beck, R., and Fernandez, E. "Cognitive-Behavioral Therapy in the Treatment of Anger: A Meta-Analysis." *Cognitive Therapy and Research*, 1998, 22(1), 63-74.

- Emery, R. E., Matthews, S. G., and Weyer, M. M. "Child Custody Mediation and Litigation: Further Evidence on the Differing Views of Mothers and Fathers." *Journal of Consulting and Clinical Psychology*, 1991, 59(3), 410–418.
- Emery, R. E., and Weyer, M. M. "Child Custody Mediation and Litigation: An Experimental Evaluation of the Experience of Parents." *Journal of Consulting and Clinical Psychology*, 1987, 55, 79–186.
- Erickson, S. K. "The Legal Dimension of Divorce Mediation." In J. Folberg and A. Milne (eds.), *Divorce Mediation Theory and Practice*. New York: Guilford Press, 1988.
- Grimm, L., and Yarnold, P. (eds.). *Reading and Understanding Multivariate Statistics* (4th ed.). Washington, D.C.: American Psychological Association, 1995.
- Jones, T. S., and Bodtker, A. "Agreement, Maintenance, Satisfaction and Relitigation in Mediated and Non-Mediated Cases: A Research Note." *Journal of Divorce and Remarriage*, 1999, 32(1/2), 17–30.
- Kazdin, A. E. *Research Design in Clinical Psychology* (4th ed.). Boston: Allyn and Bacon, 2003.
- Kelly, J. B. "Mediated and Adversarial Divorce: Respondents' Perceptions of Their Processes and Outcomes." *Mediation Quarterly*, 1989, 24, 71–88.
- Kelly, J. B., and Gigy, L. "Divorce Mediation: Characteristics of Clients and Outcomes." In K. Kressel and D. Pruitt (eds.), *Mediation Research: The Process and Effectiveness of Third-Party Intervention*. San Francisco: Jossey-Bass, 1989.
- Marcus, M. G., Marcus, W., Stilwell, N. A., and Doherty, N. "To Mediate or Not to Mediate: Financial Outcomes in Mediated Versus Adversarial Divorces." *Mediation Quarterly*, 1999, 17(2), 143–151.
- Meyer, M. A. "Parent Satisfaction in Litigation and Mediation of Child Custody Disputes in the Fourth Judicial District of Idaho." Unpublished doctoral dissertation, University of Idaho, Moscow, 1992.
- Pearson, J., and Thoennes, N. "Divorce Mediation Research Results." In J. Folberg and A. Milne (eds.), *Divorce Mediation Theory and Practice*. New York: Guilford Press, 1988.
- Pearson, J., and Thoennes, N. "Divorce Mediation: Reflections on a Decade of Research." In K. Kressel and D. Pruitt (eds.), *Mediation Research: The Process and Effectiveness of Third-Party Intervention*. San Francisco: Jossey-Bass, 1989.

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