ADR Empirical Research Studies (Summer 2013-Summer 2018)

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ADR Empirical Research Studies (Summer 2013-Summer 2018)
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Beginning in summer 2013, we have co-edited Research Insights, a regular column in the American Bar Association’s DISPUTE RESOLUTION MAGAZINE (DRM). Twice a year we choose 10-12 empirical research studies relevant to ADR professionals and publish the citation and abstract. To compile the longer list from which we choose our subset for publication in the column, we’ve cast a fairly wide net looking for published research in a variety of fields, including social psychology, cognitive science, consumer research, law, economics, sociology, and political science. We know we haven’t captured every empirical study published in the last five years, but the current list has grown quite large – now in excess of 375 entries.

We’re hoping you (and/or your students) might find our list helpful for your own research, teaching/training, and writing projects. We’ve organized them here by topic (and within topic, by year published [most recent first]), providing citation, the published abstract, and the DRM issue in which the abstract was published. We’ll be updating the list twice a year (you can always find the most current version on the Mitchell Hamline Dispute Resolution Institute website [http://open.mitchellhamline.edu/dri_empirical/]). In the meantime, if you notice a relevant empirical research study that we’ve omitted, please let us know and we’ll add it to the list. Thanks!

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1 To keep the list length manageable, we’ve listed each study only once (notwithstanding we recognize that quite a few might be relevant in multiple categories).
APOLOGY

An Exploration of the Structure of Effective Apologies
Roy Lewicki, Beth Polin & Robert Lount, Jr.

Violations of trust are an unfortunate but common occurrence in conflict and negotiation settings: negotiators make promises that they do not keep; parties in conflict behave in unexpected ways, escalating tensions and breaking past trust. What often follows these violations is some form of an account, specifically an apology, in an effort to repair that trust. But are some apologies more effective than others? Two studies reported here examine the structural components of apologies. Six components of an apology were defined from previous research and presented to subjects—singly and in combination—in the form of component definitions and in the context of a trust violation scenario. Results indicate that not all apologies are viewed equally; apologies with more components were more effective than those with fewer components, and certain components were deemed more important than others. Moreover, apologies following competence-based trust violations were seen as more effective than apologies following integrity-based violations. Implications and future directions for research in the structure of effective apologies are presented. [DRM Summer 2016]

Forgiveness is Not Always Divine: When Expressing Forgiveness Makes Others Avoid You
Gabrielle Adams, Xi Zou, M. Ena Inesi & Madan M. Pillutla
Organizational Behavior and Human Decision Processes 126: 130–141 (2015)

Organizational scholars have recently become interested in forgiveness as a way to resolve workplace conflicts and repair relationships. We question the assumption that forgiveness always has these relational benefits. In three studies we investigated participants’ responses to people who expressed forgiveness of them versus those who did not. We found that when the ostensible transgressor did not believe he or she had committed a wrongdoing, expressing forgiveness damaged the relationship relative to a control condition. This effect occurred when participants were made to believe that a real person had forgiven them (Studies 1 and 2) and when they imagined a co-worker had forgiven them (Study 3). Furthermore, in the absence of wrongdoing, participants’ perceptions of the forgiver as self-righteous mediated the effect of forgiveness on avoidance of forgivers (Studies 2 and 3). We discuss implications for conflict management.

Apologies Demanded Yet Devalued: Normative Dilution in the Age of Apology
Tyler G. Okimoto, Michael Wenzel & Matthew J. Hornsey
Journal of Experimental Social Psychology 60: 133-136 (September 2015)

Dramatic increases in the issuance of political apologies over the last two decades mean that we now live in the “age of apology”. But what does this surge in frequency mean for the effectiveness of intergroup apologies in promoting forgiveness? In the current research we propose a paradoxical “normative dilution” effect whereby behavioral norms increase the perceived appropriateness of an action while at the same time reducing its symbolic value. We experimentally manipulated the salience of the age-of-apology norm prior to assessing participant (N = 128) reactions to past unjust treatment of ingroup POWs by the Japanese during WWII. The apologetic norm increased victim group members' desire for an apology in response to the harm. However, after reading the actual apology, the invocation of the norm decreased
perceived apology sincerity and subsequent willingness to forgive. Thus, although apologetic trends may suggest greater contemporary interest in seeking reconciliation and harmony, their inflationary use risks devaluing apologies and undermining their effectiveness.

**Saving Face? When Emotion Displays During Public Apologies Mitigate Damage to Organizational Performance**
Organizational Behavior and Human Decision Processes 130: 1-12 (September 2015)
Leanne ten Brinke & Gabrielle S. Adams

In the wake of corporate transgressions and scandals, how do apologizers’ expressed emotions affect investors’ perceptions of the organization in question? We analyzed the market effects of normative versus deviant facial affect expressed during apologies for corporate wrongdoing. Archival data revealed that the expression of deviant affect was associated with decreased investor confidence in the form of negative stock market returns; adverse financial effects persisted up to three months post-apology. Moreover, this effect was exacerbated when a company representative with greater responsibility within the organization delivered the apology. Experimental data further revealed that third parties interpreted deviant affect (smiling) as a signal of insincerity, which reduced their confidence in these representatives’ organizations. Ultimately, we find that subtle emotion expressions are detected by stakeholders, signal insincerity, and have important consequences for organizations. We suggest that organizations must carefully consider the nonverbal behavior of apologetic representatives in the wake of transgressions.

**Who Accepts Responsibility for Their Transgressions?**
Karina Schumann & Carol S. Dweck

After committing an offense, transgressors can optimize their chances of reconciling with the victim by accepting responsibility. However, transgressors may be motivated to avoid admitting fault because it can feel threatening to accept blame for harmful behavior. Who, then, is likely to accept responsibility for a transgression? We examined how implicit theories of personality—whether people see personality as malleable (incremental theory) or fixed (entity theory)—influence transgressors’ likelihood of accepting responsibility. We argue that incremental theorists may feel less threatened by accepting responsibility because they are more likely to view the situation as an opportunity for them to grow as a person and develop their relationship with the victim. We found support for our predictions across four studies using a combination of real-world and hypothetical offenses, and correlational and experimental methods. These studies therefore identify an important individual difference factor that can lead to more effective responses from transgressors.

**An Affirmed Self and a Better Apology: The Effect of Self-Affirmation on Transgressors' Responses to Victims**
Katrina Schumann
Journal of Experimental Social Psychology 54: 89-96 (September 2014)

Comprehensive apologies are powerful tools that transgressors can use to promote reconciliation with the people they have hurt. However, because many apology elements require transgressors to admit fault, express shameful emotions and promise change, transgressors often avoid these threatening elements and instead choose to use more perfunctory apologies or even
defensive strategies, such as justifications or attempts to blame the person they hurt. In two studies designed to increase apology comprehensiveness and reduce defensiveness using self-affirmation, the author predicted that self-affirmation would help transgressors maintain their self-integrity, consequently allowing them to offer more comprehensive apologies and bypass defensive strategies. Participants received a values affirmation, recalled an unresolved conflict, and indicated what they would say to the person they had hurt. As predicted, affirmed participants offered more comprehensive apologies and used fewer defensive strategies than control participants. These studies thus identify a simple method for promoting responses that facilitate conflict resolution and demonstrate the successful application of self-affirmation to the domain of interpersonal conflict. [DRM Winter 2015]

**Bankrupt Apologies**
Jennifer K. Robbennolt & Robert M. Lawless

Apologies result in better outcomes for wrongdoers in a variety of legal contexts. Previous research, however, has primarily addressed settings in which a clear victim receives the apology. This research uses experimental methods to examine the influence of apologies on a different kind of legal decision—the decision of a bankruptcy judge to confirm or not to confirm a proposed repayment plan. This article expands examination of apologies to a legal setting in which there is no clear “victim” and to decisions of a neutral (nonvictim) decisionmaker. We find that judges' assessments of debtors were influenced by apologies. These assessments, in turn, affected judges' confirmation decisions. [DRM Summer 2013]

**The Apology Mismatch: Asymmetries Between Victim’s Need for Apologies and Perpetrator’s Willingness to Apologize**
Joost M. Leunissen, David De Cremer, Christopher P. Reinders Folmer & Marius van Dijke
Journal of Experimental Social Psychology 49(3): 315-324 (May 2013)

Are apologies delivered when victims desire them? Little is known about the congruence between a perpetrator’s willingness to apologize and a victim’s desire to receive an apology. In three experiments, using student and employee samples, we showed that victims mainly desire an apology after intentional transgressions, whereas perpetrators want to offer an apology particularly after accidental transgressions. These results point to an apology mismatch: perpetrators and victims have divergent ideas on when an apology is necessary. The intentionality of the transgression triggered unique emotions in the parties involved, guilt (perpetrators) and anger (victims), which explained these divergent apology needs. This research gives further insights into the difficulties of post-conflict mediation due to these differing emotional reactions towards transgressions, resulting in different standpoints on when an apology should be issued. Moreover, it shows that an apology serves very different goals among perpetrators (restore the relationship) and victims (acknowledgement of injustice). [DRM Summer 2013]

Daniel Kaspar & Lamont Stallworth
Harvard Negotiation Law Review 17: 1-59 (Spring 2012)

What impact, if any, does a grievant’s offer of apology have on the decision-making process of labor arbitrations in discipline and discharge cases? This study examined a number of arbitration awards
over the decades where a grievant offered an apology, showed remorse, asked for forgiveness, etc. The authors compared and contrasted these awards with those where no such offer was made, but an arbitrator made known that he or she might have ruled differently had the grievant done so. In gauging the impact of an apology, the authors also looked to its timing (prior to/during a hearing, etc.). What the authors found may well inform practitioners, arbitrators, employers, and HR consultants, with respect to pre-decisional dispute resolution strategy. Sometimes an acknowledgment of a wrong, coupled with a display of contrition, will go a long way toward breaking down the barriers that are so often an impediment to resolving a dispute. [DRM Summer 2013]

**ARBITRATION: GENERAL**

**The Growing Use of Mandatory Arbitration**
Alexander J.S. Colvin

This study finds that since the early 2000s, the share of workers subject to mandatory arbitration has more than doubled and now exceeds 55 percent. Key findings of this study, include:

- More than half—53.9 percent—of nonunion private-sector employers have mandatory arbitration procedures. Among companies with 1,000 or more employees, 65.1 percent have mandatory arbitration procedures.
- Among private-sector nonunion employees, 56.2 percent are subject to mandatory employment arbitration procedures. Extrapolating to the overall workforce, this means that 60.1 million American workers no longer have access to the courts to protect their legal employment rights and instead must go to arbitration.
- Of the employers who require mandatory arbitration, 30.1 percent also include class action waivers in their procedures—meaning that in addition to losing their right to file a lawsuit on their own behalf, employees also lose the right to address widespread rights violations through collective legal action.
- Large employers are more likely than small employers to include class action waivers, so the share of employees affected is significantly higher than the share of employers engaging in this practice: of employees subject to mandatory arbitration, 41.1 percent have also waived their right to be part of a class action claim. Overall, this means that 23.1 percent of private-sector nonunion employees, or 24.7 million American workers, no longer have the right to bring a class action claim if their employment rights have been violated.

[DRM Winter 2018]

**The Widespread Use of Workplace Arbitration Among America’s Top 100 Companies**
Imre Szalai

This report examines the use of arbitration agreements in the workplace by the top 100 largest domestic United States companies, as ranked by Fortune magazine. Key findings include:
1) 80% of the companies in the Fortune 100, including subsidiaries or related affiliates, have used arbitration agreements in connection with workplace-related disputes since 2010; and 2) of the 80 companies with arbitration agreements in the workplace, 39 have used arbitration clauses containing class waivers. The report does not address labor arbitration or unionized employees covered by a collective bargaining agreement. [DRM Winter 2018]

**Judicial Decision Making Under Changing Legal Standards: The Case of Dismissal Arbitration**
Benoit Pierre Freyens & Xiaodong Gong

The paper analyses how government actions affect judicial decision making in Australian labour courts arbitrating dismissal disputes. We isolate two channels through which these effects materialise: statutory reforms, which change legal standards, and strategic appointments, which change court composition. We analyse the probability of plaintiff success in courts using a panel of 81 judges and 2223 judicial decisions made between 2001 and 2015. We test for and subsequently exploit the randomised matching of labour court judges with unfair dismissal cases. We find significant effects from both channels: judges’ work background and changes to legal standards are strong predictors of case outcomes. Furthermore, we find evidence of compensating effects: judges with a progressive background rule more often in favour of dismissed employees if legal reforms adversely affect their chance of success in court.

**Affiliation Bias in Arbitration: An Experimental Approach**
Sergio Puig & Anton Strezhnev
Journal of Legal Studies 46: 371-397 (June 2017)

A characteristic feature of arbitration, a growing form of dispute settlement, is that each disputing party appoints an arbitrator. Commentators, however, suggest that party appointed arbitrators tend to be ‘biased’. Evaluating this claim from data on historical disputes is problematic due to non-random selection of arbitrators. Here, we use a novel experimental approach to estimate the causal effect of party-appointments. Using a new dataset of 266 participants around the world we confirm that professional arbitrators suffer from affiliation effects — a cognitive predisposition to favor the appointing party. At a methodological level, we offer a solution to the problem of measuring affiliation effects in a world confounded by selection effects. [DRM Winter 2017]

**Are Arbitrators Human?**
Rebecca K. Heim, Andrew J. Wistrich & and Jeffrey J. Rachlinski

Empirical research has confirmed the correctness of the legal realists’ assertion that “judges are human.” It demonstrates that judicial decisions are sometimes tainted by bias, ideology, or error. Presumably, arbitrators are “human” in that sense too, but that conclusion does not necessarily follow. Although arbitrators and judges both umpire disputes, they differ in a variety of ways. Therefore, it is possible that arbitrators’ awards are either better or worse than judges’ decisions. This article reports the results of research conducted on elite arbitrators specializing in resolving commercial disputes. Our goal was to determine whether, like judges, arbitrators are subject to three common cognitive illusions—specifically, the conjunction fallacy, the framing effect, and the confirmation bias. We also wanted to find out whether, like judges,
arbitrators exhibit a tendency to rely excessively on intuition that may exacerbate the impact of cognitive illusions on their decision making. Our results reveal that “arbitrators are human,” and indicate that arbitrators perform about the same as judges in experiments designed to detect the presence of common cognitive errors and excessive reliance on intuition. This suggests that arbitrators lack an inherent advantage over judges when it comes to making high-quality decisions. Whether the situation in which arbitrators make their awards is more conducive to sound decision making than the setting in which judges make their rulings, however, remains unclear. [DRM Winter 2017]

Balancing neutrality and partiality in arbitration: discursive tensions in separate opinions
Ruth Breeze
Text & Talk 36(4): 363–389 (June 2016)

Although arbitration is increasingly being used to settle important disputes, particularly on an international level, little attention has focused on the language used by arbitrators. This article contains a qualitative analysis of the discursive moves and resources used in separate (dissenting and concurring) opinions published on the website of the International Center for the Settlement of Investment Disputes from 1987 to 2013. Arbitrators’ discursive practices in this forum are analyzed, with a particular focus on the tensions that arise between the need to sustain the arbitral system and maintain professional relations, on the one hand, and the equally pressing need to display commitment to the losing party’s cause, on the other. These tensions have parallels in other areas of legal practice and professional life, and can be understood as part of the way power systems operate and replicate through discourse.

“Whimsy Little Contracts” With Unexpected Consequences: An Empirical Analysis of Consumer Understanding of Arbitration Agreements
Jeff Sovern, Elayne E. Greenberg, Paul Kirgis & Yuxiang Liu

Arbitration clauses, which are ubiquitous in consumer contracts, require consumers to waive the constitutional right to a civil jury, access to court, and, increasingly, the procedural remedy of class representation. Because those rights cannot be divested without consent, the validity of pre-dispute arbitration agreements rests on the premise of consent, which is undermined if consumers do not understand the effect on their procedural rights of clicking a box or accepting a product. Using an online survey, the authors showed 668 consumers, approximately representing the U.S. adult population, a typical credit card contract with an arbitration clause that included a class action waiver. The survey results suggest a profound lack of understanding about the existence and effect of arbitration agreements among consumers. While 43% of respondents recognized that the sample contract included an arbitration clause, 61% of those believed consumers would, nevertheless, have a right to a court decision. Less than 9% realized both that the contract had an arbitration clause and that it would prevent consumers from proceeding in court. With respect to the class waiver, four times as many respondents thought the contract did not block them from participating in a class action as realized that it did, even though the class action waiver was printed twice in bold in the sample contract, including one time in italics and ALLCAPS. Of the 303 respondents who claimed never to have entered into contracts with arbitration clauses, 87% did indeed have at least one account subject to an arbitration clause. The results suggest that many citizens assume that they have a right to judicial process and that this right will outweigh what one respondent referred to as a “whimsy little
contract.” The results suggest further that citizens are giving up these rights unknowingly, either because they do not realize they have entered into an arbitration agreement or because they do not understand the legal consequences of doing so. Given the degree of misunderstanding the results demonstrate, the authors question whether meaningful consent is possible in the pre-dispute consumer arbitration context. Their survey results should cause concern among judges and policy makers considering mandatory pre-dispute arbitration agreements. [DRM Winter 2015]

Commercial Arbitration and Settlement: Empirical Insights Into the Roles Arbitrators Play
Penn State Yearbook on Arbitration and Mediation 6: 1-31 (2014)
Thomas J. Stipanowich & Zachary P. Ulrich

It is generally understood that arbitrators adjudicate disputes and mediators help settle them through negotiated agreement. But what role, if any, is there for arbitrators in promoting settlement? This aspect of arbitration is overlooked in some quarters, while occasionally provoking controversy. A thoroughgoing consideration of the subject is long overdue…. One relevant new source of information about arbitrators’ current practices and perspectives, including (among many other topics) their roles in “setting the stage” for settlement, is an extensive recent survey of experienced arbitrators co-sponsored by the College of Commercial Arbitrators (“CCA”), an organization comprised of more than two hundred of the U.S.’ most experienced and distinguished arbitrators, and the Straus Institute for Dispute Resolution (“the Survey”).

The Conventional Wisdom of Discharge Arbitration Outcomes and Remedies: Fact or Fiction
Cardozo Journal of Conflict Resolution 16: 153-185 (Fall 2014)

This study examines some commonly held beliefs about arbitration outcomes and remedies in employee discharge cases. Its findings reveal that some of these beliefs are probably fact while others are probably fiction. With data from 1,432 Minnesota discharge awards and data about the 74 arbitrators who decided them, eight truisms are examined. Specifically, the paper analyzes the frequency with which arbitrators use the Daugherty Seven Tests rubric to analyze record evidence and whether its use affects award outcomes; the distribution of varying quanta of proof that arbitrators require and how different quanta affects award outcomes; the effect of employee job tenure on award outcomes; and the effect of “last chance agreements” on award outcomes. Using a sub-sample of “reinstatement with back pay” awards, the study also examines the frequency with which arbitrators order the method by which back pay should be computed and the frequency with which they “retain jurisdiction” over their back pay awards. This paper’s findings can assist the attorney-advocate in estimating the probability of prevailing in a discharge case. Further, it can assist in judging how a case can be presented most persuasively. More generally, the data used in this discharge-based study are combined with discipline data to form the largest collection of published and unpublished discipline and discharge arbitration awards ever analyzed. The findings and implications from an analysis of these combined data are reported in the recently published book, “More Than We Ever Knew

The Influence of Arbitrator Background and Representation on Arbitration Outcomes
Stephen J. Choi, Jill E. Fisch & A.C. Pritchard

We study the role of arbitrator background in securities arbitration. We find that several aspects of arbitrator background are correlated with arbitration outcomes. Specifically, industry experience, prior experience as a regulator, and status as a professional or retired arbitrator are correlated with statistically significant differences in arbitration awards. The impact of these characteristics is affected by whether the arbitrator in question serves as the panel chair and by whether the parties to the arbitration are represented by counsel.

Our findings offer some preliminary insights into the debate over possible arbitrator bias. On the one hand, they suggest that the party selection process is relatively effective in screening for bias. The Financial Industry Regulatory Association has imposed increasingly more rigorous qualification requirements, specifically with respect to the independence of public arbitrators, but our study suggests that these requirements are unlikely to affect outcomes in most cases. On the other hand, party selection appears to be most effective when the parties are represented by counsel. Our findings highlight the importance of legal representation in the arbitration process.

Fundamentally Unfair: An Empirical Analysis of Social Media Arbitration Clauses
Thomas H. Koenig & Michael L. Rustad
Case Western Reserve Law Review 65: 341-411 (Winter 2014)

Our systematic examination of 329 of the world’s largest social media providers reveals that 29 percent of these providers require users to submit to predispute mandatory arbitration as a condition of using their services. Forced consumer arbitration clauses are principally a U.S. phenomenon. Forty-two percent of the 188 U.S.-based social media providers contain forced arbitration clauses—in sharp contrast to only 13 percent of the 141 providers headquartered in foreign nations. Forty of the social networking websites (SNS) specify the American Arbitration Association (AAA) as the provider and nineteen specify JAMS, the two largest arbitration companies. We compare the fifty-nine social media terms of use (TOU) against the due process fairness tests that have been adopted by these two providers to mitigate the inevitable power imbalance in consumer arbitration proceedings. Our central finding is that the arbitration clauses of providers that specify the AAA and JAMS clearly fail the majority of the provisions of these two arbitral providers’ consumer due process fairness tests. Arbitration clauses employed by social media have numerous “gotcha” provisions such as hard damage caps that place an absolute dollar limit on recovery that is significantly below the cost of filing an arbitral claim with either the AAA or JAMS. Our secondary analysis of AAA and JAMS arbitration reports establishes that consumer arbitration agreements have a deterrent effect, blocking all but a handful of social media users from filing claims. In effect, social media providers, encouraged by the U.S. Supreme Court’s endorsement of mandatory consumer arbitration, have constructed a liability-free zone where social media users have rights without remedies if social media providers breach their TOU, invade their privacy, or infringe their intellectual property rights. These aggressive arbitration clauses are unlikely to be enforced in the European Union, or even accepted by the most commonly specified arbitral providers, so social networking sites need to draft more balanced TOU that pass due process fundamental fairness rules.
Does Information about Arbitrators’ Win/Loss Ratios Improve Their Accuracy?
Alon Klement & Zvika Neeman
Journal of Legal Studies 42(2): 369-397 (June 2013)
This paper examines how providing litigants with information about arbitrators’ win/loss ratios affects arbitrators’ incentives in deciding the cases before them in an impartial and unbiased manner. We show that if litigants are informed about arbitrators’ past decisions, then arbitrators might want to make an incorrect decision when a correct decision would raise the suspicion that they are biased. Therefore, providing information about arbitrators’ past decisions might create adverse incentive effects and reduce the accuracy of arbitration. We compare the accuracy of arbitrators’ decisions under different arbitrator selection procedures and discuss the implications for the design of arbitration rules by arbitration and dispute resolution providers and by court-administered arbitration programs.

ARBITRATION: INTERNATIONAL/INVESTMENT TREATY

Inside the Arbitrator's Mind
Susan D. Franck, Anne Van Aaken, James Freda, Chris Guthrie & Jeffrey J. Rachlinski
Arbitrators are lead actors in global dispute resolution. They are to global dispute resolution what judges are to domestic dispute resolution. Despite its global significance, arbitral decision making is a black box. This Article is the first to use original experimental research to explore how international arbitrators decide cases. We find that arbitrators often make intuitive and impressionistic decisions, rather than fully deliberative decisions. We also find evidence that casts doubt on the conventional wisdom that arbitrators render “split the baby” decisions. Although direct comparisons are difficult, we find that arbitrators generally perform at least as well as, but never demonstrably worse than, national judges analyzed in earlier research. There may be reasons to prefer judges to international arbitrators, but the quality of judgment and decision making, at least as measured in these experimental studies, is not one of them. Thus, normative debates about global dispute resolution should focus on using structural safeguards and legal protections to enhance quality decision-making, regardless of decision maker identity or title. [DRM Summer 2017]

Investor-State Disputes at the SCC
Celeste E. Quero
The new report prepared by legal counsel Celeste E. Salinas Quero describes, among others, the economic sectors involved, the states’ measures most frequently challenged by investors, the outcomes and costs of investment disputes under the SCC Rules. SCC is a preferred venue for investment arbitrations. Over the past 20 years, the SCC has administered and acted as appointing authority in more than 90 investment arbitrations, both in small-sized and in large-scale disputes. The report shows that most awards have been rendered in favor of respondent states, with 21% of tribunals declining jurisdiction, 37% denying all of the investor’s claims and 42% of tribunals upholding the investor’s claims in part or in full. As
regards costs, the report reveals that while “splitting the baby” is a common approach taken by tribunals, most tribunals allocate and apportion the costs between the parties in a proportion that reflects each party’s relative success and conduct throughout the proceedings.

Opening the Red Door to Chinese Arbitrations: An Empirical Analysis of CIETAC Cases 1990-2000
Pat Chew

This article reveals, for the first time, evidence-based details of CIETAC arbitral proceedings, allowing an unprecedented opportunity to better understand the institution's previously mysterious dispute resolution process. Part II of the article sets the historical and institutional context for our study of CIETAC arbitrations, confirming the prominence of Chinese foreign trade and foreign investment in China in the global economy and CIETAC's critical role in securing that prominence. Part III introduces the empirical study of CIETAC awards and explains its unique research contribution. Part IV, the heart of the article, explores the key inquiries and findings of the study. It provides data on CIETAC arbitrations: How are the cases resolved? Who are the claimants, and what are their nationalities? What are their disputes? Who selects the arbitrators? Who wins and who losses in the arbitration? Part V and the Conclusion synthesize the implications of these CIETAC discoveries.

The David Effect: Underdogs and Investment Arbitrators
Sergio Puig & Anton Stenzhnev

The legitimacy of investor-state dispute settlement or ‘ISDS’ is fiercely contested. Chiefly, scholars argue this arbitration mechanism empowers investors from developed states over governments of developing host states. In response, investors (mostly) from developed states argue that without adequate protections, including investor-state arbitration, they would be unable to prevent and resist opportunistic actions like expropriations by developing host states with weak rule of law and institutions. In the resulting setting, developing states facing claims by investors seem to have limited ability to improve their standing in litigation. Based on an experiment conducted on 266 arbitrators, we argue that one potential avenue is for developing host states to exploit their ‘underdog’ status. Our results show that arbitrators may be prone to the ‘David Effect’ — a bias to favor the perceived weaker party in the arbitration. Surveyed arbitrators were more likely to award low income respondent states reimbursement of their legal costs compared to middle income states. Likewise, investors from less developed economies were also more likely to have their costs reimbursed when they win compared to investors from wealthy economies. Our study suggests that the legitimacy of legal regimes depends, in the minds of decision-makers, on a minimum expectation of fairness. This hints at the importance of arbitrators’ beliefs about the distribution of power among litigants in explaining the functioning of the investor-state arbitration system.

Arbitral Lawmaking and State Power: An Empirical Analysis of Investment Arbitration
Alec Stone Sweet
Available on SSRN at: https://ssrn.com/abstract=2919723 (February 2017)
The paper focuses on arbitral lawmaking (the development of precedent-based frameworks of argumentation and justification), and state responses to that lawmaking (as registered in subsequent treaty-making). The paper reports analysis of: (i) all publicly-available awards (n=159) in which tribunals resolved disputes under the headings of expropriation and fair and equitable treatment, and under an umbrella clause; and (ii) investment treaties signed between 2002 and 2015 (n=398), when available in English. Three findings deserve emphasis. First, in most disputes, investors do not challenge general state measures; when they do, they are far less to prevail than when they contest acts specifically targeting their investments. Second, the evidence does not support the view that arbitral doctrine produces outcomes that are biased against states. In the vast majority of awards, tribunals take seriously the respondent state’s ‘right to regulate’ in the public interest. Third, the regime has not generated strong ‘backlash’ in any systemic sense. States continue to sign investment treaties; the mix of treaty protections on offer has remained remarkably stable; and new treaties have largely consolidated the case law that the most influential tribunals had already developed.

Political Risk and Investment Arbitration: An Empirical Study
Cedric G. Dupont, Thomas Schultz & Merih Angin

Investment arbitrations should not happen too often, because they are costly processes for both parties. Yet they regularly happen. Why? We investigate the hypothesis that investment arbitrations are used as a means of last resort, after dissuasion has failed, and that dissuasion is most likely to fail in situations where significant political risk materializes. Investment arbitration should thus tend to target countries in which certain types of political risk has materialized. In order to test this hypothesis, we focus in this paper on two drivers of political risk: bad governance, and economic crises. We test various links between those two drivers of risk and arbitration claims. We use an original dataset that includes investment claims filed under the rules of all arbitration institutions as well as ad hoc arbitrations. We find that bad governance, understood as corruption and lack of rule of law (using the WGI Corruption and WGI Rule of Law indexes), has a statistically significant relation with investment arbitration claims, but economic crises do not.

Behavioral Insights into International Arbitration: An Analysis of How to De-Bias Arbitrators
Jan-Philip Elm
The American Review of International Arbitration 27(1): 75-143 (2016)

Empirical evidence indicates that national court judges fall prey to cognitive biases and heuristics. The same may be assumed for international arbitrators. Improving third-party adjudication through behaviorally informed rules on procedure thus seems to be an avenue of research worth being pursued. In applying behavioral law and economics to international commercial arbitration, the present analysis shows (1) that behavioral economics can help to understand arbitrators’ behavior and (2) suggests how the law may mitigate their cognitive biases and heuristics in order to design more effective, efficient, and fair arbitral proceedings under the UNCITRAL Arbitration Rules. The analysis focuses on (i) the representativeness heuristic, (ii) anchoring, (iii) the hindsight bias, (iv) framing effects, and (v) the egocentric bias. Building on their underlying dynamics and recent research on context-dependent decision-making, corresponding debiasing mechanisms may be implemented into arbitral proceedings through
either behaviorally informed (model) arbitration clauses or by complementing existing frameworks such as the UNCITRAL Notes on Organizing Arbitral Proceedings in a behaviorally informed manner. Hence, in applying insights from economics and psychology to international arbitration, the present analysis adopts a prescriptive approach, examining how to actively mitigate arbitrators’ cognitive shortcomings as much as possible. Accuracy in fact determination – or the search for the truth – is perceived as the central motivation of this approach. As prescriptive insights from behavioral economics are able to allow for more accurate judgment, behaviorally informed rules on procedure not only benefit disputing parties by enhancing the idea of due process, but in doing so, they also empower international arbitration as a legal institution when con-fronted with national legal systems.

**Investment Treaty Arbitration and Institutional Backgrounds: An Empirical Study**
Suha Jubran Ballan
Wisconsin International Law Journal 34: 31-90 (Summer 2016)

Investment treaty arbitration provides a unique vantage point to examine how tribunals' behavior changes according to the institutional context within which they act: similar legal norms, standards, and rules may be interpreted and applied by the same community of international arbitrators while acting on different institutional backgrounds. Yet, such a perspective has been overlooked in the literature, largely because the institutional context of the different dispute settlement mechanisms has been captured only through its formal arrangements or through focusing on individual arbitrators or tribunals. This paper argues that the neo-institutionalist tradition in the social sciences has much to contribute to our understanding of investment treaty arbitration, and demonstrates the potential of such an approach through an empirical study. The paper reveals that formal and informal institutional arrangements in investment treaty arbitration are linked to different tribunals’ behavior in at least four variables: duration of proceedings, number of sessions held, number of references to investment treaty arbitration awards and even outcome of claims. Hence the study indicates the high potential for institutional arrangements to explain the behavior of arbitration tribunals in particular and of international judicial institutions in general and calls for devoting more attention to this type of inquiry.

**Predicting Outcomes in Investment Treaty Arbitration**
Susan D. Franck & Lindsey E. Wylie

Crafting appropriate dispute settlement processes is challenging for any conflict management system, particularly for politically sensitive international economic law disputes. As the United States negotiates investment treaties with Asian and European countries, the terms of dispute settlement have become contentious. There is a vigorous debate about whether investment treaty arbitration (ITA) is an appropriate dispute settlement mechanism. While some sing the praises of ITA, others offer a spirited critique. Some critics claim ITA is biased against states, while others suggest ITA is predictable but unfair due to factors like arbitrator identity or venue. Using data from 159 final cases derived from 272 publicly available ITA awards, this Article examines outcomes of ITA cases to explore those concerns. Key descriptive findings demonstrate states reliably won a greater proportion of cases than investors; and for the sub-set of cases investors won, the mean award was US $45.6 million with mean investor success rate of 35%. State success rates were roughly similar to respondent-favorable or state-favorable results.
in whistleblowing, qui tam, and medical malpractice litigation in U.S. courts. The Article then explores whether ITA outcomes varied depending upon investor identity, state identity, the presence of repeat-player counsel, arbitrator-related, or venue variables. Models using case-based variables always predicted outcomes whereas arbitrator-venue models did not. The results provide initial evidence that the most critical variables for predicting outcomes involved some form of investor identity and the experience of parties’ lawyers. For investor identity, the most robust predictor was whether investors were human beings, with cases brought by people exhibiting greater success than corporations; and when at least one named investor or corporate parent was ranked in the Financial Times 500, investors sometimes secured more favorable outcomes. Following Mark Galanter’s scholarship demonstrating repeat player lawyers are critical to litigation outcomes, attorney experience was also critical to ITA outcomes. For investors, investors with experienced counsel were more likely to obtain a damage award against a state, whereas, states retaining experienced counsel were only reliably associated with decreased levels of relative investor success. Although there was variation in outcomes, ultimately, the data did not support a conclusion that ITA was completely unpredictable; rather, the results called into question critiques of ITA and did not prove ITA is a wholly unacceptable form of dispute settlement.

Legitimacy, Evolution, and Growth in Investment Treaty Arbitration: Empirically Evaluating the State-of-The-Art
Daniel Behn

The legitimacy debates surrounding investment treaty arbitration are intensifying. At the same time, the number of claims filed continues on a growth trajectory. Some commentators believe that the practice of investment treaty arbitration will evolve over time; and as the regime evolves, many - if not all - of the its claimed legitimacy deficits will be resolved. This Article will test this evolutionary thesis by empirically evaluating investment treaty arbitration cases that have been fully or partially resolved in the last three years (September 2011 through September 2014) in order to assess the extent to which the regime is - in fact - evolving and whether the empirical evidence supports or contradicts many of the legitimacy critiques currently lodged against the regime. Special attention will be placed on assessing issues of diversity and the fair distribution of claims.

The Arbitrator Survey: Practices, Preferences and Changes on the Horizon
Edna Sussman

Arbitration counsel want to win. Understanding how arbitrators think, what they favor, how they make decisions, and how they work together can guide counsel in devising their strategy and developing their presentations. For their part, arbitrators want to provide a fair hearing that meets the parties’ needs. Knowing how other arbitrators handle various procedural aspects, what influences their thinking, and what they prefer can inform arbitrators in conducting their own arbitrations most effectively. Several excellent works have been published in recent years which approach the subject of arbitrator decision-making from the perspective and mindset of many notable arbitration practitioners. However, empirical data based on a pool of arbitrator responses is scarce. In order to inform the arbitration community and advance the knowledge base on arbitrator preferences and decision-making, I conducted a survey. The survey was
distributed through various listservs both in the U.S. and to colleagues around the world and drew 401 responses. This article reports and comments on the survey responses, grouped into six sections: the constitution of the tribunal, fundamentals, narrowing the issues and preliminary views, deliberations, the award, and mediation. It is hoped that the discussion will aid counsel and arbitrators in the conduct of arbitrations and provoke consideration of ways to improve the process in the never-ending search for excellence in arbitration.

**Arbitration in Southern Europe: Insights from a Large-Scale Empirical Study**
Tony Cole, Pietro Ortolani & Barbara Alicja Warwas

This empirical research took the form of a Survey of arbitration practitioners across the European Union and Switzerland, consisting of 95 questions, and addressing such diverse topics as the backgrounds of arbitration practitioners, the procedures used in the arbitrations in which respondents had been involved, the considerations important for recommending arbitration and for selecting an arbitrator, and environmental questions such as the attitude of judges towards arbitration and the desirability of action by the European Union to harmonize arbitration law across the European Union. The present article reports on and discusses the results of this Survey with respect to six States collectively described here as constituting “Southern Europe”: Cyprus, Greece, Italy, Malta, Portugal and Spain. While these States share an obvious geographic proximity, it is important to emphasize that the decision to collect them into a single article was made not just on this geographic basis, but also due to certain cultural and legal elements shared by these States that might be thought to impact on local arbitral practice. The goal of this article is not merely to report the results of the Survey, but is instead to use the results of the Survey, interpreted in the light of the additional information developed in the course of the Study, to generate a picture of arbitration in each of these States. In this way the article seeks to deviate from the norm of concentration upon elite international arbitration practice, in order to provide important new information on the realities of and variations that exist in the practice of arbitration across Southern Europe. Recognizing and appreciating this reality of diversity provides an important foundation for enriching the academic study of arbitration beyond this single article and these six States, moving such study away from an exclusive focus on elite arbitral practice, towards an appreciation of the significant variations that do indeed often characterize the reality of arbitration around the world.

**The Diversity Challenge: Exploring the “Invisible College” of International Arbitration**
Susan D. Franck, James Freda, Kellen Lavin, Tobias A. Lehmann & Anne Van Aaken

With a lack of accurate, complete, and publicly available data about international arbitrators and practitioners, speculation about membership in the “invisible college” of international arbitration abounds. Using data from a survey of attendees at the prestigious and elite biennial Congress of the International Council for Commercial Arbitration (413 subjects who served as counsel and 262 who acted as arbitrators, including 67 investment treaty arbitrators), permitted one glimpse into the membership of the international arbitration community. The median international arbitrator was a fifty-three year old man who was a national of a developed state reporting ten arbitral appointments; and the median counsel was a forty-six year old man who was a national of a developed state and had served as counsel in fifteen arbitrations. In addition: 1) 17.6% of the arbitrators were women, and there was a
significant age difference such that male arbitrators were approximately ten years older than
women; 2) for those acting as international arbitrators, the authors could not identify a significant
difference in the number of appointments women and men obtained; 3) depending upon how
development status was defined, developing world arbitrators accounted for fifteen to twenty
percent of arbitrators; and 4) for all measures used to analyze development status, arbitrators
from the developing world received a statistically lower number of appointments than their
developed world counterparts. Recognizing the data revealed diversity in international arbitration
is a complex phenomenon, the data nevertheless supported, rather than disproved, claims that
international arbitration is a relatively homogenous group. Acknowledging that international
arbitration may improve over time and diversity issues challenge other forms of dispute
resolution, diversity levels in international arbitration were somewhat lower than in several
national court systems but were generally reflective of diversity levels in other international
courts and tribunals. [DRM Summer 2015]

Consent Awards in International Arbitration: From Settlement To Enforcement
Yaraslau Kryvoi & Dmitry Davydenko

Although over a third of all arbitration proceedings result in settlement agreements very
little has been written on the legal status of consent awards in international arbitration. Drawing
on comparative analysis of procedural rules and practice of major arbitration tribunals, domestic
law of common and civil law jurisdictions, this Article presents the first major study of consent
awards in international arbitration. Consent awards, being effectively settlement agreements
recorded by arbitration tribunals as awards, raise a number of difficult legal questions, ranging
from the right of arbitrators to refuse recording the settlement as a consent award to the possible
use of consent awards to cover illegal activities. Understanding what makes consent awards
different from “normal” arbitration awards will help successfully navigate from settlement to
enforcement.

Diversity in Arbitration in Europe: Insights from a Large Scale Empirical Study
Tony Cole & Pietro Ortolani
Transnational Dispute Management Online Journal 12(4) (July 2015). See also University of
Leicester School of Law Research Paper No. 16-2. Available at SSRN:
http://ssrn.com/abstract=2626347

While issues of gender and ethnic diversity have become prominent in all areas of law,
there is reason to believe that the insular nature of the arbitration community, combined with the
importance of personal connections to receiving career opportunities in arbitration will make
diversity a particularly complex matter in arbitration as a field of professional practice. That is,
while there is no evidence that arbitration practitioners are as a group any more likely to
discriminate on the basis of ethnicity or gender than other legal professionals, fields in which
career progression is tightly linked to receiving the support of “gatekeepers” can present
particular obstacles for non-Male and minority practitioners, who may be less likely to make
strong social connections with those gatekeepers, and so be less likely to receive opportunities
for career progression. In 2014 a team at Brunel University, as part of a study being conducted
for the European Parliament, undertook a large-scale survey of arbitration practitioners across
the European Union and Switzerland. While this Survey was not primarily focused on questions
of diversity, all respondents were asked to self-identify both their gender and their ethnicity, with
selection of multiple ethnicities being permitted. Consequently, although the Survey aimed at offering a comprehensive picture of arbitration in all EU Member States and Switzerland, rather than focusing on the specific question of diversity, it generated information on both the levels of non-Male and ethnic minority involvement in arbitration, and, through cross-analysis of data, on career progression within arbitration of non-Male and ethnic minority arbitration practitioners. This article will provide a brief overview of these results, which do indeed indicate ongoing diversity-related problems within arbitration.

Is the End Nigh Again? An Empirical Assessment of the 'Judicialization' of International Arbitration
Remy Gerbay

The central questions that this article addresses are: Has there been a significant judicialization of international arbitration in recent years? And is this judicialization really a sign of a loss of attraction for international arbitration? For these purposes, conventional assumptions about the extent and meaning of the phenomenon of judicialization in international arbitration are assessed in the light of empirical data made available by the leading institutions in the field of international arbitration, including the International Court of Arbitration of the International Chamber of Commerce (“ICC”), the London Court of International Arbitration (“LCIA”), the International Center for Dispute Resolution (“ICDR”), and the Arbitration Institute at the Stockholm Chamber of Commerce (“SCC”). This article answers its two research questions negatively, for two main reasons. First, empirical evidence does not support the assumption that international arbitration has recently become more judicialized. The evidence suggests that, if there has been judicialization, the bulk of it must have happened over two decades ago, before the recent period of exponential growth in the use of international arbitration. Second, the increased formality and sophistication of international arbitration procedure is partly due to the evolution of the dispute types referred to international arbitration. In particular, there has been an increase in the value and complexity of disputes. In short, judicialization is more a sign of international arbitration’s mutation than evidence of its impending extinction. [DRM Winter 2016]

Conflating Politics and Development? Examining Investment Treaty Arbitration Outcomes
Susan D. Franck

International dispute settlement is an area of ongoing evaluation and tension within the international political economy. As states continue their negotiations for the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP), the efficacy of international arbitration as a method of dispute settlement remains controversial. Whereas some sing its praises as a method of protecting private property interests against improper government interference, others decry investment treaty arbitration (ITA) as biased against states. The literature has thus far not disentangled how politics and development contribute to investment dispute outcomes. In an effort to control for the effect of internal state politics, this Article offers the first analysis of ITA outcomes, focusing on respondent states’ development status while simultaneously controlling for states’ democracy levels. Using a dataset of 159 final ITA awards from prior to January 2012, the Article conducts quantitative analyses of outcomes as a function of raw wins and losses, amounts awarded, and relative investor success. Initially, when
evaluating outcomes based on a respondent state’s membership in the Organisation for Economic Cooperation and Development (OECD) or a state’s score on the UN Development Programme (UNDP) Human Development Index, it was not possible to identify a reliable link to outcomes. Only defining a respondent’s development status using a World Bank classification generated reliable differences for Upper-Middle income states, and only for two measures of outcome — namely raw wins and amounts awarded. Using the World Bank measure, there was no statistically significant relationship with relative investor success. None of these analyses, however, controlled for the level of internal state democracy to identify how democracy levels, which can reflect good governance infrastructure, might contribute to outcomes. After controlling for the effect of a state’s internal democracy levels, twelve analyses were unable to identify a reliable link with ITA outcomes and development status irrespective of how development status was defined. While the Article cannot conclusively exclude the possibility of systemic bias in ITA against the developing world, it provides additional evidence suggesting the potential absence of such bias or the importance of alternative explanatory variables. The results also suggest that focusing on development status alone may be unwarranted, and future research should explore internal levels of democracy or other indicators of good governance, which could be associated with the decreased risk of a state loss. The Article concludes that normative choices focused solely on respondent state development status miss an opportunity to craft normative solutions tailored to redress tangible problems. By focusing on variables that demonstrably contribute to variance in ITA outcomes, stakeholders could construct more appropriate international dispute settlement processes in a time of international economic transition.

An Empirical Study of Arbitrators Acting as Mediators In China
Fan Kun

While there are ongoing debates on the appropriateness of arbitrators acting as mediators in a pending arbitration (this process is often described as ‘arb-med’), such practice seems to work well in China. In this respect, the Chinese model may be useful in contributing to the practice in other jurisdictions. How is the role of arbitrators perceived in China? How do Chinese arbitrators usually promote settlement? Could we generalize some good practice of arb-med based on the Chinese experience? Our perceptions about the conduct of arbitrators are often driven by anecdotes. This is partly because of the confidential nature of arbitration proceedings. The problem with anecdotes is that it is difficult to evaluate whether the event or practice described is ‘typical or atypical, frequent or infrequent, ordinary or extreme, as common as a rabbit or as rare as a rhinoceros’ (DRAHOZAL, 2003). More systematic research is needed by supplementing anecdotes with empirical studies. Based on the findings in a series of interviews with experienced Chinese arbitrators conducted during a research trip with Professor Kaufmann-Kohler in March and April 2007, the author conducted a further survey between November 2011 and April 2012, in order to examine the Chinese arbitrators’ general attitudes on arb-med, how the process is typically conducted, and the common techniques adopted in facilitating settlement. At a time when arbitration has become too costly and too slow, these research findings may generalize some good practice on the effective use of arb-med based on the Chinese experience, and this may improve the administration of justice. Section I of the article reviews relevant literature on the general attitudes of arbitrators in settlement facilitation. Section II defines the scope of the current study and describes the empirical methodology. Section III analyses the
results of empirical research and gives a detailed description of the attitudes and practice of arbitration in China. Section VI discusses further implications of the Chinese experience on the practice in other jurisdictions. Part V concludes.

**Investment Arbitration: Promoting the Rule of Law or Over-Empowering Investors? A Quantitative Empirical Study**

Thomas Schultz & Cédric Dupont  

Investor-state arbitration, also called investment arbitration, is often accused of harming developing states facing economic hardship for the benefit of a wealthy few from the global north. Its proponents respond that investment arbitration is the only means available to resolve disputes impartially and that its use clarifies international law. In this article, the authors investigate the empirical manifestations of the uses and functions of investment arbitration with an original dataset that compiles more than 500 arbitration claims from 1972 to 2010. The study reveals that until the mid- to late 1990s, investment arbitration was mainly used in two ways. It was a neocolonial instrument to strengthen the economic interests of developed states, or it was a means to impose the rule of law in nondemocratic states with a weak law-and-order tradition. But since the mid- to late 1990s, the main function of investment arbitration has been to provide guideposts and determine rights for investors and host states – and thus increase the predictability of the international investment regime. In doing so, however, it seems to favor the “haves” over the “have nots,” making the international investment regime harder on poorer countries than on richer ones. [DRM Summer 2014]


Shala F. Ali  
Frontiers of Law in China 8(4): 651-688 (December 2013)

The United States largely relies on a system of arbitration to handle retail consumer financial disputes. This approach has undergone significant challenges in recent years particularly in light of recent abuses of consumer credit arbitration mechanisms. This paper reports on the result of a non-randomized small-n survey which we label the “Financial Dispute Study” aiming at evaluating the relative effectiveness of two major approaches to financial dispute resolution — arbitration and ombudsman services. Nearly a hundred survey questionnaires were distributed to financial dispute resolution practitioners throughout the world. A total of forty-eight arbitrators and ombudsmen from East Asia, North America, Europe, the Middle East and Africa responded. In the Study the participants were asked how practitioners viewed the level of satisfaction, settlement rate and perceived increase or decrease in the use of the given method of financial dispute resolution — whether arbitration or ombudsman service. This paper analyzes the method-effect, meaning we focus on the effect of the selected method of financial dispute resolution (whether ombudsman or arbitration) on settlement, satisfaction and increase or decrease in use. In doing so, the study evaluates the relative effectiveness of two major approaches that a financial dispute resolution mechanism might adopt. We find no statistically significant evidence that a given method, arbitration or the use of ombudsman process has a large (or any) effect on the settlement rate, level of satisfaction or usage. To the contrary, arbitration and ombudsman group point estimates are generally close to one another. Nevertheless, the data indicate slightly higher levels of settlement and overall increase in use in
ombudsman processes worldwide. These findings, combined with feedback from open ended interviews along with structural safeguards against repeat-player advantage integrated into the ombudsman process ensuring that awards are rendered without prejudice to the claimant, suggest that merit may be found in exploring the potential applications and use of ombudsman processes for the resolution of consumer financial disputes. The paper concludes with some limited interpretation of the results.

**ARBITRATION: EMPLOYMENT**

**Comparing the Effects of Judge’s Gender and Arbitrators’ Gender in Sex Discrimination Cases and Why it Matters**
Pat K. Chew

Empirical research indicates female judges are more likely than male judges to render a decision in the employee plaintiffs' favor, presumably because male and female judges have different perspectives on what constitutes sex discrimination and sexual harassment. The author's empirical study of arbitration of sex discrimination cases administered by the American Arbitration Association between 2010 and 2014, however, finds that this judges’ “gender effect” does not occur in arbitration. Namely, there is no significant difference in the decision-making patterns of female and male arbitrators as indicated by case outcomes. This absence of an arbitrators’ “gender effect” raises concerns about the arbitration process more broadly: do employers’ advantages, arbitrators’ competitive pressures, and arbitrators’ unmonitored discretion in decision-making result in inadvertent gender biases? [DRM Winter 2018]

**Judicial Review of Teacher-School Board Grievance Arbitration: An Empirical Analysis**
Perry A. Zirkel
Journal of Law and Education 45: 181-208 (Spring 2016)

This article provides an empirical analysis of published and unpublished court decisions that reviewed grievance arbitration in the context of teacher-board collective bargaining agreements (CBAs). The case coverage for the analysis is for the ten-year period from August 1, 2005 to July 31, 2015. The two overlapping issues are (1) arbitrability, which usually arises but not uniformly during the pre-arbitration phase *182 (i.e., prior to the hearing), and (2) vacatur, which arises during the postarbitration phase (i.e., after the award). The article follows a traditional organization for empirical legal scholarship. The first part provides the reader with a brief overview of the evolving legal framework. The second part reviews the applicable research literature to date. The third part summarizes the method and results of the empirical analysis. Finally, the fourth part discusses the results with particular attention to their practical significance and recommendations for follow-up research.

**Individual Employment Rights Arbitration in the U.S.: Actors and Outcomes**
Alexander J.S. Colvin & Mark Gough

This study examines disposition statistics from 2,211 employment arbitration cases administered over a nine-year period by the American Arbitration Association (AAA) to investigate the process of dispute resolution in this new institution of employment relations. We find that the institutional structure of arbitration affects employee outcomes, in particular win
rates and award amount, raising concerns about systemic employer advantage. This study provides evidence of a significant repeat employer-arbitrator pair effect; employers that use the same arbitrator on multiple occasions win more often relative to employers appearing before an arbitrator for the first time. Employee win rates are higher in California and lower in Texas compared to those filed in all other states. Female arbitrators and members of the National Academy of Arbitrators (NAA) render awards in favor of employees less often than do male arbitrators and non-NAA members. And former judges award higher damages, on average, than arbitrators without judicial experience.

The High Costs of an Inexpensive Forum: An Empirical Analysis of Employment Discrimination Claims Heard in Arbitration and Civil Litigation
Mark D. Gough

In the wake of the Supreme Court’s Gilmer decision in 1991, mandatory arbitration clauses, also known as pre-dispute arbitration clauses, have become an increasingly common fixture in employment agreements and handbooks in non-union organizations. The creation of a private, alternative forum for the resolution of individual employment rights is understandably provocative, but given arbitration's private nature, it has been difficult for scholars to collect and analyze robust statistical evidence about this new institution. Using data on recent employment discrimination verdicts from a 2013-2014 survey of approximately 700 practicing employment attorneys, this article investigates employment arbitration's effect on employee access to justice and the quality of justice received. Consistent with previous research, the author finds employee win rates and award amounts are lower in arbitration compared to those found in civil litigation. Improving on existing literature, however, the author finds no evidence that inferior outcomes can be explained by differences in case characteristics between the forums: while the use of summary judgment is more frequent in litigation, employee plaintiffs in arbitration, on average, have higher salaries, are employed by organizations of comparable size, allege similar discriminatory acts, and present cases of equal merit relative to plaintiffs pursuing claims through civil litigation. [DRM Winter 2015]

Employment Arbitration in The Securities Industry: Lessons Drawn From Recent Empirical Research
Ryan Lamare & David B. Lipsky
in this article, we use evidence gathered from employment arbitration cases arising in the securities industry to address several research questions that emanate from the debate over the arbitration of employment disputes. we empirically answer the following questions: (1) are critics correct in asserting that employment arbitration favors repeat players? (2) do employees fare better under voluntary arbitration than they do under mandatory arbitration? (3) are employees who allege violations of their civil rights, through the filing of discrimination charges, treated differently from those filing other types of claims? (4) does the gender of the parties involved in the arbitration process affect outcomes in any way? (5) is there evidence that companies learn from, or are affected by, the results of prior arbitration awards when dealing with a current claim? although the literature has offered some answers to these questions, this article provides a holistic review and overview of the arbitration experience within the securities industry and a summation of quantitative evidence on the subject.
Saturns and Rickshaws Revisited: What Kind of Employment Arbitration System has Developed?
Alexander J.S. Colvin & Kelly Pike
Ohio State Journal on Dispute Resolution 29: 59-83 (2014)

The authors examined all employment arbitration cases administered by the AAA and terminated in 2008. The study’s purpose was to investigate the degree to which employment arbitration accords with the vision of a simplified, but accessible and effective alternative to standard litigation for resolving workplace disputes. Nearly three-quarters of the cases arose from employer requirements that disputes be resolved through arbitration. The typical case in these employer-required arbitration proceedings, as in litigation, is a statutory claim with a damage claim of well over $100,000. Smaller claims, often seen as unable to access the litigation system, have not turned to arbitration—even though, under AAA’s rules, employers pay the arbitration fees, which at almost $10,000 per case could otherwise be a barrier to access. Employees win just under one-quarter of the arbitration cases and some recover substantial damages. However, employee win rates and damage amounts in arbitration are lower than those found in litigated cases that get to the trial stage. Self-represented employees, who make up a third of those bringing claims (as compared to about one-quarter in litigated cases) have lower success rates and receive much smaller damages than represented employees. As with litigation, settlement is the resolution mechanism for most cases in arbitration. Summary judgment motions have become a feature of employment arbitration as well; such motions are brought in a quarter of the cases and most are successful. The time to get an arbitration hearing, while arguably still too long at around a year, is shorter than is typical in litigation. The authors conclude that employment arbitration is, in a number of respects, replicating the limitations of the litigation system rather than providing a more accessible and effective system of workplace justice. [DRM Winter 2014]

The Effect of Gender on Awards in Employment Arbitration Cases: The Experience in the Financial Securities Industry
David Lipsky, Ryan Lamare & Abhishek Gupta
Industrial Relations 52(1): 314-342 (January 2013)

In this article, the authors analyze the outcomes of nearly 3,200 awards issued in employment disputes settled by arbitration in the securities industry over the period 1986–2008. The large amount of litigation in the securities industry alleging discrimination by securities firms against the women they employ led the authors to hypothesize that women would do less well than men in these arbitration cases. The study revealed that the gender of the complainant and the complainant’s attorney (but not the gender of the respondent’s attorney or the arbitrator) had significant effects on the size of the awards. Across the range of analyses conducted by the authors, female complainants did less well than male complainants in these employment arbitration cases. The gender of the attorney representing the complainant also affected the size of the award: male attorneys obtained larger awards than female attorneys After examining the features of the arbitration process for which they had data (admittedly limited) and finding that gender differences in arbitration awards were robust across all analyses, the authors hypothesize that these differences are more likely due to persistent differential treatment of women in the securities industry than to the arbitration process (e.g., large differentials in salary likely result in large differentials in arbitration awards). [DRM Winter 2014]
After the Revolution: An Empirical Study of Consumer Arbitration
David Horton & Andrea Cann Cahndrasekher

For decades, mandatory consumer arbitration has been ground zero in the war between the business community and the plaintiffs’ bar. Some courts, scholars, and interest groups argue that the speed, informality, and accessibility of private dispute resolution create a conduit for everyday people to pursue claims. However, others object that arbitration’s loose procedural and evidentiary rules dilute substantive rights, and that arbitrators favor the repeat playing corporations that can influence their livelihood by selecting them in future matters. Since 2010, the stakes in this debate have soared, as the U.S. Supreme Court has expanded arbitral power and mandated that consumers resolve cases that once would have been class actions in two-party arbitration. But although the Court’s jurisprudence has received sustained scholarly attention, both its defenders and critics do not know how it has played out behind the black curtain of the extrajudicial tribunal. This Article offers fresh perspective on this debate by analyzing nearly 5,000 complaints filed by consumers with the American Arbitration Association between 2009 and 2013. It provides sorely-needed information about filing rates, outcomes, damages, costs, and case length. It also discovers that the abolition of the consumer class action has changed the dynamic inside the arbitral forum. Some plaintiffs’ lawyers have tried to fill this void by filing numerous freestanding claims against the same company. Yet these “arbitration entrepreneurs” are a pale substitute for the traditional class mechanism. Moreover, by pursuing scores of individual disputes, they have inadvertently transformed some large corporations into “extreme” repeat players. The Article demonstrates that these frequently-arbitrating entities win more and pay less in damages than one-shot entities. Thus, the Court’s consumer arbitration revolution not only shields big businesses from class action liability, but gives them a boost in the handful of matters that trickle into the arbitral forum. [DRM Winter 2016]

Arbitration Study: Report to Congress, Pursuant to Dodd Frank Wall Street Reform and Consumer Protection Act § 1028(a)

In Section 1028(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Congress instructs the Consumer Financial Protection Bureau (the “Bureau”) to study “the use of agreements providing for arbitration of any future dispute . . . in connection with the offering or providing of consumer financial products or services,” and to provide a report to Congress on the same topic. This document presents the results of that study.

Skeletons in the Database: An Early Analysis of the CFPB's Consumer Complaints
Ian Ayres, Jeff Lingwall & Sonia Steinway

Analyzing a new dataset of 110,000 consumer complaints lodged with the Consumer Financial Protection Bureau, we find that (i) Bank of America, Citibank, and PNC Bank were significantly less timely in responding to consumer complaints than the average financial institution; (ii) consumers of some of the largest financial services providers, including Wells
Fargo, Amex, and Bank of America, were significantly more likely than average to dispute the company’s response to their initial complaints; and (iii) among companies that provide mortgages, OneWest Bank, HSBC, Nationstar Mortgage, and Bank of America all received more mortgage complaints relative to mortgages sold than other banks. In addition, regression analysis suggests that consumer financial companies respond differently to complaints about different products and based on different issues, generating significant differences in timeliness of response, as well as significant differences in whether consumers dispute that response. Moreover, demographics matter: there were significant increases in mortgage complaints per mortgage in ZIP codes with larger proportions of certain populations, including Blacks and Hispanics, as well as an increase in untimeliness and company responses disputed for groups on which the CFPB is mandated to focus, including senior citizens and college students.

CONFLICT THEORY/SYSTEMS DESIGN

The Listener Sets the Tone: High-Quality Listening Increases Attitude Clarity and Behavior-Intention Consequences
Guy Itzchakov, Kenneth G. DeMarree, Avraham N. Kluger & Yaara Turjeman-Levi

We examined how merely sharing attitudes with a good listener shapes speakers’ attitudes. We predicted that high-quality (i.e., empathic, attentive, and nonjudgmental) listening reduces speakers’ social anxiety and leads them to delve deeper into their attitude-relevant knowledge (greater self-awareness). This, subsequently, differentially affects two components of speaker’s attitude certainty by increasing attitude _clarity_, but not attitude _correctness_. In addition, we predicted that this increased clarity is followed by increased attitude-expression _intentions_, but not attitude-persuasion _intentions_. We obtained consistent support for our hypotheses across five experiments (including one preregistered study), manipulating listening behavior in a variety of ways. This is the first evidence that an interpersonal variable, unrelated to the attitude itself, can affect attitude clarity and its consequences.

Engineering Informal Institutions: Long Run Impacts of Alternative Dispute Resolution on Violence and Property Rights in Liberia
Alexandra Hartman, Robert Blair & Christopher Blattman

Informal institutions govern property rights and disputes when formal systems are weak. Well-functioning institutions should help people reach and maintain bargains, minimizing violence. Can outside organizations engineer improvements and reduce violent conflicts? Will this improve property rights and investment? The authors experimentally evaluate a UN and civil society mass education campaign to promote alternative dispute resolution (ADR) practices and norms in rural communities, where violent land disputes are common. Prior work showed a fall in violence and unresolved disputes within one year. The authors return after three years to test for sustained impacts and channels. Treated communities report large, sustained falls in violent disputes and a slight shift towards nonviolent norms. Treated residents also report larger farms, though overall effects on property rights and investments are mixed. Politically-connected residents report more secure property rights while those with fewer connections feel less secure.
Sustained social engineering is feasible but politics shapes distributional outcomes. [DRM SUMMER 2018]

**Paradoxical Thinking as a Conflict-Resolution Intervention: Comparison to Alternative Interventions and Examination of Psychological Mechanisms**
Boaz Hameiri, Eden Nabet, Daniel Bar-Tal & Eran Halperin

Conflict-resolution interventions based on the paradoxical thinking principles, that is, expressing amplified, exaggerated, or even absurd ideas that are congruent with the held conflict-supporting societal beliefs, have been shown to be an effective avenue of intervention, especially among individuals who are adamant in their views. However, the question as to why these interventions have been effective has remained unanswered. In the present research, we have examined possible underlying psychological mechanisms, focusing on identity threat, surprise, and general disagreement. In a small-scale lab study and a large-scale longitudinal study, we compared paradoxical thinking interventions with traditional interventions based on providing inconsistent information. The paradoxical thinking interventions led rightists to show more unfreezing of held conflict-supporting beliefs and openness to alternative information, whereas the inconsistency-based interventions tended to be more effective with the centrist participants. Both studies provide evidence that the effects were driven by identity threat, surprise, and lower levels of disagreement.

**Becoming the Change We Wish to See: The Unexpected Benefits of Conflict Resolution Work**
Susan Raines

Mediators, ombuds, and other peace workers generally see their work as a calling. They pursue this work because of a desire to help others while promoting healing and reconciliation. While their work helps clients, it frequently results in deeply personal transformations, changing the ways in which they relate to and communicate with their family, colleagues, and community members. After hearing anecdotal reports of these transformations, I designed this study to learn more about how the work of conflict resolution affects its practitioners. Data for this study come from interviews and surveys of peace workers in various settings.

**How Do Experts Differ from Politicians in Understanding a Conflict? A Comparison of Track I and Track II Actors**
Özden Melis Uluğ & J. Christopher Cohrs
Conflict Resolution Quarterly 35(2): 147-172 (Winter 2017)

This article explores the conflict understandings of Track II actors in the Kurdish conflict context and compares them with conflict understandings of Track I actors to identify similarities and differences between these actors. The results highlight two different conflict understandings among Track II actors: a democracy and identity viewpoint, and a democracy and economy viewpoint. Integrating these results with previous results for Track I actors highlights four different conflict understandings across Track I and Track II actors: a Kurdish rights viewpoint, a democracy and freedom viewpoint, a conservative-religious viewpoint, and a terror viewpoint.
The Humanizing Voice: Speech Reveals, and Text Conceals, a More Thoughtful Mind in the Midst of Disagreement
Juliana Schroeder, Michael Kardas & Nicholas Epley
Psychological Science 28(12): 1745-1762 (October 2017)

A person’s speech communicates his or her thoughts and feelings. We predicted that beyond conveying the contents of a person’s mind, a person’s speech also conveys mental capacity, such that hearing a person explain his or her beliefs makes the person seem more mentally capable—and therefore seem to possess more uniquely human mental traits—than reading the same content. We expected this effect to emerge when people are perceived as relatively mindless, such as when they disagree with the evaluator’s own beliefs. Three experiments involving polarizing attitudinal issues and political opinions supported these hypotheses. A fourth experiment identified paralinguistic cues in the human voice that convey basic mental capacities. These results suggest that the medium through which people communicate may systematically influence the impressions they form of each other. The tendency to denigrate the minds of the opposition may be tempered by giving them, quite literally, a voice.

Breaking Silos: A Field Experiment on Relational Conflict Management in Cross-Functional Teams
Smaranda Boroş, Lore van Gorp, Brecht Cardoen & Robert Boute

In this paper we investigate how effective conflict management in conflict asymmetry situations impacts the quality of cross-functional management teams’ performance. During a 5-day business simulation, we explore the consequences of the relational conflicts and conflict asymmetry experienced by team members. We use two different measures of conflict asymmetry: the traditional group conflict asymmetry measurement of Jehn (Adm Sci Q 40:256–282, 1995) and a social networks method. We find that when some team members evoke more conflict than others, this affects the evolution of team dynamics (and ultimately the performance of the team) even more than high levels of conflict altogether; however, group emotional awareness can mitigate this negative effect and improve the team performance through the appropriate use of conflict management strategies. Since group emotional awareness can be fostered and trained within teams, this is of practical value to improve the performance of cross-functional management teams.

Why and How Businesses Use Planned Early Dispute Resolution
John Lande & Peter W. Benner

This article reports the results of an empirical inquiry analyzing why some businesses adopt “planned early dispute resolution” (PEDR) systems when most other businesses probably do not do so. PEDR systems enable parties and their lawyers to resolve disputes favorably and efficiently as early as reasonably possible. They involve strategic planning for preventing conflict and handling disputes promptly as they arise rather than dealing with them ad hoc. One might assume that using a PEDR system should be a “no-brainer” for businesses that regularly litigate because litigation-as-usual undermines many business interests such as efficiency, protection of reputations and relationships, control of disputing and business operations generally, and risk management, among others. Although this seems like a plausible
assumption, this study indicates that it is problematic for multiple reasons. Yet some inside counsel, who are key players in developing PEDR systems, have been able to overcome common barriers to adoption of these systems.

The Shifting Role of a Document in Managing Conflict and Shaping the Outcome of a Small Group Meeting
Joan Kelly Hall & Emily Rine Butler
Text and Talk 37(5): 615-638 (August 2017)

Small group project work often requires students to meet outside of class. It is important that these meetings be efficacious, as the resulting projects typically figure into students’ grades. The challenge is that, unlike in more formal meetings, there is typically no designated institutional authority to manage their work together. In peer meetings students have equal participatory rights; thus, formulating understandings and managing conflict can be especially delicate matters to accomplish. In this single case analysis of a small group project meeting, we examine the shifting role of a document in resolving conflict that threatens the group’s work. The analysis shows how, over the course of the meeting, a personal document created during the meeting subsequently becomes oriented to by the participants as an official formulation of their decisions and an authoritative directive to complete their tasks. This shift in orientation to the document allows a way out of the conflict and the meeting to come to a successful conclusion. In addition to providing data on conflict resolution in meetings without an official leader, the finding on the changing role of a document adds to understandings of how actions are accomplished through the construction and manipulation of objects.

Whoever is Not With Me is Against Me: The Costs of Neutrality Among Friends
Alex Shawa, Peter DeScioli, Anam Barakzaia & Robert Kurzbanc
Journal of Experimental Social Psychology 71: 96-104 (July 2017)

Although friends provide valuable help and support, they can also entangle us in costly conflicts. In three studies, we investigate how people react when they are in a dispute with another person and their friend opposes them, supports them, or remains neutral. As expected, participants felt negative toward a friend who sided against them and positive toward a friend who sided with them. However, we were most interested in how people react to a friend’s neutrality. People might view neutrality as a fair and positive way to avoid escalating conflict, but they could also see it as shirking one's duties to support a friend. In line with a recent alliance model of friendship, we predicted and found support for the latter: participants reacted negatively toward a friend who remained neutral, in fact just as negatively as toward a friend who actively opposed them. That is, participants' felt similar to the Biblical aphorism, “whoever is not with me is against me.” We further found that participants' negative response to neutrality was particularly strong when a close friend remained neutral during a dispute with a distant friend, compared to a dispute with an equally close friend. We discuss the implications of these findings for understanding multilateral conflicts among multiple friends.

“Switching On” Creativity: Task Switching Can Increase Creativity By Reducing Cognitive Fixation
Jackson G. Lu, Modupe Akinola & Malia F. Mason
Organizational Behavior and Human Decision Processes 139: 63-75 (March 2017)
Whereas past research has focused on the downsides of task switching, the present research uncovers a potential upside: increased creativity. In two experiments, we show that task switching can enhance two principal forms of creativity—divergent thinking (Study 1) and convergent thinking (Study 2)—in part because temporarily setting a task aside reduces cognitive fixation. Participants who continually alternated back and forth between two creativity tasks outperformed both participants who switched between the tasks at their discretion and participants who attempted one task for the first half of the allotted time before switching to the other task for the second half. Importantly, Studies 3a–3d reveal that people overwhelmingly fail to adopt a continual-switch approach when incentivized to choose a task switching strategy that would maximize their creative performance. These findings provide insights into how individuals can “switch on” creativity when navigating multiple creative tasks. [DRM Summer 2017]

The Effect of Perspective-Giving on Postconflict Reconciliation. An Experimental Approach
Juan E. Ugarriza & Enzo Nussio
Political Psychology 38(1): 3-19 (February 2017)
Discussion groups are a promising tool for bridging the divide between former conflict antagonists. However, such groups do not always produce the desired outcome of improved attitudes, even when they meet the conditions generally seen as favoring positive interaction. In this article, we examine specific discussion protocols that mitigate polarization risks while fostering reconciliation. Using a randomized, controlled design, we formed a pool of 429 ex-combatants and members of conflict-affected communities in Colombia. Participants were asked to join heterogeneous groups and discuss their proposals for the future of Colombia. Overall, community members improved their attitudes towards ex-combatants significantly, while ex-combatants’ attitudes toward community members do not tend to polarize. Those participants who were randomly assigned to a perspective-giving treatment protocol (where they were asked to refer to their personal experience and perspective) consistently improved their intergroup attitudes towards ex-combatants, and by a proportionally higher percentage than those taking part under argumentation and no-treatment control conditions. [DRM Summer 2017]

Does Strategic Kindness Crowd Out Prosocial Behavior?
Åshild A. Johnsen & Ola Kvaløy
In repeated games, it is hard to distinguish true prosocial behavior from strategic behavior. In particular, a player does not know whether a reciprocal action is intrinsically or strategically motivated. In this paper, we experimentally investigate the relationship between intrinsic and strategic reciprocity by running a two-period repeated trust game. In the “strategic treatment” the subjects know that they will meet twice, while in the “non-strategic treatment” they do not know and hence the second period comes as a surprise. We find that subjects anticipate strategic reciprocity, and that intrinsic reciprocity is rewarded. In fact, the total level of cooperation, in which trust is reciprocated, is higher in the non-strategic treatment. This indicates that strategic reciprocity crowds out intrinsic reciprocity: If one takes the repeated game incentives out of the repeated game, one sees more cooperation and higher social surplus.
Conflict at Work, Negative Emotions, and Performance: A Diary Study
Sonja Rispens & Evangelia Demerouti

This study examines how daily conflict events at work affect people's active (anger, contempt) and passive (sadness, guilt) negative emotions and in- and extra-role performance. We introduce the concept of conflict detachment and examined whether this coping strategy alleviates the degree of negative emotions a person feels due to a conflict experience. Sixty-two individuals from various professions in the Netherlands provided questionnaire and daily survey measures during five consecutive workdays. Multilevel analyses showed that daily relationship and process conflict experiences at work were positively related to daily negative emotions. In addition, the results demonstrated a lagged effect of passive negative emotions: feelings of guilt and sadness predicted lower in-role and extra-role performance the following day. We also found that conflict detachment moderated the relationship between daily conflict and negative emotions. We discuss the implications of our findings for organizational practice and suggest possible ways for future research.

Commitment Problems in Conflict Resolution
Erik O. Kimbrough, Jared Rubin, Roman M. Sheremeta & Timothy W. Shields

Commitment problems are inherent to non-binding conflict resolution mechanisms, since an unsatisfied party can ignore the resolution and initiate conflict. We provide experimental evidence suggesting that even in the absence of binding contractual agreements individuals often avoid conflict by committing to the outcome of a conflict resolution mechanism. Commitment problems are mitigated to a greater extent for groups that opt-in to the conflict resolution mechanism, but only when opting-in is costly. Although conflict rates are higher when opting-in is costly than when it is free or exogenously imposed, commitment problems are greatly reduced among those groups who choose to opt-in.

Are Federal Labor-Management Partnerships Decreasing Conflict? Evidence from the Last Eight Years of Reported Data
Ashley M. Alteri

In December 2009, President Obama signed Executive Order 13522, initiating a formal period during which the federal government has been acting under a declared labor-management partnership. Researchers and practitioners believe these partnerships can result in substantial benefits to the organization. However, this article's analysis of an original data set containing agency data on labor-management collaboration and conflict over time indicates that partnerships are not associated with changes in conflict. Instead, participation in labor-management pilot projects weakly predicts a decrease in conflict. Qualitative data from union officials suggest that this finding could be because the partnerships do not represent true labor-management collaboration. [DRM Summer 2016]
Two-Group Dynamic Conflict Scenarios: “Toy Model” with a Severity Index
Sanda Kaufman & Miron Kaufman
Negotiation and Conflict Management Research, 8: 41–55 (January 2015)

This article draws on several research domains and disciplines—social psychology, models of complex systems, and planning scenario analysis—to propose a “toy” model of the dynamics of intergroup conflicts. The ingroup–outgroup conflict literature supports the notion that inside groups in conflict there are subgroups of intransigents seeking to “fight it out,” and flexibles seeking avenues for settlements. There is also support for the intransigents and flexibles in the two groups being susceptible to each other's goading to escalate conflicts or entreaties to reach agreement. However, since two-group conflicts are embedded in complex systems with which they interact, it is difficult to predict outcomes and to assess the chances that intervention strategies might succeed or fail. We propose to use the model of two-group conflicts based on the mutual susceptibilities of flexibles and intransigents (Kaufman & Kaufman, 2013) to construct toy model scenarios of possible conflict trajectories. For each scenario, we compute a Severity Index for Conflicts (SIC) that captures the likelihood that it will end in confrontation (rather than agreement). We offer some examples of intranational and international conflicts and show how the scenarios can be analyzed qualitatively to explore the range of possible outcomes. Further developments will include sensitivity analyses for various assumptions and asking “what if” questions that can inform strategies of response and intervention.

Creative Synthesis: Exploring the Process of Extraordinary Group Creativity
Sarah Harvey

This article provides insight into how some groups achieve extraordinary levels of creativity by reconsidering the collective process through which new ideas develop. Previous research has been premised on a model in which idea generation stimulated by divergent input increases the variance in ideas a group generates and therefore increases the chance that one of the group’s ideas will be a radical, breakthrough creative product. In contrast, I present a dialectical model in which the integration of group members’ perspectives (which I label creative synthesis) is the foundation for new ideas. I propose that the process of creative synthesis improves the chance that each of a group’s ideas is a breakthrough. I elaborate the process facilitators of creative synthesis and the implications of the dialectical model for understanding extraordinary group creativity. Creative synthesis provides an alternative way for groups to combine their cognitive, social, and environmental resources into extraordinary output.

Institutionalizing Sustainable Conflict Management in Organizations: Leaders, Networks, and Sensemaking
Leigh Anne Liu, Lin Inlow & Jing Betty Feng

We investigated the process and outcomes of a systematic approach to institutionalize conflict management in a large public nonprofit organization. Using longitudinal and multilevel field data, we were able to identify the effects of the institutionalization process from multiple perspectives. We hypothesized and found the combination of three critical social factors—leadership, construction and maintenance of social networks, and the sensemaking processes—in the diffusion of both codified and tacit knowledge about conflict management. Also, social
construction supplements structural factors in the institutionalization process of conflict management practices.

**Corporate Communication and Worker Perceptions of Conflict Management and Justice**
Katharina G. Kugler & Felix C. Brodbeck

Organizations are well advised to develop a conflict culture promoting constructive conflict management and cooperation. But what does such a culture look like? Research from international and political relations has demonstrated that the level of integrative complexity (IC) as disseminated in political messages is an important factor in the context of conflict management. In our research, we hypothesize that, similar to political messages, corporate communication, which emphasizes a complex (i.e., differentiated and integrated) way of understanding multidimensional issues, is connected to cooperative conflict management and related variables like perceptions of organizational justice. Results of a multilevel field study support this proposition. Whereas the level of organizational IC was assessed by rating organizations’ communication (specifically their vision or mission statements published on the Internet), perceptions of conflict management and justice were assessed by asking employees. The study emphasizes the utility of addressing organizational level variables in relation to organizational members’ perceptions.

**Conflict Settlement, and the Shadow of the Future**
Michael McBride & Stergios Skaperdas
Journal of Economic Behavior and Organization 105: 75-89 (September 2014)

We examine a conflictual setting in which adversaries cannot contract on an enforcement variable (arms) and where the future strategic positions of adversaries are very different when there is open conflict than when there is settlement. We show that, as the future becomes more important in this setting, open conflict becomes more likely than settlement. We demonstrate the theoretical robustness of this finding and test it in a laboratory experiment. As predicted, we find that subjects are more likely to engage in destructive conflict as the future becomes more important.

**The Serial Reproduction of Conflict: Third Parties Escalate Conflict Through Communication Biases**
Tiane L. Lee, Michele J. Gelfand & Yoshihisa Kashima
Journal of Experimental Social Psychology 54: 68-72 (September 2014)

The authors apply a communication perspective to study third party conflict contagion, a phenomenon in which partisan spectators to others’ disputes not only become involved in, but escalate, the dispute to a multitude of others. Using a research method called serial reproduction, the authors demonstrate the role of third parties’ communication biases in conflict escalation, revealing that successive generations of partisan observers share and reproduce conflict narratives that become increasingly biased in their moral framing, attributions for the conflict, evaluations of the disputing parties, and quest for revenge. Despite equal fault between the disputing parties at the beginning, these communication biases increased, rather than subsided, with each iteration throughout communication chains, cumulating in distortions and group biases far above and beyond initial ingroup favoritism. In the paper the authors discuss the implications for strategies to de-bias transmission of conflict information. [DRM Winter 2015]
Argumentativeness, Avoidance, Verbal Aggressiveness, and Verbal Benevolence as Predictors of Partner Perceptions of an Individual's Conflict Style
Laura K. Guerrero & Michael A. Gross
Negotiation and Conflict Management Research 7(2): 99-120 (May 2014)
This study addressed two main questions. First, are the traits of argumentativeness, verbal aggressiveness, avoidance, and verbal benevolence reflected in conflict styles such that they are perceived by others? Second, how do these traits predict the five conflict styles in the dual concern model? These questions were tested using dyadic data from a simulated downsizing activity. Results showed that participants perceived their partners differently depending on the traits their partners endorsed. For example, people who reported being avoidant or verbally aggressive were less likely to be perceived as using the compromising style. Overall, the results suggested that the four traits investigated in this study are likely to be associated with observable behavior. Findings also demonstrated that these traits help differentiate the five conflict styles in more nuanced ways than predicted by the dual concern model. Finally, the results supported the idea that conflict styles are not only shaped by one's own traits but also by the traits of others and the interaction between two people's traits.

Individual Perceptions of Task Conflict And Relationship Conflict
Stephanie T. Solansky, Barjinder Singh & Shengsheng Huang
Negotiation and Conflict Management Research 7(2): 83-98 (May 2014)
We rely on the existing conflict literature and self-verification theory to examine perceived task and relationship conflict. We set out to contribute to the discussion of whether relationship conflict is dysfunctional and task conflict is functional in terms of the individual evaluations of group efficacy and group mind. Our sample is a field setting of 127 individuals within a Fortune 500 company. Individual perceptions of group efficacy and group mind scores were significantly higher when neither type of conflict was perceived to occur often as compared with when both types of conflict were perceived to occur often. After decoupling types of conflict, we found when only task conflict occurred often, the perceived efficacy and mind scores were significantly higher than when both types of conflict occurred often. This is a contradictory finding based on the existing literature that suggests task conflict negatively impacts emergent states.

Understanding Conflict Management Systems and Strategies in the Workplace: A Pilot Study
Neil H. Katz & Linda T. Flynn
Conflict Resolution Quarterly 30(4): 393-410 (Summer 2013)
In today's business environment, workplace conflict is a significant issue. Research in the conflict management discipline says that conflict in the workplace is on the rise and will continue to go up; however, many leaders and managers are not fully aware of structures and processes available to manage it. This article presents the results of a pilot study conducted in Broward County, Florida, of workplace leaders' and managers' awareness, perception, and use of conflict management systems and strategies. The findings reflect the lack of a clear definition of the issue, the absence of integrated conflict management systems within most organizations, and dissatisfaction with antiquated grievance systems. There is substantial opportunity for additional research.
Ideology and Prejudice: The Role of Value Conflicts
John R. Chambers, Barry R. Schlenker & Brian Collisson

In three studies, we tested whether prejudice derives from perceived similarities and
dissimilarities in political ideologies (the value-conflict hypothesis). Across three diverse
samples in Study 1, conservatives had less favorable impressions than liberals of groups that
were identified as liberal (e.g., African Americans, homosexuals), but more favorable
impressions than liberals of groups identified as conservative (e.g., Christian fundamentalists,
businesspeople). In Studies 2 and 3, we independently manipulated a target’s race (European
American or African American) and political attitudes (liberal or conservative). Both
studies found symmetrical preferences, with liberals and conservatives each liking attitudinally
similar targets more than dissimilar targets. The amount of prejudice was comparable for liberals
and conservatives, and the race of the target had no effect. In all three studies, the same patterns
were obtained even after controlling for individual differences on prejudicerelated dimensions
(e.g., system justification, social-dominance orientation, modern racism). The patterns strongly
support the value-conflict hypothesis and indicate that prejudice exists on both sides of the
political spectrum.

Conflict Cultures in Organizations: How Leaders Shape Conflict Cultures and Their
Organizational-Level Consequences
Michele Gelfand, Lisa M. Leslie, Kirsten Keller & Carsten de Dreu

Anecdotal evidence abounds that organizations have distinct conflict cultures, or socially
shared norms for how conflict should be managed. However, research to date has largely focused
on conflict management styles at the individual and small group level, and has yet to examine
whether organizations create socially shared and normative ways to manage conflict. In a sample
of leaders and members from 92 branches of a large bank, factor analysis and aggregation
analyses show that 3 conflict cultures—collaborative, dominating, and avoidant—operate at the
unit level of analysis. Building on Lewin, Lippitt, and White's (1939) classic work, we find that
leaders' own conflict management behaviors are associated with distinct unit conflict cultures.
The results also demonstrate that conflict cultures have implications for macro branch-level
outcomes, including branch viability (i.e., cohesion, potency, and burnout) and branch
performance (i.e., creativity and customer service). A conflict culture perspective moves beyond
the individual level and provides new insight into the dynamics of conflict management in
organizational contexts. (PsycINFO Database Record (c) 2012 APA, all rights reserved)

Aging and Wisdom: Culture Matters
Igor Grossmann, Mayumi Karasawa, Satoko Izumi, Jinkyung Na, Michael E. W. Varnum,
Shinobu Kitayama & Richard E. Nisbett

People from different cultures vary in the ways they approach social conflicts, with
Japanese being more motivated to maintain interpersonal harmony and avoid conflicts than
Americans are. Such cultural differences have developmental consequences for reasoning about
social conflict. In the study reported here, we interviewed random samples of Americans from
the Midwest United States and Japanese from the larger Tokyo area about their reactions to
stories of intergroup and interpersonal conflicts. Responses showed that wisdom (e.g.,
recognition of multiple perspectives, the limits of personal knowledge, and the importance of compromise) increased with increasing age among Americans, but older age was not associated with wiser responses among Japanese. Younger and middle-aged Japanese showed greater use of wise-reasoning strategies than younger and middle-aged Americans did. This cultural difference was weaker for older participants’ reactions to interpersonal conflicts and was actually reversed for intergroup conflicts. This research has important implications for the study of aging, cultural psychology, and wisdom.

A Helping Hand? The Moderating Role of Leaders' Conflict Management Behavior on the Conflict–Stress Relationship of Employees
Moritz Römer, Sonja Rispens, Ellen Giebels & Martin C. Euwema
Negotiation Journal 28(3): 253–277 (July 2012)

Interpersonal conflict between colleagues within organizations negatively affects employee well-being (e.g., stress). It is unclear how leaders' third-party conflict management behaviors influence the relationship between employee conflict and well-being. In this study, we examine the effects of leaders' perceived conflict management behaviors on the relationship between relationship, task, and process conflicts and the conflict-related stress (as a measure of well-being) that employees experience. We tested our expectations using a survey of 145 employees of an insurance company in the Netherlands. The results confirmed our expectations that the perception that leaders engaged in third-party forcing behavior and avoiding behavior amplified the effects of conflict on conflict-related stress. Furthermore, we found that leaders' third-party problem-solving behavior had a buffering effect on the association between relationship conflict and conflict-related stress. Theoretical and practical implications are discussed.

COURTS & LITIGANT PREFERENCES

When Ignorance is Not Bliss: An Empirical Study of Litigants’ Awareness of Court-Sponsored Alternative Dispute Resolution Programs
Donna Shestowsky

State courts have been overburdened with litigants seeking civil justice in a system still recovering from the economic downturn of 2008. In many cases, alternative dispute resolution procedures can provide litigants with relief from the expense and waiting time associated with trial. However, such procedures provide little opportunity for justice to litigants who are unaware of their existence. The present study examines litigants’ ability to identify their court’s mediation and arbitration programs. Following the disposition of their cases, litigants from three state courts were asked whether their court offered mediation or arbitration. Although all litigants had cases that were eligible for both procedures through their court, less than one-third of litigants correctly reported that their court offered either procedure. Represented litigants were not significantly more likely to know about their court’s programs than their unrepresented counterparts. Litigants had more favorable views of their court when they knew it offered mediation (as opposed to being unsure whether the court offered it), but a similar result did not emerge for arbitration. The implications of these novel findings for litigants, lawyers, and courts are discussed. [DRM Summer 2017]
Effectiveness of Existing Adjudication Review Mechanisms: Views of Industry Experts
Samer Skaik

Some jurisdictions allow for an express limited right of aggrieved parties to apply for adjudication review as a way to remedy injustice caused by the speedy adjudication process. The aim of this paper is to examine the effectiveness of the existing review mechanisms and identify whether the notion of review mechanisms is a good idea. The paper adopts a combination of doctrinal legal research (black-letter law) and socio-legal research (empirical research). The empirical research involves interviews with 23 industry experts practicing in different jurisdictions in the area of statutory adjudication. The paper analyses the views of experts regarding the operation of review mechanisms in their jurisdictions and investigates the factors influencing their effectiveness. The paper concludes that if an effective review mechanism is devised to counter the barriers of cost and time, the arguments in support of the need of review mechanism would outweigh opposing arguments.

What Difference Does ADR Make? Comparison of ADR and Trial Outcomes in Small Claims Court
Lorig Charkoudian, Deborah Thompson Eisenberg & Jamie L. Walter
Conflict Resolution Quarterly 35(1): 7-45 (Fall 2017)

This study compares the experience of small claims litigants who used alternative dispute resolution (ADR) to a control group that proceeded to trial without ADR. ADR processes included mediation and settlement conferences. In the short-term, ADR participants were more likely than the trial group to indicate that: 1) they could express themselves and their thoughts and concerns; 2) all of the underlying issues came out; 3) the issues were resolved; 4) the issues were completely resolved; and 5) they acknowledged responsibility for the situation. This held true even for parties who did not settle in ADR. In the long term, ADR participants were more likely than the trial group to report that the outcome was working and that they were satisfied with the outcome and the judicial system 3-6 months later. Finally, those who settled in ADR were less likely to return to court for an enforcement action twelve months later as compared to all other groups (including cases that received a judge verdict, those that negotiated a settlement without ADR, and those who did not settle in ADR). The research was funded by the State Justice Institute and was part of a larger study of the costs and benefits of ADR conducted by the Maryland Judiciary. [DRM Winter 2018]

Unintended Consequences: The Regressive Effects of Increased Access to Courts
Anthony Niblett & Albert H. Yoon

Small claims courts enable parties to resolve their disputes relatively quickly and cheaply. The court's limiting feature, by design, is that alleged damages must be small, in accordance with the jurisdictional limit at that time. Accordingly, one might expect that a large increase in the upper limit of claim size would increase the court's accessibility to a larger and potentially more diverse pool of litigants. We examine this proposition by studying the effect of an increase in the jurisdictional limit of the Ontario Small Claims Court. Prior to January 2010, claims up to $10,000 could be litigated in the small claims court. After January 2010, this jurisdictional limit increased to include all claims up to $25,000. We study patterns in nearly 625,000 disputes over the period 2006–2013. In this article, we investigate plaintiff behavior.
Interestingly, the total number of claims filed by plaintiffs does not increase significantly with the increased jurisdictional limit. We do find, however, changes to the composition of plaintiffs. Following the jurisdictional change, we find that plaintiffs using the small claims court are, on average, from richer neighborhoods. We also find that the proportion of plaintiffs from poorer neighborhoods drops. The drop-off is most pronounced in plaintiffs from the poorest 10 percent of neighborhoods. We explore potential explanations for this regressive effect, including crowding out, congestion, increased legal representation, and behavioral influences. Our findings suggest that legislative attempts to make the courts more accessible may have unintended regressive consequences.

Managerial Judging and Judicial Plea Negotiations: Further Evidence
Nancy J. King & Ronald F. Wright
Available at SSRN: https://ssrn.com/abstract=2972294 or http://dx.doi.org/10.2139/ssrn.2972294 (May 2017)

This is a companion report to our article, “The Invisible Revolution in Plea Bargaining: Managerial Judging and Judicial Participation in Negotiations,” 95 Texas Law Review 325 (2016), available at http://ssrn.com/abstract=2796296. Based on field interviews with judges and attorneys in ten different states, we documented new procedures in state courts that involve judges routinely in the settlement of criminal cases. We learned of grant-funded problem-solving sessions, multi-case conferences where other lawyers chime in, settlement dockets with retired judges, full-blown felony mediation with defendant and victims, and more. In this companion report, we make publicly available some additional quotations from our field interviews, adding depth to our description and evaluation of judicial negotiation practices. The additional evidence from our interviews includes further examples and exceptions that we did not publish in the original article. This report ends with an appendix describing our methodology in assembling this interview data.

The Invisible Revolution in Plea Bargaining: Managerial Judging and Judicial Participation in Negotiations
Nancy J. King & Ronald F. Wright

This article, the most comprehensive study of judicial participation in plea negotiations since the 1970s, reveals a stunning array of new procedures that involve judges routinely in the settlement of criminal cases. Interviewing nearly 100 judges and attorneys in ten states, the authors found that what once were informal, disfavored interactions have quietly, without notice, transformed into highly structured, best practices for docket management. The authors learned of grant-funded, problem-solving sessions complete with risk assessments and real-time information on treatment options; multi-case conferences where other lawyers chime in; settlement courts located at the jail; settlement dockets with retired judges; full-blown felony mediation with defendant and victims; felony court judges serving as lower court judges; and more. The authors detail the reasons these innovations in managerial judging have developed so recently on the criminal side, why they thrive, and why some judges have not joined in. Contrary to common assumptions, the potential benefits of regulated involvement of the judge include more informed sentencing by judges, as well as less coercion and uncertainty for defendants facing early plea offers. [Editors’ Note: A companion detailed report (“Managerial Judging and Judicial Plea Negotiations: Further Evidence (May 2017)) is available on SSRN:
How Litigants Evaluate the Characteristics of Legal Procedures: A Multi-Court Empirical Study
Donna Shestowsky
UC Davis Law Review 49(3): 793-841 (2016)
This Article presents findings from the first multi-court field study examining how civil litigants evaluate the characteristics of legal procedures shortly after their cases are filed in state court. Analyses revealed that litigants evaluated the characteristics in terms of control — i.e., whether the characteristics granted relative control to the litigants themselves or to third parties (e.g., mediators, judges). Although the litigants indicated a desire to be present for the resolution process, they preferred third-party control to litigant control. They also wanted third parties to control the process more than the outcome. Gender, age group, and case-type significantly predicted attraction to third-party control, whereas attraction to litigant control was predicted by whether litigants had a pre-existing relationship with each other, how much they valued a future relationship with the opposing party, party type, the type of opposing party, and court location. Implications for legal policy and lawyering are discussed. [DRM Summer 2016

What We Know (and Need to Know) About Court-Annexed Dispute Resolution
Deborah Thompon Eisenberg
Mediation and other alternative dispute resolution (ADR) processes are now well integrated into the United States judicial system, in both civil and criminal cases. This white paper, drafted for the American Bar Association Commission on the Future of Legal Services, summarizes empirical evidence about the costs and benefits of court-annexed ADR. The first-generation of ADR research found that mediation and other ADR processes resulted in high party satisfaction rates, high settlement rates, cost savings and efficiency, increased long-term cooperation among the parties, and higher compliance rates with the outcome. The paper then examines a ground-breaking study conducted by the Maryland Judiciary about the costs and benefits of court-annexed ADR. The Maryland ADR study provides an example of rigorous second-generation ADR research that isolates the impact of participating in an ADR process rather than a trial, regardless of whether a settlement is reached. The research also examines the impact of specific mediator interventions (such as reflecting, caucusing, and eliciting options for resolution) on party attitudes and outcomes. The paper ends with a call for additional second-generation research about what works in court-connected mediation and other ADR processes, and identifies some of the gaps in the existing body of ADR empirical research. [DRM Winter 2016

Anchoring Effect in Real Litigation: An Empirical Study
Yun-Chien Chang, Kong-Pin Chen & Chang-Ching Lin
Given the wide acceptance of how anchoring affects human decision-making in almost all disciplines of social science, one is surprised to find that the empirical, rather than experimental, evidence is rare and inconclusive. This article offers the first large-scale court evidence for the anchoring effect in judicial decision-making. To examine whether the anchoring
effect exists in real-world litigation, the authors use Taiwan’s district court cases on trespassing, matched with transaction data to estimate the hedonic values on the value of lands in dispute and with another dataset on judge experience. In the court of first instance in Taiwan, usually one career judge decides cases under an adversarial system without the presence of a jury. When a judge with less than two years of experience is (randomly) assigned a case, two senior colleagues will join to decide the case in a panel. The study provides evidence that the plaintiff’s claim has a strong anchoring effect on the court’s judgment when the defendant is silent. Defendant’s counter-claim, however, can (partially) neutralize the anchoring effect created by the plaintiff’s claim. More importantly, the anchoring effect emerges only when judges are inexperienced. When three relatively inexperienced judges sit in a panel, the anchoring effect is magnified. Therefore, the study not only provides evidence for anchoring in real-world litigations but also identifies experience as its crucial determinant. The lesson for litigants is: counter the claim that your clients disagree. A prevailing myth that admonishes defense attorneys not to concede liability under any circumstance fosters the anchoring effect in favor of the plaintiffs. For judicial policy-makers, it is important not to group inexperienced judges into a panel. Otherwise, the deliberation-induced polarization would strengthen the bias in human decision-making. Given that jurors are usually inexperienced legal decision-makers and it is unlikely to change, the civil procedure shall be structured so that defendants can effectively counter arguments made by plaintiffs. [DRM Summer 2016]

**Litigation Settlements, Litigation Stakes, and Financial Distress Costs**
Ganapathi S. Narayanamoorthy & Zhou Hui  

Several theoretical studies provide predictions on the relation between settlement likelihood and litigation stakes. Although models with generalizable settings argue in favor of a negative relation, certain specialized settings predict the opposite. In contrast to the theoretical literature, there is limited empirical analysis of the relation with only one study reporting evidence of a positive association. In this study, we infer how the stock market forms expectations regarding the relation between settlement likelihood and litigation stakes by analyzing stock returns around settlement announcement dates. We find that the market was more surprised when higher stakes lawsuits were settled, suggesting that higher stakes lawsuits were not expected to settle. We thus provide empirical support in favor of general theoretical models on conflict resolution that predict a positive relation between litigation stakes and settlement likelihood. Our results also have implications for studies of financial distress costs. Although we find evidence of the existence of financial distress costs, our results contradict a conclusion drawn in prior research — that the primary benefit of litigation settlements is the unexpected relief from financial distress costs.

**Impact of Alternative Dispute Resolution on Responsibility, Empowerment, Resolution, and Satisfaction with the Judiciary: Comparison of Short- and Long-Term Outcomes in District Court Civil Cases**
Lorig Charkoudian (with significant contributions from Haleigh LaChance). Maryland Administrative Office of the Courts, Court Operations, Funding from the State Justice Institute, Grant Number SJI-13-N-028 (February 2016). Available at http://mdcourts.gov/courtoperations/pdfs/districtcourtcomparisonfullreport.pdf
This research is part of a larger research effort to measure the impact of Alternative Dispute Resolution (ADR) on the experience of litigants in the District Court of Maryland in the short and long term. The research includes a comparison between individuals who used ADR (the “treatment” cases) and those who went through the standard court process without ADR (the “control” cases). The analysis in this document is focused on comparing the self-reported experience of ADR participants to those who did not use ADR, from surveys before and after the process, as well as 3-6 months later. The short-term analysis considers: 1) attitude toward the other participant, 2) a sense of empowerment and having a voice in the process, 3) a sense of responsibility for the situation, 4) a belief that the conflict has been resolved, and 5) satisfaction with the judicial system. This study also tests whether participants’ experiences with ADR are different for different demographic groups. The long-term analysis considers: 1) attitude toward the other participant, 2) effectiveness of the outcome, and 3) satisfaction with the judiciary. Finally, this research tests the effect of ADR on the predicted probability of returning to court for enforcement action in the 12 months following the court date.

**What Works in District Court Day of Trial Mediation: Effectiveness of Various Mediation Strategies on Short- and Long-Term Outcomes**


This research measures the effectiveness and efficiency of various approaches of ADR in the District Court Day of Trial ADR Program. ADR is available in 18 District Court locations throughout Maryland. ADR is provided in a facilitative, inclusive, or transformative framework, in either solo or co-ADR models. The ADR program includes both mediation and settlement conferences. Day of Trial ADR is standardized across the state in terms of ADR practitioner qualifications, quality assurance program and procedures, ADR forms, Court Rules (MD Rule 17-301 et. seq.), confidentiality (MD Rule 17-105), and data collection. However, jurisdictions differ by the local ADR program procedures, ADR process available to litigants (based on the ADR practitioner who is scheduled and what his or her qualifications are to conduct either a mediation or settlement conference), range of ADR practitioner skills and experience, availability of ADR framework (again, depending on the ADR practitioner scheduled to provide the process), the process used to refer a case to ADR (varies by judge and by courtroom), and the date and time that ADR is available (based upon docket scheduling). Furthermore, ADR practitioners use a range of skills in the process.

**Sense of Access to Justice as a Framework for Civil Procedure Justice Reform: An Empirical Assessment of Judicial Settlement Conferences in Quebec (Canada)**

Jean-François Roberge

Cardozo Journal of Conflict Resolution 17: 323-361 (Winter 2016)

An emerging worldwide civil procedure justice reform trend takes the user’s point of view into account in order to promote access-to-justice and support for the rule of law. In the Canadian context, the Quebec civil law province has taken the lead to renew its legal culture towards a participatory justice, rooted in fair-minded processes that encourage the persons involved to play an active role. In an effort to monitor such ambitions, carried by the civil procedure code reforms of 2003 and 2014, this paper offers an empirical evaluation through the lens of litigant’s “Sense of Access to Justice” (“SAJ”). The study empirically tested this
innovative framework in settlement conferences, conducted by Quebec trial court judges practicing under a facilitative integrative problem-solving approach. The results show that settlement conferences are evaluated by litigants and lawyers as fair-minded processes, providing them with a sense of access to justice (over 80% satisfaction level on quality, value, and settlement rates). The SAJ Index methodology provides a benchmark to measure progress regarding access-to-justice from the litigant’s perspective. It aims to ascertain litigants’ views, determining whether they are in support of public policies, court initiatives, or private actions taken in response to the access-to-justice challenge. Adaptations to different judicial and private dispute resolution mechanisms taking place in various jurisdictions seem promising. [DRM Summer 2016]

Litigation and the Timing of Settlement: Evidence from Commercial Disputes
Peter Grajzl & Katarina Zajc

Although an overwhelming proportion of all legal disputes end in settlement, the determinants of the timing of settlement remain empirically underexplored. We draw on a novel dataset on the duration of commercial disputes in Slovenia to study how the timing of settlement is shaped by the stages and features of the litigation process. Using competing risk regression analysis, we find that events such as court-annexed mediation and the first court session, which enable the disputing parties to refine their respective expectations about the case outcome, in general reduce case duration to settlement. The magnitude of the respective effects, however, varies with time. Completion of subsequent court sessions, in contrast, does not affect the time to settlement. Judicial workload affects the timing of settlement indirectly, via the effect on the timing of the first court session. We also examine the effect of other case and party characteristics.

Let’s Stop Spreading Rumors About Settlement and Litigation: A Comparative Study of Settlement and Litigation in Hawaii Courts
John Barkai & Elizabeth Kent
Ohio State Journal on Dispute Resolution 29: 85-158 (2014)

This article compares two studies (using 4,000 cases and 500 lawyer surveys) of civil litigation and settlement in Hawaii’s state and federal courts over the past 50 years. The authors conclude you should never again say that “90% of all cases settle” because the statement is not correct. The settlement rate for “all” civil cases was about 50% (although almost 90% for tort cases). However, trials were rare (< 2%); jury trials were very rare (<0.5%). Telephone negotiations, not face-to-face ones, were the most common form of negotiation. Multiple settlement events (telephone, email, settlement conference, etc.) took place in the majority of cases where there was settlement activity. More than 40% of cases used some form of ADR; 75% of cases settled without judicial assistance. About 50% of the cases did not even have an appearance before a judge. Almost 50% of cases showed no pretrial discovery. The article contains data that lawyers could use with the opposing counsel, their client, the opposing client, or even a mediator. The information could also be useful for a mediator when playing the “agent of reality” role. [DRM Summer 2014]
Living with ADR: Evolving Perceptions and Use of Mediation, Arbitration and Conflict Management in Fortune 1,000 Corporations
Tom Stipanowich & Ryan Lamare

As attorneys for the world’s most visible clients, corporate counsel played a key role in the transformation of American conflict resolution in the late Twentieth Century. In 1997, a survey of Fortune 1,000 corporate counsel provided the first broad-based picture of conflict resolution processes within large companies. In 2011, a second landmark survey of corporate counsel in Fortune 1,000 companies captured a variety of critical changes in the way large companies handle conflict. Comparing their responses to those of the mid-1990s, the authors found clear and significant evolutionary trends, including a further shift in corporate orientation away from litigation and toward “alternative dispute resolution (ADR)”; moderated expectations of ADR; increasing use of mediation, contrasted with a dramatic fall-off in arbitration (except, importantly, consumer and products liability cases); greater control over the selection of third-party neutrals; and growing emphasis on proactive approaches, such as early neutral evaluation, early case assessment, and integrated systems for managing employment disputes. The article summarizes and analyzes the results of the 2011 Fortune 1,000 survey, compares current data to the 1997 results, and sets both studies against the background of a half-century of evolution. The article concludes with reflections on the future of corporate dispute resolution and conflict management, as well as related research questions. [DRM Winter 2014]

Imbalances of Power in ADR: The Impact of Representation and Dispute Resolution Method on Case Outcomes
Oren Gazal-Ayal & Ronen Perry
Law & Social Inquiry 39: 791-823 (Fall 2014)

In recent decades, ADR processes have gained worldwide recognition, a growing role in legal practice, and academic attention. Despite their professed advantages, they have also faced fierce opposition. In a seminal article, Owen Fiss made a strong case against the emerging pro-ADR movement, arguing that ADR exacerbates the imbalance of power between indigent and well-off parties and affects case outcomes. While the theoretical argument has been widely developed, empirical evidence has remained scant. This article empirically examines the impact of two seemingly relevant factors in inherently imbalanced legal disputes: the representation pattern and the dispute resolution method. The study focuses on small claims settlement conferences, using the Israeli labor courts as a test case. In this system, small claims are automatically referred to settlement conferences. The findings are based on more than three hundred small claims filed by employees against their employers. The data collected for each case consist of information about the representation of each party (self, lawyer specializing in employment law, lawyer not specializing in employment law); the outcome of the case (successful settlement conference, court-facilitated settlement, judicial decision after trial); the amount claimed by the plaintiff; and the amount obtained in the end of the process. The most salient finding is that representation increases the probability of a successful settlement conference. Settlement probability is highest (88.5%) when both parties are represented and lowest (62.3%) when neither is represented. Also, representation reduces the ratio between the amount obtained by the plaintiff and the sum claimed (the “settlement ratio”); it is lowest (38.8%) when both parties are represented and highest (56%) when neither is represented. Perhaps even more importantly, the more formal the process and the less it is based on
settlement, the greater the ratio between the sum obtained and the sum claimed; it is lowest when a settlement conference succeeds (45%) and highest following full-trial (84%). [DRM Summer 2015]

**Impact of Alternative Dispute Resolution on Responsibility, Empowerment, Resolution, and Satisfaction with the Judiciary: Comparison of Self-Reported Outcomes in District Court Civil Cases (April 2014)**

Lorig Charkoudian. Maryland Administrative Office of the Courts, Court Operations Funding from the State Justice Institute, Grant Number SJI-12-N-003. Available at: http://www.courts.state.md.us/macro/pdfs/reports/impactadrondistrictctcivilcases2014report.pdf

Participants who went through ADR are more likely than those who went through the court process to indicate that: 1) They could express themselves, their thoughts, and their concerns. 2) All of the underlying issues came out. 3) The issues are resolved. 4) The issues were completely resolved rather than partially resolved. 5) They acknowledged responsibility for the situation. In addition, participants who went through ADR are more likely than those who went through the standard court process: 1) To have an increase in their rating of their level of responsibility for the situation from before the intervention to after the intervention. 2) To shift toward disagreement with the statement “the other people need to learn they are wrong” from before the process to after the process. Participants who went through ADR are less likely to report that no one took responsibility or apologized than are people who went through the standard court process. All of these findings are uniformly applicable to ADR, whether or not an agreement was reached. Finally, participants who developed a negotiated agreement in ADR were more likely to be satisfied with the judicial system than others, while participants who reached negotiated agreement on their own (without ADR) were not more likely to be satisfied with the judicial system than those without negotiated agreements. This seems to imply that the process of reaching agreement in ADR is the factor that led to higher satisfaction, rather than just the outcome of reaching a negotiated settlement.


Donna Shestowsky

Iowa Law Review 99: 637-710 (January 2014)

This article reports the findings of the first multi-jurisdictional field study of litigants’ evaluations of legal procedures shortly after their cases are filed in court. Litigants from three state courts responded to written surveys designed to 1) assess how attracted they were to various legal procedures (e.g., negotiation, mediation, non-binding arbitration, binding arbitration, jury trials, judge trials) for their particular case, and 2) determine whether demographic, case-type, relationship, and attitudinal factors predicted their attraction to each procedure. Analyses revealed that litigants preferred mediation, the judge trial, and attorneys negotiate with clients present to all other examined procedures. Within this group of preferred procedures, they did not have a clear (i.e., statistically significant) preference. This pattern has significant implications for courts choosing between mediation and non-binding arbitration for their ADR programs—litigants clearly preferred mediation. Litigants also preferred the judge trial to the jury trial, and liked the idea of negotiations that included them along with their attorneys to ones that involved the attorneys but not the parties. Regression analyses used to predict the relation between the attractiveness of each procedure and demographic, case-type, relationship, and attitudinal factors
revealed many interesting findings, including the fact that women liked the jury trial and binding arbitration less than men did. The results are discussed in the context of dispute resolution systems design in courts, client counseling protocols, and the psychology of litigants more broadly. [DRM Winter 2014]

Situated Justice: A Contextual Analysis of Fairness and Inequality in Employment Discrimination Litigation
Ellen Berrey, Steve Hoffman & Laura Beth Nielsen
46 Law & Society Rev. 46: 1-36 (March 2012)

A substantial body of research suggests that the legitimacy of the law crucially depends on the public's perception that legal processes are fair. This study reveals that plaintiffs' limited resources and tumultuous experiences in litigation lead them to see employment discrimination lawsuits as profoundly unfair. Employer-defendants, too, see discrimination litigation as unfair but tend to have resources to manage litigation challenges. Plaintiffs and defendants, however, see unfairness only in those aspects of the process that work to their disadvantage and do not share a common complaint. The study underscores the need for parties and professionals working with them to try to understand their disputes from each other's perspective. It also highlights employers' chief complaint, that employees can easily initiate litigation, and plaintiffs’ misunderstandings of litigation, including unrealistic expectations of getting their jobs back and getting a court ruling on the merits of their case. The study calls for a rethinking of empirical research on fairness, using techniques other than the now-standard social psychological experiment, to account for the real-life contexts in which people experience litigation. [DRM Summer 2013]

ETHICS/DECEPTION

Allowing for Reflection Time Does Not Change Behavior in Dictator and Cheating Games
Steffen Andersen, Uri Gneezy, Agne Kajackaite & Julie Marx

Reaction time, usually measured in seconds, has been shown to be correlated with decisions in experimental games. In this paper, the authors study how allowing for a full day of “reflection time” alters behavior. The authors compare behavior in dictator and cheating games when participants make immediate choices with behavior when participants have an extra day to decide, and find that allowing for more time does not affect behavior. [DRM Winter 2018]

From Belief to Deceit: How Expectancies About Others' Ethics Shape Deception in Negotiations
Malia F. Mason, Elizabeth A. Wiley & Daniel R. Ames
Journal of Experimental Social Psychology 76: 239-248 (May 2018)

Expectancies play an important and understudied role in influencing a negotiator's decision to be deceptive. Studies 1a–1e investigated the sources of negotiators' expectancies, finding evidence of projection and pessimism; negotiators consistently overestimated the prevalence of people who share their views on deception and assumed a sizable share of others embrace deceptive tactics. This phenomenon generalized beyond American samples to Chinese students (Study 1d) and Turkish adults (Study 1e). Study 2 demonstrated that pessimistic expectancies about others' ethics positively predicted the degree to which negotiators were
dishonest, above and beyond their own stated ethical views, and that it did so across both distributive and integrative negotiations. Study 3 provided evidence of a causal relationship between expectancies of others' ethical views and dishonest behavior by manipulating expectancies. Study 4 provided additional evidence of this causal relationship in a live, dyadic exchange where performance was incentive compatible. Negotiators' deceptive behavior was shaped by their pessimism about others' ethical standards. We consider the implications of these findings for preventing deception in negotiations.

**Stranger Danger: When and Why Consumer Dyads Behave Less Ethically Than Individuals**

Hristina Nikolova, Cait Lamberton & Nicole Verrochi Coleman


While joint ethical violations are fairly common in the marketplace and in workplace, sports-team, and academic settings, little research has studied such collaborative wrongdoings. This work compares the joint ethical decisions of pairs of people (i.e., dyads) to those of individual decision makers. Four experiments demonstrate that dyads in which the partners do not share a social bond with each other behave less ethically than individuals do. The authors propose that this effect occurs because joint ethical violations offer a means to socially bond with others. Consistent with this theory, they demonstrate that the dyads’ subethicality relative to individuals is attenuated (1) if the dyad partners establish rapport prior to the joint decision making, and (2) in decision-making contexts in which social bonding goals are less active—namely, making a decision with an out-group versus in-group member. Taken together, this research provides novel theoretical insights into the social aspects of unethical behavior, offers suggestions to improve ethicality in joint decisions, and raises important questions for future research.

**That’s Not How I Remember It: Willfully Ignorant Memory for Ethical Product Attribute Information**

Rebecca Walker Reczek, Julie R. Irwin, Daniel M. Zane & Kristine R. Ehrich

Journal of Consumer Research 45(1): 185-207 (June 2018)

This research documents a systematic bias in memory for ethical attribute information: consumers have better memory for an ethical attribute when a product performs well on the attribute versus when a product performs poorly on the attribute. Because consumers want to avoid emotionally difficult ethical information (e.g., child labor) but believe they should remember it in order to do the right thing, the presence of negative ethical information in a choice or evaluation produces conflict between the want and should selves. Consumers resolve this conflict by letting the want self prevail and forgetting or misremembering the negative ethical information. A series of studies establishes the willfully ignorant memory effect, shows that it holds only for ethical attributes and not for other attributes, and provides process evidence that it is driven by consumers allowing the want self to prevail in order to avoid negative feelings associated with the conflict. We also ameliorate the effect by reducing the amount of pressure exerted by the should self. Lastly, we demonstrate that consumers judge forgetting negative ethical information as more morally acceptable than remembering but ignoring it, suggesting that willfully ignorant memory is a more morally acceptable form of coping with want/should conflict.
Deception Under Time Pressure: Conscious Decision or a Problem of Awareness?
Tim Lohse, Sven A. Simon & Kai A. Konrada
Journal of Economic Behavior & Organization 146: 31-42 (February 2018)

Time is a crucial determinant of deception, since some misreporting opportunities come as a surprise and require an intuitive decision while others allow for extensive reflection time. To be able to pursue a deceptive strategy, however, a subject must be aware of the misreporting opportunity. This paper provides experimental evidence on the role of the time dimension for dishonest decision-making and for the cognition process of the chance to deceive. We conduct a laboratory experiment of self-serving deceptive behavior which combines two exogenously varied levels of reflection time with a cognition process about the deception opportunity. We find that time pressure leads to more honesty compared to sufficient contemplation time. More importantly, decomposing misreporting into its two components, i.e., the cognition process of the misreporting opportunity and the conscious decision to misreport, reveals that more reflection time increases awareness of the misreporting opportunity. However, more time has no effect on the conscious decision of whether to misreport or not.

Gender Differences in Emotion Explain Women’s Lower Immoral Intentions and Harsher Moral Condemnation
Sarah J. Ward & Laura A. King

Why do men view morally questionable behaviors as more permissible than women do? Five studies investigated emotional factors as explanations for gender differences in moral decision-making. In Study 1 (N = 324), gender differences in perceptions of moral wrongness were explained by guilt and shame proneness. Studies 2a and 2b (combined N = 562) demonstrated that instructions to adopt an unemotional perspective (vs. standard instructions) led women to have higher immoral intentions, no longer lower than men’s, as they were in the control group. Studies 3 and 4 (N = 834) showed that men expected immoral actions to result in higher positive and lower self-conscious moral emotions than women do. Study 4 (N = 424) showed that these emotional expectancies account for gender differences in immoral intentions. Study 5 (N = 450) showed that women—but not men—experience heightened self-conscious moral emotions and regret when recalling past transgressions done for personal gain.

Justifications and Questions in Detecting Deception
Jihyun Esther Paik & Lyn M. Van Swol

During a negotiation, truth-tellers and deceivers use justifications to bolster the credibility of their offers and claims, but given their different motivations, truth-tellers and deceivers may use justifications differently. Participants were assigned the role of allocator or recipient in an ultimatum negotiation. Allocators received money based on their performance on a trivia task and had to give the recipient some of the money. Recipients did not have information about allocator’s task performance or amount the allocator received, and therefore, allocators could deceive. Truth-telling allocators were more likely to disclose advantageous information about their endowment of money in their justifications and give up their information asymmetry, which reduced suspicion in their offers. Truth-tellers were more direct, stating the offer with little description about the task structure. On the contrary, liars provided more plausible details to support their offer by referring to the structure of their task; however, appearing overly zealous
with the use of these type of justifications backfired and led to more detection of lies. Deceivers also used more wrap-up questions, such as, “OK, we’re done here, right?” to end the interaction; this did not help reduce partner suspicion. Recipients’ asking questions to the allocator in general did not improve their detection accuracy. Based on the results, the authors propose some advice for negotiators. First, if you have private information that you are not going to use to your advantage in a negotiation, then reveal this information to your partner. It will enhance your credibility. Second, if you are being fair and truthful, then tell your negotiating partner. Let your partner know. Finally, try to ask questions in a structured way whether you have initial suspicion or not, and try to postpone the veracity judgment until you gather sufficient information to draw a conclusion from the interaction with the partner. [DRM Winter 2018]

**Complicity without Connection or Communication**
Abigail Barr & Georgia Michailidou
Journal of Economic Behavior & Organization 142: 1-10 (October 2017)

We use a novel laboratory experiment involving a die rolling task embedded within a coordination game to investigate whether complicity can emerge when decision-making is simultaneous, the potential accomplices are strangers and neither communication nor signaling is possible. Then, by comparing the behavior observed in this original game to that in a variant in which die-roll reporting players are paired with passive players instead of other die-roll reporters, while everything else is held constant, we isolate the effect of having a potential accomplice on the likelihood of an individual acting immorally. We find that complicity can emerge between strangers in the absence of opportunities to communicate or signal and that having a potential accomplice increases the likelihood of an individual acting immorally.

**Male Immorality: An Evolutionary Account of Sex Differences in Unethical Negotiation Behavior**
Margaret Lee, Marko Pitesa, Madan M. Pillutla & Stefan Thau
Academy of Management Journal 60(5): 2014-2044 (October 2017)

Past research has found that men negotiate more unethically than women, although many studies report comparable rates of unethical negotiation behaviors. Based on evolutionary psychology, we predict conditions under which sex differences in unethical negotiation behavior are more versus less pronounced. We theorize that greater levels of unethical behavior among men occur because of greater male intrasexual competition for mates. This suggests that more male unethical negotiation behavior should primarily emerge in situations associated with intrasexual competition. Using a two-wave survey design, Study 1 found a positive relationship between mating motivation and unethical negotiation behavior for male, but not female, employees. Study 2 was a controlled experiment, replicating this effect and showing that the gender difference was most pronounced when negotiating with same-sex, attractive opponents. Study 3 used a similar experimental design and found support for another implication of evolutionary theory—that mating motivation would prompt unethical behavior in both men and women when the behavior constitutes a less severe norm violation. We discuss contributions to the literature on unethical behavior at work, negotiations, and the role of attractiveness in organizations.
Black and White Lies: Race-Based Biases in Deception Judgments
E. Paige Lloyd, Kurt Hugenberg, Allen R. McConnell, Jonathan W. Kunstman & Jason C. Deska
Psychological Science 28(8): 1125-1136 (August 2017)

In six studies (N = 605), participants made deception judgments about videos of Black and White targets who told truths and lies about interpersonal relationships. In Studies 1a, 1b, 1c, and 2, White participants judged that Black targets were telling the truth more often than they judged that White targets were telling the truth. This truth bias was predicted by Whites' motivation to respond without prejudice. For Black participants, however, motives to respond without prejudice did not moderate responses (Study 2). In Study 3, the authors found similar effects with a manipulation of the targets' apparent race. Even holding the content of the stimuli constant, White perceivers favored the truth response when they believed the target was Black as compared to White. Finally, in Study 4, the authors used eye-tracking techniques to demonstrate that Whites' truth bias for Black targets is likely the result of late-stage correction processes: Despite ultimately judging that Black targets were telling the truth more often than White targets, Whites were faster to fixate on the on-screen "lie" response box when targets were Black than when targets were White. These systematic race-based biases have important theoretical implications (e.g., for lie detection and improving intergroup communication and relations) and practical implications (e.g., for reducing racial bias in law enforcement). [DRM Winter 2018]

Do Professional Ethics Make Negotiators Unethical? An Empirical Study With Scenarios Of Divorce Settlement
Hiroharu Saito

This article examines effects of the American attorneys' professional ethical rules in negotiation, with a particular focus on truthfulness and welfare of children. The author conducted scenario experiments with law school students, which enabled a comparison of two groups: those who have already learned professional ethics and those who have not yet learned them. Three hypothetical cases with certain ethical dilemmas in divorce settlement negotiations were presented to the participants. An interesting feature of the study is the inclusion of ethical dilemmas concerning a third party's human rights; specifically, this study used situations to negotiate custody of a child. The major findings are: compared to pre-education respondents, respondents after ethical education defer to the parent's (the client's) interests more; and in return, they are more reluctant to disclose true information or to care about the child's welfare. The results show that the professional ethical rules diminish attorneys' ethical sense of fairness (i.e., truthfulness) and public interests (i.e., third party's human rights) while just enhancing loyalty to their clients. Attorneys are required to do their best for the clients, but this article raises awareness of the downside of excessive partisanship—particularly, its negative impacts on vulnerable third parties like children. [DRM Winter 2018]

Hierarchical Rank and Principled Dissent: How Holding Higher Rank Suppresses Objection to Unethical Practices
Jessica A. Kennedy & Cameron Anderson
Organizational Behavior and Human Decision Processes 139: 30-49 (March 2017)

When unethical practices occur in an organization, high-ranking individuals at the top of the hierarchy are expected to stop wrongdoing and redirect the organization to a more honorable path—this is, to engage in PRINCIPLED DISSENT. However, in three studies, we find that
holding high-ranking positions makes people LESS likely to engage in principled dissent. Specifically, we find that high-ranking individuals identify more strongly with their organization or group, and therefore see its unethical practices as more ethical than do low-ranking individuals. High-ranking individuals thus engage less in principled dissent because they fail to see unethical practices as being wrong in the first place. Study 1 observed the relation between high-rank and principled dissent in an archival data set involving more than 11,000 employees. Studies 2 and 3 used experimental designs to establish the causal effect of rank and to show that identification is one key mechanism underlying it.

**Professionalism and Ethics in Family Law: The Other 90%**
Deanne Sowter

When family lawyers and lawyer-mediators are working towards settlement, ethical quandaries present themselves on a daily basis. What process should a client use? What information should be disclosed to the other side? What types of conversations should a lawyer have with their client? Imbedded in each decision the professional makes are ethical elements. Innovation in alternative dispute resolution (“ADR”) processes have created new environments for lawyers to navigate and to adapt to in their individual understanding of practicing well. As a result, many family lawyers are working in the shadows of litigation, or separate from it entirely as in the field of collaborative family law. ADR processes are often unregulated and fall outside of the scope of procedural rules. The goal of the research presented in this paper is to look at the following three sources that serve as guidance for family law lawyers and mediators when dealing with ethical challenges in ADR: existing academic research, mandatory codes of conduct and voluntary professional standards, and ethics in practice through empirical research. This paper seeks to contribute to the discussion about ethics and professionalism in innovative processes, and in particular what it means to behave ethically in family law ADR, by presenting empirical research gathered through round-table discussions with mediators, collaborative lawyers, and settlement-focused negotiators.

**Whatever It Takes to Win: Rivalry Increases Unethical Behavior**
Gavin J. Kilduff, Adam D. Galinsky, Edoardo Gallo & J. James Reade
Academy of Management Journal 59(5): 1508-1534 (October 2016)

This research investigates the link between rivalry and unethical behavior. We propose that people will be more likely to engage in unethical behavior when competing against their rivals than when competing against non-rival competitors. Across an archival study and a series of experiments, we found that rivalry was associated with increased unsporting behavior, use of deception, and willingness to employ unethical negotiation tactics. We also explore the psychological underpinnings of rivalry in order to illuminate how it differs from general competition and why it increases unethical behavior. The data reveal a serial mediation pathway whereby rivalry heightens the psychological stakes of competition (by increasing actors’ contingency of self-worth and status concerns), which leads to the adoption of a stronger performance-approach orientation, which then increases unethical behavior. These findings highlight the importance of rivalry as a widespread, powerful, yet largely unstudied phenomenon with significant organizational implications. They also help to inform when and why unethical behavior occurs within organizations, and demonstrate that the effects of competition are dependent upon relationships and prior interactions between actors.
The Unconscious Conscience: Implicit Processes and Deception in Negotiation
Joseph Gaspar & Chao Chen
Negotiation Journal 32(3): 213–229 (July 2016)

Deception is pervasive in negotiations, and proponents of bounded ethicality propose that the decision to use deception reflects the influence of (unconscious) implicit processes. In this article, we empirically explore the bounded ethicality perspective. In the first experiment, we found that an implicit association between business and morality interacted with the competitive and cooperative characteristics of a negotiation to influence both negotiators' attitudes toward deception and their intentions to use deception. But in a second and third experiment, we found that these did not interact to influence negotiators' actual deception decisions. The results of our studies provide important insights into the deception decision process and complicate our understanding of bounded ethicality.

What's in a Name? The Toll E-Signatures Take on Individual Honesty
Eileen Y. Chou
Journal of Experimental Social Psychology 61: 84-95 (November 2015)

People cherish and embrace the symbolic value that their unique handwritten signature holds. Technological advances, however, have led organizations to reject traditional handwritten signatures in favor of the efficiency and convenience of e-signatures. This research directly investigates the possibility that while many common e-signatures may objectively perform the same function as signing by hand, they do not exert the same symbolic weight in subsequent decision making. Seven studies consistently demonstrate these e-signatures' ineffectiveness for curbing individual dishonesty—one of the essential purposes of a signature. Furthermore, the effects are caused by their inadequate ability to evoke the signer's self-presence. Results also identify one form of e-signature that can preserve this crucial psychological connection. Meta-analyses across studies conducted for this research establish the reliability and robustness of the associations between common forms of e-signatures, self-presence, and dishonesty. By systematically examining whether, why, and which e-signatures abet cheating, findings illuminate an unexplored—but critical—consequence of a practice that is prevalent worldwide.

Lying for Who We Are: An Identity-Based Model of Workplace Dishonesty
Keith Leavitt & David M. Sluss

While the study of lying within organizations typically has focused on lies told for rational-instrumental purposes (such as lying for economic gain within negotiations), we argue that lying is a relatively common social-functional behavior embedded within ongoing workplace relationships. Drawing from social identity theory, we develop a theory of lying as a socially motivated behavioral response to identity threats at the personal, relational, or collective levels of identity in organizational life. Specifically, we propose that perceived identity threats undermine the unique fundamental identity motives at each level of self, and that as threat sensitivity and threat intractability increase, individuals become more likely to use lying as a threat management response in their interactions with other organizational members. Further, we propose that identity-based characteristics of organizational members with whom threatened individuals interact (i.e., the audience) determine the likelihood that lying will occur by assuaging or amplifying threats during identity enactment. Thus, by applying an identity lens to
examine normatively unethical behavior, we develop a comprehensive model of everyday lying as socially motivated and identity-based behavior with implications for ongoing workplace relationships.

**Disclosures About Disclosures: Can Conflict of Interest Warnings Be Made More Effective?**
Ahmed E. Taha & John V. Petrocelli

People regularly rely on advisors who have conflicts of interest. The law often requires advisors to disclose these conflicts. Despite these disclosures, people generally insufficiently discount conflicted advice. This might be partly due to people interpreting the very fact that the advisor is disclosing a conflict of interest as a sign that the advisor is trustworthy, undermining the purpose and effectiveness of the disclosure. This article presents the results of an experiment indicating that requiring advisors to also disclose that they are legally required to disclose their conflict of interest makes people discount their advice more. This occurs, at least in part, because such advisors are viewed as less trustworthy than advisors who merely disclose their conflict of interest without also stating that the disclosure is legally required. [DRM Winter 2016]

**Underestimating Our Influence Over Others’ Unethical Behavior and Decisions**
Vanessa K. Bohns, M. Mahdi Roghanizad & Amy Z. Xu

We examined the psychology of “instigators,” people who surround an unethical act and influence the wrongdoer (the “actor”) without directly committing the act themselves. In four studies, we found that instigators of unethical acts underestimated their influence over actors. In Studies 1 and 2, university students enlisted other students to commit a “white lie” (Study 1) or commit a small act of vandalism (Study 2) after making predictions about how easy it would be to get their fellow students to do so. In Studies 3 and 4, online samples of participants responded to hypothetical vignettes, for example, about buying children alcohol and taking office supplies home for personal use. In all four studies, instigators failed to recognize the social pressure they levied on actors through simple unethical suggestions, that is, the discomfort actors would experience by making a decision that was inconsistent with the instigator’s suggestion.

**“I Can’t Lie to Your Face”: Minimal Face-to-Face Interaction Promotes Honesty**
Alex B. Van Zant & Laura J. Kray

Scholars have noted that face-to-face (FTF) interaction promotes honesty because it provides opportunities for conversation in which parties exchange information and build rapport. However, it is unclear whether FTF interaction promotes honesty even in the absence of opportunities for back-and-forth conversation. We hypothesized a minimal interaction effect whereby FTF interaction promotes honesty by increasing potential deceivers' consideration of their own moral-interest. To test this account of how FTF interaction may promote honesty, we used a modified version of the deception game (Gneezy, 2005). We found that people were more honest when communicating FTF as opposed to through an intermediary. While FTF interaction tended to promote honesty irrespective of whether it occurred prior to or during the game, the effect was more pronounced when it occurred during the game. The effect of in-game communication medium was mediated by the activation of potential deceivers' moral-interest.
We also ruled out alternate accounts involving interpersonal liking, expected counterpart trust, and retaliation fear as honesty-promoting mechanisms. Furthermore, because these effects were not moderated by whether participants had been visually identified during a pre-game interaction, we suggest that our effects are distinct from theoretical accounts involving anonymity.

**Ethno-Cultural Considerations in Negotiation: Pretense, Deception and Lies in the Greek Workplace**

Abraham Stefanidis & Moshe Banai


A retrospect into ethos, this study examines the impact of individualism, collectivism, ethical idealism and interpersonal trust on negotiators' attitudes toward questionable negotiation tactics in Greece. A thousand survey questionnaires were administered to Greek employees, of which 327 usable responses were collected. Our findings empirically corroborated a classification of three groups of negotiation tactics, namely, pretense, deception and lies. Individualism–collectivism and ethical idealism were found to be related, and interpersonal trust was found to be unrelated, to attitudes toward questionable negotiation tactics. Emphasizing the non-US and non-Western European nature of the empirical data collected, the originality of this research further stems from the development of a comprehensive research framework about questionable negotiation tactics in Greece.

**Some Evidence For Unconscious Lie Detection**

Leanne ten Brinke, Dayna Stimson & Dana R. Carney

Psychological Science 25(5): 1098-1105 (May 2014)

To maximize survival and reproductive success, primates evolved the tendency to tell lies and the ability to accurately detect them. Despite the obvious advantage of detecting lies accurately, conscious judgments of veracity are only slightly more accurate than chance. However, findings in forensic psychology, neuroscience, and primatology suggest that lies can be accurately detected when less-conscious mental processes (as opposed to more-conscious mental processes) are used. We predicted that observing someone tell a lie would automatically activate cognitive concepts associated with deception, and observing someone tell the truth would activate concepts associated with truth. In two experiments, we demonstrated that indirect measures of deception detection are significantly more accurate than direct measures. These findings provide a new lens through which to reconsider old questions and approach new investigations of human lie detection.

**Evil Genius? How Dishonesty Can Lead to Greater Creativity**

Francesca Gino & Scott S. Wiltermuth


We propose that dishonest and creative behavior have something in common: They both involve breaking rules. Because of this shared feature, creativity may lead to dishonesty (as shown in prior work), and dishonesty may lead to creativity (the hypothesis we tested in this research). In five experiments, participants had the opportunity to behave dishonestly by overreporting their performance on various tasks. They then completed one or more tasks designed to measure creativity. Those who cheated were subsequently more creative than noncheaters, even when we accounted for individual differences in their creative ability.
(Experiment 1). Using random assignment, we confirmed that acting dishonestly leads to greater creativity in subsequent tasks (Experiments 2 and 3). The link between dishonesty and creativity is explained by a heightened feeling of being unconstrained by rules, as indicated by both mediation (Experiment 4) and moderation (Experiment 5).

**Nothing to Declare: Mandatory and Voluntary Disclosure Leads Advisors to Avoid Conflicts of Interest**  
Sunita Sah & George Loewenstein  
Psychological Science 25(2): 575-584 (February 2014)

Professionals face conflicts of interest when they have a personal interest in giving biased advice. Mandatory disclosure—informing consumers of the conflict—is a widely adopted strategy in numerous professions, such as medicine, finance, and accounting. Prior research has shown, however, that such disclosures have little impact on consumer behavior, and can backfire by leading advisors to give even more biased advice. We present results from three experiments with real monetary stakes. These results show that, although disclosure has generally been found to be ineffective for dealing with unavoidable conflicts of interest, it can be beneficial when providers have the ability to avoid conflicts. Mandatory and voluntary disclosure can deter advisors from accepting conflicts of interest so that they have nothing to disclose except the absence of conflicts. We propose that people are averse to being viewed as biased, and that policies designed to activate reputational and ethical concerns will motivate advisors to avoid conflicts of interest.

**The Morning Morality Effect: The Influence of Time of Day on Unethical Behavior**  
Maryam Kouchaki & Isacc Smith  

Are people more moral in the morning than in the afternoon? We propose that the normal, unremarkable experiences associated with everyday living can deplete one’s capacity to resist moral temptations. In a series of four experiments, both undergraduate students and a sample of U.S. adults engaged in less unethical behavior (e.g., less lying and cheating) on tasks performed in the morning than on the same tasks performed in the afternoon. This morning morality effect was mediated by decreases in moral awareness and self-control in the afternoon. Furthermore, the effect of time of day on unethical behavior was found to be stronger for people with a lower propensity to morally disengage. These findings highlight a simple yet pervasive factor (i.e., the time of day) that has important implications for moral behavior.

**Neutralizing Unethical Negotiating Tactics: An Empirical Investigation of Approach Selection and Effectiveness**  
Denise Fleck, Roger Volkema, Sergio Pereira, Barbara Levy & Lara Vaccari  

Negotiation is integral to business success, and information is the lifeblood of the negotiation process. When invalid information is disseminated via manipulation or deceit, one or more parties can suffer. Nonetheless, many studies have shown that the use of questionable or unethical tactics is commonplace. This article reports on a study of 12 behaviors that can neutralize a counterpart’s tendencies to employ questionable or unethical tactics, improving the chances for an integrative (win–win) outcome. The results suggest that while nearly two-thirds of participants employed neutralizing behaviors, they used many of these behaviors later in the
negotiation process than anticipated and simultaneously alongside questionable or unethical tactics. While the authors found some evidence that participants viewed the 12 neutralizing behaviors differently from questionable or unethical tactics, the authors did not find the expected attenuating effects. They discuss the implications of these findings, including opportunities for future research. [DRM Summer 2014]

**From Glue to Gasoline: How Competition Turns Perspective Takers Unethical**
Jason R. Pierce, Gavin J. Kilduff, Adam D. Galinsky & Niro Sivanathan

Perspective taking (the ability to adopt the perspective of others) is often the glue that binds people together. However, the authors propose that in competitive contexts, perspective taking is akin to adding gasoline to a fire: It inflames already-aroused competitive impulses and leads people to protect themselves from the potentially insidious actions of their competitors. Overall, the authors suggest that perspective taking functions as a relational amplifier. In cooperative contexts, it creates the foundation for pro-social impulses, but in competitive contexts it triggers hyper-competition, leading people to prophylactically engage in unethical behavior to prevent themselves from being exploited. The experiments reported in this article establish that perspective taking interacts with the relational context -- cooperative or competitive -- to predict unethical behavior, from using insidious negotiation tactics to materially deceiving one’s partner to dishonesty in reporting performance on unrelated cognitive tasks. In the context of competition, perspective taking can pervert the age-old axiom “do unto others as you would have them do unto you” into “do unto others as you think they will try to do unto you.” [DRM Winter 2014]

**Seeing Green: Mere Exposure to Money Triggers a Business Decision Frame and Unethical Outcomes**
Maryam Kouchaki, Kristin Smith-Crowe, Arthur P. Brief & Carlos Sousa
Organizational Behavior and Human Decision Processes 121(1): 53-61 (May 2013)

Can mere exposure to money corrupt? Considering the significant role of money in business organizations and everyday life, the idea that subtle reminders of money elicit changes in morality has important implications. The findings from four studies demonstrate that the mere presence of money, an often taken-for-granted and easily overlooked feature of our daily lives, can serve as a prompt for immoral behavior operating through a business decision frame (which entails objectification of social relationships in a cost–benefit calculus where self-interest is pursued over others’ interests). The results of Study 1 demonstrated that individuals “primed” to think about money through use of word cues involving money-related phrases were more likely to demonstrate unethical intentions than those in the control group exposed to non-monetary word cues. In Study 2, the authors showed that participants primed with money were more likely to adopt a business decision frame. In Studies 3 and 4, the authors found that money cues triggered a business decision frame, which led to a greater likelihood of unethical intentions and behavior. The authors suggest that money is a more insidious corrupting factor than previously appreciated, as mere, subtle exposure to money can be a corrupting influence. [DRM Winter 2014]
Gender and Attorney Negotiation Ethics
Art Hinshaw & Jess K. Alberts

Few studies of gender differences and legal ethics exist, and of these only a handful focus on gender and negotiation ethics. In light of the paucity of evidence on this topic, we decided to include gender as a component of a broader study of attorney negotiation ethics. This Article sets forth and discusses our findings and hypotheses regarding gender and negotiation ethics....We surveyed more than 700 practicing lawyers and asked whether they would agree with a client request to engage in a fraudulent negotiation scheme to settle a case, a clear violation of Rule 4.1 of the Model Rules of Professional Conduct governing the truthfulness of statements to others. ....[W]hil[e there was no difference in responses of men and women when asked to engage in a fraudulent negotiation strategy, there was a difference in response to a follow-up request to employ a pure omission strategy in the negotiation, a more subtle form of the fraudulent negotiation strategy. Unexpectedly, the men performed better than women. Additionally, the men performed better than women when asked whether the client's initial request constituted a misrepresentation and whether a key fact was protected from disclosure by the Rules of Professional Conduct. Some of this difference correlated with the amount of respondent professional experience, but that does not explain the entire difference in the results. However, the survey instrument was not designed to investigate and uncover those additional reasons. Thus, we cannot definitively explain the gender differences; rather, we must hypothesize what these other factors may be, such as differences in the manner in which women and men organize information when making decisions, differences in how men and women respond in ambiguous ethical situations, and differences in how men and women advocate for others.

MEDIATION: GENERAL

Hidden in Plain View: The Impact of Mediation on the Mediator and Implications for Conflict Resolution Education
Deborah A. Malizia & Jessica Katz Jameson
Conflict Resolution Quarterly 35(3): 301-318 (Spring 2018)

Empirical evidence shows that middle and high school students trained to be peer mediators experience improved communication skills, increased empathy, enhanced self-esteem, and improved academic performance. Yet scholars have not examined whether these benefits extend to mediators in other contexts. This article presents empirical evidence and theoretical support for the inference that mediation training and practice have a positive impact on the emotional well-being of the mediator. Given the documented increase of mental health challenges in today's society, this largely untapped potential of mediation to improve the well-being of the mediator has significant implications for conflict resolution education.

Mediator Thinking in Civil Cases
James A. Wall & Kenneth Kressel
Conflict Resolution Quarterly 34(3): 331-367 (2017)

In this study we investigated mediators' thinking in twenty real-life civil case mediations. We found evidence that their thinking unfolds along two planes: one intuitive (system 1) and the other rational (system 2). On the former, mediators frame the mediation as a distributive process, instinctively evaluate the situation as well as the parties, and engage in habitual interventions. On
the rational plane, the mediators develop goals, rationally evaluate the situation, mentally map what is going on, and choose among a variety of rational steps, such as pressing, delaying the mediation, and extracting offers, in order to accomplish their goals. [DRM Summer 2017]

First Impressions: Drafting Effective Mediation Statements
Donna Erez-Navot & Brian Farkas

In civil disputes, mediators often encourage advocates to submit premediation statements. These narratives are meant to educate the mediator on the most pressing factual and legal disputes between the parties before the session. Yet litigators have little guidance on drafting such statements. Unlike many legal documents – pleadings, motions, and settlement agreements – there are no standard templates or specific requirements on their form or substance. Neither law schools nor law firms provide much training on drafting pre-mediation statements, which are considered a fairly niche genre of legal writing. Indeed, mediators themselves, as well as administering organizations, often provide little direction to advocates. Now that mediation has become firmly embedded into our litigation culture, it is time for litigators to embrace some concrete “best practices.” Drawing on new empirical survey data and interviews with experienced mediators, as well as case law and statutes regarding disclosure, this Article proposes guidelines for litigators seeking to draft effective premediation statements that will be most helpful to the mediator, and ultimately, to their clients.

Mandatory Pre-Suit Mediation for Medical Malpractice: Eight-Year Results and Future Innovations
Randall C. Jenkins, Gregory Firestone, Kari L. Aasheim & Brian W. Boelens
Conflict Resolution Quarterly 35(1): 73-88 (Fall 2017)

Situated in the litigious state of Florida, UF Health implemented its mandatory pre-suit mediation program in 2008 to compensate meritorious medical malpractice claims quickly, combat increasing attorney fees and costs, reduce frivolous lawsuits, and facilitate early, confidential communication to enhance the patient-provider relationship. Data analysis over the program's eight-year history demonstrates positive impacts on legal expenses and resolution time; results show a reduction in legal expenses of 87 percent as compared to traditional litigation and average receipt-to-resolution time of less than six months. The authors examine the Florida infrastructure supporting the program's success and offer recommendations for future expansions.

Jennifer Shack, Resolution System Institute (2016)
Available at: http://www.aboutsri.org/pfimages/FM%20Statistical%20Report%2020123115.pdf

This report provides statistics for six foreclosure mediation programs, including case outcomes from each program's launch and a comparison of each program's participation rate, outcomes and time in program for the first two years of the program.

When Clients Throw Punches and Chairs: How Mediators Respond to Violence
Susan S. Raines & Yeji Choi
Much is known about screening family law mediation cases for potential violence, but little is known about violence that occurs within or immediately after mediation. In this article, we present the findings of a survey of U.S. mediators who reported their experiences of violence across a variety of mediation case types. These mediators described how and when violence arose and also reported the techniques and interventions that they used to de-escalate tensions and to respond to violence. Our goal is to better equip mediators to prevent violence when possible, and to respond effectively if violence does arise in mediation. [DRM Winter 2017]

The Surprising Effectiveness of Hostile Mediators
Ting Zhang, Francesca Gino & Michael Norton
Contrary to the tendency of mediators to defuse negative emotions between adversaries by treating them kindly, we demonstrate the surprising effectiveness of hostile mediators in resolving conflict. Hostile mediators generate greater willingness to reach agreements between adversaries (Experiment 1). Consequently, negotiators interacting with hostile mediators are better able to reach agreements in incentive-compatible negotiations than those interacting with nice mediators (Experiments 2). By serving as common enemies, hostile mediators cause adversaries in conflict to feel more connected and become more willing to reach agreement (Experiments 3 and 4). Finally, we manipulate the target of mediators’ hostility to document the moderating role of common enemies: mediators who directed their hostility toward both negotiators (bilateral hostility) – becoming a common enemy – increased willingness to reach agreement; those who directed hostility at just one negotiator (unilateral hostility) did not serve as common enemies, eliminating the hostile mediator effect (Experiment 5). We discuss theoretical and practical implications, and suggest future directions. [DRM Winter 2017]

Dealing with Resistance in Initial Intake and Inquiry Calls to Mediation: The Power of “Willing”
Rein Sikveland & Elizabeth Stokoe
Conflict Resolution Quarterly 33(3): 235–254 (Spring 2016)
This article explores how to best deal with resistance during and beyond initial encounters with mediation clients. The study is based on a large data-set of intake calls to community and family mediation services in the United Kingdom. Using conversation analytic techniques, the authors studied instances where call takers, after having explained mediation, invited prospective clients to make a first appointment. The authors found that questions or proposals containing the word “willing” were significantly more effective than other phrasing such as “does this sound helpful to you?”, in securing a “yes” response. This difference manifested itself in the way clients respond. For example, when asked if “willing”, clients generally accept in a strong way (“oh of course”; “definitely”), as opposed to hedged and mitigated responses in response to other formats (“I’m not sure at this stage…”). Also, “willing” was the only word that achieved a total turnaround from an initial “no” from a client, to a “yes”. The authors argue “willing” works because if the other party is the kind of person who won’t mediate, then the caller must be the kind of person who will. This study demonstrates that the outcome of initial contact with services is directly affected by the words and formulations that mediators use. The authors also found that, in terms of explaining the process and establishing willingness, initial phone calls and the first face-to-face meeting with mediators both cover similar territory. They therefore suggest that intake calls should be considered the first stage of
mediation. The findings also suggest that understanding effective processes in explaining mediation and establishing willingness is crucial for developing and delivering training—for example, by incorporating the findings into training for court intake staff and for mediators. [DRM Summer 2016]

Direct Instruction and Guided Practice Matter in Conflict Resolution and Social-Emotional Learning
Karen DeVoogd, Pamela Lane-Garon & Charles A. Kralowec
Conflict Resolution Quarterly 33(3): 279–296 (Spring 2016)

Seven schools in an economically challenged area of an urban school district in central California implemented mentored peer mediation programs under the guidance of a university–K-12 partnership project, Mediator Mentors. The study examined individual student outcomes for social-cognitive dispositions, perceptions of school climate, conflict strategy choices, and standardized testing results in language arts, using assessments administered after one year of program implementation and comparing them to pretest values generated by student mediators and non-mediators. The study also examined attendance rates and student perceptions of school safety after a year of peer mediation at the schools. And the study analyzed school climate by looking at bullying incidence and suspension and expulsion rates before and after one year of program implementation. The most salient findings of this study include effects on students as well as on the school setting—specifically, increased attendance and reported sense of belonging, mitigation of bullying incidents, and gains in English language learners’ academic scores. Students who become mediators also develop superior capacity to empathize and perspective-take, as well as to select productive problem-solving strategies. Most of these findings are based on group differences between students who become and serve as mediators when compared to non-mediator students. Becoming a school mediator may be valued on many levels, by the mediators themselves and certainly by those they serve. [DRM Summer 2016]

Six Programs, Six Models: An Evaluation of the Foreclosure Mediation Programs Funded by the Office of the Illinois Attorney General
Jennifer Shack, Resolution System Institute (2015)
Available at: www.aboutrsi.org/pfimages/SixProgramsSixModels.pdf

This evaluation of six foreclosure mediation programs with very different service delivery models provides unique insight into how program design can impact program effectiveness. Each of the programs had a different model. They could be grouped, however, into one-step entry programs and multi-step entry programs. The differences were most significant between these groupings. In one-step entry programs, homeowners were simply told to appear at a scheduled pre-mediation session, and if they did so they participated. The multi-step entry programs required two or more steps, some of them more difficult than others. Program functioning was also affected by how services were provided to the homeowners and how often cases were referred into the program at the default hearing. The study found participation rates of between 11% and 68%. The higher rates of participation were in the one-step entry programs. The program with the 68% participation rate – the only one-step entry program started early enough to evaluate outcomes - was able to have a more significant impact on foreclosures in the county overall. In that program, 14% of all homeowners in the county facing foreclosure were able to keep their homes. This compares to 2% to 6% of homeowners in other counties. The study also found that homeowners benefitted from a second opportunity to participate:
homeowners in one program with a high rate of judicial referral were at least as likely to retain their homes as those who entered when their case was first filed. Additionally, providing housing counseling improved homeowner understanding of their options. These findings are of use to anyone involved in designing or improving ADR programs to address complex cases involving consumer debt, such as foreclosure or student loan debt. They point to the need for programs to have an easy entry process, to provide services beyond mediation, and to give homeowners a second opportunity to participate if they miss the first one. [DRM Summer 2016]

**Inside the Caucus: An Empirical Analysis of Mediation from Within**
Daniel Klerman & Lisa Klerman  
This article provides a glimpse into the worlds of mediation and settlement negotiation. Because they are almost always private, there has been relatively little empirical analysis of the dynamics of settlement or mediation. This article analyzes a unique data set derived from a mediator's contemporaneous notes of mediations involving employment disputes, such as claims of discrimination or wrongful termination. Although the data set includes more than 400 cases, since they were all mediated by a single mediator, this article can be viewed as a case study. Among the most interesting facts uncovered by this analysis are the following. Mediation can be extremely effective in facilitating settlement. The mediator studied here achieved a settlement rate of over 94 percent. There are very few gender differences, whether one looks at the gender of the plaintiff or the gender of the lawyers. For example, settlement rates are the same for male and female plaintiffs and lawyers. On average, cases settle much closer to the defendant's first offer than the plaintiff's, irrespective of case type, size of law firm, or other factors. A mediator's proposal appears to be the most effective mediation technique. A mediator's proposal was used in almost 90 percent of cases and, when it was used, the settlement rate was over 99 percent.

**Managerial Mediation Competency: A Mixed-Method Study**  
Jean Poitras, Kevin Hill, Virginie Hamel & Francis-Benoît Pelletier  
Managerial conflict resolution skills such as mediation have often been poorly defined and measured. We used a mixed-method design to develop a managerial mediation competency scale. In our first study, we used semistructured interviews to identify managerial mediation skills and attitudes, from which we derived a framework for measuring managerial mediation competency. In our second study, we developed scale items and used a quantitative survey to test the scale's psychometric qualities and to gain insight into the theoretical structure of managerial mediation competency. Our managerial mediation competency scale can be used in research questionnaires or organizational surveys as a training, research, and theory development tool.

**Creativity in Court-Connected Mediation: Myth Or Reality?**  
Lin Adrian & Solfrid Mykland  
Negotiation Journal 30(4): 421-439 (October 2014)  
Mediation is often promoted for fostering creative solutions but is that really the case? Yes, it seems so. This study found that approximately two thirds of the cases in court-connected mediation contained creative elements. The authors analyzed mediated agreements from civil court cases in Norway and Denmark and compared the outcomes with the parties’ original claims. If an agreement contained other elements than the parties’ claims, it was
considered to be “creative.” Many agreements contained only a few other elements, but about one quarter contained more than five. The study suggests that time matters: lengthier mediations featured more creativity. So did cases that involved two private individuals rather than businesses and cases whose issues involved inheritance as well as the division of property following divorce. The authors suggest that creativity depends not only on the characteristics of the case but also on the mediators’ framing of the issues. [DRM Winter 2015]

**Friendly Persuasion in Civil Case Mediations**
James A. Wall Jr. & Suzanne Chan-Serafin
Conflict Resolution Quarterly 31(3): 285-303 (Spring 2014)

This study investigates why mediators' assertive strategies—evaluative and directive—did not generate high disputant dissatisfaction when they produced agreements. We thoroughly investigated the transcripts from fifty cases in which the mediators had used assertive strategies and attained agreement. We found that mediators did not irk disputants because the mediators complemented their strategies with four tactical approaches. First, they established their legitimacy, and when mediating they shifted their strategies (from assertive to neutral or vice versa) round by round. They also used a ratchet approach to nudge disputants toward agreement, and they took steps to reduce the disputants' aspirations.

**Mediators' Cognitive Role Schema**
Adi Zarankin, James A. Wall, Jr. & Tal G. Zarankin
Negotiation and Conflict Management Research 7(2): 140-154 (May 2014)

This study identifies the cognitive role schema of 189 practicing mediators. An initial analysis of the mediators' questionnaire responses revealed 13 facets in the mediators' schema, and a second analysis condensed this to four goals: agreement, improvement of the parties' relationship, benefit the parties as well as society, and improve the mediation process. Not only do these facets indicate how the mediators think, but they also provide predictions about the mediators' behavior (e.g., they will strive primarily for agreement).

**How Do Mediators Decide What to Do? Implicit Schemas of Practice and Mediator Decisionmaking**
Kenneth Kressel
Ohio State Journal on Dispute Resolution 28: 709-735 (2013)

In this paper I address a vexing, but curiously understudied subject: How do mediators decide what to do under the volatile, unpredictable, and fast moving circumstances under which they work? There are two familiar responses to this question. One is that mediator decisionmaking is “intuitive,” especially for highly experienced professionals. Another is couched in terms of mediator identification with some formal model of practice such as facilitative or transformative mediation. There are good reasons to believe that neither intuition nor reliance on a formal model provide a satisfying answer to questions about mediator decisionmaking. I summarize the findings from three in-depth studies using reflective case study methods that suggest a more complete answer to the question. These studies include an investigation of divorce mediation, a study of the work of ombuds-mediators working at the National Institutes of Health, and a study of mediators brought into the psychology laboratory to mediate a simulated conflict between two college roommates. We have learned from these investigations that tacit knowledge—which we have variously described under headings like
mediator “styles”, “mental model”, or “schemas of practice”—plays a powerful role in such decisionmaking, is often at striking variance with what practitioners consciously believe they are doing, and can be gotten at by methods that help practitioners access their tacit decisionmaking knowledge. The methodological and practical implications of these findings for future research on mediator decisionmaking are considered.

**Changing Minds: The Work of Mediators and Empirical Studies of Persuasion**
James Stark & Douglas Frenkel
Ohio State Journal on Dispute Resolution 28: 263-352 (2013)

In this article, we present and analyze the existing research on a variety of persuasive interventions, in roughly the order at least some mediators might attempt them in a hotly contested mediation like the Halverson matter. In Parts II and III, we discuss orchestrating role reversals and apologies, two interventions that utilize an indirect or behavioral approach to persuasion. In Parts IV-VI, we turn to direct persuasion and to message variables that may affect the persuasive effect of such interventions, including the choice of rhetorical questions or statements (Part IV), the relative effectiveness of one-sided versus two-sided statements and the persuasive effects of message explicitness (Part V), and the use of “negative” emotions such as fear and guilt in efforts to persuade (Part VI). In Parts VII and VIII, we turn to indirect and direct modes of persuasion that might be used in the later stages of the mediation process, once the actual bargaining begins. In Part VII, we consider group brainstorming as an indirect method of persuasion aimed at generating more ideas for resolution and/or inducing greater cooperation between the disputants. In Part VIII, we examine the use of a sequence of requests-as opposed to a single, straightforward one-to try to obtain bargaining concessions.

**Exploring the Significance of Emotion for Mediation Practice**
Cheryl Picard & Janet Siltanen
Conflict Resolution Quarterly 31(1): 31-55 (Fall 2013)

The authors report on their exploratory study examining the learning process embedded in mediation. Their research procedures involved directed reflexive journaling followed by group discussions to generate insights into how mediation practitioners experience learning in mediation. The significance and role of emotion emerged as central to the dynamic of this learning process. The research indicates that the experience of positive and negative emotions attached to learning needs to be allowed and attended to within the mediation dynamic. This suggests that mediation practitioners need the competence to follow and understand their own learning-attached emotions as well as those of the parties.

**Increasing Referrals to Small Claims Mediation Programs: Models to Improve Access to Justice**
Heather Scheiwe Kulp
Cardozo Journal of Conflict Resolution 14: 361-393 (Winter 2013)

This study is designed to assist managers of court, not-for-profit, and other small claims mediation programs to improve the rate and appropriateness of cases referred to mediation. After examining dispute system design characteristics of over 50 small claims mediation programs, the constructed models offer dispute system designers common characteristics of programs with higher rates of referrals and settlements-per-referral. More importantly, the models articulate characteristics that work in particular settings or to achieve certain goals. From this study,
designers can customize a small claims mediation program based on available resources and intended goals. More effective referrals increase the likelihood that parties—especially self-represented litigants—will garner mediation's benefits. Hopefully, this study will prompt others to study how courts can design more effective mediation programs for small claims litigants, many of whom come to court seeking access to effective, problem-solving systems. [DRM Summer 2013]

**Multidimensional Analysis of Conflict Mediator Style**
Kenneth Kressel, Tiffany Henderson, Warren Reich & Claudia Cohen

This study explores mediator stylistic variations in a sample of 17 professional and 5 novice mediators. Participants mediated the same simulated conflict between two college roommates and reported on their in-session thinking using a stimulated recall procedure. Mediators described themselves as stylistically eclectic and flexible, but this was not borne out by observational data. Whatever approach mediators began with tended to dominate their performance throughout. Multidimensional scaling identified two dimensions underlying mediator performance: stylistic orientation (relational versus settlement oriented) and level of empathic attunement. Qualitative analysis identified facilitative and evaluative variants of the settlement orientation and transformative and diagnostic variants of the relational orientation. The facilitative and diagnostic mediators performed more skillfully than their evaluative and transformative counterparts but there was suggestive evidence that mediator identification with a particular formal model may be a less important determinant of outcomes than mediator energy, warmth, and optimism; a nonjudgmental stance; and a willingness to adapt to the inclinations and needs of the parties. Practically speaking, the results suggest that consumers of mediation services should regard mediator self-descriptions skeptically and that mediators should cultivate methods of reflective learning and self-observation in order to increase professional self-awareness. [DRM Summer 2013]

**Just My Style: The Practical, Ethical, and Empirical Dangers of the Lack of Consensus about Definitions of Mediation Styles**
Lorig Charkoudian

This article reviews the importance of research and understanding of mediation styles on quality assurance, ethical practice, and accuracy of research. Three studies are reviewed. One finds that while there are patterns of stylistic practice in mediation, there is no agreement on the definitions for different styles. The second finds that mediators tend to practice in either a directive or a reflective style within a given mediation, rather than using a mix of strategies. The final study highlights how different mediator strategies affect participant satisfaction with the process. Implications for practice and future research are discussed.

**MEDIATION: GLOBAL**

**Nudging Civil Justice: Examining Voluntary and Mandatory Court Mediation User Experience in Twelve Regions**
Shahla F. Ali
Nudge theory suggests that positive reinforcement to encourage compliance is at least as effective, if not more effective, than traditional directions issued through legislation. This Article tests nudge theory in the context of court mediation reform by examining whether, and if so how, light nudges encouraging voluntary mediation have a differential effect on civil justice outcomes as compared with more robust nudges through mandated mediation processes. A statistical analysis of 2016-2017 civil justice indicators in twelve regions suggests light nudges, (voluntary court mediation programs, or (self-directed resolution), on average associated with higher overall jurisdictional scores for efficiency and non-discrimination. In comparison, robust nudges, (court-mandated mediation processes) show no significant difference in relation to the quality of civil justice, effective enforcement, accessibility and affordability, and impartiality, and effectiveness between voluntary and mandatory mediation systems in the regions examined. [DRM Summer 2018]

**How Should the Courts Know Whether a Dispute is Ready and Suitable for Mediation? An Empirical Analysis of the Singapore Courts' Referral of Civil Disputes to Mediation**
Dorcas Quek Anderson, Eunice Chua & Ng Tra My

In line with international developments in court-connected mediation, the Singapore courts have strongly supported the use of mediation and have taken steps to encourage litigants to attempt mediation. This article features the very first empirical analysis of the Singapore courts' referral of civil cases to mediation. Although focused on Singapore, the results of the study also inform the referral policies of other judiciaries that similarly engage in the practice of referring cases for mediation. The study uses a rigorous method to shed light on the crucial factors to be considered by the courts in referral practice and designing of mediation programs. The research demonstrates that the timing of referral, the stage of litigation and the level of contentiousness between the disputants collectively exert a significant influence on the likelihood of settlement at mediation. These variables are also likely to have an impact on the participants' perception of mediation success. The quantum of claim emerges as a significant factor as well. Other key variables affecting the mediation outcome relate to the mediation process, such as the time taken to complete the mediation and whether the mediator has legal training. The study shows that the courts' referral practices have to be informed by a nuanced assessment of all these factors rather than being focused on timing and stage of referral.

**Understanding China’s Court Mediation Surge: Insights from a Local Court**
Yedan Li, Joris Kocken & Benjamin van Rooij

This article seeks to understand how reported mediation rates in Chinese courts are produced and what they actually signify. It analyzes data obtained through prolonged fieldwork at a court in central China. The article finds that the court has directly responded to central level mediation incentives by enhancing its overall mediation rate. It has done so strategically by seeking the highest increase using the fullest discretion in the mediation incentive structure and seeking to optimize the highest rate at the lowest cost and risk to the court. This has undermined the objectives of the central level incentives toward mediation, while also drawing the courts’ scarce resources away toward unnecessary mediation practices, in part far removed from the courtroom. The article concludes by drawing out broader theoretical conclusions about how information
asymmetries, discretion, and goal displacement play out in hierarchical control structures of authoritarian courts.

**Italian Mediators in Action: The Impact of Style and Attitude**
Luigi Cominelli & Claudio Lucchiari

We analyzed a questionnaire sent to Italian mediators. We sought to investigate three areas: style of mediation, personal attitude toward the conflict, and effectiveness in leading the parties to a negotiated agreement in mediation. We found no significant correlations between the style of mediation and the attitude of the respondents to the conflict. Respondents with postgraduate training in economics or accounting achieved higher rates of settlement. The style of the mediator may be of some use as a paradigm of orientation, but has no sufficient predictive value to be confirmed as a key to the functioning of the mediation.

**Users of Commercial Mediation in New Zealand – Insurance Industry Report**
Grant Hamilton Morris & Freya McKechnie
Published by Resolution Institute/Victoria University of Wellington (2017). Available at https://www.resolution.institute/documents/item/2442

The results of this survey provide an understanding of users’ perspectives on mediation. The respondents reported a good knowledge of mediation. They also indicated that the insurance industry as a whole is aware of mediation and supports the use of it. Users report they are using mediation often and believe that it is well utilized in the insurance sector. However, most estimate that the organizations they work for use mediation less than 25 times in any given year. Respondents’ main reason for using mediation is its cost-effectiveness. Respondents’ main reason for not using mediation is the other party’s unwillingness. This indicates the party on the other side of a dispute may be a barrier to using mediation. Respondents also noted that the other party having a weak case or unrealistic expectations were reasons not to use mediation.

**Realizing Rationality: An Empirical Assessment of International Commercial Mediation**
Stacie Strong

Very little is actually known about how the international community uses and perceives mediation in the cross-border business context. This type of informational deficiency hinders individual and institutional actors’ ability to operate in a rational manner. This Article therefore analyzes findings from the first-ever large-scale empirical study on international commercial mediation, providing hard data about current behaviors, beliefs and practices and testing fundamental theories about the use, nature and future of this particular process.

**Understanding Pathways to Family Dispute Resolution and Justice Reforms: Ontario Court File Analysis and Survey of Professionals**
Michael Saini, Rachel Birnbaum, Nicholas Bala & Brenden McLarty
Family Court Review 54(3): 382 – 395 (July 2016)

This article reports on two related studies about varying pathways to the resolution of family disputes and the effects of family justice reforms in Ontario: a survey of family court professionals (n = 118) and an analysis of 1,000 closed court files of family cases involving children. Both studies reveal that the vast majority of cases are resolved without a trial, often by
negotiation. While professionals generally support family justice reform initiatives, there remain significant gaps in the implementation of these strategies. For example, many litigants do not attend information programs despite the requirement for mandatory attendance; there is limited use of mediation; the views of children are being sought in only a small number of cases; and there is a large proportion of self-represented family litigants. Despite the increase in shared care and joint decision-making arrangements, a majority of cases in the court file study were sole custody arrangements to the mother, whether the case was settled or resolved by trial. Mediation was associated with greater time of contact with the non-primary residential parent (usually the father). [DRM Winter 2017]

From Anecdote to Evidence: The New Zealand Commercial Mediation Market
Grant Morris
New Zealand Business Law Quarterly 22: 10-30 (March 2016)

Mediation is regularly used to resolve commercial disputes in New Zealand. There has been no empirical data revealing the nature of our commercial mediation market, unlike other areas of mediation. This article is based on a research project which surveyed and interviewed commercial mediators. The findings reveal the nature of the market for the first time and move scholarship in this area from anecdote to evidence. Despite the important role that commercial mediation plays in New Zealand’s legal system, the market is relatively small and dominated by a tiny group of practitioners. The mediation profession’s key focus should be on growing the market rather than on trying to carve the existing market up into small slices.

To Conciliate or Not to Conciliate: Empirical Evidence from Labour Disputes in India
Rahul Suresh Sapkal

The paper uses a newly obtained dataset on labour disputes from two Central Government Cum Industrial Tribunals (CGIT’s) in India, namely the Mumbai CGIT and the New Delhi CGIT, for the period 2008-2011. The empirical strategy allows the study to untangle the impact of a mandatory conciliation process on negotiated settlements and disposition time as compared to a non-mandatory conciliation process, using three main variables: 1) total case disposition time, 2) differences in outcomes achieved by workers, and 3) the final payments received by workers. Results indicate that, at an aggregate level, labour disputes settled in the conciliation process take less time than labour disputes appealed in the labour courts. Moreover, the study observes that labour disputes resolved in the mandatory conciliation process settled more quickly compared to disputes that participated in a non-mandatory conciliation process. Finally, the study argues that a mandatory conciliation process provides an efficient way to reduce differences in the final payments received by workers, as it provides a time-bound negotiation space to disputing parties relative to other methods of ADR. In the context of developing countries like India, the analysis provides strong empirical evidence to support policy measures on use of conciliation mechanisms to resolve labour conflicts. The paper also discusses conciliation’s social welfare benefits. [DRM Summer 2015]
Accessing Justice Through Settlement? Repeat Players in Court-Connected Mediation and Conciliation Programs in Brazil
Maria Cecília De Araujo Asperti

Do repeat players come out ahead in court mediation and conciliation in Brazil? In order to address this issue, the research investigates how consensual mechanisms are used by courts to deal with repeated litigation and which are the practices and techniques specifically aimed at repeated disputes. The characteristic elements of these repeated disputes are the similarity of the factual and/or legal arguments, the representativeness of the volume of claims and the fact that one of the parties litigates in similar disputes more often, while the other in involved in such type of cases only occasionally. These “repeat players” are known as the great litigants of the Judiciary, and enjoy certain advantages in terms of bargaining power, resources and information in view of their size and the frequency with which they are involved with similar cases. An empirical research was carried out in court programs to study the perceptions of the players involved in the design and routines of these programs on the issues raised. It was found that repeated litigation is a crucial part of court conciliation and mediation programs, influencing the role of the main stakeholders (parties, lawyers and conciliators/mediators), screening and case management practices, access conditions, specific techniques and the role played the Judiciary, who shall also act as manager, designer and institutional mediator. It is concluded that the structure and design of these programs and the role of those involved can be key factors for an adequate treatment of repeated disputes in the judicial context.

Internal Contradictions of Judicial Mediation in China
Kwai Hang Ng & Xin He

Judicial mediation in China represents an extreme case of integration between adjudication and mediation. Based on ethnographic work and extensive interviews, this article studies how judicial mediation actually works in China. It finds that the incorporation of mediation as part of the official trial process creates a set of internal contradictions. In addition to the role conflict inherent in a judge’s acting also as a mediator, adjudication and mediation stages are organized by different principles. When the rather rigid format of adjudication is carried over to in-trial mediation, it curtails the flexible, non-legalistic approach that mediation is meant to promote. Challenged authority, an uncontrolled process, narrowed issues, and weakened norms all make a settled outcome difficult to achieve. On the other hand, the proactive role that judges assume in mediation also undermines their impartiality, a quality that is required for adjudication. In comparison with judicial mediation in other jurisdictions (the US, Quebec, Japan), this case study from China reveals the problems of completely merging mediation with adjudication. The study suggests that a certain procedural distance is required to preserve the integrity of both processes. [DRM Winter 2014]

“Rebooting” the Mediation Directive: Assessing the Limited Impact of its Implementation and Proposing Measures to Increase the Number of Mediations in the EU (January 2014)
Giuseppe De Palo, Leonardo D’Urso, Mary Trevor, Bryan Branon, Romina Canessa, Beverly Cawyer & L. Reagan Florence

Five and a half years after its adoption, the European Union Mediation Directive (2008/52/EC) has not yet solved the “EU Mediation Paradox.” Despite its proven and multiple benefits, mediation in civil and commercial matters is still used in less than 1% of the cases in the EU. This study, which solicited the views of up to 816 experts from all over Europe, shows that this disappointing performance results from weak pro-mediation policies, whether legislative or promotional, in almost all of the twenty-eight member states. The experts strongly supported a number of proposed non-legislative measures that could promote mediation development. More fundamentally, the majority view of these experts suggests that introducing a “mitigated” form of mandatory mediation may be the only way to promote the use of mediation in the EU. The study therefore proposes two ways to “reboot” the Mediation Directive: change it, or, based on the current wording of its Article 1, request that each member state commit to, and reach, a simple “balanced relationship target number” between civil litigation and mediation.

Court–Annexed Mediation in Indonesia: Does Culture Matter?
Fatahillah Abdul Syukur & Dale Margaret Bagshaw
Conflict Resolution Quarterly 30(3): 369-390 (Spring 2013)

A Western model of court-annexed mediation was introduced into the Indonesian courts in 2003, but has been relatively unsuccessful. The authors argue that one factor contributing to this is the failure of mediators to use culturally appropriate approaches and emphasize the need for mediators to be trained to be culturally fluent and self-reflexive. They analyze cultural factors relevant to mediation with participants from diverse cultural backgrounds and implications for training. *Musyawarah mufakat*, the indigenous way of resolving disputes, is compared to a Western interest-based model of mediation and a case study illustrates how the process can incorporate an indigenous approach.

East Asians’ Social Heterogeneity: Differences in Norms Among Chinese, Japanese, and Korean Negotiators
Sujin Lee, Jeanne Brett & Ji Hyeaern Park
Negotiation Journal 28(4): 429-452 (October 2012)

Contrary to the widely-held assumption that East Asian cultures are homogeneous in their value for harmonious social relationships, we proposed that Chinese, Japanese, and Korean managers would endorse different norms for negotiation tactics because of differences in the focus (dyadic in China versus group in Japan) and the nature (emotional in Korea versus instrumental in China) of social relations in these cultures. The data from a web survey of Chinese, Japanese, and Korean managers showed that managers from these three countries endorsed various distributive or integrative negotiation tactics, consistent with their cultures’ different cultural emphases in business and other social relationships. When negotiating with managers from China, Japan, or Korea, it is worthwhile to try to understand the subtle differences among the countries’ social concepts—the Chinese *guanxi*, the Japanese *wa*, and the Korean *inhwa*—which can subsequently help construct the most effective and tailored negotiation approach. [DRM Summer 2013]
Three Years of Court-Connected Small Claims Mediations: The Importance of System, Program, Case, and Mediator Characteristics to the Court Mediation Program's Outcomes (August 2012)
Sarah Vander Veen & Angela Mallard, Mediate BC Society’s Court Mediation Program.

In this report, we present an analysis of all 4,327 of the CMP's cases that were mediated between April 1, 2008 and August 15, 2010. The purpose of this analysis was to determine which characteristics of the Small Claims System ("System Characteristics"), the Court Mediation Program itself ("Program Characteristics"), the case ("Case Characteristics"), and/or the mediators ("Mediator Characteristics") were related to settlement at mediation. In this analysis, we used the CMP's narrow definition of "settlement". Specifically, a mediation was only considered "settled" if a Form 25 Mediation Agreement was completed at the end of the mediation session. However, many cases do settle within a few weeks of mediation, and these settlements are likely due, at least in part, to the mediation. However, because of the narrow way in which settlement was defined, we were not able to assess the contribution that mediation made toward settling these cases. Thus, this study underestimates the full impact of mediation on small claims cases.… Taken together, the results of this study indicate that most cases seem to settle under the CMP mediation model when they are within the range of claim amounts that the program was designed to mediate, i.e., under $10,000. Cases with higher claim amounts that are mediated in the Vancouver Registry settle far less often especially claims of exactly $25,000. This does not mean that mediation is not effective with higher claim amounts. It simply means that the current CMP model must be modified to be more effective with these types of cases.

MEDIATION: FAMILY

The Moral Order in Family Mediation: Negotiating Competing Values
Janet Smithson, Anne Barlow, Rosemary Hunter & Jan Ewing

We used discourse analysis to study how mediators and parties negotiate competing priorities and values during the family mediation process. We drew on understandings of practical morality, specifically the concept of a moral order, to study UK mediation session talk. Our analysis highlighted the contradictory moral orders drawn on by parties and mediators. The saliency of moral categories and concerns in parenting is demonstrated, and we consider the problems this causes in the “no-fault” context of mediation.

Safety, Satisfaction, and Settlement in Domestic Relations Mediations: New Findings
Susan Raines, Yeju Choi, Joshua Johnson & Katrina Coker
Family Court Review 54: 603-619 (October 2016)

This article reports on two related studies about varying pathways to the resolution of family disputes and the effects of family justice reforms in Ontario: a survey of family court professionals (N = 118) and an analysis of 1,000 closed court files of family cases involving children. Both studies reveal that the vast majority of cases are resolved without a trial, often by negotiation. While professionals generally support family justice reform initiatives, there remain significant gaps in the implementation of these strategies. For example, many litigants do not
attend information programs despite the requirement for mandatory attendance; there is limited use of mediation; the views of children are being sought in only a small number of cases; and there is a large proportion of self-represented family litigants. Despite the increase in shared care and joint decision-making arrangements, a majority of cases in the court file study were sole custody arrangements to the mother, whether the case was settled or resolved by trial. Mediation was associated with greater time of contact with the non-primary residential parent (usually the father).

Exploring Helpful Tensions between Divorce Mediators and Clients: A Relational Dialectical Analysis
Rachid Baitar, Jan De Mol & Peter Rober
Conflict Resolution Quarterly, 34: 7-29 (Fall 2016)
Addressing calls for more mediation process research, this qualitative study explored which contradictory tensions are in play in a helpful working relationship between mediators and their clients. Data were collected in semistructured interviews with divorce mediators (n = 12). Relational dialectical analysis detailed how divorce mediators varied practice styles along the central opposing pulls of client self-determination and professional control, neutrality and engagement, and efficiency and exploration. The findings counterbalance traditional hallmarks of mediation and highlight a range of dynamic truths in which mediators operate. Methodological limitations and implications for research and practice are discussed.

Mandatory Mediation Outside the Court: A Process and Effect Study
Odd Tjersland, Wenke Gulbrandsen & Hanne Haavind
Conflict Resolution Quarterly 33: 19-34 (Fall 2015)
In a study of 154 couples in precourt mandatory mediation in Norway, a majority of the thirty-eight high-conflict (HC) cases left the mediation after two sessions and without any agreements. Eighteen months later, five of ten HC couples were still without an agreement. With seven sessions available free of charge, the mediation system seems to fail at helping the HC cases. The authors discuss some of the challenges that are attached to a mandatory mediation system. One explanation seems to be the attempt to fulfill several ambitions with the same intervention. Some ideas for improvement of the system are introduced. [DRM Winter 2016]

A Mentalizing-Based Approach to Family Mediation: Harnessing Our Fundamental Capacity to Resolve Conflict and Building an Evidence-Based Practice For the Field
Jill Howieson & Lynn Priddis
Family Court Review 53: 79-95 (January 2015)
This article presents the results of a research study into mentalizing in family mediation. The study employed a mixed-method approach, which included quantitative and qualitative empirical analysis of mediation transcripts and postmediation surveys. The research identified that, when the mediators adopted a mentalizing stance to facilitate the parties to engage their mentalizing capacities and, in particular, to mentalize for the child, the mediation process became more constructive and meaningful. The article makes recommendations for incorporating a mentalizing-based approach into the research and education of mediation and building an evidence-based practice for the field.
**Does Level of Intimate Partner Violence and Abuse Predict the Content of Family Mediation Agreements?**

Fernanda S. Rossi, Amy Holtzworth-Munroe & Amy G. Applegate


This study investigated whether reported levels of intimate partner violence (IPV) and/or abuse (IPV/A) victimization are related to reaching agreement and to the content of mediation agreements of parties seeking to resolve family- and child-related issues. The authors analyzed whether or not parties reached agreement in 105 cases at a law school mediation clinic and coded agreement content for the 71 cases that reached agreement. Levels of IPV and IPV/A were determined separately for males and females, using a standardized measure. Results indicated that mediation may help families with a reported history of IPV and IPV/A address a variety of concerns: levels of partner violence/abuse predicted numerous issues in mediation agreements, including arrangements regarding legal custody, parenting time, holidays, child exchanges, inter-parental communication, safety restrictions, counseling referrals, child support, financial arrangements, and other miscellaneous topics (e.g., relocation). However, some findings were consistent with concerns raised about the use of mediation with parties reporting IPV and IPV/A: for example, increasing levels of male-perpetrated IPV/A predicted increased likelihood of making an agreement to share legal custody. The authors conclude that further research is needed to resolve the longstanding debate of whether divorce mediation is an effective and safe process for parties demonstrating IPV/A. [DRM Summer 2015]

**What Works in Child Access Mediation: Effectiveness of Various Mediation Strategies on Custody Cases and Parents’ Ability to Work Together**

Lorig Charkoudian, Maryland Administrative Office of the Courts, Court Operations, Funding from the State Justice Institute, Grant Number SJI-12-N-003 (September 2014). Available at www.courts.state.md.us/macro/pdfs/reports/whatworksinchildaccessmediation201409report.pdf

This research measures the effectiveness and efficiency of various approaches to mediation in custody, visitation, and child access cases in Maryland court rules (Maryland Title 9-205) require that all contested child access cases be ordered to mediation, except in cases of abuse…. The goal of this research is to understand what components of the mediation process affect a variety of outcomes for participants. As would be expected, this research examines which mediation strategies and program components affect the probability of reaching agreements and consent orders. This research goes further to consider which mediation strategies and program components affect the types of agreements reached as well as the attitudinal shifts of the parents toward each other and their belief in their ability to work together.

**Mediator and Survivor Perspectives on Screening For Intimate Partner Abuse**

Shereen G. Bingham, Kerry L. Beldin & Laura Dendinger

*Conflict Resolution Quarterly* 31(3): 305-330 (Spring 2014)

This qualitative study illuminates how family mediators and domestic violence survivors in Nebraska perceive the process used to screen parents for intimate partner abuse (IPA) prior to participation in parenting plan mediation. In-depth interviews and a focus group discussion were analyzed to compare the mediators’ and survivors’ perspectives. Similarities and differences in perspective emerged, with mediators less attentive to several concerns that were central to screening from the survivors’ standpoint. Survivors said victims may fear losing their children or being harmed by the abuser as a result of participation in screening; that victims differ in their readiness to answer questions and so screening should be adapted accordingly; and that
immediate counseling and safety after screening should be available. Mediators are challenged to remain neutral in screening while protecting the rights and safety of parties when IPA is present. They must negotiate the tension between obtaining information from survivors while being sensitive to the emotional and physical risks of discussing the abuse. Agencies can support mediators who screen with appropriate training about the circumstances of abuse and the inherent risks survivors face with disclosure. Implications for screening practices of family mediators are discussed. [DRM Winter 2015]

NEGOTIATION: GENERAL

Negotiation Engineering: A Quantitative Problem-Solving Approach to Negotiation
Tobias W. Langenegger & Michael Ambühl
Group Decision and Negotiation 27(1): 9-31 (February 2018)

Although they are often complex, negotiations are practical problems that can be solved with the aid of specialized, ad hoc methods. We introduce a problem-solving approach to difficult negotiations inspired by the established solution-oriented discipline of engineering, which we term “Negotiation Engineering”. It is based on the reduction of problems to their most formal structures and the heuristic application of quantitative methods for problem solving. We argue that mathematical language in negotiations helps to increase logical accuracy in negotiation analysis and allows for the use of a variety of existing helpful mathematical tools to achieve a negotiation agreement. We demonstrate the practicability and usefulness of this approach using four case studies in the area of international diplomacy in which Negotiation Engineering was applied to achieve negotiation solutions.

How Representatives With a Dovish Constituency Reach Higher Individual and Joint Outcomes in Integrative Negotiations
Hillie Aaldering & Femke S. Ten Velden
Group Processes & Intergroup Relations 21(1): 111-126 (January 2018)

Representative negotiations often take a competitive course due to constituency pressures. However, in multi-issue integrative negotiation settings, using a competitive value-claiming strategy may result in less than optimal outcomes for both parties. In this experiment, we compared the negotiation process and outcomes of representatives with hawkish versus dovish constituencies. Representatives with a dovish constituency engaged in more information exchange and less contentious tactics, resulting in fewer impasses and higher quality agreements. Although representatives with a hawkish constituency claimed more value by placing higher demands, this negatively affected not only their joint, but also their individual outcomes. Overall, results suggest that representatives with a dovish constituency achieve better outcomes, both on an individual and dyadic level.

On the Relative Importance of Individual-Level Characteristics and Dyadic Interaction Effects in Negotiations: Variance Partitioning Evidence From a Twins Study
Hillary Elfenbein, Noah Eisenkraft, Jared Curhan & Lisabeth DiLalla
JOURNAL OF APPLIED PSYCHOLOGY 103(1): 88-96 (January 2018)

Negotiations are inherently dyadic. Negotiators’ individual-level characteristics may not only make them perform better or worse in general, but also may make them particularly well- or poorly-suited to negotiate with a particular counterpart. The present research estimates the extent
to which performance in a distributive negotiation is affected by (a) the negotiators’ individual-level characteristics and (b) dyadic interaction effects that are defined by the unique pairings between the negotiators and their counterparts. Because negotiators cannot interact multiple times without carryover effects, we estimated the relative importance of these factors with a new methodology that used twin siblings as stand-ins for each other. Participants engaged in a series of 1-on-1 negotiations with counterparts while, elsewhere, their cotwins engaged in the same series of 1-on-1 negotiations with the cotwins of those counterparts. In these data, dyadic interaction effects explained more variation in negotiation economic outcomes than did individual differences, whereas individual differences explain more than twice as much of the variation in subjective negotiation outcomes than did dyadic interaction effects. These results suggest dyadic interaction effects represent an understudied area for future research, particularly with regard to the economic outcomes of negotiations. (PsycINFO Database Record (c) 2018 APA, all rights reserved)

From Lab Experiments to Real Negotiations: An Investigation of International Iron Ore Negotiations
Jingjing Yao, Li Ma & Lin Zhang
Negotiation Journal 34(1): 69-87 (January 2018)

Negotiation researchers have conducted a large number of experimental lab studies to identify the factors that affect negotiation outcomes, but it remains unclear whether those results can be generalized to real-world negotiations. To explore this question, the authors analyzed the dynamic international iron ore annual negotiations that took place from 2005 to 2009. The authors found evidence that supports two important findings from previous experiments. Specifically, the authors focused on the impact of negotiators’ best alternatives and first offers on negotiation prices using multiple case study analysis. They found that iron ore prices increased more when the gap between the previous year’s negotiated price and the price on the alternative spot market, a public market in which commodities are traded for immediate delivery, was larger, which suggested that buyers were sensitive to the strength of this alternative, supporting the literature on the role of alternatives. The authors also found that the first offer price significantly influenced the final price. Their findings extend two important experimental findings from the negotiation literature to large-scale business negotiations in the real world. [DRM Summer 2018]

To Match or Not to Match? Reactions to Turning Points in Negotiation
Michele Griessmair & Daniel Druckman
Group Decision and Negotiation 27(1): 61-83 (February 2018)

This study examines the impacts of process frames and salience of a turning point on negotiators’ responses to a departure during the negotiation process. Results show that individuals negotiating within an integrative-cooperative (as opposed to a distributive-competitive frame) are more likely to interpret the departure as a turning point and match the other’s offer. Similarly, results show that making the departure salient by clearly articulating the intent, content, and function of the turning point offer increases negotiators’ propensity to embrace the mutually beneficial turning point offer. The findings are discussed in light of negotiators’ awareness of events during the negotiation process, their (mis)matching of favorable offers, and relational order theory. [DRM Summer 2018]
Imaginary Alternatives: The Impact of Mental Simulation on Powerless Negotiators
Michael Schaeerer, Martin Schweinsberg & Roderick Swaab
Journal of Personality and Social Psychology (March 2018 first online edition)

This research demonstrates that people can act more powerfully without having power. Researchers and practitioners advise people to obtain alternatives in social exchange relationships to enhance their power. However, alternatives are not always readily available, often forcing people to interact without having much power. Building on research suggesting that subjective power and objective outcomes are disconnected and that mental simulation can improve aspirations, the authors show that the mental imagery of a strong alternative can provide some of the benefits that real alternatives provide. The authors tested this hypothesis in one context of social exchange – negotiations – and demonstrate that imagining strong alternatives (vs. not) causes powerless individuals to negotiate more ambitiously. Negotiators reached more profitable agreements when they had a stronger tendency to simulate alternatives or when they were instructed to simulate an alternative. Mediation analyses suggest that mental simulation enhanced performance because it boosted negotiators’ aspirations and subsequent first offers, but only when the simulated alternative was attractive. The authors used various negotiation contexts, which allowed identification of circumstances under which mental simulation may not provide any benefits to negotiators: mental simulation no longer helped when negotiators did not make the first offer, when their opponents simultaneously engaged in mental simulation, and even backfired in settings where negotiators’ positions were difficult to reconcile (i.e., when negotiators had incompatible preferences). In sum, this research suggests that mental simulation can be a powerful tool for negotiators to improve their outcomes when they are in a disadvantaged position. [DRM Summer 2018]

Do Past Perceptions Shape Future Behaviors? Subjective Value and Behavior Styles in a Multi-Round Negotiation
Wenxue Lu, Wenhui Ren & Wenqian Guo

This study examines how negotiation subjective value (SV)—relationship SV, process SV, instrumental SV, and self-SV—in a previous round affects negotiation behavior styles—integrating, compromising, obliging, avoiding, and dominating—in the next round through two studies. Study 1 asked the respondents to complete a questionnaire based on a recalled multi-round negotiation, and 169 samples were valid. In Study 2, 205 participants totally filled out the questionnaire after a simulated negotiation. Both results point out as follows: (a) relationship SV positively relates to all five negotiation styles, and its relationship with integrating, compromising, obliging, and avoiding styles is strongest among four branches of SV; (b) process SV is only positively related to integrating; (c) instrumental SV negatively relates to uncooperative styles—avoiding and dominating—and the relationship with dominating style is strongest; (d) self-SV relates to both integrating and dominating which looks like incompatible. We finally discuss the implications, limitations, and future research.

Formation of Procedural Justice Judgments in Legal Negotiation
Rebecca Hollander-Blumoff

Research has indicated that procedural justice—fairness of decisionmaking processes—plays an important role in bilateral legal negotiation, encouraging the acceptance of negotiated
agreements. Additionally, research has suggested that procedural justice leads to opportunities for increased integrative bargaining. However, procedural justice judgments are typically measured as subjective assessments by disputants. If procedural justice plays an important role in legal dispute negotiation, it is critical to understand how individuals form judgments about fairness of process. The study presented explores antecedents of procedural justice judgments in legal negotiation. Results suggest that although all potential identified antecedent variables—voice, courtesy/respect, trust, and neutrality—play a role in judgments about procedural justice, the primary component is courtesy/respect behavior by the speaker and her partner. Parties share some agreement about the presence of courtesy/respect behavior and trust behavior, and third-party coders can identify behavior that reliably relates to the parties’ procedural justice antecedent assessments. Additionally, results indicate that appeals to potential “neutral” benchmarks such as legal authority lead to lower assessments of procedural justice. These findings suggest that courtesy and respect are the primary drivers of negotiators’ procedural justice assessments, and that such courtesy/respect behavior is not merely a subjective artifact of the participant but can be observed by a third-party coder. [DRM Summer 2017]

Ups and Downs: Emotional Dynamics in Negotiations and Their Effects on (In)Equity
Michelle Griessmair

Organizational scholars now acknowledge the relevance of emotions in virtually every aspect of organizational life, including negotiations and conflict resolution. Integrating negotiation phase model theory with social functional models of emotion, we test hypotheses about the development of emotions in negotiations and their effects on the degree of economic (in)equity of the counterpart’s subsequent offer during the actual negotiation process. By comparing stalemate dyads with efficient settlement dyads, the study identifies emotional dynamics that characterize successful as opposed to unsuccessful negotiations. Results show that observed differences are primarily the result of impasse dyads spiraling into a negative emotional climate rather than efficient settlement dyads having overall higher levels of positive emotions or increasing them throughout the negotiation process. As predicted by social functional models, the study further confirms that emotions are not only a reaction to the economic (un)fairness of a proposed offer, but their display also influences the payoff (in)equity of the counterpart’s subsequent offer. Whether a specific emotional expression increases or decreases the economic fairness of the counterpart’s subsequent offer, however, differs across negotiation phases and between dyads that reached an agreement or not. Furthermore, the results show distinct differences between emotions that address individual goal realization in negotiations and emotions that focus on the relational, interpersonal aspect of negotiations, both with regard to their development as well as their function. Taken together, the results shed light on the mechanisms leading to the emergence of conflict spirals.

“I Can’t Pay More” Versus “It’s Not Worth More”: Divergent Effects of Constraint and Disparagement Rationales in Negotiations
Alice J. Lee & Daniel R. Ames
Organizational Behavior and Human Decision Processes 141: 16-28 (July 2017)

Past research paints a mixed picture of rationales in negotiations. Some findings suggest rationales might help, whereas others suggest they may have little effect or backfire. Here, the authors distinguish between two kinds of rationales buyers commonly employ – constraint
rationales (referring to one’s own limited resources) and disparagement rationales (involving critiques of the negotiated object) – and demonstrate their divergent effects. Across four studies, the authors examined spontaneous rationales and manipulated rationale content, finding that constraint rationales have more positive effects on instrumental (e.g., counteroffers) and relational (e.g., trust) outcomes than disparagement rationales. Mediation analyses suggest constraint, but not disparagement, rationales are taken by sellers as signaling a buyer's limit. The analysis also demonstrates a role for information, showing that the divergence between these rationales’ effects is attenuated when the seller has little information about their object’s value. Overall, the results show how and why rationales can help or hurt negotiators. [DRM Winter 2018]

**Negotiating Cooperation Under Uncertainty: Communication in Noisy, Indefinitely Repeated Interactions**
Fabian Dvorak & Sebastian Fehrler
Available at SSRN: https://ssrn.com/abstract=2986445 (June 2017)

Case studies of cartels and recent theory suggest that repeated communication is key for stable cooperation in environments where signals about others’ actions are noisy. However, empirically the exact role of communication is not well understood. We study cooperation under different monitoring and communication structures in the lab. Under all monitoring structures - perfect, imperfect public, and imperfect private - communication boosts efficiency. However, under imperfect monitoring, where actions can only be observed with noise, cooperation is only stable when subjects can communicate before every round of the game. Beyond improving coordination, communication increases efficiency by making subjects’ play more lenient and forgiving. We further find clear evidence for the exchange of private information - the central role ascribed to communication in recent theoretical contributions.

**When Do People Initiate a Negotiation? The Role of Discrepancy, Satisfaction, and Ability Beliefs**
Lulia A. M. Reif & Felix C. Brodbeck

Negotiation research increasingly pays attention to the beginning of negotiations. Building on a theory of the initiation of negotiation we investigated when and why people consider initiating negotiations. Results from one field study and two scenario experiments show that a negative discrepancy between an actual state and a desired state increased the intention to initiate a negotiation and promoted real initiation behavior. This effect was mediated by the subjective perception of this discrepancy and feelings of dissatisfaction. Expectancy considerations in the form of ability to initiate negotiations and implicit beliefs about negotiation ability moderated this serial mediation effect: high initiation ability and incremental negotiation beliefs facilitated the decision to negotiate whereas low initiation ability and entity negotiation beliefs inhibited negotiation initiations. In the present work, we offer a first empirical test of the theory of initiation of negotiation.

**The Dynamics of Coalition Formation – A Multilateral Bargaining Experiment With Free Timing of Moves**
James Tremewan & Christoph Vanberg
Journal of Economic Behavior & Organization 130: 33-46 (October 2016)
We experimentally investigate behavior in a finitely repeated coalition formation game played in continuous time. Subjects interact in groups of three, bargaining over the distribution of payments which occur at regular time intervals. During a given interval, payments occur if and only if a majority is in agreement about their allocation. Aside from these rules, we purposefully impose little structure on the bargaining process. We investigate the frequency and stability of different types of agreements, as well as transitions between them. Two-thirds of payments involve divisions where one player receives nothing, almost half of which are equal splits of the entire surplus between two players. The most stable division is the three-way equal split. Transitions between agreements are frequent and are generally consistent with myopic payoff maximization, in the sense that subjects do not accept short-term losses. We also find that transitions between coalitions are not Markovian. In particular, players more often forgo short-term gains in order to remain in a coalition if it has proven stable in the past.

The Hidden Persuader: The Role of the Advisor in Negotiations and Group Decision Making—Perspectives from the European Union
Jeswald W. Salacuse
Group Decision and Negotiation 25(3): 459-480 (May 2016)

Theoretical models of negotiation and group decision making often overlook or at least do not fully account for the important role played by persons who advise negotiators and participants in group decision making. Sight unseen, advisors are often “hidden persuaders,” important but unrecognized sources of influence on the negotiation dynamic. This article explores the roles and methods of advisors in the negotiation process, drawing on survey research conducted in 2013 among approximately seventy advisors at the European Union Council of Ministers. Defining advice as “…a communication from one person (the advisor) to another (the client) for the purpose of helping that second person determine a course of action for solving a particular problem…”, the author considers the nature of advice and the range of relationships that may exist between advisors and their clients. He argues that advising is much more than the mere transmittal of information from advisor to negotiator and that for advice to be effective a relationship must exist between the two parties. The author identifies three models of the advisor–negotiator relationship. Model I is THE ADVISOR AS DIRECTOR, wherein the advisor tends to take control of the negotiating process, directing the negotiator in actions that the negotiator should take to achieve success at the negotiation. Model II is THE ADVISOR AS SERVANT in which the advisor merely responds to the demands of the client for help and guidance in the negotiation. Model III is THE ADVISOR AS PARTNER, wherein advisor and negotiator jointly manage the advising process and together take co-ownership of the problem to be solved. The author then explores the factors that lead advisors and negotiators to adopt each of these three models, the various advising styles that advisors adopt, and the differing effects on the negotiation process that these elements may have, drawing on historical examples as well as survey data from the EU Council of Ministers. He concludes by offering advice about advising to three important professional groups—scholars, negotiators, and advisors—on ways to carry out their respective functions more effectively.

The Effect of Advice on Negotiations: How Advisors Influence What Negotiators Do
Jeswald W. Salacuse
Studies of negotiations often overlook, or at least do not fully account for, the important role played by people who advise negotiators. Often deliberately hidden from view, advisors have important but unrecognized influence on the negotiation dynamic. In this article, I explore the roles and methods of advisors in the negotiation process, drawing on role theory and survey research conducted in 2013 among approximately seventy advisors at the European Union Council of Ministers. I define advice as “a communication from one person (the advisor) to another (the client) for the purpose of helping that second person determine a course of action for solving a particular problem” and consider the nature of this advice and the range of relationships that may exist between advisors and their clients. Advising is much more than the mere transmittal of information from advisor to negotiator and that for advice to be effective a relationship must exist between the two parties. I then identify three models of the advisor–negotiator relationship. The first is the advisor as director, wherein the advisor tends to take control of the negotiating process, directing the negotiator toward actions that she or he should take to achieve success at the negotiation. The second is the advisor as servant, in which the advisor merely responds to the demands of the client for help and guidance in the negotiation. And the third is the advisor as partner, wherein advisor and negotiator jointly manage the process and solve the problem together. Finally, I explore the factors that lead advisors and negotiators to adopt each of these three models, the various advising styles that advisors use, and the differing effects on the negotiation process that these elements may have, drawing on historical examples as well as survey data from the EU Council of Ministers. [DRM Winter 2017]

An Empirical Analysis of the Use of Enforceable Undertakings by the Australian Securities and Investments Commission between 1 July 1998 and 31 December 2015
Helen Louise Bird, George Gilligan, Andrew Godwin, Jasper Hedges & Ian Ramsey

This paper analyses enforceable undertakings or formally negotiated settlement agreements between the Australian Securities and Investments Commission (ASIC) and regulated firms and individuals. It reports the findings of an empirical study of 414 enforceable undertakings accepted by ASIC from 1 July 1998 (when ASIC was given the power to accept enforceable undertakings) to 31 December 2015. The first of its kind in size and scope, the study provides detailed insights into ASIC’s deployment of enforceable undertakings to address misconduct issues occurring within its regulatory remit. The study profiles the characteristics of parties giving enforceable undertakings, their misconduct and the undertakings given to address that misconduct. Proprietary companies and directors are shown to be the most common groups of companies and individuals giving enforceable undertakings. Activities involving financial services are the most common subject of enforceable undertakings and non-compliance with financial services laws, the most common form of misconduct addressed by enforceable undertakings. The study finds evidence of the regulator’s strategic use of enforceable undertakings to bring about systemic changes in the financial services industry, especially in relation to the quality of advice provided by the financial planning sector. This is achieved by regulating compliance from within financial planning and wealth management firms and accepting voluntary financial service activity bans from individual advisors and planners engaging in misconduct. This strategy explains the concentration of legal compliance review undertakings and cease and desist undertakings in ASIC accepted enforceable undertakings.
Competition, Transparency, and Reciprocity: A Comparative Study of Auctions and Negotiations
Gregory E. Kersten, Tomasz Wachowicz & Margaret Kersten
Group Decision and Negotiation 25(4): 693–722 (March 2016)

The paper discusses experiments aimed at comparing multi-attribute reverse auctions and multi-bilateral negotiations for procuring goods with multiple attributes. Both exchange mechanisms involve a buyer purchasing from one of several sellers. Two types of negotiations are considered: verifiable and non-verifiable. They differ in the sellers’ knowledge of the current best offer on the table; in verifiable negotiations the best offer is automatically shown to every participant, which makes it similar to auctions. Online auctions and negotiation systems were used to study auction and negotiation processes, and the mechanisms’ efficiency. The results show that buyers did best using auctions, followed by non-verifiable and verifiable negotiations. We also looked into the differences between auctions and negotiations in terms of their duration, sellers’ and buyers’ involvement, and efficiency and conclude that the behavior of buyers and sellers cannot be explained solely on the grounds of traditional economics. It can, however, be explained on the grounds of social exchange theory and behavioral economics. In multi-bilateral negotiations competition and social behavior coexist. When transparency is introduced the social effect becomes stronger, weakening the impact of competition.

To Commit or Not to Commit? An Experimental Investigation of Pre-Commitments in Bargaining Situations With Asymmetric Information
Sonke Hoffmann, Benedikt Mihm & Joachim Weimann

In a recent paper Konrad and Thum (2014) present a model that shows that unilateral pre-commitment reduces the likelihood of agreement in bilateral negotiations over the provision of a public good when parties have private information over their contribution costs. We test the model in a laboratory experiment paying particular attention to how behavioral motivations other than payoff-maximization affect the strength of the model’s result. We find that the result is no longer statistically significant when we allow for non-payoff-maximizing behavior at each stage of the game. Introducing communication has an interesting effect as it influences different forms of non-payoff-maximizing behavior asymmetrically and leads to the model’s result again becoming significant. All in all, we find strong experimental support for Konrad and Thum’s model even though we observe considerable amounts of non-payoff-maximizing behavior that is not accounted for in the original model.

Bounded Benefits of Representative Cooperativeness in Intergroup Negotiations
Özüm Sayg, Lindred L. Greer, Gerben A. Van Kleef & Carsten K. W. De Dreu
Group Decision and Negotiation 24(6): 993–1014 (November 2015)

Although cooperation among representatives in intergroup negotiation can improve intergroup relations, when cooperation in such competitive settings is attributed to strategic goals of the outgroup, it may actually harm intergroup relations. Here we investigate the possibility that representative’s characteristics (prototypicality and competence) determine whether an outgroup representative’s cooperation (as opposed to competition) improves or harms intergroup relations. Study 1 showed that a cooperative outgroup representative (compared to a competitive representative) produced more favorable perceptions of the entire outgroup, and triggered constructive behavioral tendencies towards the outgroup when the outgroup representative was
seen as prototypical, yet DECREASED such constructive tendencies when the representative was seen as peripheral. Study 2 showed that the outgroup representative’s cooperation triggered constructive behavioral tendencies only when the representative appeared as low in competence; when high in competence, the positive effect of representative cooperativeness on trust and constructive behavioral tendencies was mitigated. Implications for representative negotiation and intergroup relations are discussed.

The Benefits of Dominance Complementarity in Negotiations
Scott Wiltermuth, Larissa Z. Tiedens & Margaret Neale

We investigated whether dominance complementarity can lead people to reach mutually beneficial outcomes in negotiations by increasing the likelihood that they will successfully coordinate the exchange of information. We suggest that negotiators who differ in how dominantly they behave in the negotiation exchange information effectively because they fulfill different roles in the negotiation process. Study 1 demonstrated that dominant negotiators generally assert their desires, while relatively submissive negotiators generally ask questions to find ways to satisfy their own desires without escalating conflict with the dominant negotiators. Studies 2 and 3 demonstrated that participants were best able to discover integrative agreements when one negotiator was instructed to behave dominantly and the other negotiator, submissively. Improved information exchange mediated the relationship between dominance complementarity and improved joint outcomes in Study 3.

Effects of Attachment Anxiety and Avoidance on Negotiation Propensity and Performance
Julia B. Bear & Dikla Segel-Karpas

Attachment theory has received scant consideration in the negotiation literature. We examined the effects of attachment anxiety and avoidance on negotiation propensity and performance in two studies. In terms of negotiation propensity (Study 1), attachment anxiety had significant, deleterious effects, though contrary to our predictions, attachment avoidance did not have significant effects. However, there was an interaction such that individuals high on attachment avoidance had a greater propensity to negotiate with an insecurely attached counterpart compared to a secure counterpart. In addition, attachment orientation influenced negotiation performance and information sharing (Study 2), but the effects depended upon role in the negotiation, with stronger effects for attachment avoidance as opposed to attachment anxiety. Theoretical and practical implications for research on negotiation and attachment theory are discussed.

Unraveling Business Negotiations Using Practitioner Data
Ray Fells, Helen Rogers & Ursula F. Ott

Although negotiations are a core business activity, there is a lack of information about what actually occurs during a business negotiation. This study addresses this issue though an international survey of managers focusing on actual negotiations. The 294 respondents reported on what actions they took as they sought to achieve an agreement, including how information was exchanged and how they looked for new solutions and managed concession making. The analysis suggests a pragmatic approach to negotiation, whereby information is not withheld, but
neither is it freely given. Solutions emerge from discussion of priorities and commonalities rather than through more formal creative processes. The underlying script of negotiation appears to draw more on competitive than overtly collaborative tactics, suggesting that business negotiators are cautious co-operators. Further research avenues include investigating the pressures and context that impact upon negotiators' decision-making and closer examination of interactions between negotiation tasks en route to an agreement. [DRM Winter 2016]

**Communication in Multilateral Bargaining**
Marina Agranov & Chloe Tergiman
Journal of Public Economics 118: 75-85 (October 2014)

One of the most robust phenomena in the experimental literature on multilateral bargaining is the failure of proposers to extract equilibrium rents. However, all previous experiments have overlooked the fact that outside the lab committee members are allowed to—and do—engage in sometimes intense communication processes prior to voting on a proposal. We conduct an experimental test of the Baron–Ferejohn model in which we allow committee members to engage in unrestricted cheap-talk communication before a proposal is submitted. We find that proposers extract a significantly higher share of resources when communication is allowed. Communication increases proposer power through two channels. First, it mitigates the uncertainty surrounding the amount a coalition member is willing to accept. Second, it allows potential coalition members to compete for a place in the coalition by lowering this stated price.

**Modeling Negotiation Using “Narrative Grammar”: Exploring the Evolution of Meaning in a Simulated Negotiation**
Sara Cobb, David Laws & Carlos Sluzki
Group Decision and Negotiation 23(5): 1047-1065 (July 2014)

Negotiation research, drawing on rational choice theory, provides a wealth of findings about how people negotiate successfully, as well as descriptions of some of the many pitfalls associated to negotiation failures. Building on narrative theory, this paper attempts to expand the theoretical base of negotiation in an effort to address the meaning making processes that structure negotiation. Drawing on Greimas’s (Diacritics 7(1):23–40, 1977) notion of “narrative grammar,” we argue that negotiation is a process that relies on a relatively limited set of narrative syntactical forms that structure the negotiation process. We conduct a simulation of a negotiation game and ask participants to storyboard their experience of the negotiation process. The use and evolution of narratives are identified via the storyboards, as well as participants’ accounts of those storyboards. While the number of participants in the simulation is very small, limiting the nature of the claims that can be made, our analysis suggests regularities in the use of narrative syntax as well as in patterns of escalation and transformation. The study offers a new method for the analysis of negotiation, i.e., narrative syntax, aimed at understanding the dynamics of narrative processes in negotiation.

**Competitive Representative Negotiations Worsen Intergroup Relations**
Özüm Saygı, Lindred L. Greer, Gerben A. van Kleef & Carsten K. W. De Dreu
Group Processes and Intergroup Relations 17(2): 143-160 (March 2014)

Representative negotiation affords a unique opportunity to regulate intergroup competition and conflict. Although past research has identified factors that shape representative negotiations, little is known about how such interpersonal representative negotiations influence
broader intergroup relations. Here we investigate how the representative negotiation process can affect intergroup relations, irrespective of negotiation outcomes. In Experiment 1, competitive (as opposed to cooperative or neutral) communication by the outgroup representative decreased satisfaction with the outcome and increased outgroup derogation. In Experiment 2, the timing of the competitive behavior of the outgroup representative was shown to affect ensuing intergroup relations, such that early rather than late competition led to higher outcome satisfaction because of reduced outcome expectations, but also decreased trust in and perceived closeness of the outgroup. Together, these findings show that competitive behavior, especially early rather than late in the representative negotiation process increases outcome satisfaction, but hurts intergroup relations, regardless of the actual negotiation outcome.

The Long-Term Impact of Negotiation Training and Teaching Implications
Cherine G. Soliman, Arnaud Stimec & Nicolas Antheaume
Conflict Resolution Quarterly 32(2): 129-153 (Winter 2014)

This article presents the subset of research on the enhancement of cooperation in negotiation with a focus on the intraorganizational context. It studies the long-term effect of negotiation training and its implications for the teaching of negotiation. We chose a qualitative approach over two cycles of action research. Cycle 1 was performed in a training course with sixty-four managers over six months. Cycle 2, using the focus group method, was carried out with eleven individuals selected from cycle 1 population over twelve months. This experiment enabled us to propose a dynamic typology of negotiator styles, which led us to suggest a number of recommendations to improve the teaching of negotiation.

Language Style Matching, Engagement, and Impasse in Negotiations
Molly E. Ireland & Marlone D. Henderson
Negotiation and Conflict Management Research 7(1): 1-16 (January 2014)

Humans and animals alike are known to mirror the behavior of both allies and opponents. However, existing models of behavior matching focus primarily on its prosocial functions. The current study explores whether both prosocial and adversarial sides of behavior matching can be found at different stages of an egoistic negotiation. In negotiations conducted over instant messenger, 64 dyads attempted to reach an agreement on four issues within 20 minutes while focusing solely on personal gain. We measured behavior matching with the language style matching (LSM) metric, which quantifies function word (e.g., pronouns, articles) similarity between partners. Although pairs with higher LSM throughout negotiations were more socially engaged, they were also less focused on the task and more likely to reach an impasse during the negotiation. Furthermore, early but not late style matching predicted more positive, socially attuned interactions. Implications for negotiation and mimicry research are discussed.

On the Role of Personality, Cognitive Ability, and Emotional Intelligence in Predicting Negotiation Outcomes: A Meta-Analysis
Sudeep Sharma, William Bottom & Hillary Anger Elfenbein

The authors conducted a comprehensive meta-analysis of negotiation studies to investigate the role of individual differences in predicting negotiation outcomes. They found a substantial role for a wide range of individual difference variables. Cognitive ability, emotional intelligence, and numerous personality traits demonstrated significant relationships with multiple
negotiation outcomes. These findings revealed that negotiators with higher levels of cognitive ability achieve greater individual economic value, joint economic value, and psychological subjective value. Results also showed that emotionally intelligent negotiators are likely to generate enhanced subjective psychological outcomes, such as satisfaction, liking, trust, and intentions to work again with the other party in the future. Except conscientiousness, each of the other “Big Five” personality traits (extraversion, agreeableness, neuroticism, and openness to experience) showed associations with at least one outcome measure. These findings imply that individual differences are valid predictors of negotiator effectiveness. The authors suggest, therefore, that negotiators should seek an understanding of their own and counterparts’ characteristics so that they can select themselves into negotiation settings in which they are likely to succeed. In addition, superiors should not overlook individual differences when assigning negotiation roles to subordinates. [DRM Winter 2014]

The Polarizing Effect of Arousal on Negotiation
Ashley D. Brown & Jared R. Curhan
Psychological Science 24(10): 1928-1935 (October 2013)

In this research, we examined the impact of physiological arousal on negotiation outcomes. Conventional wisdom and the prescriptive literature suggest that arousal should be minimized given its negative effect on negotiations, whereas prior research on misattribution of arousal suggests that arousal might polarize outcomes, either negatively or positively. In two experiments, we manipulated arousal and measured its effect on subjective and objective negotiation outcomes. Our results support the polarization effect. When participants had negative prior attitudes toward negotiation, arousal had a detrimental effect on outcomes, whereas when participants had positive prior attitudes toward negotiation, arousal had a beneficial effect on outcomes. These effects occurred because of the construal of arousal as negative or positive affect, respectively. Our findings have important implications not only for negotiation, but also for research on misattribution of arousal, which previously has focused on the target of evaluation, in contrast to the current research, which focused on the critical role of the perceiver.

Terrorist Success in Hostage-Taking Missions: 1978-2010
Charlinda Santifort & Todd Sandler
Public Choice 156(1-2): 125-137 (July 2013)

This article investigates the determinants of logistical and negotiation successes in hostage-taking incidents using an expanded dataset that runs from 1978 to 2010. Unlike an earlier study, the current study has a rich set of negotiation variables in addition to political, geographical, and organizational variables associated with the perpetrators or targets of the attacks. The 33 years of data permit a split into two subperiods: 1978-1987 and 1988-2010, before and after the rise of religious fundamentalist terrorist groups. Logistical success depends on resource and target vulnerability proxies, while negotiation success hinges on bargaining variables. Among many novel findings, democracy significantly hampers logistical success throughout the entire period. Kidnappings, tropical climates, and high elevations foster logistical success. Religious fundamentalist terrorists' logistical advantage during 1978-1987 was lost during 1988-2010. Abducting protected persons, making demands on the host country, and staging incidents in a democracy limit negotiation success for the terrorists. If terrorists moderate or replace one or more demands, the likelihood of negotiation success for the terrorists goes up.
**Why Hawks Fly Higher Than Doves: Intragroup Conflict in Representative Negotiation**

Hillie Aaldering & Carsten K. W. De Dreu

*Group Processes & Intergroup Relations* 15: 713-724 (November 2012)

Intergroup conflicts are often regulated by negotiating group representatives, who are influenced by constituent pressures. We examined how within-constituent disagreement influences representative negotiations. In a 2 × 2 experiment, the majority of constituents was either hawkish or dovish vis-à-vis the out-group, and the minority had either low or high status. After being exposed to constituent voice, representatives negotiated in a multi-issue task with integrative potential. Results showed that representatives reached more integrative agreements when the constituent majority was dovish rather than hawkish, but only when the hawkish minority had low rather than high status; when the hawkish minority had high status, representatives reached suboptimal agreements equal to those reached when the constituent majority was hawkish. Additional results showed that under these circumstances, representatives perceived the cooperativeness of their constituency as highest and also had the most trust that the constituency would approve of the agreement. Implications are discussed for theory on intergroup relations, (representative) negotiation, and conflict resolution.

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**When and Why Individuals Obey Contracts: Experimental Evidence of Consent, Compliance, Promise, and Performance**

Zev Eigen


Negotiations often continue beyond the time when parties reach an agreement, when disputes arise about the enforceability of contract provisions. Sometimes, in spite of parties’ negotiations, only one side unilaterally drafts the contract purporting to govern the parties’ ongoing relationship. This article reports the results of an online experiment that suggests that individuals are more likely to comply with contracts they participated in negotiating (even marginally) than with ones they did not, and that preconsent notice of a contract term increases the likelihood of compliance with that term. The article also reports that a moral framing of a post-agreement attempt to compel performance of an undesirable task/contract provision was more effective than other frames. A positivistic legal threat was significantly less effective than other framings, and marginally less so than a generic request to continue performing the task in the absence of any contract. [DRM Summer 2013]

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**NEGOTIATION: OPENING OFFERS, ANCHORING AND FRAMING**

**An Alternating-Offers Model of Multilateral Negotiations**

Charles J. Thomas

*Journal of Economic Behavior & Organization* 149: 269-293 (May 2018)

I develop a model of the multilateral negotiations that are frequently observed when one party wishes to trade with one of several others offering potentially different amounts of surplus to be split. The model’s intuitively sensible equilibrium outcomes differ qualitatively from those in other models of these negotiations. I demonstrate one application of the model that provides empirical predictions about how the choice of transacting via negotiations or auctions is affected by factors including the number of trading partners, uncertainty when making the choice, and costly participation in the trading process. More generally the model provides a tractable
foundation for analyzing strategic problems in settings featuring multilateral negotiations, including investment, product design, mergers, and hold-up.

I Expected More from You: The Influence of Close Relationships and Perspective Taking on Negotiation Offers
Jaime Ramirez-Fernandez, Jimena Y. Ramirez-Marin & Lourdes Munduate
Group Decision and Negotiation 27(1): 85-105 (February 2018)

Three experimental studies show that interpersonal relationships influence the expectations of negotiators at the negotiation table. That is, negotiators expect more generous negotiation offers from close others (Study 1), and when expectations are not met, negative emotions arise, resulting in negative economic and relational outcomes (Study 2). Finally, a boundary condition for the effect of interpersonal relationships on negotiation expectations is shown: perspective taking leads the parties to expect less from friends than from acquaintances (Study 3). The findings suggest that perspective taking helps negotiators reach agreement in relationships. The article concludes with implications for practice and future research directions.

Anchoring in financial decision-making: Evidence from Jeopardy!
Michael Jetter & Jay K. Walker

This paper analyzes 12,596 DAILY DOUBLE wagering decisions of 6064 contestants in the US game show JEOPARDY!. We exploit a situation in which a player has to, unexpectedly, wager on responding correctly to an unknown clue (known as a DAILY DOUBLE clue). We find evidence consistent with the hypothesis of contestants anchoring heavily on the initial dollar value of a clue in wagering. This positive relationship remains statistically significant at the one percent level after controlling for other characteristics that may independently affect wagering decisions, such as scores, clue categories, time trends, individual JEOPARDY! experience, and player-fixed effects. Exploiting within-player variation only, raising the anchoring amount by $100 translates to an increase of $29 in the wager. An alternative explanation of underlying strategic considerations appears unlikely and results are consistent throughout a number of robustness checks. Overall, these findings suggest that anchoring can play a substantial role in financial decision-making under pressure.

Round Off the Bargaining: The Effects of Offer Roundness on Willingness to Accept
Dengfeng Yan & Jorge Pena-Marin

This research shows that making a precise (vs. round) offer in a negotiation may lead to diverging outcomes. On the one hand, past literature has demonstrated a precision advantage wherein offer precision reduces the amount by which offer recipients counter. On the other hand, building on the notion that round numbers symbolize completion and previous findings that individuals tend to set goals at round numbers, we hypothesize a roundness advantage wherein offer roundness increases the bargainer’s willingness to accept an offer. Five studies provide convergent evidence for our proposition and reconcile the present results with previous findings. We found that participants receiving a round offer are more (less) likely to accept (counter) than those who receive comparable precise offers. However, if they counter, participants in the precise condition counter by a smaller amount than those in the round condition. Furthermore, in agreement with our explanation, we find that the roundness advantage is more likely to manifest
when participants subscribe to the association between round numbers and the feeling of completion.

**Motivated Use of Numerical Anchors for Judgments Relevant to the Self**
Samantha Joel, Stephanie S. Spielmann & Geoff MacDonald

The anchoring effect has been replicated so extensively that it is generally thought to be ubiquitous. However, anchoring has primarily been tested in domains in which people are motivated to reach accurate conclusions rather than biased conclusions. Is the anchoring effect robust even when the anchors are threatening? In three studies, participants made a series of probability judgments about their own futures paired with either optimistic anchors (e.g., “Do you think that the chances that your current relationship will last a lifetime are more or less than 95%?”), pessimistic anchors (e.g., “more or less than 10%?”), or no anchors. A fourth study experimentally manipulated motivation to ignore the anchor with financial incentives. Across studies, anchors that implied high probabilities of unwanted events occurring were ineffective. Together, these studies suggest that anchoring has an important boundary condition: Personally threatening anchors are ignored as a result of motivated reasoning processes.

**How and Why Precise Anchors Distinctly Affect Anchor Recipients and Senders**
David D. Loschelder, Malte Frieseb & Roman Trötschelc

A negotiation commonly starts with one party sending and the other party receiving a first offer. This first offer anchors recipients and yields higher profits to the sender. Recent research has shown that precise anchors (e.g., $28.75), those featuring fewer trailing zeros, are more potent than round anchors (such as $30.00). The present studies extend this literature in two ways: First, prior research has exclusively focused on anchor recipients while ignoring the sender. Here, the authors examine precision effects for (1) recipients, (2) senders, and (3) both recipients and senders in a two-party negotiation. Also, while prior research disagreed about the theoretical mechanism behind the precision effect (with some positing that scale-granularity leads decision-makers to adjust in smaller steps on a finer-grained mental scale, and others suggesting that attribution of competence makes people ascribe more competence to someone who opens with a precise offer), these studies add to the literature by simultaneously examining these competing explanations. Multiple mediation analyses across three experiments consistently suggest that the beneficial impact of precise anchors on recipients is due to a social attribution-of-competence, whereas the detrimental impact on anchor-senders is due to a cognitive scale-granularity process. In all, the present findings show (a) that senders and recipients are distinctly affected by anchor precision, and (b) that these opposing effects are due to distinct psychological processes. [DRM Summer 2017]

**Making the Most of First-Offer Advantage: Pre-Offer Conversation and Negotiation Outcomes**
Najung Kim & Hun-Joon Park

Why do some negotiators benefit from making the first offer during negotiations while others do not? This study explores the contents of conversations that take place before negotiators make their first offers in order to learn more about the differences between ultimately
successful first offers that benefit from anchoring effects and ultimately unsuccessful ones in which negotiators apparently derive no benefit from making the first offer. In-depth qualitative analyses of the conversations that role players engaged in prior to their first offers were conducted in simulated negotiation exercises. Their analysis identified five different conversational tactics that negotiators employed in one-on-one negotiations to gain power in the negotiation, or what they call here “power conversation tactics.” Their findings suggest that the negotiation outcome (i.e., net value) was related to how the negotiators employed and combined these tactics during the pre-offer conversation. Based on these findings, they conceptualized four types of power-gaining/power-losing pre-offer conversation scenarios and explored the link between negotiation outcomes and each of these types of pre-offer conversations. This study further develops the literature on power dynamics and conversations in negotiations as well as the literature on the anchoring effect of a first offer. [DRM Summer 2017]

The Too-Much-Precision Effect: When and Why Precise Anchors Backfire With Experts
David D. Loschelder, Malte Friese, Michael Schaerer & Adam D. Galinsky
Past research has suggested a fundamental principle of price precision: The more precise an opening price, the more it anchors counteroffers. The present research challenges this principle by demonstrating a too-much-precision effect. Five experiments (involving 1,320 experts and amateurs in real-estate, jewelry, car, and human-resources negotiations) showed that increasing the precision of an opening offer had positive linear effects for amateurs but inverted-U-shaped effects for experts. Anchor precision backfired because experts saw too much precision as reflecting a lack of competence. This negative effect held unless first movers gave rationales that boosted experts’ perception of their competence. Statistical mediation and experimental moderation established the critical role of competence attributions. This research disentangles competing theoretical accounts (attribution of competence vs. scale granularity) and qualifies two putative truisms: that anchors affect experts and amateurs equally, and that more precise prices are linearly more potent anchors. The results refine current theoretical understanding of anchoring and have significant implications for everyday life. [DRM Summer 2017]

The Information-Anchoring Model of First Offers: When Moving First Helps Versus Hurts Negotiators
David Loschelder, Roman Trotschel, Roderick Swaab, Malte Friese & Adam Galinsky
Journal of Applied Psychology 101(7): 995-1012 (July 2016)
Does making the first offer increase or impair a negotiator’s outcomes? Past research has found evidence supporting both claims. To reconcile these contradictory findings, we developed and tested an integrative model—the Information-Anchoring Model of First Offers. The model predicts when and why making the first offer helps versus hurts. We suggest that first offers have 2 effects. First, they serve as anchors that pull final settlements toward the initial first-offer value; this anchor function often produces a first-mover advantage. Second, first offers can convey information on the senders’ priorities, which makes the sender vulnerable to exploitation and increases the risk of a first-mover disadvantage. To test this model, 3 experiments manipulated the information that senders communicated in their first offer. When senders did not reveal their priorities, the first-mover advantage was replicated. However, when first offers revealed senders’ priorities explicitly, implicitly, or both, a first-mover disadvantage emerged.
Negotiators’ social value orientation moderated this effect: A first-mover disadvantage occurred when senders faced proself recipients who exploited priority information, but not with prosocial recipients. Moderated mediation analyses supported the model assumptions: Proself recipients used their integrative insight to feign priorities in their low-priority issues and thereby claimed more individual value than senders. The final discussion reviews theoretical and applied implications of the Information-Anchoring Model of First Offers.

**Anchors Weigh More Than Power: Why Absolute Powerlessness Liberates Negotiators to Achieve Better Outcomes**

Michael Schaerer, Roderick I. Swaab & Adam D. Galinsky
Psychological Science 26(2): 170-181 (February 2015)

Negotiation scholars and practitioners generally assume that negotiating with any alternative is better than having no alternative at all. After all, alternatives are a critical source of power and allow negotiators to walk away from the table. However, the authors argue that alternatives not only provide power but also serve as salient anchors that can weigh down negotiators’ first offers and lead to worse deals, especially when the alternatives are unattractive. Five experiments show that although negotiators without alternatives felt less powerful, they actually made higher first offers and achieved better deals than those with a relatively unattractive alternative. Thus, having no alternative to fall back on and being completely powerless can be a liberating experience. However, when negotiators with weak alternatives were instructed to focus on their target price (i.e. their goal), they were as effective as those without an alternative. [DRM Summer 2015]

**Beyond Offers and Counteroffers: The Impact of Interaction Time and Negotiator Job Satisfaction on Subjective Outcomes in Negotiation**

Shu-Cheng Steve Chi, Raymond A. Friedman & Huei-Lin Shih

In this study, we examined real-world sales negotiations by collecting data in collaboration with a large Taiwanese eyeglasses company. We found, as has been established previously, that higher first offers predict higher company profits and that the impact of high opening offers can be muted by greater customer awareness of prices at other stores. When we investigated a more qualitative outcome, customers’ perceptions of service quality, a different set of predictors emerged. Our results indicate that salespeople who spent more time introducing the products and services were perceived by the customers as providing higher service quality, but this effect only occurred for those salespeople who reported high levels of job satisfaction. Also, price reduction by salespeople did not improve customer satisfaction. Our results indicate that customer satisfaction does not require negotiated price concessions, but rather depends on extensive interaction with salespeople who are happy in their work. This is the first study to show that negotiator job satisfaction can affect important negotiation outcomes.

**The Offer Framing Effect: Choosing Single Versus Bundled Offerings Affects Variety Seeking**

Mauricio Mittelman, Eduardo B. Andrade, Amitava Chattopadhyay & C. Miguel Brendl

Choices of multiple items can be framed as a selection of single offerings (e.g., a choice of two individual candy bars) or of bundled offerings (e.g., a choice of a bundle of two candy
bars). Four experiments provide strong evidence that consumers seek more variety when choosing from single than from bundled offerings. The offer framing effect shows that the mechanics of choosing—the ways consumers go about making choices of multiple items—affect variety seeking in a systematic manner. The data also suggest that the effect is largely due to the single offering frame. Theoretical and managerial implications are discussed.

**Lawyer and Nonlawyer Susceptibility to Framing Effects in Out-Of-Court Civil Litigation Settlement**
Ian K. Belton, Mary Thomson & Mandeep K. Dhami
Journal of Empirical Legal Studies 11(3): 578-600 (September 2014)

Settling a legal dispute out of court is typically a good result for both parties. However, many disputes do not settle: the presence of cognitive biases, such as those observed through framing manipulations, is thought to be one of the many reasons for settlement failure. The present study used quantitative and qualitative data to compare the impact of a gain- or loss-framed hypothetical civil litigation scenario on settlement decisions made by lawyers and other nonlawyer professionals. A significant effect of framing was found for both groups. As predicted, both nonlawyers and lawyers were much more likely to settle their claim in the gain scenario than in the loss scenario. This finding was supported by the qualitative data: risk-averse comments were more frequent in the gain frame whereas risk-seeking statements were more common in the loss frame. There was also evidence that lawyers may be less affected by framing than nonlawyers, although a smaller difference was observed than in previous studies. In addition, lawyers were more likely than nonlawyers to consider the expected financial value of the litigation in making their decision. We discuss the implications of these results and suggest avenues for future research.

**Too Good to Be True: Suspicion-Based Rejections of High Offers**
Wolfgang Steinel, Ilja van Beest & Eric van Dijk
Group Processes & Intergroup Relations 17(5): 682-698 (September 2014)

Should negotiators increase the value they offer to their counterparts, if they are eager to get to "yes"? It is a common belief that high offers are more readily accepted than low offers. In contrast to this general notion, the authors show that there is a limit to the beneficial effects of making high offers and that becoming too generous may backfire. This paradoxical finding is observed when offers are made in an ambiguous situation. In three studies, participants became suspicious about high offers (i.e., offers that were beneficial to themselves), but not about low or equal offers (i.e., offers that distributed the value equally benefitted the proposer) by a proposer who had an information advantage. Due to suspicion, participants rejected high offers more often than equal offers. The finding that low and equal offers are met with less suspicion than high offers suggests that people trust the validity of information provided by negotiators who make seemingly self-serving or equal offers. An interesting implication is that negotiators may in fact be held hostage by the perception that they are primarily motivated by self-interest. Making more valuable offers does not necessarily increase the chance of getting to yes. [DRM Winter 2015]

**The Remarkable Robustness of the First-Offer Effect: Across Culture, Power, and Issues**
Brian C. Gunia, Roderick I. Swaab, Niro Sivanathan & and Adam D. Galinsky
In any negotiation or dispute, someone has to make the first offer. Studies of the first-offer effect demonstrate that the person who goes first achieves better final outcomes than the person who does not. Final prices are higher, for example, when sellers, not buyers, move first. The evidence for the first-offer effect, however, derives primarily from studies of Westerners who are negotiating over a single issue and do not have systematic power differences – contexts that may amplify the effect. Thus the authors explored the effect across cultures, among negotiators varying in power, and in negotiations involving multiple as well as single issues. Their first two studies showed that the first-offer effect remains remarkably robust across cultures and multi-issue negotiations. Their final two studies, however, demonstrated that low-power negotiators benefit from making the first offer across single- and multi-issue negotiations. By studying multi-issue negotiations with various types of negotiable issues, Studies 2 and 4 also revealed that first offers exert their influence through the distributive (win-lose) issues, not the issues on which the parties have some common ground. Overall, these results demonstrate that negotiators and disputants can benefit from moving first in many situations, especially those that feature distributive issues. Mediators and arbitrators, in turn, may wish to anticipate and guard against the potentially biasing effect of the first offer. [DRM Summer 2014]

Precise Offers are Potent Anchors: Conciliatory Counteroffers and Attributions of Knowledge in Negotiations
Malia Mason, Alice Lee, Elizabeth Wiley & Daniel Ames
Journal of Experimental Social Psychology 49(4): 759-763 (July 2013)

People habitually use round prices as first offers in negotiations. We test whether the specificity with which a first offer is expressed has appreciable effects on first-offer recipients' perceptions and strategic choices. Studies 1a-d establish that first-offer recipients make greater counteroffer adjustments to round versus precise offers. Study 2 demonstrates this phenomenon in an interactive, strategic exchange. Study 3 shows that negotiators who make precise first offers are assumed to be more informed than negotiators who make round first offers and that this perception partially mediates the effect of first-offer precision on recipient adjustments. First-offer recipients appear to make assumptions about their counterpart's language choices and infer meanings that are not explicitly conveyed. Precise numerical expressions imply a greater level of knowledge than round expressions and are therefore assumed by recipients to be more informative of the true value of the good being negotiated.

A Homeowner's Dilemma: Anchoring in Residential Real Estate Transactions
Grace Bucchianeri & Julia Minson

We examine whether, and how, listing strategies impact sale prices in residential home sales. Literatures in housing economics, negotiations, and auctions offer diverse predictions around this question. On the one hand, housing studies typically treat home prices as an objective function of property and neighborhood characteristics. Yet, the large and robust literature on anchoring effects (Tversky & Kahneman, 1974) suggests a positive relationship between listing prices and sale prices. Finally, evidence from the auctions literature suggests the opposite pattern through herding behaviors. We analyzed more than 14,000 transactions, taking into account observable property heterogeneity, geographical location and timing of the sales. We find that higher starting prices are indeed associated with higher selling prices, consistent with anchoring. For the average home in our sample, over-pricing between 10 to 20 percent leads to an increase
in the sale price of $117 to $163. This effect is particularly strong in areas with higher rates of mortgage foreclosure or serious delinquency. Additional analyses show that our results are unlikely to be driven by seller motivations or unobserved home qualities. We contrast our findings with recommendations and private beliefs of real estate agents, who provide services and advice for about 90 percent of home sales in the US.

NEGOTIATION: GENDER, RACE & CULTURE

Men and the Middle: Gender Differences in Dyadic Compromise Effects
Hristina Nikolova & Cait Lamberton

Individual decision-makers show robust tendencies toward choosing the middle option in a choice set (a bias known as the compromise effect). Here, the authors examine the choice of compromise options in joint dyadic decisions. Findings reveal that the compromise effect emerges any time there is a female in a decision-making pair; when women are in a pair, either with another woman or with a man, people choose jointly basically as they would alone – middle alternatives take the lion’s share of choice. Surprisingly, when men make decisions together, there’s no compromise effect; men deciding together tend to stick to extreme, all-or-nothing options, far more than do men deciding with other women or men deciding alone. Why does this happen? Research has suggested that masculinity is considered to be precarious, necessitating constant proof and validation in social interactions. Thus, when men make decisions together, they feel driven to take actions that are maximally different from feminine norms, which prioritize moderation, and maximally similar to masculine norms, which prioritize extremity. So when men make decisions together, they signal their masculinity by choosing things that are extreme, which attenuates the compromise effect in male decision-making pairs. It is not impossible, however, for men making joint decisions to shift toward compromise alternatives. If male pairs are given the opportunity to signal their masculinity a priori (for example, by publicly selecting a highly-male-stereotyped magazine), their tendency to avoid compromise in an immediately subsequent decision dissolves. Then, they are likely to choose the middle option in the same way as do others – and in the same way they would if deciding alone. [DRM Summer 2017]

What “Blindness” to Gender Differences Helps Women See and Do: Implications For Confidence, Agency, and Action in Male-Dominated Environments
Ashley E. Martin & Katherine W. Phillips
Organizational Behavior and Human Decision Processes 142: 28-44 (September 2017)

The ways in which we discuss gender (embracing vs. downplaying difference) has implications for women’s workplace confidence and behavior, especially in male-dominated environments and positions of power. In five total studies (N = 1453), across a variety of samples, the authors found that gender-blindness—the belief that gender differences should be downplayed—is a more adaptive strategy for increasing female workplace confidence than gender-awareness—the belief that gender differences should be celebrated. In addition to increasing confidence, gender-blindness was related to actions necessary for reducing gender disparities (e.g., risk-taking, negotiation). The authors found that perceived gender differences in agency (i.e., assertiveness, independence) accounts for gender differences in workplace confidence, especially in male-dominated environments (e.g., business school) and positions of
power (managerial positions). Finally, the authors found that gender-blindness either lessened or had no effect on men’s confidence, demonstrating the unique positive effect of gender-blindness on women’s confidence. Together, this research highlights the potential for downplaying differences, instead of emphasizing them, to combat the confidence gap. [DRM Winter 2018]

Trumping Norms: Lab Evidence on Aggressive Communication Before and After the 2016 US Presidential Election
Jennie Huang & Corinne Low

This paper uses a simple lab experiment designed to test for gender differences in negotiation to show that the 2016 election of Donald Trump had a profound impact on individual behavior in the lab. Huang and Low (2017) use a “Battle of the Sexes" (“BoS") game with unstructured communication to show that men are less likely to use tough, but effective, negotiation tactics when paired with female partners, and more likely to offer the higher payoff to female partners. We repeat this experiment after the election, and found two important differences: 1) Individuals are less cooperative in general, more likely to use adversarial strategies, and less likely to reach an agreement, and 2) This is particularly driven by men acting more aggressively toward women.

Spillover Bias in Diversity Judgment
David P. Daniels, Margaret A. Neale & Lindred L. Greer
Organizational Behavior and Human Decision Processes 139: 92-105 (March 2017)

Diversity research has long assumed that individuals’ perceptions of diversity are accurate, consistent with normative theories of judgments in economics and decision theory. We challenge this assumption. In six experiments, we show that when there is more diversity along one dimension (e.g., race, clothing color), people also perceive more diversity on other dimensions (e.g., gender, skill) even when this cannot reflect reality. This spillover bias in diversity judgment leads to predictable errors in decision making with economic incentives for accuracy, and it alters support for affirmative action policies in organizations. Spillover bias in diversity judgment may help explain why managerial decisions about groups often appear to be suboptimal and why diversity scholars have found inconsistent associations between objective diversity and team outcomes.

What's a Masculine Negotiator? What's a Feminine Negotiator? It Depends on the Cultural and Situational Contexts
Wen Shan, Joshua Keller & Lynn Imai
Negotiation and Conflict Management Research 9(1): 22–43 (February 2016)

In two studies, the authors examine how people in the United States and China categorize specific negotiation goals and behaviors as masculine or feminine in different negotiation contexts. The authors found that while American participants categorized competitive goals and behaviors as masculine and cooperative ones as feminine across business-to-consumer (B2C) and business-to-business (B2B) negotiation contexts, Chinese participants’ patterns depended on the negotiation context. In B2C contexts, Chinese participants categorized competitive goals and behaviors as feminine and cooperative ones as masculine; in B2B contexts, they made further distinctions, categorizing competitive goals and behaviors that are socially inappropriate as feminine, but competitive ones that are socially appropriate, as well as cooperative goals and
behaviors, as masculine. The authors caution that for both male and female negotiators and for those negotiating with them, an oversimplified view of being masculine and feminine without considering culture and context may lead to inappropriate stereotyping. [DRM Summer 2016]

**Formal Training Does Not Always Eliminate Gender-Based Negotiation Differences**
Charles B. Craver
Cardozo J. Conflict Resolution 18: 1-21 (Fall 2016)

When men and women conduct bargaining interactions without any formal training, males tend to obtain more advantageous results than their female cohorts. They tend to establish more elevated goals, and do a better job of placing themselves in the shoes of their counterparts. They feel more comfortable than women dealing with the overtly competitive nature of legal negotiations. When individuals take formal Legal Negotiation courses that explore the relevant factors and the traits possessed by proficient bargainers, gender-based differences are usually diminished and the results achieved by men and women tend to become statistically insignificant. On the other hand, on rare occasions, if male class members continue to be highly competitive throughout the semester, and their female counterparts do not learn how to effectively counter such behavior, male results may still be more beneficial than the results achieved by their female cohorts. To avoid such unequal negotiation deals, we must carefully focus on the relevant male and female traits, and teach both male and female students what they should do to generate beneficial results for the parties they represent.

**Numbers Are Gendered: The Role of Numerical Precision**
Dengfeng Yan

Marketing communications often contain numerical information that can be expressed more or less precisely. Earlier research has identified a number of ways in which consumers respond differently to precise versus round numbers. The current research attempts to enrich this literature by introducing a new theoretical perspective. Drawing on recent findings in the numerical cognition literature, this work proposes that individuals project gendered meanings to precise versus round numbers, with precise numbers seen as more masculine relative to round ones. Seven studies provided convergent evidence for this proposition and demonstrated its marketing implications. Studies 1, 2, and 3, employing various approaches, show that participants do subscribe to this precision-masculinity intuition, at both implicit and explicit levels. Study 4 suppresses this effect by priming participants with examples where precision is connected to femininity. Building on these findings, subsequent studies demonstrate that marketing communications using precise (round) numbers lead to more favorable evaluations when the products or attributes are positioned as masculine (feminine).

**How Many Cents on the Dollar? Women and Men in Product Markets**
Tamar Kricheli-Katz & Tali Regev
Science Advances 2(2): e1500599 (February 2016)

Gender inequality in contemporary U.S. society is a well-documented, widespread phenomenon. However, little is known about gender disparities in product markets. This study is the first to use actual market data to study the behavior of women and men as sellers and buyers and differences in market outcomes. We analyze a unique and large data set containing all eBay auction transactions of most popular products by private sellers between the years 2009 and
2012. Women sellers received a smaller number of bids and lower final prices than did equally qualified men sellers of the exact same product. On average, women sellers received about 80 cents for every dollar a man received when selling the identical new product and 97 cents when selling the same used product. These findings held even after controlling for the sentiments that appear in the text of the sellers’ listings. Nonetheless, it is worth noting that this gap varied by the type of the product being sold. As a policy, eBay does not reveal the gender of users. We attribute the price differences to the ability of buyers to discern the gender of the seller. We present results from an experiment that shows that people accurately identify the gender of sellers on the basis of typical information provided in postings. We supplement the analysis with an additional off-eBay experiment showing that, in a controlled setting, people are willing to pay less for money-value gift cards when they are sold by women rather than men.

**A Meta-Analysis on Gender Differences in Negotiation Outcomes and Their Moderators**

Jens Mazei, Joachim Huffmeier, Philipp Alexander Freund, Alice Stuhlmacher, Lena Bilke & Guido Hertel


This meta-analysis investigates gender differences in economic negotiation outcomes. As suggested by role congruity theory, we assume that the behaviors that increase economic negotiation outcomes are more congruent with the male as compared with the female gender role, thereby presenting challenges for women’s negotiation performance and reducing their outcomes. Importantly, this main effect is predicted to be moderated by person-based, situation-based, and task-based influences that make effective negotiation behavior more congruent with the female gender role, which should in turn reduce or even reverse gender differences in negotiation outcomes. Using a multilevel modeling approach, this meta-analysis includes 123 effect sizes (overall N = 10,888, including undergraduate and graduate students as well as businesspeople). Studies were included when they enabled the calculation of an effect size reflecting gender differences in achieved economic negotiation outcomes. As predicted, men achieved better economic outcomes than women on average, but gender differences strongly depended on the context: Moderator analysis revealed that gender differences favoring men were reduced when negotiators had negotiation experience, when they received information about the bargaining range, and when they negotiated on behalf of another individual. Moreover, gender differences were reversed under conditions of the lowest predicted role incongruity for women. In conclusion, gender differences in negotiations are contextually bound and can be subject to change. Future research is needed that investigates the underlying mechanisms of new moderators revealed in the current research (e.g., experience). Implications for theoretical explanations of gender differences in negotiation outcomes, for gender inequalities in the workplace, and for future research are discussed.

**From “Good day” to “Sign here”: Norms Shaping Negotiations Within a Face Culture**

Mendiola Teng-Calleja, Marshaley J. Baquiano & Cristina J. Montiel


Using discourse analysis, we examine how culture shapes the dynamics and outcome of wage negotiations. With an intracultural lens, we look at how two opposing groups that share one overarching culture maximize group gains and achieve a bargaining agreement. We analysed audio recordings of collective bargaining meetings between labor and management negotiators of a multinational beverage company in the Philippines. Consistent with the claims of previous
studies, negotiation between labor and management within this culture reflected low trust. Joint gains were however achieved through FACE dynamics that thwarted the impact of low trust bargaining. Specifically, our discursive analysis shows how utterances contain justifications, demands, rejections and threats. However, such apparently contentious talks are embedded in local language that conveys respect for authority, mixed with efforts to maintain harmony. These reflections of FACE culture in the bargaining process help shift the negotiations from a contentious to a collaborative and successful problem-solving process. [DRM Winter 2016]

Confucian Ideal Personality and Chinese Business Negotiation Styles: An Indigenous Perspective
Zhenzhong Ma, Weiwei Dong, Jie Wu, Dapeng Liang & Xiaopeng Yin

China has become one of the most important economies in the global market, but negotiating with the Chinese remains a great challenge for most Westerners. This study is to help better understand Chinese business negotiation styles with an indigenous perspective by exploring the impact of Confucian ideal personality on business negotiation process in China. This study tests the effects of three key components of Confucian ideal personality—beneficence (Ren), wisdom (Zhi), and courage (Yong) on Chinese negotiation behaviors and further on negotiation outcomes with 200 business students in a simulated negotiation exercise. The results support the significant effects of benevolence and courage on Chinese business negotiation styles but wisdom is not found to have any significant impact in China. The overall pattern of the results substantiates the strong influence of Confucianism on Chinese negotiation styles, and provides an important supplement to negotiation theories developed in the West.

When an Intercultural Business Negotiation Fails: Comparing the Emotions and Behavioural Tendencies of Individualistic and Collectivistic Negotiators
GROUP DECISION AND NEGOTIATION 24(3): 537-561 (May 2015)
Harri T. Luomala, Rajesh Kumar, J. D. Singh & Matti Iaakkola

This study explores the linkages between culture, emotion, and behavioural tendencies in unsuccessful intercultural business negotiations. A set of novel research hypotheses are developed and are then tested using a negotiation scenario involving 106 Finnish and 114 Indian study participants. Three key findings emerge from the statistical tests conducted. First, the article presents new empirical evidence suggesting that qualitatively different emotions (dejection vs. agitation) are experienced after a failed intercultural business negotiation by individualists and collectivists. Dejection related emotions (e.g., sadness, disappointment) represent the absence of a positive outcome, whereas agitation related emotions (e.g., tension, fear, anxiety) represent the presence of a negative outcome (Higgins, 1987). Individualists are more likely to experience dejection related emotions whereas the collectivists are likely to experience agitation related emotions. This prediction was confirmed for the individualistic Finns but did not receive corresponding support among the collectivistic Indians. Second, the article reveals the existence of the relationship between perspective-taking ability and emotional volatility in the context of failed intercultural business negotiation involving individualists and collectivists. Collectivists were expected to show greater perspective ability relative to their individualistic counterparts and this prediction was confirmed. Third, the study finds partial support for the idea that different types of negative emotions can lead to the same behavioural tendency (approach) among individualists and collectivists when intercultural business
negotiation fails. Agitation related emotions lead the Indians to approach their counterparts whereas dejection related emotions lead the Finns to approach their counterparts. The paper concludes by outlining a set of theoretical and managerial implications and suggestions for further research. Individualistic and collectivistic negotiators must be conscious of how emotions might impact their behavior and be mindful of any steps they take. It would also be helpful to behave in ways that do not trigger negative emotions among their counterparts. [DRM Summer 2015]

**A Meta-Analysis of Gender Stereotypes and Bias in Experimental Simulations of Employment Decision Making**
Amanda J. Koch, Susan D. D’Mello & Paul R. Sackett

Gender bias continues to be a concern in many work settings, leading researchers to identify factors that influence workplace decisions. In this study we examine several of these factors, using an organizing framework of sex distribution within jobs (including male- and female-dominated jobs as well as sex-balanced, or integrated, jobs). We conducted random effects meta-analyses including 136 independent effect sizes from experimental studies (N = 22,348) and examined the effects of decision-maker gender, amount and content of information available to the decision maker, type of evaluation, and motivation to make careful decisions on gender bias in organizational decisions. We also examined study characteristics such as type of participant, publication year, and study design. Our findings revealed that men were preferred for male-dominated jobs (i.e., gender-role congruity bias), whereas no strong preference for either gender was found for female-dominated or integrated jobs. Second, male raters exhibited greater gender-role congruity bias than did female raters for male-dominated jobs. Third, gender-role congruity bias did not consistently decrease when decision makers were provided with additional information about those they were rating, but gender-role congruity bias was reduced when information clearly indicated high competence of those being evaluated. Fourth, gender-role congruity bias did not differ between decisions that required comparisons among ratees and decisions made about individual ratees. Fifth, decision makers who were motivated to make careful decisions tended to exhibit less gender-role congruity bias for male-dominated jobs. Finally, for male-dominated jobs, experienced professionals showed smaller gender-role congruity bias than did undergraduates or working adults. (PsycINFO Database Record (c) 2015 APA, all rights reserved)

**Gender and the Emotional Experience of Relationship Conflict: The Differential Effectiveness of Avoidant Conflict Management**
Julia B. Bear, Laurie R. Weingart & Gergana Todorova

Conflict research has shown that managing relationship conflict via avoidance is beneficial for team performance, but it is unclear whether avoidant conflict management benefits individuals on an affective level. Drawing on theories of gender roles, we proposed that gender is an important factor that influences whether avoidant conflict management mitigates the negative affective effects of relationship conflict. In a field study of a healthcare organization, we found that relationship conflict resulted in negative emotions, which, in turn, were positively associated with emotional exhaustion two months later. Avoidant conflict management attenuated the relationship between negative emotions engendered by relationship conflict and emotional
exhaustion, but this effect depended on gender. Among men, the extent to which they used an
avoidant conflict management style mitigated the association between negative emotions and
emotional exhaustion, whereas among women, avoidant conflict management did not attenuate
this relationship. Findings are discussed in terms of theoretical and practical implications.

Not Competent Enough to Know the Difference? Gender Stereotypes About Women’s Ease
of Being Misled Predict Negotiator Deception
Laura J. Kray, Jessica A. Kennedy & Alex B. Van Zant
Organizational Behavior and Human Decision Processes 125(2): 61-72 (2014)
We examined whether gender differences in the perceived ease of being misled predict
the likelihood of being deceived in distributive negotiations. Study 1 (N = 131) confirmed that
female negotiators are perceived as more easily misled than male negotiators. This perception
corresponded with perceptions of women’s relatively low competence. Study 2 (N = 328)
manipulated negotiator gender, competence and warmth and found that being perceived as easily
misled via low competence affected expectations about the negotiating process, including less
decrecion scrutiny among easily misled negotiators and lower ethical standards among their
negotiating counterparts. This pattern held true regardless of buyer and seller gender. Study 3
(N = 298) examined whether patterns of deception in face-to-face negotiations were consistent
with this gender stereotype. As expected, negotiators deceived women more so than men, thus
leading women into more deals under false pretenses than men.

Physical Attractiveness and Cooperation in a Prisoner’s Dilemma Game
Mizuho Shinada & Toshio Yamagishi
The modulating role of age on the relationship between physical attractiveness and
cooperativeness in a prisoner’s dilemma game (PDG) was investigated. Previous studies have
shown that physical attractiveness is negatively related to cooperative choices among young men
but not young women. Following the argument that the negative relationship between physical
attractiveness and cooperation is a product of short-term mating strategies among attractive men,
we predicted that this relationship is unique to young men and absent among women and older
men. We tested this hypothesis with 175 participants (aged 22–69 years). The results showed that
physical attractiveness was negatively related to cooperative behavior among young men but not
among women or older men. We further observed that the negative relationship between physical
attractiveness and cooperation among young men was particularly strong when attractiveness
was judged by women.

The Rules of Implicit Evaluation by Race, Religion and Age
Jordan R. Axt, Charles R. Ebersole & Brian A. Nosek
Psychological Science 25(9): 1804-1815 (September 2014)
The social world is stratified. Social hierarchies are known but often disavowed as
anachronisms or unjust. Nonetheless, hierarchies may persist in social memory. In three studies
(total N > 200,000), we found evidence of social hierarchies in implicit evaluation by race,
religion, and age. Participants implicitly evaluated their own racial group most positively and the
remaining racial groups in accordance with the following hierarchy: Whites > Asians > Blacks >
Hispanics. Similarly, participants implicitly evaluated their own religion most positively and the
remaining religions in accordance with the following hierarchy: Christianity > Judaism >
Hinduism or Buddhism > Islam. In a final study, participants of all ages implicitly evaluated age groups following this rule: children > young adults > middle-age adults > older adults. These results suggest that the rules of social evaluation are pervasively embedded in culture and mind.

**A Counterpart’s Feminine Face Signals Cooperativeness and Encourages Negotiators to Compete**
Eric Gladstone & Kathleen O’Connor
Organizational Behavior and Human Decision Processes 125: 18-25 (September 2014)

Traditionally, research demonstrates that compared to men, women suffer at the negotiation table. What if, either on top of or instead of, gender differences, facial femininity has a strong impact on negotiator outcomes? To examine this question, the authors’ first study shows that when choosing a counterpart (someone to compete against), participants preferred others with more, versus less, feminine faces. However, this trend reversed itself when participants were asked to select an agent – someone who competes on their behalf. Here, people preferred the less feminine-faced individual. The reversal of the first choice preference suggests that people associate facial femininity with likely cooperativeness and less aggressiveness. In a second study, the authors designed a computer program that simulated “another participant” in the lab – participants in the study believed this person to be real. Just prior to beginning the negotiation exercise, participants viewed a picture of their ostensible counterpart – either a more feminine-faced male or female, or a less feminine-faced male or female. By the end of the negotiation exercise, participants had demanded more from the more feminine-faced counterparts – both male and female alike. Importantly, this effect held and was stronger than the effect for the counterpart’s gender. According to the authors, while more feminine-faced others are believed to be less aggressive and more cooperative, this is not necessarily a bad thing. First, feminine-faced others are chosen more often as exchange partners. And more exchange opportunity equals more opportunity to profit. Second, if ostensible others believe more feminine-faced counterparts are more cooperative, and less aggressive, why not take advantage of these pre-existing beliefs? Come out of the gate swinging, recommend the authors, behaving in an unanticipated manner. [DRM Winter 2015]

**Women and Negotiation: Permission to Skip The Chit-Chat?**
Alexandra A. Mislin, Brooke A. Shaughnessy, Tanja Hentschel & Claudia Peus
Presentation at the August 2014 Academy of Management Conference

“Negotiators are often advised to engage in small talk before getting down to business…. But in a new research study, conducted by [the authors], only men—and not women—received positive results from chit-chatting with their counterparts. In the study, presented at the August annual meeting of the Academy of Management, participants read a transcript and evaluated a negotiator named either JoAnna or Andrew who either did or did not engage in small talk—about local restaurants and a hometown sports team—before negotiating with a business counterpart for control of a scarce resource. Participants judged Andrew to be more communal and likeable when he engaged in small talk before negotiating than when he did not, and the chit-chatting Andrew also was rewarded with better final offers from participants than was the all-business Andrew. JoAnna, on the other hand, was judged the same whether or not she chatted informally with her counterpart, and on a par with the Andrew who didn’t make small talk. Chatty Andrew was the clear winner. Gender stereotypes and expectations likely explain the results, according to the authors. Because men are generally viewed as less communal, sociable,
and concerned about others than women, men who buck the stereotype with small and unexpected communal behaviors, like making small talk, may be rewarded in negotiation. (However, men may be penalized for more significant nonstereotypical behavior, such as staying home with their children.) Meanwhile, because we tend to expect women to behave communally, we may not punish them for the minor violation of a gender stereotype—electing not to shoot the breeze before negotiating—the authors hypothesize. Women may need to find “other ways than small talk to cultivate a positive regard in their counterparts,” says study author Shaughnessy. That doesn’t mean that women should assume they have carte blanche to skip the chit-chat. As we all have experienced, in the real world, idle conversation about the weather, sports, and so on can lead to discoveries of commonalities and connection that build bonds for male and female negotiators alike.”

Summary courtesy of Program on Negotiation Daily Blog, Harvard Law School (with description available at: https://www.pon.harvard.edu/daily/leadership-skills-daily/women-and-negotiation-permission-to-skip-the-chit-chat/)

The Price of Racial Bias: Intergroup Negotiations in the Ultimatum Game
Psychological Science 24(12): 2498-2504 (December 2013)
Jennifer Kubota, Jian Li, Eyal Bar-David, Mahzarin Banaji & Elizabeth Phelps

Existing stereotypes about Black Americans may influence perceptions of intent during financial negotiations. In this study, we explored whether the influence of race on economic decisions extends to choices that are costly to the decision maker. We investigated whether racial group membership contributes to differential likelihood of rejection of objectively equal unfair monetary offers. In the Ultimatum Game, players accept or reject proposed splits of money. Players keep accepted splits, but if a player rejects an offer, both the player and the proposer receive nothing. We found that participants accepted more offers and lower offer amounts from White proposers than from Black proposers, and that this pattern was accentuated for participants with higher implicit race bias. These findings indicate that participants are willing to discriminate against Black proposers even at a cost to their own financial gain.

Women in Negotiation: Effects of Gender and Power on Negotiation Behavior
Alain P. C. I. Hong & Per J. van der Wijst

Research shows that women often fare worse at the negotiation table than men. In a recent experimental study using a face-to-face distributive bargaining situation, the authors examined to what extent women’s and men’s negotiation behavior was influenced by power. The authors argue that women are less aware of their power position than men. The experiment stimulated such awareness by having participants recall moments at which they experienced having power (the “power-prime”), before entering a bargaining situation. The power-primed women made better first offers and negotiated better outcomes than women who did not receive that prime. Men’s first offers and negotiation outcomes turned out to be unaffected by power. As a result, the power-prime significantly reduced gender differences in negotiation outcomes. Empowering women via a psychological power boost before they enter a negotiation or any form of dispute resolution interaction seems an effective method of providing them with a better starting point and may be particularly relevant for disputes in which they have to deal with a male party—divorce negotiations, for instance. The authors are currently extending their gender study to leadership issues, where women, after a boost in their leadership confidence, seem to be more inclined to take the lead than without that boost. [DRM Summer 2014]
Ask and Ye Shall Receive? How Gender and Status Moderate Negotiation Success
Emily T. Amanatullah & Catherine H. Tinsley

The backlash effect is a well-documented negative social reaction toward women who are seen as violating gender norms because they engage in counterstereotypical (noncommunal, agentic) behaviors during the performance of their jobs. This social disincentive has been shown to account for women's diminished likelihood to initiate negotiations relative to men. But we question whether women who ignored this disincentive and initiated negotiations would even receive the resources they requested. We extend past research by showing women also incur financial penalties for initiating negotiations. This financial penalty can be explained by women's lower ascribed status relative to men's status and fortunately can be attenuated if women have achieved status. In two studies, we find consistent evidence that women who ask do not receive unless they have externally conferred status.

Narrow Imaginations: How Imagining Ideal Employees Can Increase Racial Bias
Jazmin L. Brown-Iannuzzi, B. Keith Payne & Sophie Trawalter
Group Processes & Intergroup Relations 16: 661-670 (November 2013)

When people make important decisions, such as selecting a job candidate or graduate school applicant based on how well they fit with that imagined ideal. In two experiments we provide evidence that imagining the ideal has unintended consequences. Imagining an ideal candidate for a professional job led participants to preferentially imagine a White candidate (Experiment 1) and to preferentially hire a White candidate over a Black candidate with matched qualifications (Experiment 2). These effects were independent of explicit prejudice, suggesting that even low-prejudice individuals may be affected by this bias. However, an alternative imagery strategy—imagining a variety of suitable applicants—was effective at remediating the bias. In some cases discrimination may result not from prejudiced attitudes but from failures of the imagination.

How Can Women Escape the Compensation Negotiation Dilemma? Relational Accounts Are One Answer
Hannah Riley Bowles & Linda Babcock
Psychology of Women Quarterly 37(1): 80-96 (March 2013)

Policy makers, academics, and media reports suggest that women could shrink the gender pay gap by negotiating more effectively for higher compensation, yet women entering compensation negotiations face a dilemma. They have to weigh the benefits of negotiating against the social consequences of having negotiated. Research shows that women are penalized socially more than men for negotiating for higher pay. To examine this dilemma, the authors tested strategies to help women improve both their negotiation and social outcomes in compensation negotiations. In Study 1, female negotiators improved social outcomes by communicating concern for organizational relationships, and they improved negotiation outcomes by offering a legitimate account for compensation requests. However, neither strategy—alone or in combination—improved both social and negotiation outcomes. Study 2 tested two strategies for improving social and negotiation outcomes by explaining why a compensation request is legitimate in relational terms. Results showed that, although adherence to the feminine stereotype is insufficient, using these “relational accounts” can improve women’s social and negotiation outcomes at the same time. [DRM Summer 2013]
Exploring the Effect of Media Images on Women's Leadership Self-Perceptions and Aspirations
Stefanie Simon & Crystal Hoyt
Group Processes & Intergroup Relations 16(2): 232-245 (2012)

Across two experimental studies, the present research explores how media images depicting counterstereotypical roles for women, compared to those that depict stereotypical roles for women, affect women's gender role beliefs (Study 1) and responses to a leadership situation (Study 2). Study 1 predicted and found that women exposed to images depicting counterstereotypical roles subsequently reported stronger nontraditional gender role beliefs than women exposed to images depicting stereotypical roles. Study 2 then directly assessed the effect of media images of women on female participants' self-reported responses following a leadership task. Women exposed to media images of women in counterstereotypical roles reported less negative self-perceptions and greater leadership aspirations than women exposed to images of women in stereotypical roles. Moreover, negative self-perceptions mediated the relationship between media images and leadership aspirations. Implications for increasing women's representation in the leadership domain are discussed.

Gender Differences in Initiation of Negotiation: Does the Gender of the Negotiation Counterpart Matter?
Karin Hederos Eriksson & Anna Sandberg

In this study, we investigated if and how gender differences in the propensity to initiate a negotiation are affected by the gender of the counterpart in the negotiation. We enlisted 204 Swedish students to take part in an experiment in which they had to decide whether to initiate a negotiation for higher compensation. In line with previous research, we found that men were more likely than women to initiate a negotiation: 42 percent of the male and 28 percent of the female participants initiated a negotiation. The gender difference, however, was only large and statistically significant when the negotiation counterpart was a woman. With a female negotiation counterpart, women were less likely than men to initiate a negotiation by 24 percentage points, while with a male negotiation counterpart, the gender difference was only 5 percentage points and not statistically significant. This result suggests that the gender of the negotiation counterpart should be taken into consideration when analyzing gender differences in initiation of negotiation.

Do Women Avoid Salary Negotiations? Evidence from a Large Scale Natural Field Experiment
Andreas Leibbrandt & John List

One explanation advanced for the persistent gender pay differences in labor markets is that women avoid salary negotiations. By using a natural field experiment that randomizes nearly 2,500 job-seekers into jobs that vary important details of the labor contract, we are able to observe both the nature of sorting and the extent of salary negotiations. We observe interesting data patterns. For example, we find that when there is no explicit statement that wages are negotiable, men are more likely to negotiate than women. However, when we explicitly mention the possibility that wages are negotiable, this difference disappears, and even tends to reverse. In
terms of sorting, we find that men in contrast to women prefer job environments where the ‘rules of wage determination' are ambiguous. This leads to the gender gap being much more pronounced in jobs that leave negotiation of wage ambiguous.

**Gender Differences in Initiation of Negotiation: Does the Gender of the Negotiation Counterpart Matter?**
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**Negotiation Topic as a Moderator of Gender Differences in Negotiation**
Julia Bear & Linda Babcock
Psychological Science 23(7): 743-744 (July 2012)

In the current study, we examined whether the masculinity or femininity of the negotiation issue moderates gender differences in performance. We predicted an interaction between the gender of the negotiator and the nature of the negotiation topic: That is, we expected that men would outperform women when negotiating over a masculine issue, and that women would outperform men when negotiating over a feminine issue.

**Feminine Charm: An Experimental Analysis of Its Costs and Benefits in Negotiations**
Laura Kray, Consson Locke & Alex Van Zant

The authors examined feminine charm, an impression management technique available to women that combines friendliness with flirtation. They asked whether feminine charm resolves the impression management dilemma facing women who simultaneously pursue task (i.e., economic) and social goals in negotiations. They compared women's social and economic consequences after using feminine charm versus a neutral interaction style. They hypothesized that feminine charm would create positive impressions of its users, thus partially mitigating the social penalties women negotiators often incur. They also expected that the degree to which females were perceived as flirtatious (signaling a concern for self), rather than merely friendly (signaling a concern for other), would predict better economic deals for females. Hypotheses were supported across a correlational study and three experiments. Feminine charm has costs and benefits spanning economic and social measures. Theoretical and practical implications are discussed.
NEGOTIATION: ANGER AND EMOTION

Everything in Moderation: The Social Effects of Anger Depend on its Perceived Intensity
Hajo Adam & Jeanne M. Brett
Journal of Experimental Social Psychology 76: 12-18 (May 2018)

Research has documented the important influence of anger expressions on negotiation processes and outcomes. Surprisingly, however, it remains an open question if this influence depends on a core characteristic of anger displays—the intensity with which anger is expressed. Results from two negotiation studies (N = 396) using different operationalizations of anger intensity, different negotiation procedures, and different subject populations demonstrated a curvilinear relationship between the intensity of the anger expression and the negotiation counterpart's concessions. In particular, moderate-intensity anger led to larger concessions than no anger because the anger expresser was perceived as tough, and high-intensity anger led to smaller concessions than moderate-intensity anger because the anger expression was perceived as inappropriate. Furthermore, expressing anger, and, in particular, high-intensity anger, reduced anger perceivers' subjective value outcomes in the form of negative feelings about the relationship. Theoretical contributions to research on anger, emotion, and negotiation are discussed. [DRM Summer 2018]

The Dark Side of Subjective Value in Sequential Negotiations: The Mediating Role of Pride and Anger
William Becker & Jared Curhan
JOURNAL OF APPLIED PSYCHOLOGY 103(1): 74-87 (January 2018)

Scholars who study negotiation increasingly recognize the importance of social context, seeing negotiations not merely as 1-shot interactions but as influenced by what came before. Under this longitudinal conceptualization of negotiation, a number of recent studies demonstrate that social psychological outcomes from prior negotiations are positively related to economic performance in subsequent negotiations when negotiating repeatedly with the same counterpart. In this report, the authors investigate a counter-example in the context of “sequential negotiations,” which they define as multiple negotiation sessions that occur within a short time frame but facing different counterparts in each session. They theorize that in sequential negotiations subjective value from one negotiation should be negatively related to objective outcomes in a subsequent negotiation because of spillover effects of incidental anger and pride. They test this model in two studies: a multi-round lab study with a student sample and a longitudinal field study with employees negotiating as part of their jobs. Results from both studies support the hypothesized negative relationship between subjective value from an initial negotiation and the objective outcome from a subsequent negotiation with a different counterpart. The mediating role of pride is supported partially in Study 1 and fully in Study 2, whereas the mediating role of anger is not supported in either study. The authors discuss implications for negotiation theory and practice. [DRM Summer 2018]

On the Difference Between Moral Outrage and Empathic Anger: Anger About Wrongful Deeds or Harmful Consequences
Stefanie Hechler & Thomas Kessler
Journal of Experimental Social Psychology 76: 270-282 (May 2018)
Moral violations seem to elicit moral outrage because of the wrongfulness of the deed. However, recent studies have questioned the existence of moral outrage, because moral violations are confounded with the harm done to victims. Such harm elicits empathic anger rather than moral outrage (Batson et al., 2007; Batson et al., 2009). Thus, moral outrage is triggered by the wrongfulness of an action (i.e., a perpetrator's intention to harm), whereas empathic anger is triggered by its harmfulness (i.e., the actual harm done). Four studies (N = 1065) in varying contexts orthogonally crossed these antecedents of anger to differentiate between moral outrage and empathic anger. The results demonstrate that anger mainly emerged from the intention to harm, rather than the actual harm done. In contrast, the actual harm elicited empathy with victims. The findings suggest that anger about moral violations emerges separately from empathic reactions, although these reactions are difficult to distinguish in most instances. Likewise, the intention to harm provoked a willingness to punish the perpetrator much more than the actual harm did. Moral violations thus elicit moral outrage independently of their harmful consequences, even though such anger may often overlap with concern for others.

When Is Anger Helpful or Hurtful? Status and Role Impact on Anger Expression and Outcomes
Ronda Roberts Callister, Deanna Geddes & Donald F. Gibson

Anger expressers and targets often experience anger as an unpleasant and potentially damaging emotion. However, emerging social functional perspectives on workplace anger suggest that anger expressions can promote valued dialogue, facilitating the airing of differences that can lead to improved working relationship and movement toward organizational goals and beneficial change. While supervisors typically express work-related anger with impunity, subordinate anger may be challenged and sanctioned more frequently. Hypotheses tested status (supervisor vs. subordinate) and role (expresser vs. target) effects on perceived outcomes. Findings indicate a significant main effect for status and significant interaction with role such that subordinates who are targets of supervisor anger, reported significantly more negative outcomes from anger expression than any other type of anger interaction. We also found that existing strong relationships between supervisors and subordinates contribute to outcomes that are more favorable following anger expressions at work.

Mad and Misleading: Incidental Anger Promotes Deception
Jeremy A. Yip & Maurice E. Schweitzer
Organizational Behavior and Human Decision Processes 137: 207-217 (November 2016)

Emotions influence ethical behavior. Across four studies, we demonstrate that incidental anger, anger triggered by an unrelated situation, promotes the use of deception. In Study 1, participants who felt incidental anger were more likely to deceive their counterpart than those who felt neutral emotion. In Study 2, we demonstrate that empathy mediates the relationship between anger and deception. In Study 3, we contrast anger with another negative-valence emotion, sadness. We find that participants who felt incidental anger were more likely to use deception than were participants who felt incidental sadness or neutral emotion. In Study 4, we show that incentives moderate the relationship between anger and deception. Collectively, our work reveals that incidental anger promotes unethical behavior because angry people become less empathetic when pursuing their self-interest. [DRM Winter 2017]
Head Movements Encode Emotions During Speech and Song
Steven R. Livingstone & Caroline Palmer
Emotion 16(3): 365-380 (October 2016)

When speaking or singing, vocalists often move their heads in an expressive fashion, yet the influence of emotion on vocalists’ head motion is unknown. Using a comparative speech/song task, we examined whether vocalists’ intended emotions influence head movements and whether those movements influence the perceived emotion. In Experiment 1, vocalists were recorded with motion capture while speaking and singing each statement with different emotional intentions (very happy, happy, neutral, sad, very sad). Functional data analyses showed that head movements differed in translational and rotational displacement across emotional intentions, yet were similar across speech and song, transcending differences in F0 (varied freely in speech, fixed in song) and lexical variability. Head motion specific to emotional state occurred before and after vocalizations, as well as during sound production, confirming that some aspects of movement were not simply a by-product of sound production. In Experiment 2, observers accurately identified vocalists’ intended emotion on the basis of silent, face-occluded videos of head movements during speech and song. These results provide the first evidence that head movements encode a vocalist’s emotional intent and that observers decode emotional information from these movements. We discuss implications for models of head motion during vocalizations and applied outcomes in social robotics and automated emotion recognition.

Personality Similarity in Negotiations: Testing the Dyadic Effects of Similarity in Interpersonal Traits and the Use of Emotional Displays on Negotiation Outcomes
Kelly Schwind Wilson, D. Scott DeRue, Fadel K. Matta, Michael Howe & Donald E. Conlon

We build on the small but growing literature documenting personality influences on negotiation by examining how the joint disposition of both negotiators with respect to the interpersonal traits of agreeableness and extraversion influences important negotiation processes and outcomes. Building on similarity-attraction theory, we articulate and demonstrate how being similarly high or similarly low on agreeableness and extraversion leads dyad members to express more positive emotional displays during negotiation. Moreover, because of increased positive emotional displays, we show that dyads with such compositions also tend to reach agreements faster, perceive less relationship conflict, and have more positive impressions of their negotiation partner. Interestingly, these results hold regardless of whether negotiating dyads are similar in normatively positive (i.e., similarly agreeable and similarly extraverted) or normatively negative (i.e., similarly disagreeable and similarly introverted) ways. Overall, these findings demonstrate the importance of considering the dyad’s personality configuration when attempting to understand the affective experience as well as the downstream outcomes of a negotiation. [DRM Winter 2017]

Strategic Consequences of Emotional Misrepresentation in Negotiation: The Blowback Effect
Rachel L. Campagna, Alexandra A. Mislin, Dejun Tony Kong & William P. Bottom

Recent research indicates that expressing anger elicits concession making from negotiating counterparts. When emotions are conveyed either by a computer program or by a confederate, results appear to affirm a long-standing notion that feigning anger is an effective
bargaining tactic. We hypothesize this tactic actually jeopardizes post-negotiation deal implementation and subsequent exchange. Four studies directly test both tactical and strategic consequences of emotional misrepresentation. False representations of anger generated little tactical benefit but produced considerable and persistent strategic disadvantage. This disadvantage is because of an effect we call “blowback.” A negotiator’s misrepresented anger creates an action-reaction cycle that results in genuine anger and diminishes trust in both the negotiator and counterpart. Our findings highlight the importance of considering the strategic implications of emotional misrepresentation for negotiators interested in claiming value. We discuss the benefits of researching reciprocal interdependence between 2 or more negotiating parties and of modeling value creation beyond deal construction to include implementation of terms. [DRM Winter 2017]

Unlocking Integrative Potential: Expressed Emotional Ambivalence and Negotiation Outcomes
Naomi Rothman & Gregory Northcraft
This paper examines how one negotiator’s expressed emotional ambivalence can foster integrative outcomes. Study 1 demonstrated that observing a negotiation partner’s emotional ambivalence leads negotiators to come up with more integrative agreements. Study 2 examined a proposed mechanism: Expressed ambivalence leads to an increased perceived ability to influence the ambivalent negotiator because it suggests submissiveness. Study 3 demonstrated that perceived submissiveness mediates the effects of observed emotional ambivalence on integrative agreements. Implications of these findings for negotiation and emotions research, and directions for future research, are discussed.

Testing the Prosocial Effectiveness of the Prototypical Moral Emotions: Elevation Increases Benevolent Behaviors and Outrage Increases Justice Behaviors
J. Van de Vyver & D. Abrams
How can we overcome apathy and instigate a desire to help others? This research tests and compares the prosocial effects of two of the most prototypical emotions on a range of prosocial intentions and behaviors. Emotion-inducing videos were used to instigate states of moral elevation (felt when witnessing a moral virtue) and/or moral outrage (felt when witnessing a moral transgression). Although elevation and outrage are derived from opposing appraisals, separate strands of research show that they both instigate a desire to help others. The current research tests the appraisal tendency framework to explore whether elevation and outrage increase prosociality across moral domains or whether their prosocial effects are domain specific. Results of Experiment 1 showed that elevation, but not outrage, increased donations to charity (i.e., benevolence domain). Experiment 2 showed that outrage, but not elevation, increased prosocial political action intentions (i.e., justice domain). Experiment 3 showed that outrage, but not elevation, increased compensation in a third-party bystander game (i.e., justice domain). This research shows that although elevation and outrage both inspire a desire to help others, they affect distinct types of prosocial behaviors, offering support for the appraisal tendency framework. Applied and theoretical implications are discussed.
Poker-Faced Morality: Concealing Emotions Leads to Utilitarian Decision Making
Jooa Julia Lee & Francesca Gino
Organizational Behavior and Human Decision Processes 126: 49-64 (2015)

This paper examines how making deliberate efforts to regulate aversive affective responses influences people’s decisions in moral dilemmas. We hypothesize that emotion regulation—mainly suppression and reappraisal—will encourage utilitarian choices in emotionally charged contexts and that this effect will be mediated by the decision maker’s decreased deontological inclinations. In Study 1, we find that individuals who endorsed the utilitarian option (vs. the deontological option) were more likely to suppress their emotional expressions. In Studies 2a, 2b, and 3, we instruct participants to either regulate their emotions, using one of two different strategies (reappraisal vs. suppression), or not to regulate, and we collect data through the concurrent monitoring of psycho-physiological measures. We find that participants are more likely to make utilitarian decisions when asked to suppress their emotions rather than when they do not regulate their affect. In Study 4, we show that one’s reduced deontological inclinations mediate the relationship between emotion regulation and utilitarian decision making.

Is Waiting the Hardest Part? Comparing the Emotional Experiences of Awaiting and Receiving Bad News
Kate Sweeny & Angelica Falkenstein

Awaiting uncertain news is stressful, but is it more stressful than receiving bad news? We compared these emotional experiences in two studies. Participants in Study 1 reflected on a personal experience awaiting news that ultimately turned out badly, and participants in Study 2 were law graduates awaiting their results on the bar exam who ultimately failed the exam. In Study 1, participants were ambivalent as to whether awaiting or receiving bad news was more difficult, and emotion ratings in both studies confirmed this ambivalence. Anxiety was higher in anticipation of bad news (at least at the moment of truth) than in the face of it, whereas other negative emotions were more intense following the news than during the waiting period. Thus, whether waiting is “the hardest part” depends on whether one prefers to be racked with anxiety or afflicted with other negative emotions such as anger, disappointment, depression, and regret.

Context Matters: The Social Effects of Anger in Cooperative, Balanced, and Competitive Negotiation Situations
Hajo Adam & Jeanne M. Brett

When does expressing anger in negotiations lead to concessions? Although research has begun to address this question, it has not yet examined the influence of the negotiation context. We propose that the effect of expressing anger depends on the competitiveness of the negotiation situation. Specifically, when the negotiation situation balances cooperative and competitive elements, expressing anger elicits larger concessions than no anger, and responses are driven by cooperation-inducing strategic inferences (e.g., a perception that the anger expresser is tough and threatening). However, when the negotiation context is predominantly cooperative or predominantly competitive, expressing anger does not elicit larger concessions than no anger, and responses are driven by cooperation-inhibiting affective reactions (e.g., reciprocal anger and a desire to retaliate against the anger expresser). Results from two computer-mediated
negotiation experiments using different negotiation scenarios, different manipulations of the competitiveness of the situation, and different subject populations supported our hypotheses. [DRM Winter 2016]

The Persuasive Power of Emotions: Effects of Emotional Expressions on Attitude Formation and Change
Gerben A. Van Kleef, Helma van den Berg & Marc W. Heerdink

Despite a long-standing interest in the intrapersonal role of affect in persuasion, the interpersonal effects of emotions on persuasion remain poorly understood—how do one person’s emotional expressions shape others’ attitudes? Drawing on emotions as social information (EASI) theory (Van Kleef, 2009), we hypothesized that people use the emotional expressions of others to inform their own attitudes, but only when they are sufficiently motivated and able to process those expressions. Five experiments support these ideas. Participants reported more positive attitudes about various topics after seeing a source’s sad (rather than happy) expressions when topics were negatively framed (e.g., abandoning bobsleighing from the Olympics). Conversely, participants reported more positive attitudes after seeing happy (rather than sad) expressions when topics were positively framed (e.g., introducing kite surfing at the Olympics). This suggests that participants used the source’s emotional expressions as information when forming their own attitudes. Supporting this interpretation, effects were mitigated when participants’ information processing was undermined by cognitive load or was chronically low. Moreover, a source’s anger expressions engendered negative attitude change when directed at the attitude object and positive change when directed at the recipient’s attitude. Effects occurred regardless of whether emotional expressions were manipulated through written words, pictures of facial expressions, film clips containing both facial and vocal emotional expressions, or emoticons. The findings support EASI theory and indicate that emotional expressions are a powerful source of social influence.

Emotional Intelligence and Negotiation Outcomes: Mediating Effects of Rapport, Negotiation Strategy, and Judgment Accuracy
Kihwan Kim, Nicole L. Cundiff & Suk Bong Choi
Group Decision and Negotiation 24(3): 477-493 (May 2015)

The current research was designed to examine the effects of emotional intelligence on both economic and social outcomes, as well as to explore the extent to which rapport, bargaining strategy, and judgment accuracy would mediate relationships between emotional intelligence and negotiation outcomes. Upper-level business students (284 individuals, 142 dyads) were pre-tested on emotional intelligence using the 33-item measure from Schutte et al. (Personal Individ Differ 25:167–177, 1998). They were then recruited to participate in a job contract negotiation in which one party played the role of personnel manager and the other played the role of a new employee. Emotional intelligence had a significant, positive effect on the three social negotiation outcomes of trust, satisfaction, and desire to work together again in the future. Moreover, rapport and negotiation strategy either fully or partially mediated each of these relationships. In contrast, emotional intelligence had no significant effects on economic outcomes.
Life History, Code of Honor, and Emotional Responses to Inequality in an Economic Game
Eric J. Pedersen, Daniel E. Forster & Michael E. McDonough

The code of honor, which is characterized by a preoccupation with reputation and willingness to take retaliatory action, has been used extensively to explain individual and cultural differences in peoples’ tendencies to behave aggressively. However, research on the relationship between the code of honor and emotional responses to social interactions has been limited in scope, focusing primarily on anger in response to insults and reputational threats. Here we broaden this scope by examining the relationship between code of honor and emotional reactions in response to an unfair economic exchange that resulted in unequal monetary earnings among 3 laboratory participants. We found that endorsement of the code of honor was related to anger and envy in response to unfair monetary distributions. Interestingly, code of honor predicted envy above and beyond what could be accounted for by anger, but the converse was not the case. This suggests that the code of honor influenced perceptions of how subjects viewed their own earnings relative to those of others, which consequently was responsible for their apparent anger as a result of the economic transaction. Furthermore, the unique relationship between code of honor and envy was present only for subjects who received unfair treatment and not for subjects who merely witnessed unfair treatment. Additionally, we replicated previous findings that harsh childhood environmental conditions are associated with endorsement of the code of honor, highlighting the potential value of incorporating a life history theoretical approach to investigating individual differences in endorsement of the code of honor.

Emotions Shape Decisions Through Construal Level: The Case of Guilt and Shame
DaHee Han, Adam Duhachek & Nidhi Agrawal

Four experiments show that emotions systematically influence judgments and persuasion by altering construal levels. Guilt-laden consumers, relative to those who were shame-laden, adopted lower levels of construal. In subsequent unrelated judgments, guilt increased reliance on feasibility over desirability attributes and emphasized secondary rather than primary features. Shame led to the opposite pattern. Guilt’s tendency to draw behavior-specific appraisals activates local appraisal tendencies and endows lower construal levels, whereas shame’s tendency to implicate the entire self activates global appraisal tendencies and endows consumers with higher construal levels. As a boundary condition to the core effect, the results showed that the differences between guilt and shame only held when the emotions arose from actions rather than from inaction situations. These findings provide insight into when and why guilt and shame have different effects on subsequent decisions.

With Feeling: How Emotions Shape Negotiation
Mara Olekalns & Daniel Druckman
Negotiation Journal, 30: 455–478 (October 2014)

Recognition of the role played by emotions in negotiation is growing. This article synthesizes current research around four broad themes: moves and exchanges, information processing, social interaction, and context. The authors' review reveals that much of the research on this topic has focused on two key emotions, anger and happiness. More recently, negotiators have turned to other emotions such as guilt and disappointment, demonstrating that not all negative emotions have the same consequences, or activate the same regions of the brain.
Focusing on social interaction, the authors note that negotiators may influence each others' emotions: whether negotiators converge to anger or happiness has different consequences for agreement. Researchers have broadened their examination of emotion by considering how external factors such as power, the number of negotiators, culture, and gender influence the impact of emotional expression. The authors also consider the function and impact of expressing authentic emotions, or choosing to use emotions strategically to gain an advantage — an issue that raises important ethical questions for negotiators. The article concludes with some practical implications of the research.

**Emotional Reactions to Unequal Payment: The Impact of Meritocratic Ideology and Salary Negotiability**
Angela T. Maitner
Group Processes & Intergroup Relations 18(2): 153-172 (July 2014)

People respond to low-status inequality with feelings of anger and shame. This work investigates the impact of meritocracy beliefs and implied salary negotiability on individuals’ emotional reactions within a stable status hierarchy. When an unequal system appears negotiable, believing that hard work pays off may decrease anger felt in response to inequality. However, learning that a system is non-negotiable violates expectations associated with meritocratic beliefs, and may therefore increase negative emotion. In two experiments investigating participants’ emotional reactions to payment systems, the more participants endorsed meritocratic ideologies, the less anger they felt when unequal treatment appeared negotiable. Experiment 2 showed that endorsement of meritocracy beliefs increased negative emotions when individuals learned that the unequal payment was non-negotiable. Taken together, this work suggests that it is important to consider beliefs about individual agency alongside system parameters establishing opportunities for individual mobility to understand emotional reactions to unequal treatment.

**“I am Disgusted by Your Proposal”: The Effects of a Strategic Flinch in Negotiations**
Neil Fassina & Glen Whyte
Group Decision and Negotiation 23(4): 901-920 (July 2014)

To flinch in negotiations refers to verbal or physical displays of shock, disgust, or disbelief made in response to an opening offer. We investigated the impact of advising negotiators to strategically flinch in distributive bargaining. In experiment 1, negotiators who flinched claimed significantly more value than negotiators who did not flinch. Targets of a flinch, however, viewed the negotiation relationship less positively than negotiators in a control condition. Yet, flinching appeared to have no effect on the target negotiators’ perceptions of how well they did. In experiment 2, the notion that a subtle flinch might still facilitate value claiming but without imperilling the bargaining relationship was supported. Implications for negotiation theory and practice, and directions for future research, are discussed.

**Strategic Display of Anger and Happiness in Negotiation: The Moderating Role of Perceived Authenticity**
H.-Y. Tng & A.K.C. Au
Negotiation Journal, 30: 301–327 (July 2014)

Emotional display is often used as a strategy in negotiation to manipulate one's counterpart's behavior. Previous research has examined the interpersonal effects of emotions in
negotiation, but the evidence so far has largely focused on the perspective of the negotiator displaying the emotion with little attention paid to the impact of the emotional display on that negotiator's counterparts. In this study, we conducted two experiments to examine whether a negotiator's perceptions about the authenticity of his or her counterpart's displayed emotions of anger and happiness moderate the impact of those emotions on the negotiator. In Experiment One, we manipulated the perceived authenticity of the counterpart's anger as a between-subjects factor (authentic versus inauthentic). Negotiators who perceived their counterpart's anger as inauthentic conceded less than did negotiators who perceived it as authentic. In Experiment Two, we corroborated this finding with a two-variable (counterpart's emotion: anger versus happiness) times three-variable (perceived authenticity of counterpart's displayed emotion: authentic versus ambiguous versus inauthentic) between-subjects design. Negotiators conceded more to an angry counterpart than to a happy one when they perceived their counterpart's emotion as authentic, but we found the reverse pattern among negotiators who perceived their counterparts' emotions as inauthentic. Negotiators who perceived their counterparts' emotions as ambiguous in authenticity did not differ in concessions whether the counterpart displayed anger or happiness. We discuss the theoretical and practical implications of these findings.

The Interactive Effect of Anger and Disgust on Moral Outrage and Judgments
Jessica M. Salerno & Liana C. Peter-Hagene
Psychological Science 24(10): 2069-2078 (October 2013)

The two studies reported in this article demonstrated that a combination of anger and disgust predicts moral outrage. In Study 1, anger toward moral transgressions (sexual assault, funeral picketing) predicted moral outrage only when it co-occurred with at least moderate disgust, and disgust predicted moral outrage only when it co-occurred with at least moderate anger. In Study 2, a mock-jury paradigm that included emotionally disturbing photographs of a murder victim, revealed that, compared to anger, disgust was a more consistent predictor of moral outrage (i.e., it predicted moral outrage at all levels of anger). Furthermore, moral outrage influenced the effect of participants’ anger on their confidence in a guilty verdict - but only when anger co-occurred with at least a moderate level of disgust - whereas moral outrage influenced the effect of participants’ disgust on their verdict confidence at all levels of anger. The interactive effect of anger and disgust has important implications for theoretical explanations of moral outrage, moral judgments in general, and legal decision making. [DRM Winter 2014]

Not All Anger is Created Equal: The Impact of the Expresser’s Culture on the Social Effects of Anger in Negotiations
Hajo Adam & Aiwa Shirako
Journal of Applied Psychology 98(5): 785-798 (September 2013)

The influence of culture on the social effects of emotions in negotiations has recently gained the attention of researchers, but to date this research has focused exclusively on the cultural background of the perceiver of the emotion expression. The current research offers the first investigation of how the cultural background of the expresser influences negotiation outcomes. On the basis of the stereotype that East Asians are emotionally inexpressive and European Americans are emotionally expressive, the authors predicted that anger would have a stronger signaling value when East Asians rather than European American negotiators expressed it. Specifically, they predicted that angry East Asian negotiators would be perceived as tougher and more threatening and therefore elicit greater cooperation from counterparts compared with
angry European American negotiators. Results from four negotiation studies supported the predictions. In Study 1, angry East Asian negotiators elicited greater cooperation than angry European American and Hispanic negotiators. In Study 2, angry East Asian negotiators elicited greater cooperation than angry European American ones, but emotionally neutral East Asian and European American negotiators elicited the same level of cooperation. Study 3 showed that this effect holds for both East Asian and European American perceivers and is influenced by perceptions of angry East Asian negotiators as tougher and more threatening than angry European American negotiators. Finally, Study 4 demonstrated that the effect emerges only when negotiators hold the stereotype of East Asians being emotionally inexpressive and European Americans being emotionally expressive. The authors discuss the implications for our understanding of culture, emotions, and negotiations. [DRM Winter 2014]

The Consequences of Faking Anger in Negotiations
Stéphane Côté, Ivona Hideg & Gerben van Kleef
Journal of Experimental Social Psychology 49(3): 453-463 (May 2013)

Past research has found that showing anger induces cooperative behavior from counterparts in negotiations. We build on and extend this research by examining the effects of faking anger by surface acting (i.e., showing anger that is not truly felt inside) on the behavior of negotiation counterparts. We specifically propose that surface acting anger leads counterparts to be intransigent due to reduced trust. In Experiment 1, surface acting anger increased demands in a face-to-face negotiation, relative to showing no emotion, and this effect was mediated by (reduced) trust. In Experiment 2, surface acting anger increased demands in a video-mediated negotiation, relative to showing no emotion, and this effect was explained by (reduced) trust, as in Experiment 1. By contrast, deep acting anger (i.e., showing anger that is truly felt inside) decreased demands, relative to showing no emotion, and this effect was explained by (increased) perceptions of toughness, consistent with prior research on the effects of showing anger in negotiations. The findings show that a complete understanding of the role of anger in negotiations requires attention to how it is regulated. In addition, the results suggest that faking emotions using surface acting strategies may generally be detrimental to conflict resolution.

The Advantages of Being Unpredictable: How Emotional Inconsistency Extracts Concessions in Negotiation
Marwan Sinaceur, Hajo Adam, Gerben A. Van Kleef & Adam D. Galinsky

Integrating recent work on emotional communication with social science theories on unpredictability, the authors investigated whether communicating emotional inconsistency and unpredictability would affect recipients’ concession-making in negotiation. They hypothesized that emotional inconsistency and unpredictability would increase recipients’ concessions by making recipients feel less control over the outcome. In Experiment 1, dyads negotiated face-to-face after one negotiator within each dyad expressed either anger or emotional inconsistency (by alternating between anger and happiness). In Experiment 2, participants received angry and/or happy messages from a simulated negotiation opponent. In Experiment 3, participants read a scenario about a negotiator who expressed either anger or emotional inconsistency by alternating between anger and disappointment. In all three experiments, emotional inconsistency induced recipients to make greater concessions compared to expressing a consistent emotion. [DRM Summer 2013]
Beyond Negotiated Outcomes: The Hidden Costs of Anger Expression in Dyadic Negotiation
Lu Wang, Gregory Northcraft & Gerben Van Kleef
Organizational Behavior and Human Decision Processes 119(1): 54-63 (September 2012)
Anger frequently arises when people negotiate conflicting interests. This paper reports two experimental studies that examined the effects of expressing anger during negotiations. Results showed that expressing anger at the negotiation table can have both positive and negative effects. On the one hand, expressing anger helps negotiators extract larger concessions from their opponents. Therefore, there are significant strategic benefits for anger expression. On the other hand, expressions of anger increase covert forms of retaliation by opponents. Given the insidious nature of covert relations, negotiators should take extra caution when expressing anger in negotiations. [DRM Summer 2013]

NEGOTIATION: POWER DYNAMICS

How Perceived Power Influences the Consequences of Dominance Expressions in Negotiations
Scott S. Wiltermuth, Medha Raj & Adam Wood
Organizational Behavior and Human Decision Processes 146: 14-30 (May 2018)
Recent research (Wiltermuth, Tiedens, & Neale, 2015) has indicated that negotiators may use expressions of dominance and submissiveness to discover mutually-beneficial solutions and thereby create more joint value. We examined how the perceived relative power of negotiators who express dominance influences value claiming and value creation in negotiations. Negotiators with relatively little power benefitted by expressing dominance, as expressing dominance increased relatively low-power negotiators’ abilities to claim value. In contrast, relatively powerful negotiators’ expressions of dominance fueled value creation. Dyads in which only the relatively powerful negotiator expressed dominance created more value than did dyads in which neither, both, or only the relatively powerless negotiator expressed dominance. The coordination benefits attributable to dominance complementarity were therefore best achieved when there was congruence between a negotiator’s perceived power and the power/status cues the negotiator sent through expressions of dominance.

Imaginary Alternatives: The Impact of Mental Simulation on Powerless Negotiators
Michael Schaefer, Martin Schweinsberg & Roderick Swaab
Journal of Personality and Social Psychology (March 2018 first online edition)
This research demonstrates that people can act more powerfully without having power. Researchers and practitioners advise people to obtain alternatives in social exchange relationships to enhance their power. However, alternatives are not always readily available, often forcing people to interact without having much power. Building on research suggesting that subjective power and objective outcomes are disconnected and that mental simulation can improve aspirations, the authors show that the mental imagery of a strong alternative can provide some of the benefits that real alternatives provide. The authors tested this hypothesis in one context of social exchange – negotiations – and demonstrate that imagining strong alternatives (vs. not) causes powerless individuals to negotiate more ambitiously. Negotiators reached more profitable agreements when they had a stronger tendency to simulate alternatives or when they were instructed to simulate an alternative. Mediation analyses suggest that mental simulation
enhanced performance because it boosted negotiators’ aspirations and subsequent first offers, but only when the simulated alternative was attractive. The authors used various negotiation contexts, which allowed identification of circumstances under which mental simulation may not provide any benefits to negotiators: mental simulation no longer helped when negotiators did not make the first offer, when their opponents simultaneously engaged in mental simulation, and even backfired in settings where negotiators’ positions were difficult to reconcile (i.e., when negotiators had incompatible preferences). In sum, this research suggests that mental simulation can be a powerful tool for negotiators to improve their outcomes when they are in a disadvantaged position. [DRM Summer 2018]

Cooperation Through Communication: Teams and Individuals in Finitely Repeated Prisoners’ Dilemma Games
John H. Kagel
Journal of Economic Behavior & Organization 146: 55-64 (February 2018)
For both two-person teams and individuals unrestricted communication between opponents in a finitely repeated prisoner dilemma game results in stage-one cooperation rates of between 95–100%. Content analysis of between opponent communication focuses on the increased earnings cooperation can achieve, with minimal discussion of punishment for failing to cooperate. Restoring cooperation after an early stage-game defection typically requires compensating the aggrieved agent.

Blinded by Power: Untangling Mixed Results Regarding Power and Efficiency in Negotiation
Ricky S. Wong & Susan Howard
Negotiators are often advised to seek information about their counterparts’ power. However, we know little about how such information affects negotiators’ behaviours and outcomes. Study 1 considered dyadic negotiations in which negotiators have SYMMETRIC or ASYMMETRIC best alternatives to the negotiated agreement (BATNAs). It also examined the impacts of (a)symmetry and knowledge of a counterpart’s BATNA on agreement efficiency (indexed by joint gains), and how knowledge alters negotiators’ realised power (indexed by percentage of resource claimed) in BATNA-asymmetric negotiations. Studies 2 and 3 focussed on BATNA-asymmetric negotiations. Study 2 tested the mechanism by which knowledge affects efficiency. Study 3 considered the impacts of knowledge on equity concerns, perceived power and information exchange about preferences. The findings indicate the following: knowledge of BATNA asymmetries (rather than the existence of BATNA asymmetries) adversely affects agreement efficiency; this knowledge increases strong negotiators’ focus on value claiming, judgement errors about counterparts’ preferences, perceived power and realised power, but impedes their information-sharing behaviour about preferences. Their focus on value claiming mediates the relationship between knowledge and judgement errors, whereas judgement errors mediate the relationship between their focus on value claiming and agreement efficiency. Furthermore, knowledge of BATNA asymmetries leads to contrasting perceptions of fairness. Strong negotiators with knowledge believe that a fair agreement should reflect their power advantage; weak negotiators generally tend to judge fairness based on equality. Counter intuitively, knowing one’s own strengths can lead to ‘winning’ a meagre prize and neglecting the opportunity for value creation by trading-off on negotiated issues.
Are the Powerful Really Blind to the Feelings of Others? How Hierarchical Concerns Shape Attention to Emotions
Eftychia Stamkou, Gerben A. van Kleef, Agneta H. Fischer & Mariska E. Kret

Paying attention to others’ emotions is essential to successful social interactions. Integrating social-functional approaches to emotion with theorizing on the reciprocal nature of power, we propose that attention to others’ emotions depends on concerns over one’s power position and the social signal conveyed by the emotion. Others’ anger signals attack—information relevant to high-power individuals who are concerned about the legitimacy or suitability of their position. On the contrary, others’ fear signals vulnerability—information relevant to low-power individuals who are concerned about their unfair treatment within an illegitimate hierarchy. Accordingly, when power roles were illegitimately assigned or mismatched with one’s trait power, leaders were faster at detecting the appearance of anger (Studies 1 and 2), slower at judging the disappearance of anger (Study 2), and more accurate in recognizing subordinates’ anger, whereas subordinates were more accurate in recognizing leaders’ fear (Study 3). Implications for theorizing about emotion and social hierarchy are discussed.

Cooperation in Multicultural Negotiations: How the Cultures of People with Low and High Power Interact
Shirli Kopelman, Ashley E. Hardin, Christopher G. Myers & Leigh Plunkett Tost

This study examined whether the cultures of low- and high-power negotiators interact to influence cooperative behavior of low-power negotiators. Managers from 4 different cultural groups (Germany, Hong Kong, Israel, and the United States) negotiated face-to-face in a simulated power-asymmetric commons dilemma. Results supported an interaction effect in which cooperation of people with lower power was influenced by both their culture and the culture of the person with higher power. In particular, in a multicultural setting, low-power managers from Hong Kong, a vertical-collectivist culture emphasizing power differences and group alignment, adjusted their cooperation depending on the culture of the high-power manager with whom they interacted. This study contributes to understanding how culture shapes behavior of people with relatively low power, illustrates how a logic of appropriateness informs cooperation, and highlights the importance of studying multicultural social interactions in the context of negotiations, work teams, and global leadership. [DRM Winter 2017]

Equity and Bargaining Power in Ultimatum Games
Ismael Rodriguez-Lara
Journal of Economic Behavior & Organization 130: 144-165 (October 2016)

This paper studies the extent to which offers and demands in ultimatum games are consistent with equity theory when there is a joint endowment to be distributed. Using a within-subject design, we also investigate the importance of the bargaining power by comparing the subjects’ behavior in the ultimatum and the no-veto-cost game, which differ in the possible cost of responders rejecting the proposers’ offer. Our findings suggest that proposers are willing to reward responders for their contribution to the joint endowment in any of the two games. As for responders, their behavior is consistent with equity theory only in the no-veto-cost game (in which a rejection is costless for them) when the game is first played. When the no-veto-cost
game is played after the ultimatum game, we observe that the responders’ demands usually exceed their contribution to the endowment. Finally, this paper reports evidence that the ultimatum and the no-veto-cost game differ in terms of efficiency and rejection rates.

**Status Decreases Dominance in the West but Increases Dominance in the East**
Ko Kuwabara, Siyu Yu, Alice J. Lee & Adam D. Galinsky
Psychological Science 27: 127-137 (February 2016)

What motivates people to exercise coercive power against others is an important question for understanding conflict. Research shows that in Western cultures, people are more likely to assert power by engaging in acts of dominance when they feel they are not sufficiently respected. The authors predicted that, in contrast, people in Asian cultures are more likely to use power when they feel respected and regarded as high status. This is because individualists view power as means toward personal ends (pursuing self-interest, affirming self-worth) but collectivists view power in regards to collective ends (reinforcing the existing social order). In experiments simulating groups tasks in which one person could impose punishment to enforce cooperation, having high status decreased the use of punishment by enforcers in the United States but increased it in China and India. In the third experiment, Asian-Americans advocated punishment in different ways depending on whether they felt more Asian or American. [DRM Summer 2016]

**The Power to Oblige: Power, Gender, Negotiation Behaviors, and Their Consequences**
Noa Nelson, Ilan Bronstein, Rotem Shacham & Rachel Ben-Ari

This study experimentally examined how power and gender affect negotiation behaviors and how those behaviors affect negotiated outcomes. One hundred and forty-six dyads, in four combinations of power and gender, negotiated compensation agreements. In line with gender stereotypes, male negotiators were more dominating and females more obliging and somewhat more compromising. However, partially challenging the common association of power and masculinity, high-power negotiators were less dominating and more collaborating, obliging and avoiding than their low-power opponents. Generally, feminine and high-power behaviors induced agreement while masculine and low-power behaviors enhanced distributive personal gain. [DRM Summer 2015]

**NEGOTIATION: TRUST**

**Group-Based Biases Influence Learning About Individual Trustworthiness**
Marieke Vermue, Charles R. Segera & Alan G. Sanfey
Journal of Experimental Social Psychology 77: 36-49 (July 2018)

People often have generalised expectations of trustworthiness about ingroup and outgroup members, based on previous direct and indirect experience with these groups. How do these prior biases interact with new experiences when learning about individual group members’ trustworthiness? These three studies are the first to examine the effect of group-level biases on learning about individuals’ trustworthiness. Participants from the Netherlands and the United Kingdom played iterated Trust Games with trustworthy and untrustworthy members of both ingroups and outgroups. We show that the influence of group membership on trust decisions depended on the valence of the interactions with individual group members. When interacting with trustworthy partners, people displayed outgroup favouritism throughout the game, investing
higher in outgroup members than ingroup members. However, for untrustworthy partners, initial outgroup favouritism disappeared, and ingroup and outgroup members were equally distrusted by the end of the game. Our work suggests that when individual experience is integrated with group-based biases, group membership influences trust decisions over time, but mostly when experiences are positive. These findings are discussed in relation to complexity-extremity theory and previous work on learning in the Trust Game.

The Reputational Consequences of Generalized Trust
Anthony M. Evans & Philippe P. F. M. van de Calseyde

The present research examines the reputational consequences of generalized trust. High-trust individuals are seen as moral and sociable, but not necessarily competent. When controlling for other traits, there is a negative relationship between trust and perceived competence (Studies 1 and 2). Compared with optimism, generalized trust has stronger effects on morality and sociability (Study 2). Furthermore, people judge those who do not discriminate between trustworthy and untrustworthy groups (unconditional trustors) more negatively than those who only trust groups that are, in fact, trustworthy (conditional trustors). Unconditional trust and unconditional distrust are both viewed negatively (Study 3), even after controlling for attitudinal similarity (Study 4). Critically, both generalized trust and discriminant ability (i.e., conditional trust) have independent reputational benefits (Study 5). These studies suggest that generalized trust plays an important role in how we perceive and judge others.

Is Trust Always Better than Distrust? The Potential Value of Distrust in Newer Virtual Teams Engaged in Short-Term Decision-Making
Paul Benjamin Lowry, Ryan M. Schuetzler, Justin Scott Giboney & Thomas A. Gregory
Group Decision and Negotiation 24(4): 723-752 (July 2015)

The debate on the benefits of trust or distrust in groups has generated a substantial amount of research that points to the positive aspects of trust in groups, and generally characterizes distrust as a negative group phenomenon. Therefore, many researchers and practitioners assume that trust is inherently good and distrust is inherently bad. However, recent counterintuitive evidence obtained from face-to-face (FtF) groups indicates that the opposite might be true; trust can prove detrimental, and distrust instrumental, to decision-making in groups. By extending this argument to virtual teams (VTs), we examined the value of distrust for VTs completing routine and non-routine decision tasks, and showed that the benefits of distrust can extend to short-term VTs. Specifically, VTs seeded with distrust significantly outperformed all control groups in a non-routine decision-making task. In addition, we present quantitative evidence to show that the decision task itself can significantly affect the overall levels of trust/distrust within VTs. In addition to its practical and research implications, the theoretical contribution of our study is that it extends to a group level, and then to a VT setting, a theory of distrust previously tested in the psychology literature in the context of completing non-routine and routine decision tasks at an individual level.

Gender Differences in Trust Dynamics: Women Trust More Than Men Following a Trust Violation
Michael P. Haselhuhn, Jessica A. Kennedy, Laura J. Kray, Alex B. Van Zant & Maurice E. Schweitzer
Despite the importance of trust for efficient social and organizational functioning, transgressions that betray trust are common. We know little about the personal characteristics that affect the extent to which transgressions actually harm trust. In this research, the authors examine how gender moderates responses to trust violations. Across three studies, they demonstrate that following a violation, women are both less likely to lose trust and more likely to restore trust in a transgressor than men. Women care more about maintaining relationships than men, and this greater relational investment mediates the relationship between gender and trust dynamics. These findings deepen our understanding of gender differences in dispute resolution settings, particularly in contexts in which negotiators must work together to reach mutually-beneficial outcomes. In these situations, women's relatively persistent trust may enable them to overlook minor misunderstandings or initial competitive posturing and collaborate with the other party to reach a creative solution, whereas men may lose trust quickly and be less willing to collaborate with a counterpart after a minor violation. Given the myriad benefits of high trust, perhaps the best solution is for women and men alike to build trust, draw careful inferences from violations, and stand ready to restore trust. [DRM Winter 2015]

**What Is Typical Is Good: The Influence of Face Typicality on Perceived Trustworthiness**
Carmel Sofer, Ron Dotsch, Daniel H. J. Wigboldus & Alexander Todorov

The role of face typicality in face recognition is well established, but it is unclear whether face typicality is important for face evaluation. Prior studies have focused mainly on typicality’s influence on attractiveness, although recent studies have cast doubt on its importance for attractiveness judgments. Here, we argue that face typicality is an important factor for social perception because it affects trustworthiness judgments, which approximate the basic evaluation of faces. This effect has been overlooked because trustworthiness and attractiveness judgments have a high level of shared variance for most face samples. We show that for a continuum of faces that vary on a typicality-attractiveness dimension, trustworthiness judgments peak around the typical face. In contrast, perceived attractiveness increases monotonically past the typical face, as faces become more like the most attractive face. These findings suggest that face typicality is an important determinant of face evaluation.

**Interpersonal Trust Within Negotiations: Meta-Analytic Evidence, Critical Contingencies, and Directions For Future Research**
Dejun Tony Kong, Kurt T. Dirks & Donald L. Ferrin
Academy of Management Journal 57(5): 1235-1255 (October 2014)

Trust has long been recognized, by scholars and practitioners alike, as an important factor for negotiation success. However, there has been little effort to date to empirically review or theoretically synthesize the research on trust in the context of negotiations. We present a social exchange framework that describes the processes through which trust influences negotiation behaviors and outcomes. We identified three critical contingencies that modified the effects of trust on negotiation behaviors and outcomes. A meta-analysis on a sample of 38 independent studies provided considerable support for the model, and also confirmed the importance of the three contingencies for understanding the effects of trust. The framework and accompanying empirical evidence provide a necessary theoretical and empirical integration of the trust and negotiation literatures. Based on the theory and meta-analytical findings, we identified critical
gaps and limitations in existing research, and we propose a research agenda to address key theoretical, empirical, and methodological issues identified by our framework and review.

The Experience Versus the Expectations of Power: A Recipe For Altering the Effects of Power on Behavior
Derek D. Rucker, Miao Hu & Adam D. Galinsky

Power transforms consumer behavior. This research introduces a critical theoretical moderator of power’s effects by promoting the idea that power is accompanied by both an experience (how it feels to have or lack power) and expectations (schemas and scripts as to how those with or without power behave). In some cases, the psychological experience of power predisposes people to behave one way, whereas attention to the expectations of power suggests behaving in another way. As a consequence, power’s effects for consumer behavior can hinge on consumers’ focus. Specifically, a focus on the experience or expectations of power critically moderates how power affects both information processing and status seeking. However, as the experience of power incites a desire to act, and the powerful are expected to act, power produces more action regardless of focus. These findings provide a new lens on power and have important implications for consumer behavior.

OMBUDS

Australia's Financial Ombudsman Service: An Analysis of its Role in the Resolution of Financial Hardship Disputes
Paul Ali, Evgenia Bourova, Joseph Horbec & Ian Ramsay
Conflict Resolution Quarterly 34(2): 163-188 (2016)

The Financial Ombudsman Service (FOS) was established in 2008 to resolve disputes between Australian consumers and financial service providers. This article outlines the role of FOS in resolving disputes under the statutory protections for Australians in financial hardship. This article also sets out the results of a study of data collected by FOS in relation to financial hardship disputes resolved between 2010 and 2014. This data highlights the importance of FOS in a context where most disputes are resolved outside the courts, particularly in the aftermath of the global financial crisis, when the number of financial hardship disputes rose significantly.

Dispute Resolution Outside of Courts: Procedural Justice and Decision Acceptance Among Users of Ombuds Services in the UK
Naomi J. Creutzfeldt & Ben Bradford
Law & Society Review 50(4): 985-1016 (December 2016)

Attitudes towards legal authorities based on theories of procedural justice have been explored extensively in the criminal and civil justice systems. This has provided considerable empirical evidence concerning the importance of trust and legitimacy in generating cooperation, compliance and decision acceptance. However, not enough attention has been paid to attitudes towards institutions of informal dispute resolution. This paper asks whether the theory of procedural justice applies to the alternative dispute resolution (ADR) context, focusing on ombuds services. What are the predictors of perceptions of procedural justice during the process of dealing with an ombuds, and what factors shape outcome acceptance? These questions are analyzed using a sample of recent ombuds users. The results indicate that outcome favorability is
highly correlated with perceived procedural justice, and both predict decision acceptance. [DRM Winter 2017]

**ONLINE DISPUTE RESOLUTION**

**Seeing the World Through the Other's Eye: An Online Intervention Reducing Ethnic Prejudice**
Gábor Simonovits, Gábor Kézdi & Péter Kardos
American Political Science Review 112(1): 186-193 (February 2018)

We report the results of an intervention that targeted anti-Roma sentiment in Hungary using an online perspective-taking game. We evaluated the impact of this intervention using a randomized experiment in which a sample of young adults played this perspective-taking game, or an unrelated online game. Participation in the perspective-taking game markedly reduced prejudice, with an effect-size equivalent to half the difference between voters of the far-right and the center-right party. The effects persisted for at least a month, and, as a byproduct, the intervention also reduced antipathy toward refugees, another stigmatized group in Hungary, and decreased vote intentions for Hungary's overtly racist, far-right party by 10%. Our study offers a proof-of-concept for a general class of interventions that could be adapted to different settings and implemented at low costs.

**Ask in Person: You’re Less Persuasive Than You Think Over Email**
M. Mahdi Roghanizad & Vanessa K. Bohns

Research has found people underestimate the likelihood strangers will comply with their direct requests (Bohns, 2016; Flynn & Lake (Bohns), 2008). Here we argue this “underestimation-of-compliance effect” may be limited to requests made face-to-face. We find when making direct requests over EMAIL, requesters instead OVERESTIMATE compliance. In two studies, participants asked strangers to comply with requests either face-to-face or over email. Before making these requests, requesters estimated the number of people they expected to say “yes”. While requesters underestimated compliance in face-to-face contexts, replicating previous research, they overestimated compliance in email contexts. Analyses of several theorized mechanisms for this finding suggest that requesters, anchored on their own perspectives, fail to appreciate the suspicion, and resulting lack of empathy, with which targets view email requests from strangers. Given the prevalence of email and text-based communication, this is an extremely important moderator of the underestimation-of-compliance effect. [DRM Summer 2017]

**Team Decision Making in Virtual and Face-to-Face Environments**
Thomas O’Neill, Samantha Hancock, Katarina Zivkov, Nicole Larson & Stephanie Law
Group Decision and Negotiation 25(5): 995-1020 (September 2016)

We conducted a laboratory study on 65 teams performing a decision-making task. The two experimental manipulations involved the use of different communication media and decision frames. The decision frame manipulation involved informing the team to choose the demonstrably correct solution versus the solution that seemed most likely. These factors interacted to reveal novel insights about their multiplicative effects on decision processes and team psychological states. Further, main effects of the communication medium were found for
team psychological states and decision behavior. Results suggest that virtual teams were at a disadvantage when the task was framed as having a demonstrably correct solution. Conversely, face-to-face teams were more effective, particularly when told that the task had a demonstrably correct solution. Face-to-face teams were more effective on all decision behaviors. Media synchronicity theory serves as a unifying framework to contextualize this research in the literature.

**Mind the Medium: A Qualitative Analysis of Email Negotiation**
Jennifer D. Parlamis & Ingmar Geiger
Group Decision and Negotiation 24(2): 359-381 (March 2015)

Using qualitative analysis of email transcripts, this research investigated the behavioral differences in more or less successful email negotiations. We hypothesized that proactive and reactive medium management, relationship building, positive and negative emotion transmission along with integrative and distributive behaviors would influence joint gain and subjective value in email negotiation dyads. The hypotheses were tested on simulated buyer-seller email negotiations (n = 52 dyads) from a US and a German university. Ordinary least squares regression revealed that value creating behaviors and the total amount of communication increased joint gain while reactive medium management decreased joint gain. Controlling for individual gain and individual target profit, negotiators’ global subjective value of the negotiation was negatively impacted by distributive negotiation behaviors and reactive medium management, as revealed by hierarchical linear modeling. Practical implications and future research are discussed.

**“I Can't Lie To Your Face”: Minimal Face-To-Face Interaction Promotes Honesty**
Alex B. Van Zant & Laura J. Kray

Scholars have noted that face-to-face (FTF) interaction promotes honesty because it provides opportunities for conversation in which parties exchange information and build rapport. However, it is unclear whether FTF interaction promotes honesty even in the absence of opportunities for back-and-forth conversation. We hypothesized a minimal interaction effect whereby FTF interaction promotes honesty by increasing potential deceivers' consideration of their own moral-interest. To test this account of how FTF interaction may promote honesty, we used a modified version of the deception game (Gneezy, 2005). We found that people were more honest when communicating FTF as opposed to through an intermediary. While FTF interaction tended to promote honesty irrespective of whether it occurred prior to or during the game, the effect was more pronounced when it occurred during the game. The effect of in-game communication medium was mediated by the activation of potential deceivers' moral-interest. We also ruled out alternate accounts involving interpersonal liking, expected counterpart trust, and retaliation fear as honesty-promoting mechanisms. Furthermore, because these effects were not moderated by whether participants had been visually identified during a pre-game interaction, we suggest that our effects are distinct from theoretical accounts involving anonymity.
Media Effects on the Formation of Negotiator Satisfaction: The Example of Face-to-Face and Text Based Electronically Mediated Negotiations
Ingmar Geiger
Group Decision and Negotiation 23(4): 735-763 (July 2014)

Recently, scholars have highlighted the importance of subjective negotiation outcomes such as negotiator satisfaction for future negotiations and the relationship between negotiators. This study considers the major antecedents of satisfaction formation in negotiation and analyses how the communication medium, i.e. the face-to-face (FTF) and the text based electronically mediated (TBEM) mode, influence satisfaction formation. Drawing on grounding in communication (Clark and Brennan in Perspectives on socially shared cognition. American Psychological Association, Washington DC, pp 127–149, 1991), hypotheses are developed and tested in an experimental gaming simulation in which graduate students negotiated in n = 52 dyads. The empirical analysis supports the notion that the communication medium has a mediated and a moderating effect on negotiator satisfaction. Aspirations, individual profit and positive relational messages mediate the medium’s effect on satisfaction. Furthermore, the impact of contentious behaviour and positive relational messages on negotiator satisfaction is stronger in TBEM than in FTF negotiations. This study also contributes to the wider negotiation literature by employing a context-rich gaming simulation for experimental purposes.

Far From Eye, Far From Heart: Analysis of Graphical Decision Aids in Electronic Negotiation Support
Johannes Gettinger & Sabine T. Koeszegi
Group Decision and Negotiation 23(4): 787-817 (July 2014)

Information is probably the most relevant element upon which decision makers base their judgments. Empirical evidence has demonstrated that the way information is presented inevitably influences human cognition and, consequently, the (electronically supported) decision making process. Presently, we lack an analytical approach of studying graphical decision aids implemented in electronic negotiation support systems (NSS). Therefore, the aim of this paper is to identify relevant factors for graphical decision aids in NSS, which provides negotiators with an analytical support approach. Secondly, based on a developed framework, we intend to categorize and analyze existing and newly developed graphical decision aids. Last, we develop research propositions showing avenues for future investigations in the field of graphical decision aids.

Signaling Dominance in Online Negotiations: The Role of Affective Tone
Liuba Y. Belkin, Terri R. Kurtzberg & Charles E. Naquin

Do people interpret emotional expressions as signals of power in the limited-cues environment of electronic negotiations? This work examines how expressions of anger and happiness in online negotiation influence perceptions of dominance and negotiation outcomes. The results indicate that expressed anger positively influences perceptions of partner dominance and subsequent individual gains. On the other hand, displays of happiness may signal the opposite (i.e., powerlessness). Happiness hurt the bottom line when the happy-message sender actually had more power, potentially because of a mismatch between an original perception of powerfulness and a signal of powerlessness, but was beneficial when the message sender actually held less power than the opponent. The results suggest that one needs to be careful with affective
displays in online negotiation contexts, because the ramifications of those expressions (including effects on outcomes) may depend on the partner’s expectations. [DRM Summer 2014]

**The Effect of Red Background Color on Willingness-to-Pay: The Moderating Role of Selling Mechanism**  
Rajesh Bagchi & Amar Cheema  

The authors investigate the effect of red backgrounds on willingness-to-pay in auctions and negotiations. Data from eBay auctions and the lab show that a red (vs. blue) background elicits higher bid jumps. By contrast, red (vs. blue) backgrounds decrease price offers in negotiations. An investigation of the underlying process reveals that red color induces aggression through arousal. In addition, the selling mechanism - auction or negotiation - alters the effect of color by focusing individuals on primarily competing against other bidders (in auctions) or against the seller (in negotiations). Specifically, aggression is higher with red (vs. blue or gray) color and, therefore, increases bid jumps in auctions but decreases offers in negotiations.

**PERSUASION AND DECISION-MAKING**

**Delegating Decisions: Recruiting Others to Make Choices We Might Regret**  
Mary Steffel & Elanor F. Williams  
Journal of Consumer Research 44(5): 1015-1032 (February 2018)

People highly value the freedom to make their own choices. Yet, when faced with difficult decisions they might regret, people often prefer freedom from choice. Eight experiments demonstrate that people delegate decisions the harder they are to make. People delegate to avoid responsibility for potentially making a bad decision but not necessarily to put choices in better hands. People do prefer delegating to people with relevant expertise, but they are willing to delegate even to non-experts when faced with difficult versus easy decisions. Moreover, people prefer dealing with difficult decisions by delegating than by avoiding such decisions altogether. Thus, giving people the option to delegate reduces the tendency for people to walk away from difficult choices empty-handed. [DRM Summer 2018]

**Do People Inherently Dislike Uncertain Advice?**  
Celia Gaertig & Joseph P. Simmons  
Psychological Science 29(4): 504-520 (February 2018)

Research suggests that people prefer confident to uncertain advisors. But do people dislike uncertain advice itself? In 11 studies (N = 4,806), participants forecasted an uncertain event after receiving advice and then rated the quality of the advice (Studies 1–7, S1, and S2) or chose between two advisors (Studies 8–9). Replicating previous research, our results showed that confident advisors were judged more favorably than advisors who were “not sure.” Importantly, however, participants were not more likely to prefer certain advice: They did not dislike advisors who expressed uncertainty by providing ranges of outcomes, giving numerical probabilities, or saying that one event is “more likely” than another. Additionally, when faced with an explicit choice, participants were more likely to choose an advisor who provided uncertain advice over an advisor who provided certain advice. Our findings suggest that people do not inherently dislike uncertain advice. Advisors benefit from expressing themselves with confidence, but not from communicating false certainty. [DRM Summer 2018]
Good Choice, Bad Judgment: How Choice Under Uncertainty Generates Over-Optimism
Jordan Tong, Daniel Feiler & Anastasia Ivantsova
Psychological Science 29(2): 254-265 (December 2017)

The authors examine a fundamental feature of choice under uncertainty: Overestimating an alternative makes one more likely to choose it. If people are naive to this structural feature, then they will tend to have erroneously inflated expectations for the alternatives they choose. In contrast to theories of motivated reasoning, this theory suggests that individuals will overestimate chosen alternatives even before they make their choice. In four studies, the authors found that students and managers exhibited behavior consistent with naïveté toward this relationship between estimation error and choice, leaving them over-optimistic about their chosen alternatives. This over-optimism from choosing positive error is exacerbated when the true values of the alternatives are close together, when there is more uncertainty about the values of alternatives, and when there are many alternatives to choose from. Our results illustrate how readily over-optimism emerges as a result of statistical naïveté, even in the absence of a desire to justify one’s decision after the choice. [DRM Summer 2018]

The Impact of Uncertain Threat on Affective Bias: Individual Differences in Response to Ambiguity
Maital Neta, Julie Cantelon, Zachary Haga, Caroline Mahoney, Holly Taylor & Caroline Davis
EMOTION 17(8): 1137-1143 (December 2017)

Individuals who operate under highly stressful conditions (e.g., military personnel and first responders) are often faced with the challenge of quickly interpreting ambiguous information in uncertain and threatening environments. When faced with ambiguity, it is likely adaptive to view potentially dangerous stimuli as threatening until contextual information proves otherwise. One laboratory-based paradigm that can be used to simulate uncertain threat is known as threat of shock (TOS), in which participants are told that they might receive mild but unpredictable electric shocks while performing an unrelated task. The uncertainty associated with this potential threat induces a state of emotional arousal that is not overwhelmingly stressful, but has widespread—both adaptive and maladaptive—effects on cognitive and affective function. For example, TOS is thought to enhance aversive processing and abolish positivity bias. Importantly, in certain situations (e.g., when walking home alone at night), this anxiety can promote an adaptive state of heightened vigilance and defense mobilization. In the present study, the authors used TOS to examine the effects of uncertain threat on valence bias, or the tendency to interpret ambiguous cues as positive or negative. As predicted, the authors found that heightened emotional arousal elicited by TOS was associated with an increased tendency to interpret ambiguous cues negatively. Such negative interpretations are likely adaptive in situations in which threat detection is critical for survival and should override an individual’s tendency to interpret ambiguity positively in safe contexts. [DRM Summer 2018]

Ratio Bias and Policy Preferences: How Equivalency Framing of Numbers Can Affect Attitudes
Rasmus T. Pedersen
Political Psychology 38(6): 1103-1120 (December 2017)

Numbers permeate modern political communication. While current scholarship on framing effects has focused on the persuasive effects of words and arguments, this article shows that framing of numbers can also substantially affect policy preferences. Such effects are caused
by ratio bias, which is a general tendency to focus on numerators and pay insufficient attention to denominators in ratios. Using a population-based survey experiment, I demonstrate how differently framed but logically equivalent representations of the exact same numerical value can have large effects on citizens' preferences regarding salient political issues such as education and taxes. Furthermore, the effects of numerical framing are found across most groups of the population, largely regardless of their political predisposition and their general ability to understand and use numerical information. These findings have significant implications for our understanding of framing effects and the role played by numbers in public opinion formation. [DRM Summer 2018]

How Seemingly Innocuous Words Can Bias Judgment: Semantic Prosody and Impression Formation
David J. Hauser & Norbert Schwarz
Journal of Experimental Social Psychology 75: 11-18 (March 2018)

Would we think more negatively of a person who caused rather than produced an outcome or who is described as utterly rather than totally unconventional? While these word choices may appear to be trivial, cause and utterly occur more frequently in a negative context in natural language use than produced or totally, even though these words do not have an explicit valenced meaning. Words that are primarily used in a valenced context are said to have semantic prosody. Five studies show that semantically-prosodic descriptors affect the impressions formed of others. These effects occur even in situations where perceivers are likely to be skeptical of messages, and they impact behavioral intentions toward targets. An utterly changed person was perceived as less warm and competent than a totally changed person (Study 1), and people held more negative impressions of an utterly rather than totally unconventional boss (Study 2). People had stronger intentions to vote for a political candidate who produced budget changes over one who caused them (Study 3) and preferred a bank that lends money (a word with positive semantic prosody) over a bank that loans money (Study 4). Finally, participants had more (less) romantic interest in potential dating partners with Tinder profiles that used words with positive (negative) semantic prosody (Study 5). The authors conclude that semantically prosodic descriptors that lack a clear positive or negative meaning still lead people to infer the valence of what is to come, which colors the impressions they form of others. [DRM Winter 2018]

The Anchoring-bias in Groups
Tim R.W.de Wilde, Femke S.Ten Velden & Carsten K.W.De Dreu
Journal of Experimental Social Psychology 76: 116--126 (May 2018)

Decision-making groups decide on many numerical issues, which makes them potentially vulnerable to cognitive anchors. In the current study we investigated (1) whether the anchoring-bias operates in groups, (2) under which circumstances group anchoring is more or less likely to occur and (3) which processes underlie the anchoring-bias in groups. In three group decision-making studies we found that cooperative groups were susceptible to anchors. However, the anchoring-bias in groups was mitigated when groups were made process accountable or competitively motivated. Finally, we investigated whether the anchoring bias in groups operated through a fast and early influence on individual preferences, or through biased information exchange. We found evidence for the former process, but not for the latter.

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Advice Giving: A Subtle Pathway to Power
Michael Schaerer, Leigh P. Tost, Li Huang, Francesca Gino & Rick Larrick

We propose that interpersonal behaviors can activate feelings of power, and we examine this idea in the context of advice giving. Specifically, we show (a) that advice giving is an interpersonal behavior that enhances individuals’ sense of power and (b) that those who seek power are motivated to engage in advice giving. Four studies, including two experiments (\(N = 290, N = 188\)), an organization-based field study (\(N = 94\)), and a negotiation simulation (\(N = 124\)), demonstrate that giving advice enhances the adviser’s sense of power because it gives the adviser perceived influence over others’ actions. Two of our studies further demonstrate that people with a high tendency to seek power are more likely to give advice than those with a low tendency. This research establishes advice giving as a subtle route to a sense of power, shows that the desire to feel powerful motivates advice giving, and highlights the dynamic interplay between power and advice.

Facial First Impressions Across Culture: Data-Driven Modeling of Chinese and British Perceivers’ Unconstrained Facial Impressions
Clare A. M. Sutherland, Xizi Liu, Lingshan Zhang, Yingtung Chu, Julian A. Oldmeadow & Andrew W. Young

People form first impressions from facial appearance rapidly, and these impressions can have considerable social and economic consequences. Three dimensions can explain Western perceivers’ impressions of Caucasian faces: approachability, youthful-attractiveness, and dominance. Impressions along these dimensions are theorized to be based on adaptive cues to threat detection or sexual selection, making it likely that they are universal. We tested whether the same dimensions of facial impressions emerge across culture by building data-driven models of first impressions of Asian and Caucasian faces derived from Chinese and British perceivers’ unconstrained judgments. We then cross-validated the dimensions with computer-generated average images. We found strong evidence for common approachability and youthful-attractiveness dimensions across perceiver and face race, with some evidence of a third dimension akin to capability. The models explained \(~75\%\) of the variance in facial impressions. In general, the findings demonstrate substantial cross-cultural agreement in facial impressions, especially on the most salient dimensions.

What's Next? Disentangling Availability From Representativeness Using Binary Decision Tasks
João N. Braga, Mário B. Ferreira, Steven Sherman, André Mata, Sofia Jacinto & Marina Ferreira
Journal of Experimental Social Psychology 76: 307-319 (May 2018)

People's intuitive predictions under uncertainty may rely on the representativeness or on the availability heuristics (Tversky & Kahneman, 1974). However, the distinction between these two heuristics has never been clear, and both have been proposed to underlie the same judgment tasks. For instance, when judging what outcome is likely to be next in a coin flip after a streak, representativeness leads to predicting an alternation in the outcome, ending the streak (gambler's fallacy), whereas availability leads to predicting the streak's continuation. We propose that availability (direct use of accessibility) is computed earlier than representativeness (comparing to an abstract representation of the expected outcome). In five studies, we pit one heuristic against
the other in binary prediction tasks, both in coin flip and athlete's performance contexts. We find that, although the streak outcome is cognitively more available, judgments are usually based on representativeness, leading more often to a prediction of an alternation after a streak. However, under time-pressure conditions, representativeness processes are constrained and participants are more prone to base their predictions on the most salient and cognitively available outcomes.

**The Effect of an Interruption on Risk Decisions**
Daniella M. Kupor, Wendy Liu & On Amir

Interruptions during consumer decision making are ubiquitous. In seven studies, we examine the consequences of a brief interruption during a financial risk decision. We identify a fundamental feature inherent in an interruption’s temporal structure—a repeat exposure to the decision stimuli—and find that this re-exposure reduces decision stimuli’s subjective novelty. This reduced novelty in turn reduces decision makers’ apprehension and increases the amount of risk they take in a wide range of risky financial decision contexts. Consistent with our theoretical framework, this interruption effect disappears when a stimulus’s subjective novelty is restored after an interruption. We further find that these consequences are often unique to interruptions are often do not result from other interventions (e.g., time pressure and elongated thinking); this is because an interruption’s unique temporal structure (which results in a repeat exposure to the decision stimuli) underlies its consequences. Our findings shed light on how and when interruptions during decision making can influence risk taking.

**Property Lines in the Mind: Consumers’ Psychological Ownership and Their Territorial Responses**
Colleen P. Kirk, Joann Peck & Scott D. Swain

Psychological ownership, or the feeling that something is mine, has garnered growing attention in marketing. While previous work focuses on the positive aspects of psychological ownership, this research draws attention to the darker side of psychological ownership—territorial behavior. Results of five experimental studies demonstrate that when consumers feel psychological ownership of a target, they are prone to perceptions of infringement and subsequent territorial responses when they infer that another individual feels ownership of the same target. Potential infringers are held less accountable when they acknowledge ownership prior to engaging in otherwise threatening behaviors, and when they could not be expected to know that a target is owned, as it was not clearly marked. In addition, high narcissists are subject to a psychological ownership metaperception bias, and are thus more apt than low narcissists to perceive infringement. A multitude of territorial responses are documented for both tangible (coffee, sweater, chair, pizza) and intangible (a design) targets of ownership. Further, consumers infer the psychological ownership of others from signals of the antecedents of psychological ownership: control, investment of self, and intimate knowledge. Theoretical implications for territoriality and psychological ownership are discussed, along with managerial implications and areas for future research.

**When Being in a Positive Mood Increases Choice Deferral**
Jordan Etkin & Anastasiya Pocheptsova Ghosh
Journal of Consumer Research 45(1): 208-225 (June 2018)
Consumers’ choices are often accompanied by unrelated incidental moods. The positive mood caused by receiving a compliment, for example, may persist when one is choosing what service to book or which product to buy. How might being in a positive mood affect consumers’ subsequent, unrelated choices? The present research demonstrates that being in a positive mood can make consumers more likely to defer choice. Four studies show that when choosing requires trade-offs between important choice attributes, being in a positive (vs. neutral) mood makes choosing more difficult and therefore increases the likelihood of deferring choice altogether. The findings further understanding of how incidental factors shape choice processes and outcomes and the role of emotions in decision making.

In Your Shoes or Mine? Shifting From Other to Self Perspective is Vital For Emotional Empathy [copy needed]
CHUI-DE CHIU & YEI-YU YEH
EMOTION 18(1): 39-45 (February 2018)

Emotional empathy—feeling another person’s affective states—entails simulating how one would feel in the same circumstance. Prior research has implicated the role of executive controls and shown a link between visuospatial perspective taking and personal disposition of empathy. No study has investigated how executive control processes involved in perspective shifting relate to emotional empathy. Incorporating a spatial perspective-taking task in a set switch paradigm, we investigated whether swiftly switching from the altercentric to the egocentric perspective is associated with heightened emotional empathy but not with accurate classification of low-level perceptual affective cues. Emotional empathy was measured by subjective ratings of arousal and the similarity of affective states with the target person when viewing photos of a person in an emotionally charged context. Cognitive empathy was measured by correct recognition of affective cues. Our results showed that executive controls in perspective shifting related to emotional empathy but not to cognitive empathy. Emotional empathy correlated negatively with the switch cost from the altercentric to the egocentric perspective and not vice versa. Faster switching from the altercentric to the egocentric perspective was associated with heightened emotional empathy. Moreover, the processing strategy did not moderate the association. Flexibility in perspective shifting, especially in regaining one’s own perspective after taking another person’s perspective, is critical for emotional empathy. To feel another person’s affective states, one should regain self-perspective after walking in the other person’s shoes.

The Empirical Case for Acquiescing to Intuition
Daniel K. Walco & Jane L. Risen
Psychological Science 28(12): 1807-1820 (October 2017)

Will people follow their intuition even when they explicitly recognize that it is irrational to do so? Dual-process models of judgment and decision making are often based on the assumption that the correction of errors necessarily follows the detection of errors. But this assumption does not always hold. People can explicitly recognize that their intuitive judgment is wrong but nevertheless maintain it, a phenomenon known as acquiescence. Although anecdotes and experimental studies suggest that acquiescence occurs, the empirical case for acquiescence has not been definitively established. In four studies—using the ratio-bias paradigm, a lottery exchange game, blackjack, and a football coaching decision—we tested acquiescence using recently established criteria. We provide clear empirical support for acquiescence: People can
have a faulty intuitive belief about the world (Criterion 1), acknowledge the belief is irrational (Criterion 2), but follow their intuition nonetheless (Criterion 3)—even at a cost.

**The Wisdom in Virtue: Pursuit of Virtue Predicts Wise Reasoning About Personal Conflicts**

Alex C. Huynh, Harrison Oakes, Garrett R. Shay & Ian McGregor  
*Psychological Science* 28(12): 1848-1856 (October 2017)

Most people can reason relatively wisely about others’ social conflicts, but often struggle to do so about their own (i.e., Solomon’s paradox). We suggest that true wisdom should involve the ability to reason wisely about both others’ and one’s own social conflicts, and we investigated the pursuit of virtue as a construct that predicts this broader capacity for wisdom. Results across two studies support prior findings regarding Solomon’s paradox: Participants \( N = 623 \) more strongly endorsed wise-reasoning strategies (e.g., intellectual humility, adopting an outsider’s perspective) for resolving other people’s social conflicts than for resolving their own. The pursuit of virtue (e.g., pursuing personal ideals and contributing to other people) moderated this effect of conflict type. In both studies, greater endorsement of the pursuit of virtue was associated with greater endorsement of wise-reasoning strategies for one’s own personal conflicts; as a result, participants who highly endorsed the pursuit of virtue endorsed wise-reasoning strategies at similar levels for resolving their own social conflicts and resolving other people’s social conflicts. Implications of these results and underlying mechanisms are explored and discussed.

**Concern for Others Leads to Vicarious Optimism**

Andreas Kappes, Nadira S. Faber, Guy Kahane, Julian Savulescu & Molly J. Crockett  
*Psychological Science* 29(3): 379-389 (January 2018)

An optimistic learning bias leads people to update their beliefs in response to better-than-expected good news but neglect worse-than-expected bad news. Because evidence suggests that this bias arises from self-concern, we hypothesized that a similar bias may affect beliefs about other people’s futures, to the extent that people care about others. Here, we demonstrated the phenomenon of *vicarious optimism* and showed that it arises from concern for others. Participants predicted the likelihood of unpleasant future events that could happen to either themselves or others. In addition to showing an optimistic learning bias for events affecting themselves, people showed vicarious optimism when learning about events affecting friends and strangers. Vicarious optimism for strangers correlated with generosity toward strangers, and experimentally increasing concern for strangers amplified vicarious optimism for them. These findings suggest that concern for others can bias beliefs about their future welfare and that optimism in learning is not restricted to oneself.

**Persuasion, Emotion, and Language: The Intent to Persuade Transforms Language via Emotionality**

Matthew D. Rocklage, Derek D. Rucker & Loran F. Nordgren  
*Psychological Science* 29(5): 749-760 (March 2018)

Persuasion is a foundational topic within psychology, in which researchers have long investigated effective versus ineffective means to change other people’s minds. Yet little is known about how individuals’ communications are shaped by the intent to persuade others. This research examined the possibility that people possess a learned association between emotion and
persuasion that spontaneously shifts their language toward more emotional appeals, even when such appeals may be suboptimal. We used a novel quantitative linguistic approach in conjunction with controlled laboratory experiments and real-world data. This work revealed that the intent to persuade other people spontaneously increases the emotionality of individuals’ appeals via the words they use. Furthermore, in a preregistered experiment, the association between emotion and persuasion appeared sufficiently strong that people persisted in the use of more emotional appeals even when such appeals might backfire. Finally, direct evidence was provided for an association in memory between persuasion and emotionality.

Understanding the Role of the Perpetrator in Triggering Humiliation: The Effects of Hostility and Status
Saulo Fernández, Eran Halperin, Elena Gaviria, Rut Agudo & Tamar Saguy

The present research addresses the question of whether two characteristics of the situation (the hostility of a perpetrator and his/her status vis-à-vis the target) are critical in triggering humiliation (versus shame and anger). In Study1, participants described an autobiographical episode that elicited either humiliation, shame, or anger. Humiliation episodes were coded (by independent raters) as particularly unjust situations in which a hostile perpetrator (more hostile than perpetrators of the anger episodes) forced the devaluation of the target’s self. In Studies 2 and 3, we manipulated the perpetrator's hostility and his/her status vis-à-vis the target. Consistent with our hypotheses, both hostility and high status contributed to elicit humiliation, albeit hostility turned out to have a much stronger effect on triggering humiliation than high status. Moreover, our results clarified the cognitive process underlying the effect that these two factors had on humiliation: hostility triggered humiliation via the appraisal of injustice, whereas high status triggered humiliation via the appraisal of internalizing a devaluation of the self.

Reduced Framing Effect: Experience Adjusts Affective Forecasting With Losses
Lisha Fu, Junjie Yu, Shiguang Ni & Hong Li
Journal of Experimental Social Psychology 76: 231-238 (May 2018)

The framing effect refers to the phenomenon that phrasing the same outcomes as gains or losses leads to different risky choices. Most of the framing literature is based on descriptive scenarios, whereas people in real life must make decisions from experience because they rarely receive precise descriptions. However, whether and how framing effects occur in experience-based decisions remain important open questions. In three experiments, we demonstrate that the framing effect is less pronounced in experience-than in description-based decisions. We explain this finding on the basis of affective forecasting with losses. In descriptive conditions, individuals overestimate the impact of potential losses on their emotional reactions, whereas experience helps people become aware of their ability to rationalize losses and mitigates this erroneous affective forecasting, thereby reducing the propensity for risk seeking. Our results offer insight into the specific role of experience in framing effect: experience adjusts affective forecasting with losses, which reduces the framing effect.

Behavioral Bias in Number Processing: Evidence From Analysts’ Expectations
Tristan Roger, Patrick Roger & Alain Schatt
Research in neuropsychology shows that individuals process small and large numbers differently. Small numbers are processed on a linear scale, while large numbers are processed on a logarithmic scale. In this paper, we show that financial analysts process small prices and large prices differently. When they are optimistic (pessimistic), analysts issue more optimistic (pessimistic) target prices for small price stocks than for large price stocks. Our results are robust when controlling for the usual risk factors such as size, book-to-market, momentum, profitability and investments. They are also robust when we control for firm and analyst characteristics, or for other biases such as the 52-week high bias, the preference for lottery-type stocks and positive skewness, and the analyst tendency to round numbers. Finally, we show that analysts become more optimistic after stock splits. Overall, our results suggest that a deeply-rooted behavioral bias in number processing drives analysts’ return expectations.

**Risk(Mis)Perception: When Greater Risk Reduces Risk Valuation**  
Uzma Khan & Daniella M. Kupor  

The authors show that the value of a risky option decreases upon addition of risky prospects of the same valence. For instance, a medical drug with a potential side effect of seizures is viewed as less threatening when it also has smaller potential side effects, such as congestion and fatigue; travel insurance covering serious injury is viewed as less attractive when it also covers minor ailments; a lottery offering a chance to win an iPad is viewed as less attractive when it also offers a chance to win smaller prizes. As a result, consumers can perceive normatively more dangerous (beneficial) options to be less dangerous (beneficial) and normatively less dangerous (beneficial) options to be more dangerous (beneficial). This effect arises because people believe that larger prospects (e.g., seizures) are less likely than smaller prospects (e.g., congestion). Therefore, inclusion of smaller prospects by contrast makes a larger prospect appear less likely, which in turn reduces the perceived value of the risky option. Thus, this effect arises only when smaller prospects are added to a larger prospect, and only when the prospects are probabilistic. Cognitive load and feelings of personal control also moderate the effect. [DRM Summer 2017]

**Thinking Fast Increases Framing Effects in Risky Decision Making**  
Lisa Guo, Jennifer S. Trueblood & Adele Diederich  

Every day, people face snap decisions when time is a limiting factor. In addition, the way a problem is presented can influence people’s choices, which creates what are known as framing effects. In this research, we explored how time pressure interacts with framing effects in risky decision making. Specifically, does time pressure strengthen or weaken framing effects? On one hand, research has suggested that framing effects evolve through the deliberation process, growing larger with time. On the other hand, dual-process theory attributes framing effects to an intuitive, emotional system that responds automatically to stimuli. In our experiments, participants made decisions about gambles framed in terms of either gains or losses, and time pressure was manipulated across blocks. Results showed increased framing effects under time pressure in both hypothetical and incentivized choices, which supports the dual-process hypothesis that these effects arise from a fast, intuitive system.
Take It or Leave It: How Choosing versus Rejecting Alternatives Affects Information Processing
Tatiana Sokolova & Aradhna Krishna

People can make decisions by choosing or by rejecting alternatives. This research shows that changing a task from choice to rejection makes people more likely to rely on deliberative processing, what we label the task-type effect. To demonstrate this effect, we use a set of established decision biases that can be attenuated under deliberative processing. We show that changing a task from choice to rejection makes people express more consistent preferences between safe and risky options in the Asian disease problem (study 1A) and in financial decision making (study 1B), even with real monetary consequences (study 1C). Further, switching a task from choice to rejection increases the quality of consideration sets in the context of hotel reviews (study 2) and leads to more rational decisions in the context of cell phone plan selection (study 3). Studies 4 and 5 tap into the process underlying the effect of task type. We demonstrate that a rejection task produces decisions similar to those observed in a choice task when decision makers are cognitively depleted (study 4) or encouraged to rely on their feelings (study 5). The findings provide insight into the effect of task type on deliberation and decision outcomes.

Collective Choices Under Ambiguity
M. Vittoria Levati, Stefan Napel & Ivan Soraperra
Group Decision and Negotiation 26(1): 133-149 (2017)

We investigate experimentally whether collective choice environments matter for individual attitudes to ambiguity. In a simple two-urn Ellsberg experiment, one urn offers a 45% chance of winning a fixed monetary prize while the other offers an ambiguous chance. Participants choose either individually or in groups of three. Group decision rules vary in the level of individual responsibility for the others’ payoffs: the collective choice is taken by majority, randomly delegated to two group members, or randomly delegated to a single group member. Although most participants display consistent ambiguity attitudes across their decisions, taking responsibility for the others tends to foster ambiguity aversion.

Maximim Envy-Free Division of Indivisible Items
Steven J. Rams, D. Marc Kilgour & Christain Klamler

Assume that two players have strict rankings over an even number of indivisible items. We propose two algorithms to find balanced allocations of these items that are maximin—maximize the minimum rank of the items that the players receive—and are envy-free and Pareto-optimal, if such allocations exist. To determine whether an envy-free allocation exists, we introduce a simple condition on preference profiles; in fact, our condition guarantees the existence of a maximin, envy-free, and Pareto-optimal allocation. Although not strategy-proof, our algorithms would be difficult to manipulate unless a player has complete information about its opponent’s ranking. We assess the applicability of the algorithms to real-world problems, such as allocating marital property in a divorce or assigning people to committees or projects.
Gain-Loss Framing Effects in Dilemmas of Trust and Reciprocity
Anthony M. Evans & Ilja van Beest

How do trust and reciprocity decisions change when outcomes are framed in terms of potential losses (vs gains)? In two studies, with 7464 trust decisions from 359 participants and 2723 reciprocity decisions from 221 participants, we find that loss framing increases mean-level trust, but has no effect on mean-level reciprocity. Additionally, loss framing changes how decisions are made: In the domain of losses, trustors and trustees become less calculative — trust decisions involving losses are less sensitive to changes in expected value and reciprocity decisions are less sensitive to the financial temptation to betray trust. Critically, these changes in the process of decision-making are more pronounced when people interact with a human (vs computer) partner, pointing to uniquely social consequences of loss framing. The present results contribute to our understanding of the factors that shape trust and reciprocity, and emphasize that interpersonal processes play an important but under examined role in gain-loss framing effects.

Deliberation Erodes Cooperative Behavior — Even Towards Competitive Out-Groups, Even When Using a Control Condition, and Even When Eliminating Selection Bias
Jim A.C. Everett, Zach Ingbretsen, Fiery Cushman & Mina Cikaraa

By many accounts cooperation appears to be a default strategy in social interaction. There are, however, several documented instances in which reflexive responding favors aggressive behaviors: for example, interactions with out-group members. We conduct a rigorous test of potential boundary conditions of intuitive prosociality by looking at whether intuition favors cooperation even towards competitive out-group members, and even in losses frames. Moreover, we address three major methodological limitations of previous research in this area: a lack of an unconstrained control condition; non-compliance with time manipulations leading to high rates of exclusions and thus a selection bias; and non-comprehension of the structure of the game. Even after eliminating participant selection bias and non-comprehension, we find that deliberation decreases cooperation: even in competitive contexts towards out-groups and even in a losses frame, though the differences in cooperation between groups was consistent across conditions. People may be intuitive cooperators, but they are not intuitively impartial.

Confirmation Bias in Human Reinforcement Learning: Evidence From Counterfactual Feedback Processing
Stefano Palminteri, Germain Lefebvre, Emma J. Kilford & Sarah-Jayne Blakemore
PLos Computational Biology 13(8) (August 2017). Available at: https://doi.org/10.1371/journal.pcbi.1005684

Previous studies suggest that factual learning, that is, learning from obtained outcomes, is biased, such that participants preferentially take into account positive, as compared to negative, prediction errors. However, whether or not the prediction error valence also affects counterfactual learning, that is, learning from forgone outcomes, is unknown. To address this question, we analyzed the performance of two groups of participants on reinforcement learning tasks using a computational model that was adapted to test if prediction error valence influences learning. We carried out two experiments: in the factual learning experiment, participants learned from partial feedback (i.e., the outcome of the chosen option only); in the counterfactual learning experiment, participants learned from complete feedback information (i.e., the outcomes of both
the chosen and unchosen option were displayed). In the factual learning experiment, we replicated previous findings of a valence-induced bias, whereby participants learned preferentially from positive, relative to negative, prediction errors. In contrast, for counterfactual learning, we found the opposite valence-induced bias: negative prediction errors were preferentially taken into account, relative to positive ones. When considering valence-induced bias in the context of both factual and counterfactual learning, it appears that people tend to preferentially take into account information that confirms their current choice.

When Bigger Is Better (and When It Is Not): Implicit Bias in Numeric Judgments
Ellie J. Kyung, Manoj Thomas & Aradhna Krishna
Numeric ratings for products can be presented using a bigger-is-better format (1 = bad, 5 = good) or a smaller-is-better format with reversed rating poles (1 = good, 5 = bad). Seven experiments document how implicit memory for the bigger-is-better format—where larger numbers typically connote something is better—can systematically bias consumers’ judgments without their awareness. This rating polarity effect is the result of proactive interference from culturally determined numerical associations in implicit memory and results in consumer judgments that are less sensitive to differences in numeric ratings. This is an implicit bias that manifests even when people are mindful and focused on the task and across a range of judgment types (auction bids, visual perception, purchase intent, willingness to pay). Implicating the role of reliance on implicit memory in this interference effect, the rating polarity effect is moderated by (1) cultural norms that define the implicit numerical association, (2) construal mindsets that encourage reliance on implicit memory, and (3) individual propensity to rely on implicit memory. This research identifies a new form of proactive interference for numerical associations, demonstrates how reliance on implicit memory can interfere with explicit memory, and shows how to attenuate such interference.

Power Moves Beyond Complementarity: A Staring Look Elicits Avoidance in Low Power Perceivers and Approach in High Power Perceivers
Mario Weick, Cade McCall & Jim Blascovich
Sustained, direct eye-gaze—staring—is a powerful cue that elicits strong responses in many primate and nonprimate species. The present research examined whether fleeting experiences of high and low power alter individuals’ spontaneous responses to the staring gaze of an onlooker. We report two experimental studies showing that sustained, direct gaze elicits spontaneous avoidance tendencies in low power perceivers and spontaneous approach tendencies in high power perceivers. These effects emerged during interactions with different targets and when power was manipulated between-individuals (Study 1) and within-individuals (Study 2), thus attesting to a high degree of flexibility in perceivers’ reactions to gaze cues. Together, the present findings indicate that power can break the cycle of complementarity in individuals’ spontaneous responding: Low power perceivers complement and move away from, and high power perceivers reciprocate and move toward, staring onlookers.

Uncertainty Increases the Reliance on Affect in Decisions
Ali Faraji-Rad & Michel Tuan Pham
Journal of Consumer Research 44(1): 1-21 (June 2017)
How do psychological states of uncertainty influence the way people make decisions? The authors propose that such states increase the reliance on affective inputs in judgments and decisions. In accord with this proposition, results from six studies show that the priming of uncertainty (vs. certainty) consistently increases the effects of a variety of affective inputs on consumers’ judgments and decisions. Primed uncertainty is shown to amplify the effects of the pleasantness of a musical soundtrack (study 1), the attractiveness of a picture (study 2), the appeal of affective attributes (studies 3 and 4), incidental mood states (study 6), and even incidental states of disgust (study 5). Moreover, both negative and positive uncertainty increase the influence of affect in decisions (study 4). The results additionally show that the increased reliance on affective inputs under uncertainty does not necessarily come at the expense of a reliance on descriptive attribute information (studies 2 and 5), and that the increased reliance on affect under uncertainty is distinct from a general reliance on heuristic or peripheral cues (study 6). The phenomenon may be due to uncertainty threatening the self, thereby encouraging a reliance on inputs that are closer to the self and have high subjective validity. [DRM Winter 2018]

Does Uncertainty Cause Inertia in Decision Making? An Experimental Study of the Role of Regret Aversion and Indecisiveness
Santiago I. Sautua

Previous research has shown that individual decision making is often characterized by inertia—that is, a tendency for decision makers to choose options that maintain the status quo. In this study, I conduct a laboratory experiment to investigate two potential determinants of inertia in uncertain environments: (i) regret aversion and (ii) ambiguity-driven indecisiveness. I use a between-subjects design with varying conditions to identify the effects of these two mechanisms on choice behavior. In each condition, participants choose between two simple real gambles, one of which is the status quo option. The findings indicate that regret aversion and ambiguity-driven indecisiveness are equally important determinants of inertia, which in turn plays a major role in individual decision making.

The Effects of Perceived Procedural Justice on Conflict Management between Spouses, and the Mediating Role of Dyadic Adjustment
Inbal Peleg-Koriat, Noa Nelson & Rachel Ben-ari

In this study, we examined the role that perceived procedural justice (PPJ) plays in the conflict management behaviors that intimate spouses adopt and endorse. In this context, PPJ has been defined as the degree to which one perceives that his or her spouse makes decisions fairly, considerately, and in a participatory manner. To test the impact of perceived procedural justice on conflict resolution behavior, we applied the dual-concern model of conflict management style. In an experiment in which participants read fictional scenarios and predicted spouses’ responses, we found that perceptions of strong PPJ enhanced the prediction of integrating (problem solving), compromising, and, to a lesser degree, obliging behavior. Perceived procedural justice also caused a reduction in avoidance behavior, but no effect we found on dominating (competing) behavior. In a following correlational study, we also found that PPJ positively correlated to enhanced integrating, compromising, and obliging behaviors, and these correlations were partially or fully mediated by the degree of “dyadic adjustment,” which is a measure of
relationship health. In addition, in this second study, we found no correlation between perceived procedural justice and dominating or avoiding behavior. In both studies, participants either predicted or chose collaborative behaviors more than non-collaborative ones. We conclude that the perception that one's partner is behaving in a procedurally just way can enhance active and egalitarian collaboration in marriage and other intimate partner relationships, but that the absence of PPJ does not seem to encourage active non-collaboration, particularly not highly self-centered dominating behavior.

Choosing One at a Time? Presenting Options Simultaneously Helps People Make More Optimal Decisions Than Presenting Options Sequentially
Shankha Basu & Krishna Savani
Organizational Behavior and Human Decision Processes 139: 76-91 (March 2017)
This research examines an element of choice architecture that has received little attention—whether options are presented simultaneously or sequentially. Participants were more likely to choose dominating options when the options were presented simultaneously rather than sequentially, both when the dominance relationship was transparent (Experiment 1) and when it was not (Experiments 2–3). Depth of cognitive processing mediated the effect of option presentation on optimal choice (Experiment 4). Memory load was unlikely to be the underlying mechanism, as individual differences in working memory span did not predict optimal choice in the sequential condition (which places a greater memory load; Experiment 5), and manipulations of memory load did not reduce the benefits of simultaneous presentation (Experiments 6a–6c). Instead, participants’ working memory span predicted optimal choice in the simultaneous condition (which allows for more in-depth processing; Experiment 5), and a manipulation of processing load eliminated the benefits of simultaneous presentation (Experiment 7).

Repairing the Damage: The Effect of Price Expectations on Auto-Repair Price Quotes
Meghan Busse, Ayelet Israeli & Florian Zettelmeyer
Journal of Marketing Research 54(1): 75-95 (February 2017)
The authors investigate whether sellers treat consumers differently on the basis of how well informed consumers appear to be. They implement a large-scale field experiment in which callers request price quotes from automotive repair shops. The authors show that sellers alter their initial price quotes depending on whether consumers appear to be correctly informed, uninformed, or misinformed about market prices. The authors find that repair shops quote higher prices to callers who cite a higher benchmark price and that women are quoted higher prices than men when callers signal that they are uninformed about market prices. However, gender differences disappear when callers mention a benchmark price for the repair. Finally, the authors find that repair shops are more likely to offer a price concession if asked to do so by a woman than if asked by a man.

Beyond Skepticism: Can Accessing Persuasion Knowledge Bolster Credibility
Mathew S. Isaac & Kent Grayson
As defined by Friestad and Wright (1994), “persuasion knowledge” is personal knowledge about persuasion attempts that consumers develop and use whenever they believe they are targets of persuasion. A significant majority of research on persuasion knowledge has suggested that persuasion knowledge and skepticism invariably go hand in hand, and that
accessing persuasion knowledge therefore leads consumers to evaluate the agent and its offering less favorably. Across four studies, the authors demonstrate the novel effect that persuasion knowledge access can lead to greater credibility (rather than greater skepticism), a finding that they argue is theoretically consistent with Friestad and Wright’s (1994) Persuasion Knowledge Model. Further, the authors demonstrate that when a persuasive agent uses a credible tactic, persuasion knowledge access can lead consumers to evaluate the agent and its offering more (rather than less) favorably. They also develop and test a new approach for increasing persuasion knowledge access in lab experiments, which can facilitate the investigation of other occasions where persuasion knowledge access increases trust and belief in a persuasive message.

**Why Wait to Settle? An Experimental Test of the Asymmetric Information Hypothesis**
Sean Patrick Sullivan

The US legal system encourages civil litigants to quickly settle their disputes, yet lengthy and expensive delays often precede private settlements. The causes of these delays are uncertain. This paper describes an economic experiment designed to test one popular hypothesis: that asymmetric information might be a contributing cause of observed settlement delays. Experimental results provide strong evidence that asymmetric information can delay settlements, increasing average time to settlement by as much as 90 percent in some treatments. This causal relationship is robustly observed across different bargaining environments. On the other hand, results do not obviously confirm all aspects of the game-theoretic explanation for this relationship and suggest that asymmetric information may be only one of several contributing causes of settlement delay. [DRM Winter 2015]

**Bargaining Zone Distortion in Negotiations: The Elusive Power of Multiple Alternatives**
Michael Schaerer, David D. Loschelder & Roderick I. Swaab
Organizational Behavior and Human Decision Processes 137: 156-171 (November 2016)

We challenge the assumption that having multiple alternatives is always better than a single alternative by showing that negotiators who have additional alternatives ironically exhibit downward-biased perceptions of their own and their opponent’s reservation price, make lower demands, and achieve worse outcomes in distributive negotiations. Five studies demonstrate that the apparent benefits of multiple alternatives are elusive because multiple alternatives led to less ambitious first offers (Studies 1–2) and less profitable agreements (Study 3). This distributive disadvantage emerged because negotiators’ perception of the bargaining zone was more distorted when they had additional (less attractive) alternatives than when they only had a single alternative (Studies 1–3). We further found that this multiple-alternatives disadvantage only emerges when negotiators used quantitative (versus qualitative) evaluation standards to gauge the extremity of their offers (Study 4), and when they base their offers on their own numerical alternative(s) versus on opponent information (Study 5). [DRM Winter 2017]

**Money and Relationships: When and Why Thinking About Money Leads People to Approach Others**
Fei Teng, Zhansheng Chen, Kai-Tak Poon, Denghao Zhang & Yuwei Jiang
Organizational Behavior and Human Decision Processes 137: 58-70 (November 2016)

Monetary reminders have been shown to discourage people from affiliating with others. We proposed such an effect can be reversed when others are instrumental to people’s goals.
Results from four experiments converged to support our proposition. We found that thinking about money increased people’s focus on the instrumentality aspects of others (Experiment 1). In a goal pursuit context, monetary reminders increased people’s tendency to approach others who were instrumental to achieving their goals (Experiment 2). The effect of money prime on approaching others was dismissed or reversed when people were highly competent in achieving the goal themselves (Experiment 3) and when the instrumentality of others was ambiguous (Experiment 4). Moreover, these effects were driven by the perceived instrumentality of others (Experiments 2–4). Taken together, our findings suggest that thinking about money leads to an instrumentality orientation in social interactions, which changes how people view relationships and how they interact with others.

Dancing on the Slippery Slope: The Effects of Appropriate Versus Inappropriate Competitive Tactics on Negotiation Process and Outcome
Denise Fleck, Roger Volkema & Sergio Pereira
Group Decision and Negotiation 25(5): 873-899 (September 2016)

As negotiation is critical to all forms of organizational decision-making, researchers have shown an interest in understanding how the flow of information (valid and otherwise) influences this process. Often, competitive, questionable, and unethical tactics have been treated as interchangeable in these studies, despite presumed differences in appropriateness. The purpose of this study was to examine the similarities and differences in negotiators’ use and efficacy of appropriate competitive tactics (e.g., exaggerated offers) versus inappropriate competitive tactics (e.g., factual misrepresentations), primarily through a negotiation simulation. The study found that although these two categories of tactics were correlated in terms of overall use, appropriate competitive behaviors were used more frequently, especially early in negotiations, and these behaviors often resulted in comparable responses from counterparts. While ultimately increasing the likelihood of a negotiation impasse, the use of appropriate competitive tactics improved an individual’s substantive outcome where agreements could be reached. Inappropriate competitive tactics were likely to increase in number the sooner they were first employed in negotiations, with a response of inappropriate competitive tactics to the first use of competitive tactics increasing the likelihood of subsequent use of inappropriate tactics. The implications of these and other findings for both practitioners and future research are discussed.

Why Do People Tend to Infer “Ought” From “Is”? The Role of Biases in Explanation
Christina M. Tworek & Andrei Cimpian
Psychological Science 27: 1109-1122 (August 2016)

People tend to judge what is typical as also good and appropriate—as what ought to be. What accounts for the prevalence of these judgments, given that their validity is at best uncertain? We hypothesized that the tendency to reason from “is” to “ought” is due in part to a systematic bias in people’s (nonmoral) explanations, whereby regularities (e.g., giving roses on Valentine’s Day) are explained predominantly via inherent or intrinsic facts (e.g., roses are beautiful). In turn, these inherence-biased explanations lead to value-laden downstream conclusions (e.g., it is good to give roses). Consistent with this proposal, results from five studies (N = 629 children and adults) suggested that, from an early age, the bias toward inherence in explanations fosters inferences that imbue observed reality with value. Given that explanations fundamentally determine how people understand the world, the bias toward inherence in these judgments is likely to exert substantial influence over sociomoral understanding.
Mutual Persuasion
Giuseppe Dari-Mattiacci & Davide Grossi

Two agents have to collectively select one of two options. They are endowed with a personal bias, each in favor of a different option, and they observe a private signal with known quality. They then need to reveal their private signal to the other agent, but may decide to withhold some of the evidence the private signal provides, in order to persuade the other agent in the direction of their own bias. We present a Bayesian model capturing this form of persuasion. The model applies to a variety of phenomena, including political discussions, settlement negotiations and trade.

Models of Affective Decision Making: How Do Feelings Predict Choice?
Caroline J. Charpentier, Jan-Emmanuel De Neve, Xinyi Li, Jonathan P. Roiser & Tali Sharot
Psychological Science 27: 763-775 (June 2016)

Intuitively, how you feel about potential outcomes will determine your decisions. Indeed, an implicit assumption in one of the most influential theories in psychology, prospect theory, is that feelings govern choice. Surprisingly, however, very little is known about the rules by which feelings are transformed into decisions. Here, we specified a computational model that used feelings to predict choices. We found that this model predicted choice better than existing value-based models, showing a unique contribution of feelings to decisions, over and above value. Similar to the value function in prospect theory, our feeling function showed diminished sensitivity to outcomes as value increased. However, loss aversion in choice was explained by an asymmetry in how feelings about losses and gains were weighted when making a decision, not by an asymmetry in the feelings themselves. The results provide new insights into how feelings are utilized to reach a decision.

Measuring Intuition: Nonconscious Emotional Information Boosts Decision Accuracy and Confidence
Galang Lufityanto, Chris Donkin & Joel Pearson
Psychological Science 27: 622-634 (May 2016)

The long-held popular notion of intuition has garnered much attention both academically and popularly. Although most people agree that there is such a phenomenon as intuition, involving emotionally charged, rapid, unconscious processes, little compelling evidence supports this notion. Here, we introduce a technique in which subliminal emotional information is presented to subjects while they make fully conscious sensory decisions. Our behavioral and physiological data, along with evidence-accumulator models, show that nonconscious emotional information can boost accuracy and confidence in a concurrent emotion-free decision task, while also speeding up response times. Moreover, these effects were contingent on the specific predictive arrangement of the nonconscious emotional valence and motion direction in the decisional stimulus. A model that simultaneously accumulates evidence from both physiological skin conductance and conscious decisional information provides an accurate description of the data. These findings support the notion that nonconscious emotions can bias concurrent nonemotional behavior—a process of intuition.
The Pandora Effect: The Power and Peril of Curiosity
Christopher K. Hsee & Bown Ruan
Psychological Science 27: 659-666 (May 2016)
Curiosity—the desire for information—underlies many human activities, from reading
celebrity gossip to developing nuclear science. Curiosity is well recognized as a human blessing.
Is it also a human curse? Tales about such things as Pandora’s box suggest that it is, but
scientific evidence is lacking. In four controlled experiments, we demonstrated that curiosity
could lead humans to expose themselves to aversive stimuli (even electric shocks) for no
apparent benefits. The research suggests that humans possess an inherent desire, independent of
consequentialist considerations, to resolve uncertainty; when facing something uncertain and
feeling curious, they will act to resolve the uncertainty even if they expect negative
consequences. This research reveals the potential perverse side of curiosity, and is particularly
relevant to the current epoch, the epoch of information, and to the scientific community, a
community with high curiosity.

For a Dollar, Would You…? How (We Think) Money Affects Compliance With Our
Requests
Vanessa K. Bohnsa, Daniel A. Newark & Amy Z. Xuc
Organizational Behavior and Human Decision Processes 134: 45-62 (May 2016)
Research has shown a robust tendency for people to underestimate their ability to get
others to comply with their requests. In five studies, we demonstrate that this underestimation-of-
compliance effect is reduced when requesters offer money in exchange for compliance. In
Studies 1 and 2, participants assigned to a no-incentive or monetary-incentive condition made
actual requests of others. In both studies, requesters who offered no incentives underestimated
the likelihood that those they approached would grant their requests; however, when requesters
offered monetary incentives, this prediction error was mitigated. In Studies 3–5, we present
evidence in support of a model to explain the underlying mechanism for this attenuation effect.
Studies 3 and 4 demonstrate that offering monetary incentives activates a money-market frame.
In Study 5, we find that this activation reduces the discomfort associated with asking, allowing
requesters to more accurately assess the size of their request and, consequently, the likelihood of
compliance.

Incidental Fear Cues Increase Monetary Loss Aversion
Stefan Schulreich, Holger Gerhardt & Hauke R. Heekeren
Emotion 16(3): 402-412 (April 2016)
In many everyday decisions, people exhibit loss aversion—a greater sensitivity to losses
relative to gains of equal size. Loss aversion is thought to be (at least partly) mediated by
emotional—in particular, fear-related—processes. Decision research has shown that even
incidental emotions, which are unrelated to the decision at hand, can influence decision making.
The effect of incidental fear on loss aversion, however, is thus far unclear. In two studies, we
experimentally investigated how incidental fear cues, presented during (Study 1) or before
(Study 2) choices to accept or reject mixed gambles over real monetary stakes, influence
monetary loss aversion. We find that the presentation of fearful faces, relative to the presentation
of neutral faces, increased risk aversion—an effect that could be attributed to increased loss
aversion. The size of this effect was moderated by psychopathic personality: Fearless dominance,
in particular its interpersonal facet, but not self-centered impulsivity, attenuated the effect of
incidental fear cues on loss aversion, consistent with reduced fear reactivity. Together, these results highlight the sensitivity of loss aversion to the affective context.

**Bargaining Under Time Pressure**
Emin Karagozoglu & Martin G. Kocher

We experimentally investigate the effect of time pressure in a rich-context, unstructured bargaining game with earned status and competing reference points. Our results show that average opening proposals, concessions, and agreed shares are very similar across different levels of time pressure. Nevertheless, as predicted, time pressure systematically influenced agreements. In particular, the likelihood of bargainers reaching the explicit reference point outcome in agreements increases with time pressure, and the likelihood of reaching the implicit reference point (equal division) in agreements decreases with time pressure. Disagreement rates and the frequency of last-moment agreements are strongly affected: the disagreement rate rises dramatically with time pressure, and last-moment agreements are significantly more frequent. This effect is explained by a stronger connection between the tension in first proposals and the final bargaining outcome under time pressure than without time pressure.

**The Prospect of a Perfect Ending: Loss Aversion and The Round-Number Bias**
P. Fraser-Mackenzie, M. Sung & J.E.V. Johnson
Organizational Behavior and Human Decision Processes 131: 67-80 (November 2015)

Studies across a range of domains have shown that individuals tend to focus on round numbers as cognitive reference points; a so-called left-digit effect. We explain this effect by combining analog numerical heuristics with prospect theory in order to develop an analog value function that predicts the key characteristics of the left-digit effect. Most importantly, this value function predicts an unreported phenomenon, namely; that the left-digit effect will be more pronounced in situations involving losses (cf. gains). We confirm this prediction in both a laboratory experiment regarding hypothetical investments and analysis of buy–sell imbalances in over 15 million trades by investors in a financial market. We conclude that our analog value function is a promising explanation for the left-digit effect. Furthermore, we suggest that interventions aimed at reducing costly buy–sell imbalances in financial markets should focus on the decisions made by investors when they are facing loss.

**Pushing Away From Representative Advice: Advice Taking, Anchoring, and Adjustment**
Christina A. Rader, Jack B. Soll & Richard P. Larrick
Organizational Behavior and Human Decision Processes 130: 26-43 (September 2015)

Five studies compare the effects of forming an independent judgment prior to receiving advice with the effects of receiving advice before forming one’s own opinion. We call these the independent-then-revise sequence and the dependent sequence, respectively. We found that dependent participants adjusted away from advice, leading to fewer estimates close to the advice compared to independent-then-revise participants (Studies 1–5). This “push-away” effect was mediated by confidence in the advice (Study 2), with dependent participants more likely to evaluate advice unfavorably and to search for additional cues than independent-then-revise participants (Study 3). Study 4 tested accuracy under different advice sequences. Study 5 found that classic anchoring paradigms also show the push-away effect for median advice. Overall, the
research shows that people adjust from representative (median) advice. The paper concludes by discussing when push-away effects occur in advice taking and anchoring studies and the value of independent distributions for observing these effects.

**Seeing the Other Side: Perspective Taking and the Moderation of Extremity**
Hannah M. Tuller, Christopher J. Bryan, Gail D. Heyman & Nicholas J. S. Christenfeld
Journal of Experimental Social Psychology 59: 18-23 (July 2015)

Recognizing the reasonableness of others’ positions is important for conflict reduction, but is notoriously hard. The authors tested a perspective-taking approach to decreasing attitude entrenchment. Participants were held accountable in a task in which they wrote about a controversial issue from the perspective of a partner with an opposing viewpoint. This approach was effective at changing views on controversial issues—in Study 1 on weight discrimination, an issue participants were unlikely to have thought much about, and in Study 2 on abortion, where beliefs tend to be more deeply held. Studies 3 and 4 showed this change only took place under conditions where participants met the individual with an opposing view in person, and where that individual would see the perspective-taking effort. These results suggest that it is possible to reduce attitude entrenchment by encouraging people to think about the opposing perspective of another, as long as there is real contact and accountability. [DRM Summer 2015]

**Self-Interest Bias in Moral Judgments of Others’ Actions**
Konrad Bocian & Bogdan Wojciszke

The automatic and affective nature of moral judgments leads to the expectation that these judgments are biased by an observer’s own interests. Although the idea of self-interest bias is old, it has never been directly tested with respect to the moral judgments of other individuals’ behaviors. The participants of three experiments observed other individuals’ counternormative behavior (breaking a rule or cheating for gain), which was judged as immoral. However, this judgment became much more lenient when the observers gained from the observed behavior. All three studies showed that the influence of self-interest on moral judgments was completely mediated by the observer’s increased liking for the perpetrator of the immoral acts but not by changes in mood. When the participants were induced to dislike the perpetrator (in a moderation-of-process design), the self-interest bias disappeared. Implications for the intuitionist approach to moral judgment are discussed.

**Do You Want the Good News or the Bad News First? The Nature and Consequences of News Order Preferences**
Angela M. Legg & Kate Sweeny

Information often comes as a mix of good and bad news, prompting the question, “Do you want the good news or the bad news first?” In such cases, news-givers and news-recipients differ in their concerns and considerations, thus creating an obstacle to ideal communication. In three studies, we examined order preferences of news-givers and news-recipients and the consequences of these preferences. Study 1 confirmed that news-givers and news-recipients differ in their news order preferences. Study 2 tested two solutions to close the preference gap between news-givers and recipients and found that both perspective-taking and priming emotion-protection goals shift news-givers’ delivery patterns to the preferred order of news-recipients.
Study 3 provided evidence that news order has consequences for recipients, such that opening with bad news (as recipients prefer) reduces worry, but this emotional benefit undermines motivation to change behavior.

**Avoiding the Agreement Trap: Teams Facilitate Impasse in Negotiations with Negative Bargaining Zones**
Taya R. Cohen, Geoffrey J. Leonardelli & Leigh Thompson

Effective negotiation requires understanding not only how to “get to yes” but also when and how to say no. The *agreement trap* can occur in situations in which mutual agreement is not viable because parties’ interests cannot simultaneously be met. Two experiments tested whether teams are more adept than solos at avoiding the agreement trap. These studies compared teams and solos in a negotiation involving a real-estate transaction in which the optimal solution was for the parties to declare an impasse. Study 1 found that two- and three-person teams were more likely than solos to impasse. Study 2 found that the party faced with the greater need to make accurate judgments about the alignment between their own and their counterpart’s interests benefited most from the addition of a teammate. Our findings suggest one factor underlying the agreement trap (faulty judgment) and a potential solution (greater information processing capability via teams). [DRM Summer 2015]

**Decision Time as Information in Judgment and Choice**
Philippe P.F.M. Van de Calseyde, Gideon Keren & Marcel Zeelenberg
Organizational Behavior and Human Decision Processes 125(2): 113-122 (2014)

People often observe others’ decisions and the corresponding time it took them to reach the decision. In this study, the authors demonstrate that people derive information from the time that others needed in reaching a decision. Specifically, the findings of multiple experiments and a field study using data from the television show *The Voice* reveal that decision times are perceived as indicative of the degree of doubt that the decision maker experienced. In turn, these inferences of doubt reliably affected people’s preferences such as with whom to collaborate and negotiate, even when the collaboration would yield a normatively inferior outcome. These results are incompatible with the idea that an alternative will be chosen only on the basis of its outcomes. Instead, the authors portray a model that incorporates others’ decision times as a component of the choice process. [DRM Summer 2015]

**Judging a Part by the Size of its Whole: The Category Size Bias in Probability Judgments**
Mathew S. Isaac & Aaron R. Brough

Whereas prior research has found that consumers’ probability judgments are sensitive to the number of categories into which a set of possible outcomes is grouped, this article demonstrates that categorization can also bias predictions when the number of categories is fixed. Specifically, five experiments document a category size bias in which consumers perceive an outcome as more likely to occur when it is categorized with many rather than few alternative possibilities, even when the grouping criterion is irrelevant and the objective probability of each outcome is identical. For example, participants in one study irrationally predicted being more likely to win a lottery if their ticket color matched many (vs. few) of the other gamblers’ tickets—and wagered nearly 25% more as a result. These findings suggest that consumers’
perceptions of risk and probability are influenced not only by the number of categories into which possible outcomes are classified but also by category size.

When Parity Promotes Peace: Resolving Conflict Between Asymmetric Agents
Erik O. Kimbrough, Roman M. Sheremeta & Timothy W. Shields

Due to the high costs of conflict both in theory and practice, we examine and experimentally test the conditions under which conflict between asymmetric agents can be resolved. We model conflict as a two-agent rent-seeking contest for an indivisible prize. Before conflict arises, both agents may agree to allocate the prize by fair coin flip to avoid the costs of conflict. The model predicts that “parity promotes peace”: in the pure-strategy equilibrium, agents with relatively symmetric conflict capabilities agree to resolve the conflict by using a random device; however, with sufficiently asymmetric capabilities, conflicts are unavoidable because the stronger agent prefers to fight. The results of the experiment confirm that the availability of the random device partially eliminates conflicts when agents are relatively symmetric; however, the device also reduces conflict between substantially asymmetric agents.

Egocentrism Drives Misunderstanding in Conflict and Negotiation
John R. Chambers & Carsten K.W. De Dreu
Journal of Experimental Social Psychology 51: 15–26 (March 2014)

A key barrier to effective conflict resolution is that parties often exaggerate the degree to which the other side’s interests oppose their own. In this paper, the authors examine egocentrism as a fundamental source of such biased conflict perceptions. They propose that when assessing the interests and priorities of the other side, parties rely on their own interests and priorities, ignoring those of their opponents. Three experiments involving multi-issue negotiations provide strong evidence of such egocentric misperception. In the first experiment, participants judged their own important issues to be important to their negotiation opponent, regardless of the opponent's actual interests. In the second, accuracy in perceptions of the opponent’s interests increased when attention was experimentally focused on those interests rather than on the party’s own. The third experiment found that a participant’s perceptions of the opponent’s interests were more closely related to the participant’s own interests than to the opponent’s actual interests. Although the authors demonstrate that egocentrism may often blind disputants to opportunities for tradeoffs, their research also shows that focusing disputants on the opponents’ interests can undermine egocentrism and allow for constructive negotiation. In the discussion, the authors highlight the broader implications of egocentrism for other areas of conflict. [DRM Summer 2014]

Barriers to Transforming Hostile Relations: Why Friendly Gestures Can Backfire
Tanya Menon, Oliver J. Sheldon & Adam D. Galinsky

Friendly gestures (e.g., smiles, flattery, favors) typically build trust and earn goodwill. However, the authors propose that people feel unsettled when enemies initiate friendly gestures. To resolve these sense-making difficulties, people find order through superstitious reasoning about friendly enemies. Across three experiments, the authors found that enemies’ friendly gestures led counterparts to blame them, perceive future contact with them as unlucky, and avoid them. Individuals high in need of structure were especially prone to make these attributions.
Taken together, these results suggest that rather than transforming hostile relationships, an enemy’s friendliness can be so unnerving that it sometimes leads people down blind alleys of superstitious reasoning. [DRM Summer 2014]

**Money, Well-Being, and Loss Aversion: Does an Income Loss Have a Greater Effect on Well-Being Than an Equivalent Income Gain?**
Christopher J. Boyce, Alex M. Wood, James Banks, Andrew E. Clark & Gordon A. Brown
Psychological Science 24(12): 2557 –2562 (December 2013)

Higher income is associated with greater well-being, but do income gains and losses affect well-being differently? Loss aversion, whereby losses loom larger than gains, is typically examined in relation to decisions about anticipated outcomes. Here, using subjective-well-being data from Germany (N = 28,723) and the United Kingdom (N = 20,570), we found that losses in income have a larger effect on well-being than equivalent income gains and that this effect is not explained by diminishing marginal benefits of income to well-being. Our findings show that loss aversion applies to experienced losses, challenging suggestions that loss aversion is only an affective-forecasting error. By failing to account for loss aversion, longitudinal studies of the relationship between income and well-being may have overestimated the positive effect of income on well-being. Moreover, societal well-being might best be served by small and stable income increases, even if such stability impairs long-term income growth.

**In the Eye of the Beholder: Eye Contact Increases Resistance to Persuasion**
Frances S. Chen, Julia A. Minson, Maren Schöne & Markus Heinrichs
Psychological Science 24(11): 2254-2261 (November 2013)

Popular belief holds that eye contact increases the success of persuasive communication. However, two recent studies demonstrate that more eye contact between the listener and speaker during persuasive communication predicts less attitude change in the direction advocated. These findings highlight that eye contact can signal very different kinds of messages, ranging from attraction and interest to aggression and a desire to intimidate. Prolonged eye contact in a tense or adversarial interaction is likely to be interpreted differently than it would be in a friendly interaction. Speakers attempting to use eye contact in a persuasion attempt are advised to pay attention to their listener’s body language. If a listener seems receptive and open to a message, direct eye contact might have a positive impact on persuasion. However, if he or she seems upset or overwhelmed or starts looking away, trying to force direct eye contact might backfire. [DRM Summer 2014]

**Loss Aversion and Foreign Policy Resolve**
Jeffrey Berejikian & Bryan Early
Political Psychology 34(5): 649-671 (October 2013)

This article draws upon recent findings from the field of neuroscience to explore how loss aversion affects foreign policy resolve. We theorize that U.S. policy makers are more resolute in pursuing preventive policies that seek to avoid losses than they are in pursuing promotive policies that seek to acquire new gains. To test our theory, we conduct the first large-n analysis of foreign policy hypotheses derived from the neuroscience of loss aversion using data from 100 cases of U.S.-initiated Section 301 trade disputes. The results provide strong support for the loss-aversion-based theory, revealing that American policy makers are willing to fight harder and hold out longer in trade disputes with preventive objectives than they are in cases with promotive
ones. Our study demonstrates that hypotheses derived from neuroscientific findings can be tested using large-n techniques in study of foreign policy, revealing a new avenue of inquiry within the field.

The Illusion of Saving Face: How People Symbolically Cope With Embarrassment
Ping Dong, Xun (Irene) Huang & Robert S. Wyer, Jr.
Psychological Science 24: 2005-2012 (October 2013)

People who feel embarrassed are often motivated to avoid social contact—that is, to hide their face. At the same time, they may be motivated to restore the positive image that has been tarnished by the embarrassing event (or, in other words, to restore the face lost in the event). Individuals can symbolically employ these coping strategies by choosing commercial products that literally either hide their face (e.g., sunglasses) or repair it (e.g., restorative cosmetics). However, the two coping strategies have different consequences. Although symbolically repairing one’s face eliminates aversive feelings of embarrassment and restores one’s willingness to engage in social activities, symbolically hiding one’s face has little impact.

The Invisible Gorilla Strikes Again: Sustained Inattentive Blindness in Expert Observers
Trafton Drew, Mellisa L.-H. Vô & Jeremy M. Wolfe
Psychological Science 24(9): 1848-1853 (September 2013)

Researchers have shown that people often miss the occurrence of an unexpected yet salient event if they are engaged in a different task, a phenomenon known as inattentive blindness. However, demonstrations of inattentive blindness have typically involved naive observers engaged in an unfamiliar task. What about expert searchers who have spent years honing their ability to detect small abnormalities in specific types of images? We asked 24 radiologists to perform a familiar lung-nodule detection task. A gorilla, 48 times the size of the average nodule, was inserted in the last case that was presented. Eighty-three percent of the radiologists did not see the gorilla. Eye tracking revealed that the majority of those who missed the gorilla looked directly at its location. Thus, even expert searchers, operating in their domain of expertise, are vulnerable to inattentive blindness.

Predictive and Reactive Mechanisms in Smile Reciprocity
Erin A. Heerey & Helen M. Crossley
Psychological Science 24(8): 1446-1455 (August 2013)

During face-to-face interactions, people reciprocate their conversation partners’ genuine and polite smiles with matching smiles. In the research reported here, we demonstrated that predictive mechanisms play a role in this behavior. In natural interactions (Study 1), participants anticipated a substantial proportion of genuine smiles but almost no polite ones. We propose that reinforcement-learning mechanisms underpin this social prediction and that smile-reciprocity differences arise because genuine smiles are more rewarding than polite smiles. In Study 2, we tested this idea using a learning task in which correct responses were rewarded with genuine or polite smiles. We measured participants’ smile reactions with electromyography (EMG). As in natural interactions, people mimicked polite smiles reactively, after seeing them appear. Interestingly, the EMG data showed predictive responding to genuine smiles only. These results demonstrate that anticipating social rewards drives predictive social responding and therefore represent a significant advance in understanding the mechanisms that underpin the neural control of real-world social behavior.
Exploring the Impact of Various Shaped Seating Arrangements on Persuasion
Rui (Juliet) Zhu & Jennifer J. Argo

Despite the common belief that seating arrangements matter, little research has examined how the geometrical shape of a chair arrangement can impact persuasion. Across three studies, this research demonstrates that the shape of seating arrangements can prime two fundamental human needs, which in turn influence persuasion. When seated in a circular-shaped layout, individuals evaluate persuasive material more favorably if it contains family-oriented cues or majority endorsement information. In contrast, when seated in an angular-shaped seating arrangement, individuals evaluate persuasive material more favorably when it contains self-oriented cues or minority endorsement. Further, results reveal that these responses to persuasive material arise because circular-shaped seating arrangements prime a need to belong, while angular-shaped seating arrangements prime a need to be unique. Thus, this research shows that a subtle environmental cue – the shape of a seating arrangement – can activate fundamental human needs and consequently affect persuasion. [DRM Winter 2014]

Intentional Harms Are Worse, Even When They’re Not
Daniel L. Ames & Susan T. Fiske
Psychological Science 24(7): 1755-1762 (July 2013)

People and societies seek to combat harmful events. However, because resources are limited, every wrong righted leaves another wrong left unchecked. Responses must therefore be calibrated to the magnitude of the harm. One under-appreciated factor that affects this calibration may be people’s over-sensitivity to intent. Across a series of studies, the authors found that people saw intended harms as worse than unintended harms, even though the two harms were identical. This harm-magnification effect is attributable to differences in blame motivation and occurred for both subjective and monetary estimates of harm, and it remained when participants were given incentives to be accurate. People may therefore focus on intentional harms to the neglect of unintentional (but equally damaging) harms. [DRM Winter 2014]

Accentuation of Bias in Jury Decision-Making
Masami Takada & Koji Murata
Group Processes & Intergroup Relations 17(1): 110-124 (June 2013)

We investigated the bias accentuation effect of group decision-making. Previous studies have shown that individuals were more likely to endorse the guilty verdict when the prosecution evidence was presented in a temporal order (story condition) than when the same evidence was presented in a nontemporal order (witness condition). We expected that group deliberation would accentuate this biasing effect of evidence order through a majority-wins process. Sixty-six 3-person groups engaged in a mock jury task either in the story or witness condition. As predicted, group deliberation accentuated the difference in the verdict judgments between the two conditions through a majority-wins/leniency asymmetry process. This accentuation effect was not moderated by how juries deliberated (evidence-driven vs. verdict-driven). Some theoretical and practical implications of these findings were discussed.
RESTORATIVE JUSTICE

Reoffending Analysis for Restorative Justice Cases 2008–2013

Key findings from this study include that:

- The reoffending rate for offenders who participated in restorative justice was 15% lower over the following 12-month period than comparable offenders and 7.5% lower over three years.
- Offenders who participated in restorative justice committed 26% fewer offences per offender within the following 12-month period than comparable offenders (20% fewer offences within three years).
- Restorative justice appeared to help reduce reoffending across many offence types including violence, property abuse/damage and dishonesty. However, the reoffending rate was not lower for restorative justice participants who committed a driving causing death/injury offence.
- The reoffending rate for Māori who participated in restorative justice was 16% lower over the following 12-month period than comparable Māori offenders (6.9% lower over three years). Māori offenders who participated in restorative justice committed 37% fewer offences per offender within the next 12-month period than comparable Māori offenders (23% fewer offences within three years).
- The reoffending rate for young offenders (aged 17 to 19) who participated in restorative justice was 17% lower than comparable young offenders over the following 12-month period (8.9% lower over three years). Young offenders who participated in restorative justice committed 30% fewer offences per offender than comparable young offenders within 12 months (32% fewer offences within three years).

Exploring Communities of Facilitators: Orientations toward Restorative Justice
Gregory D. Paul & Ian M. Borton
Conflict Resolution Quarterly 31(2): 189-218 (Winter 2014)

Although current research on restorative justice largely has overlooked facilitators’ roles in victim-offender conferences, research on third parties suggests that they are more than neutral process guides. The study examined in this article involved an exploration of restorative justice facilitators’ backgrounds, perceived responsibilities, and ideal outcomes to arrive at a theory of facilitated justice rooted in facilitator orientation and conference context. Based on individual interviews with facilitators from two restorative justice organizations, the results of this study suggest the presence of four orientations rooted in participant orientation and outcome orientation. These orientations lead to the development of a theory of facilitated justice.

Restorative Justice Conferencing (RJC) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction. A Systematic Review
Heather Strang, Lawrence W. Sherman, Evan Mayo-Wilson, Daniel Woods & Barak Ariel

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This review distils the strongest available evidence on the effectiveness of face-to-face restorative justice (RJ) in the reduction of repeat offending, relative to formal justice processes, and in the benefits it provides for victims. Those working in dispute resolution can use the review to help their practice by noting the findings about where RJ has been found most effective. To the surprise of some, RJ is most effective for more serious offenses, including violent crime, and perhaps more effective for adults than for juveniles. The evidence is limited at present to just one type of RJ, and the authors urge caution about generalizing these results to other forms. But there is reason to be optimistic that RJ techniques employing the principles and processes found in this research can be used for more serious and complex disputes and conflicts and can be more successful than court processing for preventing future crime and giving victims what they seek from the justice system. [DRM Summer 2014]