

Dialogue, dispute resolution, and talk-in-interaction: On empirical studies of ephemeral phenomena

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Abstract

Although relational theories have gained increasing prominence in the field of alternative dispute resolution (ADR), further clarification of the actual communication that constitutes and contributes to a relational approach in the mediation and negotiation processes is still needed. This article begins by presenting a conception of dialogue as a relational practice. Ethnomethodological conversation analysis (CA) is introduced as a research method well suited to explicating practices of talk that contribute to or undermine relational interaction and dialogue in negotiation and conflict resolution contexts. We present two case studies of two parties negotiating a lease. Comparison of the two instances isolates practices that accomplish or move away from relational interaction and dialogue. This precedes a closing discussion of dialogic phenomena that could be mapped onto sequentially organized interactive practices, allowing them to be identified and studied in actual interactions. Such analysis offers valuable potential for understanding the actual discursive forms that contribute to relational approaches and dialogue and that help cultivate relational awareness and dialogic mindset in practice.

This article calls for grounding theoretical commitments to a relational approach and dialogue in studies of actual talk and practices of talk-in-interaction within the context of negotiation and conflict resolution. Prominent figures (Bush & Folger, 1994; Cobb, 2001; Gold, 2003) in the field of alternative dispute resolution (ADR) regard the relational aspect as a key to understanding the potential added-value of mediation. In negotiation theory, others have suggested relational frameworks for analyzing the negotiation process (Gelfand, Major, Raver, Nishii, & O'Brien, 2006; Greenhalgh & Chapman, 1998; Kolb & Putnam, 2000; Leary, 2004). However, further clarification of the relational aspect and its possible manifestation in mediation and negotiation processes is still needed (Cobb, 2006; Greenhalgh & Lewicki, 2003; Jones, 1994; Shailor, 1994). How do people create relational space and dialogue in conflict situations? How can we identify it, understand how it works, and perhaps even help people learn how to practice it? Conversation analysis, rooted in ethnomethodological interests in participants' own methods for jointly creating social order, is particularly well suited to such an enterprise. This article will present two case studies showing practices through which negotiators create or move away from relational connection and dialogue. Through the analysis, we hope to identify practices that could be studied further and demonstrate the potential of this line of analysis.

Scholars across a number of intellectual disciplines call for and undertake a shift away from individualistic underpinnings that lead to interest-based negotiation analysis toward emphasis on relational awareness and dialogue. As Jones (1994, p. 30) concluded in a review of mediation research, "... relational context has received little attention... Although mediation theories may include reference to or discussion of relational context, they rarely highlight its potential for influence. And, to date, they have failed to seriously unpack how that influence may be exerted." Since the time of her statement, the challenge of shifting from the governing scholarly discourse in which "... disputants are constructed as expressive and utilitarian individuals" (Shailor, 1994, p. 28) has yet to be met. Even when negotiation manuals claim to adopt relational emphases, stressed Greenhalgh and Lewicki (2003, p. 27), the teaching of negotiation "was a convenient simplification, because considering 'the party' as a single generic actor allowed scholars to apply all of their individualistically oriented theory to the intra-group, inter-group, intra-organizational, and international levels."

Both the *transformative approach* (Bush & Folger, 1994) and the *narrative approach* (Winslade & Monk, 2000) to mediation critically reexamine the common modern Western concept of "self" as a separate and self-interested entity. The underpinnings presented in the next section offer an alternative conception of human interaction that questions the view of the self as the unit for analysis. We next introduce conversation analysis (CA) as a research approach. With its emphasis on studying details of actual interactions, CA can help us develop new ways of analyzing communication acts from a practical perspective that sees the self as part of interaction, a dialogic self that emerges from and is part of a relational space.

Dialogue as a Relational Practice

The inquiry into the relational foundations should further present a relational worldview and its philosophical underpinnings, clarifying what dialogue entails from a relational standpoint and exploring to what extent certain communicative actions may accomplish relational acts and dialogue.

As mentioned, a key component of the investigation of the relational underpinnings includes a reexamination of the notion of "the self." Within the common, individualistic frame of mind, human beings view themselves and one another as autonomous entities who, at the peak of their developmental maturity, achieve the capability to define oneself by herself, separately and distinctively from others. This is a view of human nature that emphasizes separateness, autonomy, individuality, and self-interestedness. The relational view of the self moves outward from the individual to the domain of relatedness: The self is perceived as an emergent, ever-changing product of one's interaction, constructed within interactions, its values and vision being an ongoing construction in the emergent flow of interactions rather than set values and perceptions one imposes on the world.

Prominent dialogue scholars across a number of intellectual disciplines present the concept of dialogue as a relational practice. Martin Buber drew a distinction between two modes of conversation—indeed, between two different qualities of human interaction: "I-Thou" and "I-It." While the I-It relation is characterized by cold indifference with respect to the other, the I-Thou is a dialogic relation, acknowledging that "Through the 'Thou' a man becomes 'I'" (Buber, 1923/1987, p. 28), meaning that only in the presence of the I-Thou primary relation can the self be wholly apprehended. The one who observes others as It—that is, as "things" or "objects"—sees them laying side by side in space: "Every 'it' is bounded by others; it exists only through being bounded by others" (p. 4). In opposition to that experience, which disconnects one from the world, "... the realm of the 'Thou' has a different nature. When 'Thou' is spoken, the speaker has no thing for his object... he has indeed nothing. However, he takes his stand in relation" (Buber, 1923/1987, p. 4), in a manner that overcomes the disconnection embedded in the relation with

an object and that includes different focus.¹ Buber made a radical claim that questions common ontological foundations in Western philosophy, addressing the very nature of existence: That the relation precedes the world of knowledge and the distinction between objects and that in the relation a primary and foundational experience is echoed—one in which the nature of humans and of the world is understood. He wrote: “In the beginning is relation—as category of being, readiness, grasping form, mould for the soul, it is the a priori of relation, the inborn Thou” (Buber, 1923/1987, p. 27).²

Similar to Buber’s view, David Bohm has presented a view of dialogue uninhibited by creating a framework in which it is seen as an exchange between opinionated, bounded people. According to Bohm, the etymology of dialogue is “a *stream of meaning* flowing among and through us and between us” (Bohm, 1996, p. 6). Bohm has drawn a distinction between the dialogic state and the state of trading information among human beings, where each person guards the foundational assumptions with which one arrives: “They are more like discussions—or perhaps trade-offs or negotiations—than dialogues. The people who take part are not really open to questioning their fundamental assumptions. They are trading off minor points . . . but the whole question of two different systems is not being seriously discussed. You can’t talk about *that*—nothing will ever change that” (Bohm, 1996, p. 7).

In other words, according to Bohm, dialogue requires talking about and changing *that*, that is, a reexamination of the assumptions and perceptions with which the participants arrive, a reexamination that undermines fundamental assumptions not only regarding content, but also regarding the perception of the parties as “two different systems.”

While presenting his dialogic view of human understanding and thinking, Charles Taylor (1992) drew a distinction between “monologic acts” (single-agent acts) and “dialogic acts,” the latter not emerging, he explained, from the common epistemological tradition. Within a “monologic act,” one fails to capture that “the self neither preexists all conversation, as in the old monological view; nor does it arise from an introjection of the interlocutor; but it arises within conversation, because this kind of dialogical action by its very nature marks a place for the new locator who is being inducted into it” (Taylor, 1992, p. 312).

When describing relational responsibility, Sheila McNamee and Kenneth Gergen suggested that a paradigm shift is needed from “the major discourse of responsibility in which the single individual serves as the critical terminus” (McNamee & Gergen, 1999, p. 3) and from the Western culture’s shared “belief in the self as an originary source” (McNamee & Gergen, p. 6), a “subject agency” who we honor for holding the capacity for internal deliberation and control. Relational responsibility, they explained, moves outward from the individual to the domain of relatedness. The individual and his personal identity are seen as “a by-product of negotiations within relationships.” Meaning is understood to be arising “in the emergent flow of actions.”

These perspectives offer a relational vision for transforming adversity into dialogue: a vision of shifting from an introjected “I,” who has to find his own voice, to gradual awareness of the process of how the self arises from and within conversation, “gradually finding one’s own voice as an interlocutor” (Taylor, 1992, p. 313). This vision of dialogue takes as its starting point the joint action taking place in concrete situations, in the dialogic space from which the private agents relationally emerge, rather than focusing on individuals’ acts separately from that emergence, or co-constructed reality. By clarifying the basis of relationality, these thinkers offer perspectives that address challenges posed by negotiation and mediation scholars who call for a relational framework for conflict management (see Kuttner, 2012).

¹“The relating I and the addressed Thou, which reveals itself, may meet, and this mutual ‘relation’ (*Beziehung*) is ‘encounter’ (*Begegnung*). Buber highlighted that in the sphere of the ‘between’ (*zwischen*) as the humanizing factor in human society, institutions are too much ‘outside,’ whereas feelings are too much ‘inside’” (Meir, 2006, p. 121).

²He continued: “The thing, like the I, is produced late, arising after the original experiences have been split asunder and the connected partners separated” (Buber, 1923/1987, p. 27).

Conversation Analysis and the Identification of Dialogue *in Situ*

As the existing negotiation and mediation literature is only making its first steps in founding relational philosophy and its manifestation in practice (Bush & Folger, 1994; Kuttner, 2010a,b; Winslade & Monk, 2000), we turn to a research tradition whose underlying philosophical commitments are highly resonant with a dialogic perspective and whose methods can contribute to the understanding of a relational framework in ADR and for explicating relational moves in practice. Conversation analysis (CA), with roots in phenomenology and ethnomethodology (Garfinkel, 1967) and influenced by Erving Goffman's dramatic, microsociological studies, takes keen interest in mundane social actors as active sense-makers and sense-takers (for overviews, see Psathas, 1995; ten Have, 1999). CA rests on a conception of language—indeed, all communicative behaviors—as social action rather than a medium for the transmission of information. “Persons produce their talk, gestures, facial expressions, and body movements so as to be understood in particular ways; they interpret their own and other persons' conduct as indexing, indicating, and revealing some particular meaning” (Pomerantz & Mandelbaum, 2005, p. 151). Through talk-in-interaction, people coordinate actions, shape meanings, and constitute identities and relationships. Of the many ways people have to formulate ideas, subjects, processes, and relations, the ones chosen at any point depend on the purposes being served in and through the unfolding trajectories of coordinated action. “Our accounts of our actions and ourselves are socially produced descriptions which are marshaled for specific ends including defence of one's credibility (Barker & Galasinski, 2001, p. 35).” CA work starts from the following assumptions (Heritage, 1984):

- 1) Interaction is orderly, and people produce that order. The premise that there is “order at all points” (Sacks, 1984, p. 22) counters assumptions that the details of mundane interaction are messy or chaotic, requiring reduction to numbers or abstraction to models to discern patterns.
- 2) People produce interaction *in situ*, and it must be understood in its context. The meaning of any utterance or action does not lie in itself but is inescapably shaped by its sequential location.
- 3) Order is a resource first and foremost for participants' social actions, not analyst's conception. That is, people draw on their knowledge of the interactional order as they speak, act, interpret, and respond to each other. Thus, the analyst's task is to interpret participants' understandings that are displayed and made evident in what they do.
- 4) The order is repeatable and recurrent. Due to this, recurrent sequences can be identified, and deviations from them can be understood by reference to canonical forms.

Conversation analysis bears family resemblances to other manifestations of the “linguistic turn” (Rorty, 1967) in philosophy and human sciences, including Ordinary Language Philosophy, Linguistic Anthropology, Pragmatics, Speech Act Theory, and Discourse Analysis, including critical and feminist discourse work. It is distinct from these other approaches in its ethnomethodological grounding requiring that analytic categories and claims are demonstrable in participants' displayed orientations.

Conversation analysis methods involve working with recordings of naturalistic interactions. Detailed transcripts are created that capture linguistic, paralinguistic, temporal, and selected visual (embodied) phenomena.³ The repeated listening necessary for creating transcripts also brings the analyst into close contact with the details of the interaction, description of which is central to the enterprise. This involves characterizing features of actions, turns, sequences, larger episodes, and overall organization. Analysis eschews speculations about motives and mental states in favor of actual conduct and displayed orientations. The unit of analysis is not the individual actor or behavior, but the jointly constituted social action.

³We use these terms instead of the black box term “nonverbal” to refer to visible and audible cues that contribute to meaning and play crucial roles in how people create meanings and relationships.

Findings are based on analysis of collections of similar instances or single case episodes (generally longer and more complicated). Minimizing quantification and theory building, the goal lies in analyzing formal procedures, the “Structures of Social Action” (Atkinson & Heritage, 1984). Some topics of CA research include adjacency pairs (summons–answer, greetings, question–answer, offer–reply, compliment–response), repair, storytelling, arguments, laughter, openings and closings, preference structures, and turn-taking. CA researchers have investigated not only everyday talk but also institutional interactions including medical consultations, courtroom trials, classrooms, focus groups, broadcast interviews, talk shows, speeches, and employment interviews. There is a rich tradition of CA studies of negotiation and mediation (e.g., Firth, 1995; Garcia, 1991, 1995, 2010; Glenn, 2010; Maynard, 1984, 2010; Tracy & Spradin, 1994). Related discourse analytic studies have made significant contributions to understanding the dynamic communication patterns in negotiation and mediation that contribute to successful outcomes and constitute relationships (cf. Putnam, 1994, 2004, 2005, 2006, 2010; Putnam & Holmer, 1992). We take these efforts one step further by investigating the co-construction of relationality and dialogue *per se*.

Conversation analysis methods offer a rich path to investigating social actors’ methods for creating moments of relational interaction and dialogue. Resonant with relational dialogic approaches, CA research emphasizes the interactive creation of meaning rather than the cognitions or isolated behaviors of individual actors. Relationships are treated as *in situ* joint achievements rather than preexisting individual possessions (Pomerantz & Mandelbaum, 2005). They are not stable social facts, but are constantly in flux, made evident in the details of talk-in-interaction. Examining those details closely and carefully can reveal peoples’ methods for constituting relationships. Echoing the work of Buber and others, from a CA perspective “knowledge” too is a social construction: People formulate and make relevant what they “know” in ways that are fitted to context and activity. The study of actual interaction, recorded and transcribed, opens up opportunities for understanding *how* people create the space for (or moves away from) dialogue. Descriptive, replicable findings allow us to ground abstract notions of “relationality” and dialogue in actual practices. Such grounding raises hopes that these practices can be better understood, taught, and learned.

Having noted these potential benefits of a CA approach to studying relational acts and dialogue, we also recognize potential barriers. The ethnomethodological foundations that distinguish CA from other descriptive, interpretive methods demand that the phenomena we study be, in the first instance, members’ phenomena: that is, participants demonstrably orient to the “thing” we claim to be present, that it is procedurally relevant and consequential to the unfolding social action. Without this stricture, we risk imposing unwarranted analysts’ categories on participants’ conduct. Accordingly, we would need to provide evidence that actions reasonably approaching “relational acts” and “dialogue” are demonstrably relevant concerns for participants. Second, CA works as a “concrete” method with its insistent attention to what actually happens (or what is *noticeably* absent). While this helps us in ground analysis, it also raises the possibility that more abstract notions like “relationality” and “dialogue” will not emerge in details of interaction, but rather lie in more ephemeral, global judgments of the quality of communication. We do not think this is the case; in any event, pursuing these issues will help clarify thinking about what exactly we mean when we call for increased presence of relational acts and dialogue in negotiation. Accordingly, the analysis that follows perhaps stretches the boundaries of CA research. We are analyzing role-played rather than actual negotiations (details about them appear below); we do so with full awareness of the risks and limitations of making claims based on such materials. For our purposes, sacrificing naturalness of the data gains us access to materials allowing clear investigation of the contrasts between communicative actions that reflect and move toward dialogue and those that move toward a more individualistic orientation. We recognize the risks of selective perception: that we might only look for one type of feature in one interaction and the other in the other. We took care to examine each excerpt openly, and we trust that by showing the reader our data and our analysis, we provide a kind of reliability check for our claims. Following our foundational assumptions about the co-construction of meaning, we

are aware of the picture painted in this article being our own construction and moreover of the reader's active role in the construction of what this picture presents. We hope that through this analysis it will be made easier to tie the theoretical analysis and somewhat abstract layout of a relational view of dialogue with concrete communicative acts and sequences, thus enriching the research on the characteristics of a relational view of dialogue and identifying its manifestations in practice. We believe that this can help both theoreticians and practitioners develop better awareness of dialogic acts and identify the challenges of creating space for dialogue in negotiations.

Two Case Studies

The data analyzed below are drawn from a video recording called "Negotiating a Commercial Lease"⁴ featuring the unscripted and unrehearsed opening seconds of two separate enactments of a simulated negotiation. The case involves negotiation of a long-term lease between representatives of a shopping center developer and a prospective anchor tenant for a regional mall project.⁵ The sides have been working for some time to agree on the terms of the lease. However, negotiations are at an apparent impasse over the "use, assignment, and subletting" clause proposed by the anchor tenant. Within each pair, in-house leading representatives from both parties have been asked to resolve this dispute and to finalize the lease. The two videos present very different approaches to that negotiation, thus offering illuminating contrasts between discursive practices that reflect more individualistic and more relational dialogic orientations. Full transcripts of both excerpts and a glossary of the signs used in the transcript are included in the Appendix.

We transcribed the two instances and conducted detailed analyses, moment by moment, of actions, wording, vocal and embodied features, sequences, timing, joint creation of activities, and displayed identities and understandings. From these analyses, we isolated and developed interpretive descriptions of features through which the participants engage in relational acts or more individualistic interaction. These features are foregrounded in the analysis that follows. We have organized the analysis into a section devoted to each of the two excerpts, followed by a comparative discussion.

Negotiation of a Commercial Lease: First Excerpt

As the excerpt begins, the participants are seated at a conference table (see Appendix for a list of symbols used in the transcripts).

"Nice offices": Greetings and Misalignments

They exchange welcomes, initial inquiries, and compliments:

John represents the anchor tenant and Dev represents the mall developer

1	John:	↓Welcome to my office.=
2	Dev:	=How are you John?
3	John:	Just [fine]
4	Dev:	[Plea]sure to see yo[u]
5	John:	[G]ood to see you again.

⁴The videos, created in the early 1980s based on the exercise mentioned above, are available at the Clearinghouse at The Program on Negotiation at Harvard Law School, at http://www.pon.org/catalog/product_info.php?products_id=264 (last visited March 7, 2011).

⁵The complete case, formed as a negotiation exercise, is available at "Discount Marketplace and Hawkins Development," by Laurence Bacow, in The Program on Negotiation at Harvard Law School's Clearinghouse, at http://www.pon.org/catalog/product_info.php?products_id=36 (last visited March 7, 2011).

6 Dev: You have nice offices here today.
 7 John: Thank you (.) t[h]ank y[ou]
 8 Dev: [I] [I've] never been out here
 9 before.=
 10 John: =You'll have to come- come here more often.
 11 Dev: Very impressive.
 12 (0.2)

At line 6, Dev compliments John's "offices" (a bit of inside joke about this role-play taking place in a plain-looking conference room), but his body language says otherwise. He is checking visually his immediate surrounding (about a foot away), and he pulls his chair close to the table. Visibly, his attention is narrower than the "nice offices" to which he refers.

John thanks Dev for the compliment. In overlap and disattending the second "thank you," Dev continues joking about the setting (line 8). John responds quickly with an invitation that sustains the joke. Dev offers another positive assessment of the location that builds on his prior talk and does not acknowledge John's "someday" invitation. These actions mark Dev as not present in the moment, looking ahead, maybe as lines 13–15 that follow suggest. Even though they engage in shared joking, misalignment is evident in Dev's specific actions.

What is Needed and What is Known: Positional Jockeying

Dev takes the next turn to move them past preliminaries into the business at hand:

13 Dev: umm (.) Listen I understand that you have a meeting in
 14 about forty-five minutes so we should try to get through
 15 these two clauses as quickly as we can.
 16 John: Mm-hm?

The summons ("Listen") projects importance to what is to follow (and perhaps marks what preceded as unimportant). Dev claims to know of a constraint located in John's circumstances. He cites this "fact" as a warrant for them to hurry. His use of "we" might be read as proposing a joint orientation and a closer relationship. In fact, though, it is part of a turn which acts as a unilateral attempt to control the process. At the same time, this account rooted in eagerness can be heard as an imperialistic move into the other party's problems. The timing may also make this seem intrusive or inappropriate at this point: He addresses John's needs before they "really" engage, rather than discussing his own interests, in his world, or inviting John to reaffirm that time is indeed a valid concern for him. This is more of a "monologic act," Dev introjecting and forwarding his perspective without creating a relational space where his self or interests arise from within the conversation. His gaze averted from John reaffirms this.

John's minimal continuer (line 16) returns the floor to Dev to keep talking. John does nothing more. He does not confirm or deny that he has a meeting in 45 minutes. He does not agree or disagree with the proposal to get through clauses "as quickly as we can." He displays no stance, even though it would be relevant for him to provide his understanding of the time constraint, since it is (presumably) shared knowledge. So far, then one party shows eagerness, talkative mode, and an attempt to manage the process; the other complements by positioning himself in opposition, demonstrating indifference, passivity, and minimum talking.

17 Dev: Ahh↓ (.) frankly I-I understand that these are the only
 18 (.) clauses left to (.) finalizing the deal, (.) It's
 19 important to us to-ah to get it closed (.) we're ready
 20 to start construction.
 21 John: Mm-hm?

Prompted by John's continuer, Dev continues. The adverb "frankly" forecasts that what is to follow will be honest if controversial. It furthers a sense of eagerness that they should get right down to what is difficult. He formulates an understanding that presumably they share: Only two clauses remain to "finalizing the deal." This adds to the eagerness: They are near completion. His statement highlights importance and urgency. John's continuer returns the floor to Dev. He sits back, with a posture and body orientation very different than Dev's, positioning himself strategically in opposition to Dev's eagerness and attempted dominance. John does not add to the discussion but provides space for Dev to speak further and does not make any effort to synchronize with Dev or show sign of a joint action, to create a relational space through a co-constructing process.

22	Dev:	We have everything set, all our permits (0.4) land-all
23		under ↓control, (.) ah-and obviously you are the key
24		tenant, (0.3) Ah-we need you↓ Ah-o[n the]
25	John:	[Well] we're well
26		aware of that.

Dev reports much information from his side, adding to the eagerness display by identifying other items that are already worked out. He acknowledges John's side as the "key tenant." In informing John that "we need you↓" (line 24), Dev formulates an asymmetry that puts his own side down. He provides a slot where John might well match with a similar claim, displaying a mutual interdependence. Ironically, Dev seeks to *impose* a collaborative style of negotiation, in which negotiators disclose needs and share interests, showing interdependence—laying their cards on the table. However, Dev displays no orientation to relational dynamics through which things unfold from the interaction; rather, he demonstrates that he is not tuned to John's cues (which may include checking John's readiness for this kind of exchange). He attempts to control the conversation and introject his dependence. There is a paradox embedded here: On the one hand, he declares a need for collaboration; on the other, he asserts unilateral control and increased separateness. As this moment demonstrates, one can talk the language of collaboration without doing collaboration.

John's response to "Ah-we need you↓" (lines 25–26) makes a knowledge claim that is marked temporally and in intensity: His side *already knows* and knows "well" that Dev's side needs his. By not taking up the opportunity to share needs and interests, John ratifies Dev's proposed asymmetrical relational frame. Ironically, disattending the invitation to share needs and interests makes him on a deeper level responsive to Dev's moves. John's claim to be "well aware" of Dev's side needing may be rooted not only from his previous analysis of the case, but also in how Dev has enacted this need throughout the exchange thus far.⁶ Further evidence appears immediately as Dev does not wait for John to finish before resuming speaking. He asserts prior, independent knowledge of John's knowledge.

27	Dev:	=I know that-on the other hand, if we can't do a deal
28		(1.0) ah-we're gonna have to look for somebody else,
29		but-ah (.) I see no reason that we can't reach agreement
30		on: these two clauses.

⁶This entire excerpt could be also analyzed from a power dynamics perspective. We chose not to address power issues in this preliminary analysis. We believe that such an analysis, using CA, could be instructive and contributive to the literature on power dynamics in negotiation, integrating the concrete interactions in this case with a discussion on various theories of power dynamics in negotiation.

Although sequentially latched to his talk before the interruption, Dev's attempt to downplay interdependency by invoking alternatives responds to John's powerful assertion of asymmetrical interdependency. Trying to balance his declaration of interdependence, he portrays the alternative of total independence. The alternative he states doesn't come across as a very good one: "Have to" suggests doing something not out of choice but necessity; "somebody else" suggests there is not anyone right now. He provides a tepidly worded optimistic assessment of their chances for success, giving John another opportunity to align.

This turn provides evidence of nonalignment, another move away from relational dynamics and dialogue. We can speculate that Dev has been thrown off by John's interruptive, strong move. A communicative manifestation of—a way of doing—"being thrown off" is dialectically shifting from a thesis to an antithesis: from *Ah-we need you!* to *ah-were gonna have to look for somebody else,,*. These back-and-forth positional claims do not portray flow, confidence, and full presence in the evolving situation, but rather an intellectual play that attempts to control the shifts and turns through binary logics. In discursive binary logics, one positions oneself either on one end of the spectrum or on another, giving up on opportunities to explore whatever may unfold in between if letting go of that distinct and definite stances.

So far we have seen asymmetry: Dev talks, proposes, and discloses; John goes along without reciprocating. Dev seeks to impose a "we" stance, a collaborative relationship, but it does not seem grounded in relational awareness (or in collaborative practice). In brief, this moment shows participants constituting a nondialogic frame through acts that fail to establish relationality, such as asymmetrical claims of dependence, misalignment of knowledge claims, and others.

Negotiation of a Commercial Lease: Second Excerpt

Analysis of a second instance shows how a different approach to the same case allows the participants to align and constitute relational dynamics and dialogic relationship from which they can jointly address negotiation issues. Again, as the excerpt begins, participants are seated at a conference table. Tom initiates the discussion:

Complaining, Assessing, Joking, and Providing Context: Creating a "We"

Negotiation of a Commercial Lease

Second Pair

Tom represents the anchor tenant and Mike represents the mall developer.

- 1 Tom: Well Mike let's uh (.) we've->given you a
 2 *tour< of the new space, (0.7) .hh: uhh Why
 3 don't we (.) see if we c'n (.) get down to the
 4 (0.8) the *business at *hand, that was *dumped
 5 on both of us in the past two weeks.

Through the predicate "let's," Tom projects that he will propose joint action. He immediately abandons this action to formulate what has already happened, acknowledging their present context (lines 1–2). This joking nod to the role-played setting claims that they have engaged in activities that invoke the roles of host and guest. Following this, Tom begins again to propose joint action with "Why don't we." This mid-action shift (from proposing joint action to formulating something already done to proposing joint action again) might be understood as showing thinking, improvisation. In this sense, it may propose a relationship of co-construction, that is, "let's get lost together," focusing on process rather than outcome (cf. Goodwin's 1987 paper on how speakers' "forgetfulness" serves as an interactive resource). It forwards the legitimacy of being less than coherent, allowing speakers to display uncertainty demonstrating the wisdom of insecurity and emphasizing and inviting their joint action (Watts, 1951),

remaining open to and aware of knowledge being co-constructed *in situ*, rather than imposing pre-established constructs constructed independent of relational dynamics.⁷ The proposal's wording "see if we c'n" invokes the possibility of inability. The formulaic expression "get down to" also orients to process. It is direct, suggesting that he (or they) knows where they are going, yet together with the previous assertion acknowledging the difficulty they are both facing and the effort that is required from them both, together.

Accompanying the words "business," "hand," and "dumped," Tom does a slight head or shoulder twitch (line 4, marked by an asterisk). This movement adds a playful, detached stance (resonating with adjacent affiliative messages) to the serious tone of "**business at *hand*." The expression "dumped on" suggests garbage, dirt, something heavy and onerous. The phrase "both of us" strengthens the claim that they share a situation. Tom focuses on their joint concerns in a way that bids to create further bonding through an us–them pairing: On the one side, these two representatives, and on the other, the companies for whom they work, emphasizing both of their wishes to be able to come out of this "dumping" as cleanly as possible. It speaks to their professional identity but also situates them in a manner that alludes to their human situation, transcending the role-based professional interplay to invoke a context that encourages comfort and invites relational awareness to co-creation of the professional and the personal.

6 (2.0) ((Mike nods; they both look down))
 7 Mike: Well it looks like we're fairly far along with
 8 this lease.=At least that's what I was-(.) ah-
 9 I was informed, (0.3) uhh (.) but they leave the
 10 tough (.) part for us Tom,
 11 Tom: Righthh=
 12 Mike: =Right=

There is an interesting puzzle to what happens next. Tom's proposal calls for a response; the silence that follows (line 6) is Mike's. The silence and "Well" mark what is to come as potentially nonaligning. Yet Mike offers a positive formulation of where things are. In line 8, he downgrades the certainty of his knowledge, going with the flow and building on Tom's previous suggestion that there may be a gap between "us" here and "them" who informed us on where things stand. Moreover, "they" indeed dumped on us the tough part. There is a pause, and Tom does not speak. Mike's formulaic complaint (lines 9–10) aligns with Tom's prior complaint. This silence, in this sequential context, does not create a nonaligning diversion; it does not disrupt the flow.

Perhaps adjusting following his "Well" that marked their misalignment—and the pause confirms that Tom is not really with him—Mike attempts to re-create the connection, the sense of "we." On the one hand, Mike demonstrates misalignment, a disagreement about where they are in the process; interestingly, it is hearable as encouraging disagreement: Pessimism met with optimism. On the other hand, the disagreement is followed by an agreement concerning the perception that matters were dumped on them; it aligns with Tom's relational claim, creating a joint concern and a sense of "we." Now, it is possible to understand Mike's long pause in line 6. Mike produces an optimistic or encouraging disagreement about where things are accompanied by alignment with the complaint.

⁷We note with some irony that this argument might be read as opposing much practical wisdom encouraging people to maximize their eloquence, assertiveness, and forceful articulation of ideas. The difference lies in part in construing a context of *persuasion* where one's goal is to bring the other around to a somewhat preformed point of view or construing a context of *dialogue* in which the goal is to bring the parties together into mutuality and shared meaning making. Negotiation scholars tend to view negotiation as having a strong persuasive element but orient less to its dialogic possibilities. This resonates with calls for *feminist* approaches to negotiation (Kolb & Putnam, 2000) or social constructionist approaches (Gergen, 1999) that emphasize co-construction over exchange.

The paired agreement tokens that follow (lines 11–12) display mutual agreement, but they do more than that. Tom’s “right” has extra breaths, possibly laughs. He positions himself as already informed but agreeing. It is a nonrelational moment in that there are potentially competing epistemic primacy claims, and yet relational in that they align in their complaints.

13 Tom: =•hh As a uh (1.2) either (.) a sign of
 14 (.) how ↑well we are doing or how poorly we
 15 are doing.
 16 Mike: Uh hah [hah hah] .hhh=
 17 Tom: [(heh heh)]
 18 Tom: Within our respective organizations.
 19 Mike: °(That’s right)°=

Tom builds his next turn (line 13) as a continuation of what he was saying before. The either—or construction (lines 13–15) casts them as being judged, together. Their shared laughs (Mike laughing first) treat it as nonserious. Their shared concern with professional identity evident here transcends negotiation interests, orienting to the interconnection of the professional and the personal. This mutual alignment is also evident in their mirrored body positions (leaning slightly) and through their synchronized pace and tone. Tom adds another increment to his already-completed sentence, respectively indexing their organizational identities. This gives them another basis for alignment, as they (together) face organizational issues. Mike quietly agrees.

Tom’s inbreath (line 20) marks incipient next action, and he takes the lead, moving them into the negotiation topic.

“good negotiating response”: Metacommunicative Distancing as Prebargaining

20 Tom: =.hh ↑One of the things that- that- I did hear
 21 an’ I just- uh:m (1.2) >I mean< you’ve done
 22 (0.6) enough of these deals all over the
 23 country to have a fair sense of where we’re
 24 coming from (1.0) .hh and prob’ly done it from
 25 both sides, .hh uh:m (1.6) th->the last
 26 response as I understand it-< it may have been
 27 the-(.) the guy on our side who didn’t wanna
 28 take lon:g notes, •hh uhh:n wa:s I guess>what
 29 we’re doin’< the ↑us:e (0.7) assigning and
 30 subletting.

Tom reports what he knows, a standard “fishing” device that provides an opportunity for the other party to tell his “side” (Pomerantz, 1980). He stops before completing this action and then through “I mean” (line 21) projects that he will reformulate a previous idea. His claim of Mike’s familiarity with “these deals” casts Mike as knowledgeable, experienced, and aware of both sides’ interests. The hesitations, restarts, and self-corrections through which he produces this talk may mitigate his taking control of the process, marking his perspective as contingent and unfolding. The spatial or movement metaphor “where we’re coming from” (lines 23–24) suggests underlying interests, in contrast to “where I’m at,” which would suggest a position. At line 25 appears a lengthy vocalized pause and a silence; Mike does not respond. Tom continues, beginning to formulate his understanding of what happened before. His mention of “the last response” indexes prior context, locating what they were doing at a point in the negotiation process. “As I understand” downgrades his epistemic certainty and casts him as not unilaterally imposing an interpretation, but rather inviting a joint construction of the meaning of the last response. He cuts off this action, producing an account for some deficiency in what a person on his side

produced. The sarcasm evident in this remark invites a collaboration stance with Mike: Again, they have been given trouble, and they have to deal with it together. It moves away from an us—they construction of each participant representing a negotiating entity. Still rife with hesitations, restarts, and hedge markers, his unfolding turn now includes his formulation of what their negotiating topic will be.

- 31 Mike °('ts right)°=
 32 Tom: =Which is it-(.) .hh: and got a great response
 33 (.) good negotiating response last time (.)
 34 company policy.hh ((sweeping gesture l. hand to
 35 the left; looks up, smiling))
 36 Mike: huh huh Right [right. Company policy.
 37 Tom: [heh heh .hhhhhhh

Quietly and briefly, Mike confirms this understanding. He does not continue and Tom speaks again, assessing the response from Mike's team as "great" and a "good negotiating response." These assessments instantiate Tom's own expertise and his authority to evaluate what constitutes "good" negotiation. Calling the other side's move a "negotiating response" casts it as from the book, inviting Mike into distancing them from the code of negotiation. It is to suggest, "In the game we are playing, we can name that other game. We are trying to do something different." The positive valence of the assessments can be heard as sarcastic or ironic, given that the response reported in fact accounts for (and thus stands in for) a firm "no" answer. "Company policy" is a way to account for a rigid, inflexible position. It suggests not relational actions but rather strong introjections of something outside the interaction, a firm, fixed sense of company's "self." In various ways, Tom takes an ironically distanced stance from this reported response.

Mike's laughs treat what Tom just said as not serious, ratifying their aligned stance toward the reported "negotiating move." His agreement tokens "Right right" affirm and claim prior understanding. Tom's laughter ratifies their joint orientation, establishing dynamics different from what they just named and distanced themselves, engaged instead in relationally based dialogic acts.

Comparison of the two excerpts

Analyzing two pairs of attorney negotiating the same case affords opportunities to compare enactments of a scenario. Both excerpts involve initial greetings, joking references to the (fictional) setting, moving into discussing the business at hand, and formulating where negotiations stand and what they need to do. Yet in each of these actions lie telling contrasts that point to the communicative manifestations of relationality and dialogue. While the first excerpt shows participants moving away from relational awareness and dialogue, constructing instead more competitive if not adversarial relations, in the second excerpt the participants demonstrate moves toward the establishment of dialogic relations based on relational awareness. A few basic differences between the two dynamics stand out from the analysis done so far:

- 1) In the first excerpt, Dev's persistent joking references to the space disattend John's responses, and despite adjacent playful moves, the participants do not align. Dev shows preoccupation with his monologue, and John positions himself in opposition to Dev's talkative and eager stance. In the second, Mike's silence lets Tom's joking reference stand and Tom moves them along. The parties are occupied, through their talk and their nonverbal communication, with tuning to each other, finding the mutual pace, and creating a space in which joint action is taking place.
- 2) In the first excerpt, the parties rush through each other's concerns, while implicitly focusing on their separate interests, while in the second, preliminary concerns are being explored, going beyond the immediate concerns and revealing a context that expends toward questions of professional identity and how it relates to their personal well-being, giving legitimacy to and being transparent with regard to how they feel about it and to their personal experience in this situation. Not only that it provides

each one of the parties a wider personal context that he can relate to separately, but—by emphasizing their joint concerns and how they experience the situation—it creates shared meaning and provides a powerful context for their engagement.

- 3) In the first excerpt, the host's (John) pauses and minimal continuers provide space for Dev to lead them into substantive discussion; in the second, the host (Tom) initiates movement into the business at hand. Both excerpts quickly reveal a leader–follower dynamic in which one participant does most of the early talking and initiates next actions. However, while leading in the first excerpt entails monologue and a wish to dominate the conversation, in the second leading means letting go of control and rather creating the terms for relational acts and dialogue.
- 4) In the first excerpt, Dev makes unilateral assertions of knowledge about what John's constraints are and rushes them forward. John holds back and does not help him. In the second, Tom jokingly complains about the task that has been “dumped on” the two of them, discursively constructing a new shared “enemy,” and they gradually explore and co-construct their constraints; Mike positively assesses their prospects and aligns with the complaint, refining their joint understanding of their constraints through his input.
- 5) In the first excerpt, assertions of certainty about the other party's knowledge and constraints reveal a forced attempt to manage the context; in the latter, hesitantly worded process, proposals mark realization of the co-construction of knowledge and openness to co-construct their joint reality. While in the first, the parties demonstrate that they are “on top of things,” in the second such positioning is replaced by allowing things to unfold from within, from the interaction. Suspension of certainty as opposed to a knowing stance allows the parties in the second excerpt jointly construct what for Dev and John displays itself as given.
- 6) The power orientation in the first excerpt is of control and domination. While “power over” dynamics are demonstrated there, the participants in the second excerpt demonstrate “power with” orientation, in which mutual empowerment, sharing knowledge, and collaborative dynamics are perceived as a source for jointly generating power (for more on the distinction between “power over” and “power with,” see Mayer, 2000).
- 7) A sense of “we” in the second instance is furthered by shared laughter and expanded joking that shows the two negotiators to be in a shared problem with a common enemy. The contrast sharpens with the first excerpt, in which Dev continues unilateral attempts to impose meaning and context, met by John's silences and minimal responses at moments where he might offer leveling, affiliation moves. Various gestures and actions provide different outcomes in the two settings, depending on the parties' orientation and tendency: Jokes, silence, pauses, etc. can emphasize parties' separateness and can emphasize parties' interdependence (on the contextuality of first impressions and of nonverbal behavior in negotiation, and their significance for the negotiation outcomes, see Leary & Wheeler, 2003; Wheeler, 2004).
- 8) In each, one party claims to “know” something in the other party's realm of experience. In the first excerpt, this is a claim to “know” that the other has a meeting soon and needs to hurry. In the second excerpt, it is a claim to “know” that the other party has done similar deals before, “probably from both sides.” The contrast is telling: The first one uses this knowledge claim as a warrant to rush forward; the second uses it to acknowledge the other party's awareness of the negotiative context and the issues on both sides. The first constitutes its recipient as the passive recipient of an unasked-for favor; the second grants the recipient expertise and credibility.

Discussion

This study calls for grounding philosophical commitments to relational dynamics and dialogue in studies of talk-in-interaction within the context of conflict resolution. With keen interest in how we might

document relational dialogic practices in actual communication, we turned to CA as a research method distinctly suited (via its theoretical assumptions and analytic procedures) to pursuing this question. Our analysis of these two brief negotiation excerpts suggests compelling contrasts, identifying practices that accomplish or move away from dialogic interaction and relational awareness. In the comparison of the two excerpts, we isolate some of those practices. However, they do not exist as wholly separate entities; in combination, they are ways for participants to achieve individualistic stances or a sense of joint selves emerging from the context, interdependent in more profound ways. These practices deserve being studied on their own and as they operate in combination with other practices. Individual elements may help move parties toward relational awareness and dialogue but do not alone accomplish it; they are not so much tools in a toolbox as components of a mindset and an approach that perceives differently the notion of relating. Our attempt here is to tie practices of talk-in-interaction with constitutions of relational awareness and dialogue. The practices are linguistic and embodied; alignment and synchronicity are evident visually as well as verbally. Embodied communication can be relational by nature: Increased alignment and synchronicity can be identified when parties are engaged in relational acts and dialogue.

We seek to analyze elements making a whole that is greater than the sum of its parts. Such analysis can help develop awareness of the everyday practice of human interaction, providing a systematic approach to understanding how people accomplish social actions and through them constitute their identities and relationships through dialogue. We believe that such analysis is needed in negotiation studies. Negotiation analysis misses an in-depth microfocusing methodology to help negotiators analyze and identify moves consistent with theoretical frameworks. Close analysis of interaction of the sort attempted here can help practitioners become more aware of and sensitive to talk and thus become more skillful negotiators and mediators (see Glenn, 2008; Glenn & Susskind, 2010; Stokoe, 2011). It can also help negotiators become more skillful in reading micro-expressions and other embodied practices to better cope with the constant stream of perceptions throughout the negotiation process (see Wheeler, 2004). However, by “skillful,” we refer less to the skills generally taught in basic negotiation and mediation classes than to the qualities of mind which CA can help develop. In the former, for example the teaching of “active listening” or “reframing,” one learns a technique that can and should be implemented throughout the process; in the latter, on a deeper level, one develops awareness and sensitivities that would then help make better use of the mentioned skills (or may lead to the development of additional skills) in context. CA offers a systematic approach to understanding how people accomplish social actions and helps draw the connection between theoretical assumptions about the dialogue and the self from a relational standpoint and concrete communication moves that help move toward and away from the achievement of relational awareness and dialogue. Clearly, the philosophers, theorists, and practitioners who call for greater relationality and dialogic engagement recognize the powerful potential for human transformation. These are ephemeral notions—sometimes conceived in ideal terms, sometimes imagined, sometimes described generally. We believe the analyses presented here illustrate the possibilities that conversation analytic studies of actual interaction might yield. Realizing this potential requires showing that the practices identified are procedurally relevant for the participants themselves. Nailing our concepts to the ground like this may limit our reach, but it keeps us anchored in the real. Pushing our descriptive methods out from the structural to the relational may exceed our grasp, but it offers the tantalizing promise of linking the actual with the ideal. It represents the possibility of placing two scholarly traditions into dialogue with each other.

Negotiation of a Commercial Lease: First pair

- | | | |
|---|-------|-------------------------|
| 1 | John: | ↓Welcome to my office.= |
| 2 | Dev: | =How are you John? |
| 3 | John: | Just [fine] |
| 4 | Dev: | [Plea]sure to see yo[u] |
-

5 John: [G]ood to see you again.
 6 Dev: You have nice offices here today.
 7 John: Thank you (.) t[h]ank y[ou]
 8 Dev: [I] [I've] never been out here
 9 before.=
 10 John: =You'll have to come- come here more often.
 11 Dev: Very impressive.
 12 (0.2)
 13 Dev: umm (.) Listen I understand that you have a meeting in
 14 about forty-five minutes so we should try to get through
 15 these two clauses as quickly as we can.
 16 John: Mm-hm?
 17 Dev: Ahh↓ (.) frankly I-I understand that these are the only
 18 (.) clauses left to (.) finalizing the deal, (.) It's
 19 important to us to-ah to get it closed (.) we're ready
 20 to start construction.
 21 John: Mm-hm?
 22 Dev: We have everything set, all our permits (0.4) land-all
 23 under ↓control, (.) ah-and obviously you are the key
 24 tenant, (0.3) Ah-we need you↓ Ah-o[n the]
 25 John: [Well] we're well
 26 aware of that.
 27 Dev: =I know that-on the other hand, if we can't do a deal
 28 (1.0) ah-we're gonna have to look for somebody else,
 29 but-ah (.) I see no reason that we can't reach agreement
 30 on: these two clauses.

Negotiation of a Commercial Lease: Second pair

1 Tom: Well Mike let's uh (.) we've->given you a
 2 *tour< of the new space, (0.7) .hh: uhh Why
 3 don't we (.) see if we c'n (.) get down to the
 4 (0.8) the *business at *hand, that was *dumped
 5 on both of us in the past two weeks.
 6 (2.0) ((Mike nods; both look down))
 7 Mike: Well it looks like we're fairly far along with
 8 this lease. =At least that's what I was- (.) ah-
 9 I was informed, (0.3) uhh (.) but they leave the
 10 tough (.) part for us Tom,
 11 Tom: Right hh=
 12 Mike: =Right=
 13 Tom: =•hh As a uh (1.2) either (.) a sign of
 14 (.) how ↑well we are doing or how poorly we
 15 are doing.
 16 Mike: Uh hah [hah hah] .hhh=
 17 Tom: [(heh heh)]
 18 Tom: Within our respective organizations.
 19 Mike: °(That's right)°=
 20 Tom: =.hh ↑One of the things that- that- I did hear
 21 an' I just- uh:m (1.2) >I mean< you've done
 22 (0.6) enough of these deals all over the
 23 country to have a fair sense of where we're
 24 coming from (1.0) .hh and prob'ly done it from
 25 both sides, .hh uh:m (1.6) th->the last
 26 response as I understand it-< it may have been
 27 the- (.) the guy on our side who didn't wanna

28 take lon:g notes, •hh uhh:n wa:s I guess >what
 29 we're doin' < the ↑us:e (0.7) assigning and
 30 subletting.
 31 Mike °('ts right)°=
 32 Tom: =Which is it-(.)·hh: and got a great response
 33 (.) good negotiating response last time (.)
 34 company policy·hh ((sweeping gesture l. hand to
 35 the left; looks up, smiling))
 36 Mike: huh huh Right [right. Company policy]
 37 Tom: [heh heh ·hhhhhhh

*Indicates a slight head or shoulder twitch

Appendix: Transcribing Symbols

(From system developed by Gail Jefferson; see pp. ix–xvi in Atkinson & Heritage, 1984).

[]	brackets indicate overlapping utterances.
=	equal marks indicate contiguous utterances, or continuation of the same utterance to the next line.
(.)	period within parentheses indicates micropause.
(2.0)	indicates timed pause in approximate seconds.
ye:s	colon indicates stretching of sound it follows.
yes.	period indicates falling intonation.
yes,	comma indicates relatively constant intonation.
yes?	question mark indicates upward intonation.
yes!	exclamation indicates animated tone.
yes-	single dash indicates abrupt sound cutoff.
<u>yes</u>	underlining indicates emphasis.
YES	capital letters indicate increased volume.
°yes°	degree marks indicate decreased volume of materials between.
hhh	h's indicate audible aspiration, possibly laughter.
•hhh	superscript period indicates inbreath audible aspiration, possibly laughter.
ye(hh)s	h's within parentheses indicate within-speech aspiration, possibly laughter.
((cough))	items within double parentheses indicate some sound or feature of the talk which is not easily transcribable, for example "(in falsetto)."
(yes)	parentheses indicate transcriber doubt about hearing of passage.
↓yes	arrow indicates marked change in intonation.
↑yes	
£yes£	pound signs indicate "smile voice" delivery of materials in between.
>yes<	greater than or less than signs bracket talk which is noticeably faster

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