
Demur, Defer, and Deter: Concrete, Actual Practices for Negotiation in Interaction

Douglas W. Maynard

Investigators use the term “negotiation” to cover activities ranging from those in hospitals and universities, to labor-management relations in industry, to political alignments in the global economy, and often approach negotiation in a general or abstract sense, as one possible means for jointly “getting things accomplished.” My conversation analytic approach is concrete: I discuss negotiations as talk that contains a bargaining sequence or set of such sequences whereby participants display a position or positions, often serially, until agreement is reached (success) or abandoned (nonsuccess). Bargaining sequences include a proposal and a response that aligns (acceptance) or one that does not align to the proposal (rejection). Interactionally, of course, these are not equivalent responses. A third kind of response is one that withholds acceptance or rejection and instead involves production of a counterproposal. I examine practices related to the bargaining sequence under the terms defer (postponing an occasioned next bargaining action), demur (withholding a tacitly implicated next bargaining action), and deter (using “projected reportable speech” to discourage a negotiator’s expectations). Related to the latter practice, but opposite from deterring expectations, a practice for encouraging expectations is to animate speech in which the speaker as agent for the principals appears to urge those principals toward the coparticipant’s position. The data for this study include recordings of a real estate case and plea bargaining episodes in a misdemeanor criminal court. I

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draw implications for the division between descriptive analysis and prescriptive analysis and for the general understanding of negotiations in a variety of arenas.

Key words: negotiation, interaction, conversation analysis.

Introduction

In the introductory chapter to a book about representatives or agents who negotiate “on behalf of others,” Robert Mnookin and Jonathan Cohen (1999: 3) wrote, “. . . the negotiation literature has long straddled two overlapping domains: *prescriptive* advice on how to negotiate successfully and *descriptive* analysis of negotiation.” At the Communication and Negotiation Symposium from which this special issue has been generated, the two domains seemed not so much to be overlapping as distinctive enterprises, and questions repeatedly emerged about how to bridge them. The conversation and discourse analysts who were present work in the descriptively analytic realm, preoccupied with actual interaction among practitioners of negotiation, while many of the participants were practitioners themselves, with long and deep experience in local, national, and international settings. The practitioners sought primarily to hone their skills by listening to the findings of the interaction analysts, who were fascinated by the structures to be found in negotiations discourse but not so much interested in making recommendations.

Participants did make efforts to build bridges, but there was not much crossing per se at this conference. However, in a postsymposium online discussion, at least one point of convergence between prescriptive and descriptive approaches seemed to be both groups’ appreciation of the joint and interactive way in which negotiations happen. After all, game theory is a venerable component of the negotiation literature, informs prescriptive endeavors, and also deals with interaction. What may distinguish conversation analysis (CA), my mode of inquiry, and game theory is the former’s attention to publically exhibited *understandings in interaction* versus the latter’s attempts to measure cognitive patterns of inference (such as expected utilities) that are interior to individual minds and anterior to actual negotiations in order to predict *outcomes of interaction*.

CA concerns concrete displays of negotiating stances and is agnostic regarding the perceptions that may underlie these displays, including “interests” and “evaluations of alternatives” that the prescriptive version of game theory known as negotiation analysis (NA) (Sebenius 1992) importantly highlights. In studying negotiation, CA representatives (Bilmes 1981;

Maynard 1984; Firth 1995a; Arminen 2005) focus on actual acts of speech as participants assemble them sequentially and relationally — they attempt to capture talk-based negotiating tactics-in-use. I refer to these tactics-in-use as *practices*, pointing to their deployment in interactions according to real-time contingencies.

Although analytic focus on practices does not initially lend to predicting outcomes, subsequent studies can have a prescriptive aim, as Phillip Glenn and Lawrence Susskind (2010 in this issue) illustrate by reference to studies on doctor-patient interaction. That is the spirit in which this article is offered: it is a case study of a real estate negotiation drawing also on instances of plea bargaining, and the attempt is to gather analytic information about the negotiating practices that the agents (Mnookin and Susskind 1999) use during their talk.

Later research may be able to discover how general these practices are — whether and to what extent practitioners deploy them in other settings, and how effective particular tactics-in-use are when deployed in particular contexts or ways within these settings. For immediate prescriptive interests, however, CA research and NA research face the same inherent challenge having to do with the relation of tactics as part of the lived interactional work involved in negotiations. I will address that challenge in the conclusion to this article.

The Data: Real Estate and Misdemeanor Plea Bargaining

The target for analysis is a recorded telephone call in which two real estate agents haggled over the sale of a house (See Appendix B for the transcript. The recording may be downloaded from www.pon.harvard.edu/publications/negotiation-journal.) It was a seemingly routine rather than momentous negotiation, and only the beginning “phase” (Firth 1995a), although we do not know how high the stakes might be for the parties involved. The entire telephone call lasted about ten minutes, and when the negotiators ended the phone call, a deal seemed to be in hand, contingent on what the principals had to say.

My focus is on the first one minute and forty seconds, wherein the main parameters of the potential sale were first set out (see Appendix B to this Special Section, from which various extracts are taken). Indeed, these initial moments were dense with skilled bargaining as the two negotiators settled the main elements that then were revisited and underscored as they discussed related matters in the remaining eight and a half minutes of the call. How did this early arrival at the parameters of resolution happen? What were the devices or practices? What was the relation of the practices in this ordinary real estate bargaining session to negotiations that may be more dramatic or consequential?

Investigators (Strauss 1978), using the term to cover a range of activities and settings (bureaucratic activities in hospitals and universities, labor-management relations in industry, political alignments in the global economy) often approach negotiation in a general sense, as one possible means for jointly “getting things accomplished.” My approach is concrete: I will discuss negotiations as talk that contains a *bargaining sequence* or set of such sequences whereby participants display a position or positions, often serially, until agreement is reached (success) or abandoned (nonsuccess). Bargaining sequences include a proposal and a response that aligns (acceptance) or does not align with the proposal (rejection). Interactionally, of course, these are not equivalent responses. A third kind of response is one that withholds acceptance or rejection and instead involves production of a counterproposal. After examining how participants build these sequences in interaction, we can draw implications for other forms of negotiation and discourse. To illustrate and analyze negotiation practices in the real estate episode and to set the stage for more general considerations, my discussion also draws on another set of recordings, ones that I collected in a misdemeanor criminal court in a medium-sized city in California (Maynard 1984, 1988, 1989).

Concrete Practices and Actions in Negotiation

Extract 1 below is from a plea bargaining case in which, as the district attorney (DA) put it, the defendant had “tore up a bar” because the bartender refused to give him “any more drinks.” The defendant was charged with malicious mischief (“mal mish,” line 2 below), and now the public defender (PD) solicits an offer from the DA (line 1). (For confidentiality, PDs and DAs are numbered. Transcribing conventions are in Appendix A.)

Extract 1 (Plea Bargaining case PB30)

- 1 PD2: Okay uh:: is there an offer in: Delaney?
2 DA3: Yeah (.) plea to oh- oh mal mish ‘n and uh (1.0) uh:::m
3 (0.4) modest fine and uh:: (1.0) restitution.
4 (1.0)
5 PD2: Okay
6 (0.8)
7 PD2: Fifty dollars?
8 (4.2)
9 DA3: Yes.
10 (.)
11 DA3: An’ restitution is uh
12 (5.0)
13 PD2: Okay.

The bargaining sequence shown in this extract is a “base” two-part “adjacency pair” (Schegloff 2007) that has two turns: a proposal (lines 2–3)

and an acceptance (line 5).¹ And here, there is serial placement of bargaining sequences, in that after accepting the proposal for a plea to malicious mischief (line 5), the PD initiates a second bargaining sequence and the two parties settle the penalty (lines 7, 9). DA3 and PD2 go on to discuss restitution (lines 11–13) and later (not in the extract), whether a suspended sentence for a “little time” in jail is appropriate. Further sequences and negotiations occur, but the core issues of the charge and fine, were settled in this extract.

Another matter to be noticed here is how the participations produce bargaining sequence second-pair parts: the proposal acceptances. Although PD2 and DA3 delay answering each other’s offer, this reflects their reading of the case files they have before them. Otherwise, the acceptances embody outright semantic statement of acceptance and occupy a single turn of talk (lines 5, 9) to which further proposals and next sequences are added. Conversation analysts suggest that these second-pair parts are “preferred” in an interactional sense because of these patterns — no delay (usually) before the acceptance, response forms that are short, direct semantic indications of the recipient’s affiliating position, and little or no elaboration. The patterns that accompany preferred responses are in contrast to those that embody “dispreferred” ones, which are delayed not only by silences (that are not for purposes of reading text). Turn-initial components (hesitations, tokens such as “yeah,” “okay,” and the like) further postpone a word or phrase that declines an offer. Dispreferred responses also can embody, or be accompanied by, accounts, excuses, disclaimers, hedges (Schegloff 2007: 65) or other such items rather than outright statement. Thus, in CA, “preference” does not refer to psychological states of individuals. Rather, it points to differential patterns by which recipients of first-pair parts produce second-pair parts in conversational sequences depending on whether the second-pair part aligns (preferred response) or does not align (dispreferred response) with the action the first-pair part implements. In the plea bargaining example below, the defendant was charged with resisting public officers (referred to as “one-forty-eight” at line 4 for the California penal code number for this offense), and unlawful marijuana possession:

Extract 2 (Plea Bargaining PB7)

- 1 DA1: I think I’ve- I’ve got an offer that I’ve- I’ll make at this time.
- 2 PD2: Sure .h sho[ot=
- 3 DA1: [Uh::m (2.6) I::’d off:er (0.4) if the defendant uh
- 4 (0.6) he pled guilty to the one forty eight, dismiss the other
- 5 count (0.6) thirty days suspended for a period of one year on
- 6 condition he do two weekends.
- 7 (0.4)
- 8 PD2: .hhh (1.0) Well I: can just about tell ya what he’s gonna sa::y .h

9 'n that's n:o. (0.4) and uh: (1.2) he'd get two weekends if
 10 if he lost this trial, he might get more .hh hh now he didn't throw
 11 any beer cans at any police officer . . .

The DA starts with a preproposal (line 1), to which the PD2 gives a go-ahead (line 2). Then, in lines 3–6, the PD offers dismissal of the marijuana charge and a suspended sentence plus two weekends in jail in exchange for a guilty plea to the charge of resisting public officers. Here the PD is not reading the file but delays answering by allowing a gap (line 7), drawing an inbreath and pausing (line 8), prefacing a “no” answer (line 9) with a “well-prefaced” hypothetical quoting of his client, following the “no” with a reason for it, a projection of a similar penalty if the defendant “lost this trial” (lines 9–10), and “defensive detailing” (Jefferson 1985) of what happened (lines 10–11 and further). In brief terms, through these various devices, speakers interactionally “shroud” their dispreferred turns (like bad news), whereas they regularly “expose” preferred ones (like good news) (Maynard 2003).

Defer-type Moves: Postponing an Occasioned Action

The typical response to a preproposal is a “go-ahead” signal, such as the “Sure, shoot” (line 2 above), but even a silence (line 2 below) after a preproposal (line 1) can allow progression to the base sequence, as in this case of a “hit and run” plea bargaining negotiation:

Extract 3 (Plea Bargaining PB44)

1 PD1: What I: would like ta see.
 2 (0.2)
 3 Ya know this guy is r:i:lly, I think he's just strict-
 4 strictly honest, I think he's telling me the truth .hhh
 5 what I'd like ta see. (0.4) happen is jus' (.) have us
 6 continue the thing fer like (.) thirty days, make him-
 7 lettim make restitution on 'is own, (0.4) an if he does
 8 it, then dismiss the case.
 9 (3.4)
 10 DA3: I'll do that if- if I can verify from the officers who
 11 left the car, if they said uh call us on the nineteenth.

Instead of producing the proposal, however, at line 3, PD1 inserts a “person-description” that works as a kind of character assessment (Maynard 1984). The PD, with this insertion, refers to the defendant's claim that – after he hit another car and the highway patrol learned his license number, used it to locate his home, and left a note telling him to contact the police department within three days – he waited until the third day, but *did* own up to his offense. Hence, the PD's person description, which suggested that the

defendant was “strictly honest,” *defers* or postpones production of the proposal. Although stopping the forward movement of the sequence, the inserted material provides a backdrop for how the proposal is to be heard.² By suggesting the honesty of the defendant, the insertion seeks to justify the proposal for a continuance and for ultimate dismissal instead of a guilty plea.

In the real estate negotiation involving Katie, the potential buyers’ agent, and Frank, the sellers’ agent (see Appendix B, lines 1–8), a similar defer-type of move occurs (line 13) after the call opening. Leading up to this move is first, a preannouncement (line 9) about forthcoming news, and then, as the news, a preproposal (line 11).

Extract 4: Real Estate Negotiation at Line 8

- 8 Fr: =(I just got home and got cher message.
9 Ka: Oh! (.) Well I don’t know if I’ve got good news or not! heh=
10 Fr: =heh he[h
11 Ka: [hh I got an offer on the Stone? (.) [prop↑erty
12 Fr: [O k a y,
13 Ka: Uh::mm↓ (.)↑How ↓soon can you present it.
14 Fr: tch .h hhh [He-]
15 Ka: [He’]s outta town.=

Katie’s preannouncement is equivocal as to whether the news it “forecasts” (Maynard 2003) is good or bad, and invites light treatment with its appended laugh token. Frank responds affirmatively with laughter (line 10) that encourages continuing to the announcement, which Katie produces at line 11 as having an “offer on the Stone property.” This is a preproposal to which Frank gives an overt go-ahead (“okay,” line 12). Katie defers production of the base bargaining sequence, however, by asking, “How soon can you present it?” This occasions talk, all the way to line 49 on the transcript, concerned mostly with the urgency of settling the matter so that the potential buyers can get a Veterans’ Administration loan (“Vee Ay bond” at line 27 in Appendix B).

From a game or negotiation analytic point of view, we might want to know why Katie defers the proposal. Answering that question could entail making inferences about her motivations or cognitive state, whereas the CA perspective eschews analysis of what may be going on in the mind of a participant in favor of that which is displayed in the talk and interaction. Sequentially, the material inserted after the preproposal and before the proposal, as in the plea bargaining case, provides a background against which the proposal is to be heard. Indeed, the offer arrives tinged with the need for a relatively immediate response because of the potential buyers’ efforts to secure a V.A. loan. More than that, given the preannouncement of

possible good or bad news, the delay may indicate that the proposal may lean in the direction of being bad news.

Demur-type Moves: More Than One Action in Interaction

A premise of CA is that utterances perform actions, and the actions that utterances perform are legion. Moreover, a single utterance by itself can perform more than one action, as when by saying, “You’re standing on my foot,” a speaker both *informs* the recipient and *complains* about the situation (Schegloff 2007). Or, a speaker may proffer a “my-side” *telling* — a report of the speaker’s experience — that is also a way of *fishing* for information (Pomerantz 1980).

Consider the next two examples. These are not from formal negotiations, but rather from what conversation analysts call “ordinary conversation.” Each has a my-side telling, and the recipients of these tellings treat them in different ways that show the dual actions such utterances can perform. In line 4 of the telephone conversation below (extract 5), Emma first answers Nancy’s line 3 “how are you?” question with “fine,” and then produces a my-side telling about Nancy’s telephone “line.” As Anita Pomerantz (1980) observed, this could be merely a sharing of experience. But Nancy responds by accounting for the busy line (lines 6–8), thus treating the my-side telling as requesting explanation. Its status as a “fishing” device derives from being implicit rather than explicit, and in Schegloff’s (2007) terms, the telling is a “vehicle” for the request.

Extract 5 (NB II.2.R)

- 1 Nan: Hello.
- 2 Emm: Hi.
- 3 Nan: Oh hi, how are you Emma
- 4 Emm: Fine, your line’s been busy.
- 5 Nan: Yeah (.) my uh, my father’s wife called me, so when she calls
- 6 me, I always talk for a long time cause she can afford it’n I
- 7 can’t! . . .

Compare extract 5 above with extract 6 below, also a phone conversation between friends, in which Shirley has called Geri, and at lines 3–4 produces a my-side telling very similar although not identical to Emma’s.

Extract 6: Frankel TC (normalized)

- 1 Shi: So how’r you?
- 2 Ger: Okay, d’dju just hear me pull up?
- 3 Shi: No! I was TRYing you all day, and the LINE was busy
- 4 for like hours!

-
- 5 Ger: Ohh:....., ohh:..... Well, I'm gonna come over in a little
6 while and help yer brother out.
7 Shi: Good.
8 Ger: Cause I know he needs some help.
9 Shi: Yeah. Yeh he'd mentioned that today.
10 Ger: Mm hmm
11 Shi: Uhm, who were you talking to?
12 Ger: Just now?
13 Shi: No I called like between ele[ven and
14 Ger: [I wasn'talking to anybody. Both
15 Marla'n I slept until about noon . . .

In this case, Geri responds to Shirley's telling with elongated "change of state" (Heritage 1984) tokens (line 5) that mark the telling as news. That is, Geri treats Shirley's informing about her attempts to reach her as an announcement and ignores the tacit way that it fishes for or solicits an explanation. She demurs from answering the solicit, and, after Geri shifts topic to helping out Shirley's brother and several turns devoted to this topic, Shirley brings her subterranean request to the surface (line 11): "Uhm, who were you talking to?" whereupon Geri finally accounts for her busy line (lines 14–15 and in further talk).

A practice in conversation is that when one action fails because it is too implicit, and the other party responds with a demur move — one that avoids dealing with this implicit action — the speaker who produces the initial action may invoke a more explicit version. This practice is illustrated in extract 6 and also emerges in the real estate negotiations in extract 7. After Katie's preproposal (line 11) and the ensuing talk, which is occupied with mentioning the V.A. loan and the urgent timing (lines 12–49), and thereby defers the proposal, Frank finally solicits it:

Extract 7: Real Estate Negotiation at line 50

- 50 Fr: What's the- (.) What's the offer.
51 Ka: Six[↑]ty fi:ve, hh (0.4) with the seller paying three and a
52 half discount points.=
53 Fr: =Oo:h.
54 (1.5)
55 Fr: °Inkay,°
56 Ka: Whattiya you think they'll do with tha::t,
57 Fr: .hh Well eh- ((clears throat)) prob'ly coun[↑]ter,

At line 51, Katie responds to Frank's solicit, and her utterance consists of two actions. One action is clearly to initiate a bargaining sequence and

occasion the relevance of acceptance or rejection. The second action consists of simply elaborating the previous announcement of the offer (“I got an offer on the Stone property,” line 11) by naming the actual terms of the offer. That is, when Katie said she did not know if she had bad or good news, the offer had there been preannounced. But her “I got an offer on the Stone property” announcement only headlines or projects the fuller news, which would be the terms of the offer. Here, at lines 51–2, is an elaboration on the announcement that contains those terms. Frank demurs from accepting or rejecting the offer by dealing with Katie’s announcement as *bad* news — he produces an elongated and downward intoned “oh” change-of-state token (Heritage 1984) at line 53, a silence (line 54), and a version of “okay” (line 55) whose intonation contours (softened volume, slightly rising, then falling intonation) also suggest a negative assessment (Goodwin 1986; Freese 1998).

Reciprocity as Passive or Active

Katie does not accept Frank’s news receipt as the end of the matter, and, just as Frank ended up soliciting the offer, she now pursues a response to her offer. So, because this is interaction and a coparticipant can offset a demurral move with a pursuit that is an explicit version of the original implicit action, the demurral is like a deferral move — it becomes a postponement of the occasioned next action, and, when Frank goes on to display a position relative to the proposal, it will be produced against the backdrop of his initial negative assessment of that proposal.

Moreover, comparing lines 50 and 57 in extract 7, it seems that deferral and demurral moves may regularly put their recipients in the position of *asking for* an action that had otherwise already been occasioned. Just as Frank asks Katie for the offer that she called him expressly to make, she asks him to respond now to what he requested. And, by having to ask for those actions, the parties are compelled to engage stronger *displays* of “reciprocity” (Heath 1982) — they show an active rather than passive readiness to hear what their coparticipants have to say. Likely, the need for the seller to “pay three-and-a-half discount points” (\$3,500, a form of prepaid interest that allows the buyer to pay less interest on a loan) is substantively what renders Katie’s offer as problematic for Frank. Usually, buyers have to pay these points, but in this case the buyers are qualifying for a V.A. loan, which requires the seller to pay the points. This can reduce the net amount of money to be realized from a sale significantly. In a retrospective sense, the potential reduction casts the earlier-inserted material about the urgency of response in a new light. Beyond the issue of urgency, another crucial matter for bargaining purposes, as it turns out, is that it is a V.A. rather than standard bank loan. And now, with the first part of a bargaining sequence in place, and Frank’s demurral move, he has avoided responding to the offer and more specifically withheld the preferred response of acceptance.

With her active display of reciprocity “whattiya think they’ll do?” (line 56), Katie also deals with his bad news receipt by way of a standard postreceipt practice, which is to seek a remedy. More is happening here than just the bad news of course. The news announcement (“I’ve got an offer on the Stone property”) and its elaboration (“Sixty five with the seller paying three-and-a-half discount points”) are the form or vehicle in which the offer arrives, and Kate’s pursuit of response is asking for her coparticipant’s position vis-à-vis that offer.

Notice a further detail: by asking “whattiya think *they’ll* do with that” (my emphasis), she is suggesting a *footing* (Goffman 1979) for Frank. When he replies, he may format his utterance to display that he is articulating his clients’ position rather than one to which he necessarily adheres. Her question recognizes his role as “agent,” the clients he represents as “principals,” and his speaking as an “animator” rather than “author” of a bargaining position (Maynard 1984). Also, the “what do you think” form, in a context where a preferred response, acceptance of the offer, has been withheld by way of the demurral, may also exhibit an orientation to a “next-preferred” response by tacitly soliciting a counterproposal.³ In a plea bargaining case, for example, where the defendant had been charged with public drunkenness and resisting police officers, the public defender and district attorney during negotiations agreed that the defendant could plead to the public drunkenness charge and the other would be dropped. In the extract below, in which a judge is present in the negotiation, they focus on the penalty, with the PD proposing the amount (line 1):

Extract 8: Plea Bargaining Case 24

- 1 PD2: Okay uh:: twenty five dollar fine, does that sound jus[tice-
2 DA3: [Well um. . .
3 ((intervening talk re: jail time and previous offense))
4 PD2: Now c’mon, what do you want from him, he’s got a prior?
5 J1: And what do you think would be reasonable Jerry?
6 (6.0) . . . ((talk about the rain))
7 DA3: Seventy five dollar fine
8 ((intervening laugh of judge re: rain comment))
9 PD2: Why don’t we compromise and make it fifty
10 DA3: That’s done.
11 PD2: Arri(h)ght.
12 J: Just go on in an wind it up.

After that proposal, the PD and DA discuss how much time the defendant has spent in jail and that he had had a previous offense. Then, with “Now c’mon, what do you want from him, he’s got a prior,” the PD acknowledges the prior offense but is also pursuing a response, and in

particular what the DA would “want” on the fine. So, this PD is not asking for acceptance per se of his offer but rather a statement of the prosecutor’s own position. The judge, working to facilitate resolution (Lee 2005), also presses the DA for a statement of his position. In general, “What do you want?” and “What do you think?” devices, articulated after proposals and after bypassed opportunities for acceptance or rejection in negotiations, work to solicit counterproposals as next-preferred to acceptance. In turn, counterproposals make compromise possible (lines 9–11 above).

In our real estate negotiations, Frank displays what he “thinks” by taking up the footing suggested in Katie’s utterance and showing an orientation to the next-preferred response by intimating that his clients, will “counter.” Frank intimates this with “projectable reported speech,” a form of quotation in which, rather than animating previous, actual talk (“reported speech”), a speaker, in the present context suggests another party’s possible future statements (Holt 2007).

Deter-type Moves: Some Uses of Projectable Reported Speech in Negotiation

We have observed how, in a context in which some reply to a proposal is due, the negotiating parties may invoke projectable reported speech. In fact, when Katie announced the offer, presumably she was reporting on the speech of her principals, the prospective buyers. It was *unmarked* reported speech, however; that is, the offer was not announced by way of mentioning or citing her clients. When Katie asked for her coparticipant’s bargaining position, on the other hand, she *marked* her query as requesting reported speech by referring to “they,” and Frank marked his reply also using the reference term “they.”

These utterances exemplify a pattern. In the plea bargaining data, when proposal recipients accept an offer, they do so without quotation. In my fifty-two-case corpus, I found no instances of projectable reported speech when defense attorneys accept an offer. Rather, as extract 1 above shows, acceptances are unmarked “okays” or “yeses” and the like. After an acceptable offer, attorneys may say, “Okay, I’ll convey that to him,” or “If he wants it yes,” which indicate that a client has the ultimate decision, but they do not tend to use projectable speech or quotation. In contrast, when offer recipients produce either a dispreferred or next-preferred response to an offer, they often do use projectable reported speech. In extract 2, after the DA offers a dismissal of one criminal charge and a penalty of jail time for pleading guilty to a second charge, the PD quotes his client: “Well I can just about tell ya what he’s gonna say and that’s no!”

Overall, negotiators may handle offers by projecting what clients may say to deter expectations that the position articulated in an offer will prevail. Put differently, a negotiator works to deter the offering party from

anticipating alignment to an initial proposal by animating and marking a dispreferred or next preferred response as coming from the mouth of principals, which also distances the negotiator from the animated response.

In the extract below, Frank's projectable speech from his principals (line 57) is categorical rather than specific; it depicts a categorical action (counteroffering) without saying what the substance or content of the action would be. Katie follows Frank's categorical response with a request for suppositional specificity ("how much," line 59). She is asking for the content as well as the category of action.

Extract 9: Real Estate Negotiation at Line 56

- 56 Ka: Whattiya think they'll do with tha::t,
57 Fr: . hh Well eh- ((clears throat)) prob'ly coun[↑]ter,
58 (0.6)
59 Ka:: At how ↓much do you suppose.
60 Fr: We[↑]::ll, (.) >I don't know if they're gonna pay three and a-
61 half< poi::nts. (1.1) .hh [on-] n a Vee Ay::,
62 Ka: [(et)]
63 (0.4)
64 Fr: They'll probably gonna counter ba:ck .hhh with:: (.) w'll I
65 don't know (.) but, (.) I think sixty-five is about what they
66 gotta ha::ve out of it.
67 (0.8)
68 Ka: Okay.
69 Fr: So I don't know.
70 Fr: What do you think your people'll do.

One aspect of projectable speech has come to be called "practical epistemology" (Whalen and Zimmerman 1990) or the "epistemics" (Heritage and Raymond 2005) of talk. Embedded in projectable speech are the animators' displays of knowledge regarding a principal's position, as when, in extract 2, there is an evidential formulation, a suggestion of uncertainty, in the PD's remark, "I can *just about* tell" what his principal would say to the offer. In extract 9, Frank suggests his clients would "probably" counter (line 57). And after Katie's request for specificity, he starts with the disclaimer "well I don't know," invokes the contingency of paying the points (lines 60–61), and proposes that the seller's counteroffer likely will involve netting \$65,000 rather than \$65,000 less the discount points (lines 64–66). After Katie's acknowledgment (line 68), Frank completes his suppositional animation with another disclaimer (line 69), thereby sandwiching the projected counteroffer between two disclaimers, conveying a bargaining position but protecting it with a very weak epistemic stance, which also may make his bargaining position more flexible.

In the extract below (line 70), Frank turns the table on Katie and asks her to project her principals' position in relation to the hypothetical counteroffer. Just as Katie had asked about his principals, "whattiya think they'll do," Frank is formulating Katie as the agent and animator for the position of her "people" or principals:

Extract 10: Real Estate Negotiation at Line 70

- 70 Fr: What do you think your people'll do.
71 (1.2)
72 Ka: .hhh- (.) We:ll, if I have anyth'ng say about it, we'll (.)
73 get it put together(hh) eh [heh heh he:]h
74 Fr: [°Yeah° [°okay°
75 Ka: .hh Uh::m At this point that's the best I know that °they'll
76 ↑do::.
77 Fr: Yea:h.
78 Ka: But I'll sure try to put it together.
79 Fr: °Kay°

A difference from Frank's statements at lines 57 and 60–61 is that, rather than take up the footing by animating only her principals' talk, Katie inserts herself as a figure in their deliberations (line 72), produces her own projectable reported speech to the principals, and anticipates a jointly assembled position (lines 72–73). With its appended laughter tokens, which can indicate the delicacy of an action (Haakana 2001; Glenn 2003), the utterance suggests what Gail Jefferson (1984) calls "troubles resistance." That is, if getting "it put together" with her clients is delicate and difficult, Katie nevertheless claims she is up to the task. Frank produces tokens of receipt (line 74) quietly, seriously, and in partial overlap with the laughter, which may indicate hearing the utterance and recognizing the troublesome implications but refraining from a stronger, possibly sympathetic display of understanding.

Then, after Frank's receipt, Kate, at line 75–76, shows her epistemic stance in a way that downgrades the buyers' present offer. That is, with "at this point" and her limited access ("that's the best I know") to their plans, Katie may be providing hint of possible change. Following Frank's "yeah" (line 77), the hinting is reinforced as she quickly returns to her own role with regard to her principals. She begins this utterance with a contrast marker, and reverts from "we'll" get it put together to a formulation that emphasizes her role ("I'll sure try . . ."). Accordingly, in Kate's talk from lines 72–78, reference to what was earlier characterized as a "not good news" offer is, something like Frank's stance vis-à-vis his clients, sandwiched between the utterances strongly implying at least the possibility of compromise and perhaps even alignment to the counteroffer. Thus, if an

agent can use projectable reported speech to deter or discourage expectations for alignment to a coparticipant's position, animating speech in which the speaker as agent for the principals appears to urge those principals toward the coparticipant's position appears as one way of encouraging expectations.⁴

Forty Seconds: Interactional Density of Concrete Practices for Negotiation

Although the real estate negotiation continues for another eight and a half minutes, the two agents have really settled things in this first one and a half minutes, and mostly in the forty seconds starting at line 50 with Frank asking Katie what the offer is. None of the parameters of the bargaining change over the course of the remaining negotiations, although slightly later (lines 164–166) Frank becomes even more specific about the counteroffer, suggesting it will be at “sixty-nine” (\$69,000) in order to recover the points. The remaining negotiations are important but tangential to the core bargaining sequences; they discuss the offerers' qualifications, the V.A. appraisal, the urgency of a reply, the household appliances, earnest money, and other fees. But for the most part, their price negotiations in this encounter are over and done by line 79 of the transcript, suggesting a density of consequential actions and responses as the episode in temporal terms barely gets underway.

As Linda Putnam (2005) has suggested, an approach such as the conversation analytic one employed here has allowed us to “unpack the developmental and contextual” aspects of negotiation, particularly in terms of the interactional practices by which participants constitute it. My discussion has been about the concreteness of negotiations as embodied in bargaining sequences that consist of a proposal or offer plus a preferred response (acceptance), a next-preferred response (counterproposal), or a dispreferred response (rejection).

Negotiation concretely also involves, with the actions of proposing and aligning or not aligning, these related tactics-in-use or practices:

- **Defer:** Postponing production of an occasioned or sequentially implicated bargaining sequence part (a proposal or its reply) to insert relevant explanatory or notifying material on behalf of the proposal or reply.
- **Demur:** Responding to the lesser priority action (e.g., announcing) when an utterance instantiates double actions such as announcing together with proposing. A demurral move may turn into a deferral according to the coparticipant's pursuit of a response to the higher priority action. That is, even though the recipient of an offer, by initially dealing with the utterance as a news announcement or elaboration, can demure from replying to the offer, the offerer may pursue a reply such

that the recipient has only deferred the acceptance or rejection (or counterproposal). In either case, deferring or demurring, these practices may prompt a request for the reply, which is an active display of reciprocity or show of readiness to hear the coparticipant's statement of position.

- **Deter:** Discouraging an offerer's expectations by producing a principal party's projectable reported speech. More precisely, projectable reported speech is often used when articulating a dispreferred response such as rejection to a coparticipant's proposal or offer. The dispreferred response is thereby attributed to the nonpresent principal rather than to the copresent agent, and this may deter the coparticipant in negotiations from entertaining a sense that his or her position will prevail.

Conclusion

Bargaining sequences include "proposals" or "offers" and their various accepting, declining, or counteroffering responses. Bargaining sequences and other related tactics-in-use such as deferring, demurring, and deterring, are to be considered as glosses or abstractions from the concrete details by which participants in negotiation, in real time, develop their turns of talk in interaction with one another to develop the most advantageous positions they can relative to each other. Certainly, negotiation in interaction features additional practices. For example, just as agents can discourage the other party's expectations by projecting a principal's negative stance, they may encourage the expectations of the person making the offer by way of projectable dialogical reported speech in which the agent as animator may depict himself or herself as a figure sympathetic to the other party's position.

As mostly a real estate case study, aided by inclusion of plea bargaining instances, this investigation only scratches the surface of actual bargaining and negotiation, but the CA identification of tactics-in-use may be relevant to negotiations in other realms — in organizations, in labor relations, in politics, in sports — because practices have a generic character that cross-cuts instances, settings, and circumstances and even routine and more consequential endeavors.

This and similar studies may also eventually offer concepts that are relevant in an applied way. At least for the "more patient researchers" (Susskind and Mnookin 1999), that is, descriptive analysis can work toward prescriptive analysis and recommendation of practical negotiating skills, depending on the completion of at least two major tasks. Assuming the data are recordings of actual negotiations, one task is designing systems of coding to include analytically identified conversational tactics and practices, and the other is to incorporate these codes as part of statistical models that can control for a variety of factors that may confound our

understandings of how practices and tactics actually affect outcomes. Such work is arduous and time consuming, but it has been done in medical settings (Heritage et al. 2007), in studies of the survey interview (Maynard, Freese, and Schaeffer forthcoming), and is on the increase.⁵

As for those who are “in a rush to squeeze out prescriptive advice” (Mnookin and Susskind 1999: 276) from studies of actual interaction, I introduced a challenge in this article’s introduction. To address this challenge, it is important to get beyond the differences between CA as a qualitative case-oriented method, steeped with a concern for the micro-details of talk, conversational moves and orientations thereto on the part of participants, and quantitative game-theoretic NA, which emphasizes underlying interests, utilities, and inferences in negotiators’ efforts to claim and create value.

In CA terms, to make an interactional move that effectively projects an agreeable settlement requires agents to have commonsense acquaintance with tacit conversational procedure. From the NA perspective, I would assume that for agents to claim and create value, they must have some set of rules that would prescribe how to enact the tactics that will yield a preferred outcome.

Thus, an analytic challenge that both CA and NA face is that the effective use of procedures and rules in interaction depends upon the “context” of their usage — that is, the ongoing, contingent quality of that interaction and the lived work of deploying generic strategies therein. A previous special issue of this journal has recognized this contingent quality in negotiation by adapting concepts and strategies related to improvisation. Lakshmi Balachandra and her colleagues (Balachandra, Bordone, et al. 2005a) wrote: “A negotiator who learns to react effectively in unpredictable moments clearly is an improviser. He or she somehow manages to cope regardless of the people, the problem, or the process in place.”

Insofar as, in the real estate negotiations, Katie and Frank successfully navigate their beginning phase, can we say it is because they are skillful in articulating bargaining sequences with the practices of deferring, demurring, deterring, and using projectable reported speech in their interaction? The answer may be yes, but if so, it is not because they engage such tactics in a mechanical or prespecified way. Instead, their skill lies in fitting, molding, or tailoring their proposals, tactics, and practices to the “unpredictable moments,” developing courses of action, and interactional environments in which the tactics and practices are embedded.⁶ Accordingly, prescription is not just about procedures and rules; it is also and very much about timing, sensitivity, and tailoring to the context of the talk. How are such matters to be taught? So far as I can see, neither CA nor NA has addressed this question very much, which underscores what Balachandra and her colleagues (Balachandra, Crossan, et al. 2005: 437) observed when

they say that most simulation experiences in negotiations courses “focus on outcomes . . . rather on the process through which they were reached.” Consequently, timing, sensitivity, and tailoring in relation to tactics and practices may still loom as large challenges for further attempts to cross the bridge from description to prescription.

NOTES

1. I regard the bargaining sequence as a “fundamental unit of social organization” (Maynard 1984: 103): “Systematic procedures for leading into, elaborating, and exiting from the sequence relate it to other components of negotiation, such as discussion, argument, justification, counter-proposing, third-party participation, and so on.” See also Firth (1995a).
2. At line 5, PD1 reproduces the preproposal, obtains an implicit go-ahead with the 0.4 second silence, and continues with the preproposal in such a way as to constitute it as a preface or advance part of the proposal utterance itself. That proposal is what the attorneys call “probation to the district attorney’s office.”
3. The notion of “next preferred” is raised by Schegloff (2007: 92) in discussing a “go-ahead” response to a prerequisite as next-preferred relative to the preferred response, which is an offer.
4. Of course, we do not know whether Katie may only be *claiming* that she will try to move her clients toward an acceptable position. We do not know her intent. However, by virtue of Frank’s later, stronger assertion about what an acceptable selling price would be (\$69,000; noted later) he appears to be encouraged by her statements here.
5. For a general statement along these lines, see Heritage (1999).
6. On this point, see Firth (1995b: 26).

REFERENCES

- Arminen, I. 2005. *Institutional interaction: Studies of talk at work*. Burlington, VT: Ashgate.
- Balachandra, L., R. C. Bordone, C. Menkel-Meadow, P. Ringstrom, and E. Sarath. 2005a. Improvisation and negotiation: Expecting the unexpected. *Negotiation Journal* 21: 415–423.
- Balachandra, L., M. Crossan, L. Devin, K. Leary, and B. Patton. 2005. Improvisation and teaching negotiation: Developing three essential skills. *Negotiation Journal* 21: 435–441.
- Bilmes, J. 1981. Proposition and confrontation in a legal discussion. *Semiotica* 34: 251–275.
- Firth, A. 1995a. Introduction and overview. In *The discourse of negotiation*, edited by A. Firth. New York: Elsevier.
- . (ed.) 1995b. *The discourse of negotiation*. New York: Elsevier.
- Freese, J. 1998. Prosodic features of bad news and good news in conversation. *Language in Society* 27: 195–219.
- Glenn, P. 2003. *Laughter in interaction*. Cambridge: Cambridge University Press.
- Goffman, E. 1979. Footing. *Semiotica* 25: 1–29.
- Goodwin, C. 1986. Between and within: Alternative sequential treatments of continuers and assessments. *Human Studies* 9: 205–217.
- Haakana, M. 2001. Laughter as a patient’s resource: Dealing with delicate aspects of medical interaction. *Text* 21: 187–219.
- Heath, C. 1982. The display of reciprocity: An instance of sequential relationship between speech and body movement. *Semiotica* 42: 147–168.
- Heritage, J. 1984. A change-of-state token and aspects of its sequential placement. *Structures of social action*, edited by J. M. Atkinson and J. Heritage. Cambridge: Cambridge University Press.
- . 1999. Conversation analysis at century’s end: Practices of talk-in-interaction, their distributions, and their outcomes. *Research on Language & Social Interaction* 32(1): 69–76.
- Heritage, J. and G. Raymond. 2005. The terms of agreement: Indexing epistemic authority and subordination in talk-in-interaction. *Social Psychology Quarterly* 68: 15–38.
- Heritage, J., J. D. Robinson, M. N. Elliott, M. Beckett, and M. Wilkes. 2007. Reducing patients’ unmet concerns in primary care: The difference one word can make. *Journal of General Internal Medicine* 22: 1429–1433.

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- Holt, E. 2007. "I'm eyeing your chop up mind": Reporting and enacting. In *Reporting talk: Reported speech in interaction*, edited by E. Holt and R. Clift. Cambridge: Cambridge University Press.
- Jefferson, G. 1984. On the organization of laughter in talk about troubles. In *Structures of social action*, edited by J. M. Atkinson and J. Heritage. Cambridge: Cambridge University Press.
- . 1985. On the interactional unpackaging of a "Gloss." *Language in Society* 14: 435–466.
- Lee, S.-H. 2005. The scales of justice: Balancing neutrality and efficiency in plea-bargaining encounters. *Discourse & Society* 16: 33–54.
- Maynard, D. W. 1984. *Inside plea bargaining: The language of negotiation*. New York: Plenum.
- . 1988. Narratives and narrative structure in plea bargaining. *Law & Society Review* 22(3): 449–481.
- . 1989. On the ethnography and analysis of discourse in institutional settings. In *Perspectives on social problems: A research annual*, edited by J. Holstein and G. Miller. Greenwich, CT: JAI Press.
- . 2003. *Bad news, good news: Conversational order in everyday talk and clinical settings*. Chicago: University of Chicago Press.
- Maynard, D. W., J. Freese, and N. C. Schaeffer. Forthcoming. Calling for participation: Requests, blocking moves, and rational (inter)action in the survey introduction. *American Sociological Review*.
- Mnookin, R. H. and J. R. Cohen. 1999. Introduction. *Negotiating on behalf of others: Advice to lawyers, business executives, sports agents, diplomats, politicians, and everybody else*. edited by R. H. Mnookin and L. E. Susskind. Thousand Oaks, CA: Sage.
- Mnookin, R. H. and L. E. Susskind (eds). 1999. *Negotiating on behalf of others: Advice to lawyers, business executives, sports agents, diplomats, politicians, and everybody else*. Thousand Oaks, CA: Sage.
- Pomerantz, A. M. 1980. Telling my side: "Limited access" as a "fishing" device. *Sociological Inquiry* 50: 186–198.
- Putnam, L. L. 2005. Discourse analysis: Mucking around with negotiation data. *Interactional Negotiation* 10: 17–32.
- Schegloff, E. A. 2007. *Sequence organization*. Cambridge: Cambridge University Press.
- Sebenius, J. K. 1992. Negotiation analysis: A characterization and review. *Management Science* 38: 18–38.
- Strauss, A. 1978. *Negotiations: Varieties, contexts, processes, and social order*. San Francisco: Jossey-Bass.
- Susskind, L. E. and R. H. Mnookin. 1999. Major themes and prescriptive implications. In *Negotiating on behalf of others: Advice to lawyers, business executives, sports agents, diplomats, politicians, and everybody else*, edited by R. H. Mnookin and L. E. Susskind. Thousand Oaks, CA: Sage.
- Whalen, M. and D. H. Zimmerman. 1990. Describing trouble: Practical epistemology in citizen calls to the police. *Language in society* 19: 465–492.