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# The Mediator as Cook: Mediation Metaphors at the Movies

Jennifer L. Schulz\*

## I. INTRODUCTION

In a new review essay written for the *University of Toronto Law Journal*, I lamented the absence of mediators and other conflict resolvers in Law & Film studies.<sup>1</sup> Scholars writing in the emerging field of Law & Film routinely analyze lawyers in courtroom settings, but rarely comment on characters performing other important legal tasks, such as negotiation and mediation.<sup>2</sup> Therefore, I have undertaken to remedy this omission in the Law & Film literature, and closely analyze filmic portrayals of mediators. Although characters in movies performing mediative tasks are rarely labeled mediators per se, there are films that feature protagonists in conflict resolution roles. When these films are examined as texts, they provide valuable insights into our understanding of mediation. Films from the food genre, such as *Chocolat*, *Soul Food*, and *Mostly Martha*, feature central characters—cooks—who resolve disputes by preparing and offering food.<sup>3</sup> Thus, in a recent article in the *Harvard Negotiation Journal*,<sup>4</sup> I argued for the richness of the metaphor of the mediator as cook, as demonstrated by a close reading of the film *Chocolat*.<sup>5</sup>

In *Chocolat*, a Miramax Film directed by Lasse Hallström, the protagonist, an empathic chocolate maker named Vianne Rocher, resolves traditional French villagers' conflicts by creating individualized chocolate remedies for each dispute. The metaphor of the mediator as cook describes the conflict resolution work undertaken by Vianne in *Chocolat*. The use of the metaphor throughout the film suggests new insights about mediator style and practice. Specifically, the mediator in *Chocolat* demonstrates that mediations need not be voluntary to be sound; that non-neutral, directive, evaluative mediators can be effective; and that successful approaches to mediation celebrate emotion and pleasure. These filmic insights are contrary to classical mediation teachings which argue that mediation should be voluntary and that mediators must be neutral and facilitative (as opposed to evaluative) in their approach. *Chocolat*, on the other hand, depicts non-voluntary yet

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1. Jennifer L. Schulz, *Law & Film: Where are the Mediators?* U. TORONTO L.J. (forthcoming 2007).

2. Mediation is the intervention in a conflict of an acceptable third party who has no authoritative decision-making power but who assists the parties in reaching a mutually acceptable settlement of the issues in dispute. Mediators facilitate the negotiations of people in conflict.

3. *CHOCOLAT* (Miramax 2000); *SOUL FOOD* (Twentieth Century Fox 1997); *MOSTLY MARTHA* (Bavaria Film International 2001).

4. Jennifer L. Schulz, *Confectionery and Conflict Resolution? What Chocolat Reveals about Mediation*, 22 *NEGOT. J.* 251 (2006).

5. *Id.*

sound mediations, and an effective evaluative mediator who succeeds due to the individualized approaches she takes to each disputant and dispute. Finally, the film clearly demonstrates the importance of emotions, contrary to many conflict resolution theorists who write about the importance of emotions, but do not privilege them in practice.

In this article I will explore the vitality of the metaphor of the mediator as cook by tracing it through other food and conflict resolution related films.<sup>6</sup> In so doing, I hope to achieve two things: first, to continue to insist that non-adversarial processes like mediation be included in the study of Law & Film, and second, to show that the metaphor suggested for mediators based on one film, resonates in other films and suggests new insights about mediator style and practice. Through a Law & Film analysis of two films, *Soul Food* and *Mostly Martha*, I will argue that other movies utilize the metaphor of the mediator as cook, and thus that the metaphor resonates in popular culture.<sup>7</sup> I will demonstrate that *Soul Food* and *Mostly Martha* provide support for my claims that: (1) mediation need not be voluntary to be sound; (2) mediators can be partial, directive, and evaluative and still be effective by individualizing their approaches to each disputant and dispute; and (3) an approach to mediation that embraces emotion is to be celebrated and can produce pleasure.

## II. TRACING THE METAPHOR

### A. *Soul Food*

*Soul Food* is a Twentieth Century Fox and Edmonds Entertainment production, written and directed by George Tillman, Jr.<sup>8</sup> The film stars an entirely African-American cast, including Vanessa Williams as Teri, a lawyer and the eldest of three sisters; Vivica A. Fox as Maxine, a homemaker and the middle sister; and Nia Long as Rhonda, nicknamed Bird, a hairstylist and salon owner, and the youngest sister. The sisters (and their husbands) are watched over by the sisters' mother, Big Mama Joe, played by Irma Hall.

Like *Chocolat*, *Soul Food* is narrated. The narrator is Ahmad, the young son of the second daughter, Maxine. Ahmad, played by Brandon Hammond, describes the film's story as "a story about my family." Ahmad feels that he has a special connection with his grandmother, Big Mama, and, like Joséphine in *Chocolat*, Ahmad is a mediation trainee. He says, "Being Big Mama's favorite was no easy job, especially when it came to keeping the peace, but I always did what she asked." Ahmad tells the viewer that Big Mama has no enemies, "and if she did, she'd invite 'em over for green beans, sweet potato pie, and southern fried chicken, and they'd be down with her after that!" Here we see the power of the great cook—she can make friends out of enemies simply by serving them a meal.

6. There are other metaphors that could be used, such as the mediator as teacher. In this article I will concentrate on the metaphor of the mediator as cook, though, of course, no one metaphor can describe all conflict situations.

7. While I will closely analyze SOUL FOOD (Twentieth Century Fox 1997) and MOSTLY MARTHA (Bavaria Film International 2001), other films from the food genre also depict cooks as mediators. Thus, reference will occasionally be made to other films as well.

8. SOUL FOOD (Twentieth Century Fox 1997).

Big Mama always knows “the thing to do to set things right” because she is “the rock that held us all together.”

Big Mama’s way of holding the family together is through traditional soul food dinners, served on Sundays and holidays. She needs to hold her family together because as Ahmad explains, using a food metaphor, his mother Maxine and Aunt Teri are like “oil and vinegar—they don’t mix.” So, while cooking with her daughters in her kitchen, Big Mama tells them that they will “learn how to make things taste good by trying things out. Soul food cooking is about cooking from the heart.” Big Mama personifies this heartfelt approach to cooking and conflict resolution by serving delectable meals to her conflict-ridden family and bringing plates of food to old Uncle Pete, who stays hidden in his room throughout most of the film.

Big Mama, as the familial conflict resolver, embodies the metaphor of the mediator as cook. She, like Vianne in *Chocolat*, is the spiritual center of the movie. She shares this role with most other protagonists in food related films. For example, in the film *Mystic Pizza*, Leona, the pizza chef, is also the spiritual center of the movie, and like Big Mama, is a comforting maternal figure.<sup>9</sup> Vianne, Big Mama, and Leona demonstrate that the metaphor of the mediator as cook works in the realm of delicate chocolate confectionery as well as in the realm of comfort food. The metaphor of the mediator as cook is not the elitist, gourmet vision of “the chef”, but rather, includes all types of cuisine, and all types of cooks.

Big Mama’s cooking is terrific, but it is killing her. She is extremely overweight, has diabetes, and does not watch what she eats. As a result, there is no longer any circulation in her leg and it must be amputated. Ylva Van Buuren has named different eating personalities, and she would likely classify Big Mama as her “Polly Put-The-Kettle-On” personality:

The soother and unifying force among family and friends, Polly brings people together with food and hospitality. . . . She’s probably a peacemaker. . . . She keeps food memories and traditions alive and is the unsung hero of cuisine. . . . She’s also the mom with the best kitchen on the block; at her table there are always lots of second helpings and several mealtime guests. . . . The drawback: she is so busy taking care of others that she rarely sits down to a relaxed meal herself. She nibbles while she cooks and might finish what’s left on her kids’ plates. She may also turn to comfort foods when she finds a moment, or dive into the cookies and cakes she prepares for everyone else. The possible consequence is that she’s overweight and improperly nourished.<sup>10</sup>

Like many mothers, Big Mama puts others’ needs for good food and family time ahead of her own needs, which eventually leads to her life-threatening medi-

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9. MYSTIC PIZZA (Night Life, Inc. 1988).

10. Ylva Van Buuren, *What’s Your Eating Personality?*, [http://www.canadianliving.com/health/mind\\_and\\_spirit/whats\\_your\\_eating\\_personality.php](http://www.canadianliving.com/health/mind_and_spirit/whats_your_eating_personality.php) (last visited Oct. 13, 2007).

cal condition.<sup>11</sup> When Big Mama finally has surgery to remove her leg, she has a stroke during the operation which leaves her in a coma for five weeks.

During Big Mama's coma, Maxine, the second sister, wants to continue her mother's Sunday soul food dinners. Although Teri disagrees, Maxine does not want her family's forty year tradition to die. Interestingly, in *Soul Food*, and in two other food films, *Eat Drink Man Woman* and *Tortilla Soup*, the second or middle sister of three is the one who decides to try to hold the family together by making the meal (*Soul Food*), starting her own restaurant (*Eat Drink Man Woman*), or staying in the familial home and cooking for her father (*Tortilla Soup*).<sup>12</sup> In *Soul Food*, because the two elder sisters are fighting about who will cook the first Sunday dinner of Big Mama's hospitalization, Aunt Bird, the youngest, decides to cook Sunday dinner for the whole family on her own; however, due to the conflict between the two elder sisters, no one comes to Bird's dinner. Even old Uncle Pete will not eat it. Ahmad's family goes to Mickey D's (McDonald's) that night instead, and as Ahmad reveals, "the whole family was on the toilet all night."

The fast food Ahmad's family ate instead of a soul food dinner was simply not as satisfying or nourishing. It was a poor substitute and resulted in physical discomfort. Evita Roche has argued that ideas from the slow food movement could be imported into mediation.<sup>13</sup> The slow food movement stresses slowing down, savoring each morsel, building community through food, taking one's time, utilizing local producers, controlling the rhythms of one's own life, and making real connections. Thus, instead of hurried alternatives, or "McMediation", we could strive for slow food, or slow mediation. In slow mediation, the metaphor of the mediator as cook is central. It suggests a mediation process that slows down, ruminates, chews things over, and allows for silence.<sup>14</sup> In Roche's view, McMediation is to be avoided because there is no substitute for direct, unhurried, personal contact in mediation. Like Ahmad's preference for soul food over McDonald's, Roche advocates for slow mediation which "resists homogenization, standardization, 'one-size-fits-all' processes and outcomes."<sup>15</sup>

*Soul Food* shares with *Chocolat* a magical or mystical quality. In *Chocolat*, Vianne has a special talent for guessing people's favorite chocolates, and in *Soul Food*, Big Mama can "speak" from a coma. The critical moment in *Soul Food*

11. Daniel Rogov argues that "culinary creativity is the most selfless of art forms because, by definition, its very existence demands its destruction. . . . Its function is to be consumed and thus 'destroyed'. Like a film after it has been seen, a great meal exists only in the mind's eye." Daniel Rogov, *Rogov's Ramblings: Food as Filmic Metaphor or, 5,484 Words in Defense of Gastronomy*, [http://www.stratsplace.com/rogov/food\\_as\\_film.html](http://www.stratsplace.com/rogov/food_as_film.html) (last visited November 28, 2003). Just as the sign of a successful dinner is one that is completely consumed, the sign of a successful mediation is one where the parties no longer need to meet with the mediator—their problem has been taken care of—it is gone.

12. *EAT DRINK MAN WOMAN* (Samuel Goldwyn Films 1994); *TORTILLA SOUP* (Samuel Goldwyn Films 2001).

13. Evita Roche, *Slow Mediation: Food for Thought?*, Address at the 14th Annual Symposium on Conflict Resolution (Feb. 4, 2005).

14. *Id.* (p. 3 of handout, copy on file with author).

15. *Id.* (p. 5 of handout, copy on file with author). Fast food is exactly the opposite. See Howard M. Wasserman, *Fast Food Justice* (August 18, 2005) <http://ssrn.com/abstract=785866> at 6 for an overview of developing case law in the area of fast food such as the 'McDonald's Coffee Case.' Wasserman argues that fast food is a culturally significant American institution that influences the law.

occurs when Big Mama is in the hospital. Magically, Big Mama can communicate with Ahmad, her mediation trainee, who is alone at her bedside. Ahmad responds to Big Mama's thoughts as if she had spoken. Ahmad tells her, "I knew you'd come around. The family's a mess—every grown-up went crazy—bad things happened while you were gone." Then, Big Mama replies from her coma, "If you let bad things stop you, you won't be here for the good things. My soul is tired." With this, Big Mama passes the conflict resolution torch to Ahmad and dies. This is a critical moment for Ahmad who knows that for his family to survive, they will have to pull together, and he will have to channel his grandmother to help them do so. But how?

Later, after Ahmad wins his soccer game, he hatches his plan to bring his family back together again. Ahmad asks his mother, Maxine, to prepare his soccer victory dinner at Big Mama's house on Sunday. Meanwhile, he individually and privately caucuses with all the other family members and tells them a lie. Ahmad uses the same deceptive techniques as Vianne to motivate participation in his conflict resolution initiative. Ahmad tells each family member that the family story that Big Mama had a lot of money hidden somewhere in the house is actually true. Ahmad says Big Mama did have all that cash, and she left it to him. Ahmad explains that he needs assistance to figure out what to do with the money, so he asks each family member to come over on Sunday to help. Each family member thinks she or he is the only one invited and decides to come over (also, of course, each hopes to receive a piece of the monetary pie from Ahmad). Maxine, meanwhile, only expects her own family for a soccer victory dinner.

Through this deceptive, involuntary conflict resolution process, Ahmad is successful in bringing the whole family together. In *Soul Food*, as in *Chocolat*, the mediation is not voluntary, but it is sound. When Ahmad's family arrives, Maxine has cooked a meal based on her mother's recipes. Ahmad says, "Forty years of tradition and a heap of Mama's soul food could pull the family back together again." And, it does. (This is a climax similar to many food films, such as *Babette's Feast*, *Like Water for Chocolate*, and *Big Night*, where a wonderful meal brings the parties together at the end of the film).<sup>16</sup> Although the conflict resolution process in *Soul Food* is not voluntary, the parties, in the warmth of the kitchen, feel safe.<sup>17</sup> Ahmad, like Vianne, was not invited to mediate, but rather, intervened when he thought it was necessary. The mediators in *Soul Food* and *Chocolat* launched involuntary, yet sound, mediation interventions, and their openness and generosity with food resulted in creative, caring conflict resolution.

Ahmad's approach works and feels safe because, as Michelle LeBaron argues, "Parties will feel listened to and more comfortable with a third party who respectfully and appropriately adopts their metaphors."<sup>18</sup> Ahmad does just this. He uses Big Mama's form of communication—soul food dinners—to make his family comfortable, leads the family in prayer, and notes that Big Mama would have wanted the Sunday dinners to continue. Although Ahmad, the mediation

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16. *BABETTE'S FEAST* (Panorama Films A/S 1987); *LIKE WATER FOR CHOCOLATE* (Arau Films Internacional 1993); *BIG NIGHT* (Ryser Entertainment & Timpano Production 1996).

17. Even in Atom Egoyen's disturbing film, *FELICIA'S JOURNEY* (Artisan Films 1999), home movies of the protagonist's mother's cooking show, set in a kitchen, were comforting.

18. MICHELLE LEBARON, *BRIDGING TROUBLED WATERS: CONFLICT RESOLUTION FROM THE HEART* 210 (2002).

trainee, is not impartial and is more deceptive than textbook mediation permits, he effectively individualizes his approach to the soul food needs of his family, and is ultimately appreciated for it. The disputes are resolved and the family realizes that through cooking and eating together they are able to share joys and sorrows and express their love for one another.

The *Soul Food* approach to mediation, like the *Chocolat* approach, celebrates emotions and pleasure. It is not overtly political.<sup>19</sup> Although *Soul Food* has great potential to be a political film—with an all African-American cast, focusing on a cuisine that is much stereotyped, and set in a country with much racial strife—*Soul Food* instead celebrates one family and its conflict resolvers. In so doing, the film makes it clear that pleasure can be enough—politics are not always central. As John Storey notes:

We need to see ourselves—all people, not just vanguard intellectuals—as active participants in culture: selecting, rejecting, making meanings, attributing value, resisting and, yes, being duped and manipulated. This does not mean that we forget about “the politics of signification”. What we must do . . . is see that although pleasure is political, pleasure and politics can often be different.<sup>20</sup>

And, in films about cooking and conflict resolution, pleasure and politics *are* different. The metaphors and images of food are chosen by writers, directors, and cinematographers because they are expected to be appealing to audiences; they are expected to create feelings of pleasure. However, even though the films are pleasurable, this does not mean they mask viewers’ political aspirations or desires to ameliorate the status quo. As Storey observes, “There is pleasure and there is politics: we can laugh at the distortions, the evasions, the disavowals, whilst still promoting a politics that says these are distortions, evasions, disavowals.”<sup>21</sup> Audiences can enjoy a film and still make meaning from it or use its meanings and metaphors as springboards for change.

Meaning can be made in pleasure as well as it can in politics. As David Black says, “In the regime of film, there is an *expectation* of this kind of pleasure. ‘Going to the movies’ has always held a specific promise and a particular allure.”<sup>22</sup> Black notes that the allure of film is unique. Narratives (including mine in this article) attempt to stand in for the films they discuss, but such non-visual narratives differ from the original narrative, the film. This difference, says Black, is “a difference between the presence and absence of *pleasure*. Pleasure in film, like power in law, is that which lies beyond narrativity in a narrative regime.”<sup>23</sup> Pleasure goes beyond the story, beyond the narrative. It is an affective, embodied experience, and it is emotional—like mediation. The affective, pleasurable expe-

19. In fact, the film goes so far to make the ‘unfeminist’ suggestion that having one’s own shop like Bird does, or a time-consuming career like Teri does, is not as important as Maxine’s good marriage and children.

20. JOHN STOREY, *CULTURAL THEORY AND POPULAR CULTURE* 192 (John Storey ed., 3d ed., Harlow 2001).

21. *Id.*

22. DAVID A. BLACK, *LAW IN FILM: RESONANCE AND REPRESENTATION* 40 (1999).

23. *Id.* at 39-40.

rience that comprises watching a film like *Soul Food* is what makes it different from my written interpretation of it and what makes a mediation session different from the conflict resolution literature that describes it. A large portion of the appeal of a film like *Soul Food* is that whilst deriving pleasure from watching characters enjoy delicious food on screen, we, as mediators, may also see ourselves reflected in the film's conflict resolution story. The pleasure that goes beyond the words of the story allows viewers to make new meanings, and those meanings can surface in multiple films.

### B. *Mostly Martha*

*Mostly Martha*,<sup>24</sup> or *Bella Martha* in its original title, is a German film produced by Bavaria Film International and Pandora Film Produktion GmbH. The film is in German with English subtitles, was written and directed by Sandra Nettelbeck, and stars Martina Gedeck as Martha Klein and Sergio Castellitto as Mario.<sup>25</sup> The movie begins with Martha Klein in therapy, telling her therapist about the best way to cook pigeon. Martha is in therapy because her boss, Frida, has said she will fire Martha from her position as head chef at the Restaurant Lido if Martha does not attend therapy to help her deal with her anger toward unrefined customers.

At both the restaurant and in her home, Martha is an extreme perfectionist in her cooking—yet we never see her eat. Interestingly, in *Soul Food* and *Mostly Martha* the female protagonists have difficult relationships with food, despite their prowess in preparing it. The food she eats is killing Big Mama, who eventually succumbs to her diabetes, but Martha, the renowned chef, appears not to eat at all. These women, in spite of their desire to help others, have trouble helping themselves. This parallels Linda Babcock's research on women negotiators. Babcock found that women negotiators do better negotiating on behalf of others than they do when negotiating for themselves.<sup>26</sup>

Despite her difficulty eating, Martha's identity as chef is everything to her; when she meets her new neighbor she introduces herself as "chef" instead of "Martha" and offers to cook for him. It is clear that Martha, through her cooking, wants control.<sup>27</sup> She makes and brings dinner for her therapist, despite his protestations, and forces him to eat the meal while in session with her. She describes this behavior to her therapist as "not compulsive—rather, precise." Martha goes on to explain that precision is a very important ingredient in a kitchen. Precision and timing are crucial because it is complicated to coordinate many customers; "logistics is half the battle." Martha goes on: "However gifted you are, if you can't master logistics, forget about cooking." This has interesting connections to

24. MOSTLY MARTHA (Bavaria Film International 2001).

25. In 2007, Castle Rock Entertainment released NO RESERVATIONS, an American remake of MOSTLY MARTHA, starring Catherine Zeta-Jones and Aaron Eckhart.

26. LINDA BABCOCK & SARA LASCHEVER, WOMEN DON'T ASK: NEGOTIATION AND THE GENDER DIVIDE (2003).

27. However, Martha is not as desirous of control as Udo, the head male chef in DINNER RUSH (Alliance Atlantis 2000), a film directed by Bob Giraldi. Udo tells his kitchen staff that there are only three proper responses when he says something to them: "yes, Chef", "no, Chef", and "I don't know, Chef." Udo's kitchen in this mafia movie is about control and combat, not conflict resolution.



conflict resolution. Precision is as necessary in the delicate arts of confectionery and cooking pigeon as it is in reframing, and timing is just as crucial to ensure that soul food and restaurant food arrive hot at the table as it is when suggesting potential options for settlement. Thus, *Mostly Martha* demonstrates that logistics, being attuned to each moment of the process and to what is being created, are important in both cooking and conflict resolution.

The action in *Mostly Martha* centers around the arrival of Lina in Martha's life. Lina is Martha's eight year old niece and the daughter of Martha's sister, Christin. Christin dies in a car accident, Lina survives, and Martha comes to visit Lina in the hospital. Lina is not eating, and she is not aware of her mother's death. Martha tells Lina that her mother is dead, and she promises Lina that when she gets out of the hospital, she will cook Lina the best dinner she has ever eaten. Martha experiences all of her emotions through the metaphor of food. She expresses her love for Lina through promises of wonderful meals and compares the terrible grief she feels over the loss of her sister to the agonizing death of lobsters in a pot. Lina is, however, so grief-stricken that she cannot eat, no matter what Martha cooks for her. Ironically, the great chef Martha cannot persuade Lina to eat, and she exclaims, "Damn it—I wish I had a recipe for you that I could follow!"

Enter Mario. Mario is the chef Frida has hired because Martha has been absent taking care of Lina. Frida hopes that Mario and Martha will work well together in the restaurant's kitchen; however, Martha is not pleased. She explains it this way to her therapist: "Two chefs in one kitchen is like two people trying to drive a car. It simply doesn't work." When the therapist remarks that he and his wife are often in the car together, Martha reminds him that they are not both driving. Martha's comment that two chefs in one kitchen does not work echoes comments made by the two hostage negotiators in the film *The Negotiator*.<sup>28</sup> The men joke that "two negotiators on the same site—it'll never work." This comment bears consideration in the mediation context. In *Chocolat* and *Soul Food* there were trainees—Joséphine and Ahmad—but not two cooks. Mario, however, is decidedly not a trainee; he is Martha's equal. *Mostly Martha* highlights that the balance of power is entirely different when two cooks create together than when one cook and a trainee work together. *Mostly Martha* gives us a taste that co-mediation might be a viable conflict resolution strategy.<sup>29</sup> Two heads, like two cooks, may actually be better than one. Martha and Mario demonstrate this when they begin to work well together in the restaurant's kitchen.

Both Martha and Mario are wonderful cooks, but Mario, the mediator character in this film, is also a powerful problem-solver. The first time viewers see Martha eat is at Mario's bidding. Mario, like other filmic mediators, uses deception to achieve his goals. He deceives Martha in order to get her to eat. Mario tells Martha a story about his mother giving him a recipe for a particular pasta dish on her deathbed. Because Martha feels guilty refusing to try it, she tastes the pasta. Only after she has publicly partaken at the chefs' communal table (the first time she has

28. THE NEGOTIATOR (Mandeville Films/New Regency 1998).

29. Another film that highlights a co-mediation strategy is WEDDING CRASHERS (New Line Cinema 2005). In this comedy, the two protagonists, played by Owen Wilson and Vince Vaughn, use a co-mediation style in their divorce mediation practice.

ever done so), does Mario reveal the story was fictitious; Mario's mother is still alive. Mario's ploy to get Martha to eat works.

Mario is also the first to convince Lina to eat, and in this way, begins to heal her. Despite Martha's continued best efforts, Lina still will not eat anything that Martha cooks. Martha explains that she always "does her best in cooking—that is everything." While this is a good philosophy for mediators as well, it is not helping Lina, who has now actually fainted from hunger in school. As a last resort, Martha brings Lina with her to the restaurant. And, in the Restaurant Lido, with Mario, Lina comes back to life.<sup>30</sup> Mario gets Lina to eat pasta, and Martha is genuinely grateful.

Now that Lina is eating again, she wants Mario to come over to Martha's house and cook for them. Martha protests. She would rather cook, or cook with Lina together. But Lina prefers to eat Italian food, so it is decided that Mario will come. Mario, like a mediator commencing pre-mediation preparation, plans and shops, despite Martha's protestations. Mario bars Martha from her own kitchen so that he and Lina can prepare the meal together. It is very difficult for Martha to give up control; she is not able to watch what they are doing in her own private "laboratory." The end result of Mario and Lina's cooking adventure is a picnic on the living room floor. Martha, Lina, and Mario eat pasta pesto out of the same pot together, without plates, using only their fingers. It is a sumptuous, traditional Italian meal and generates marvelously warm feelings between the three of them. In the background, an upbeat song plays a wonderfully joyous beat. Martha eats, though the viewer does not actually see her chew. When it is all over, her kitchen is a mess. Things are not the way Martha would have done them; Mario has a very different approach. Martha begins to hyperventilate. Mario brings her a paper bag to breathe into, she eventually calms down, and they share their first kiss. Later, after Mario has left, the kitchen is clean, and the lights are out, Martha goes into the kitchen and eats leftovers from their picnic out of the refrigerator, in private.

Although Lina is eventually reunited with her biological father, and even leaves Germany to live with him and his family for a while in Italy, she happily returns home to Germany with Martha and Mario when they come to reclaim her. As the final credits roll, we know that mediator and chef Mario has brought tasting, touching, music, dancing, and singing not only to the restaurant's kitchen, but also to Martha and Lina's lives. The final images on screen as the last credits fade are of Martha's own, new restaurant in renovation, Martha and Mario's wedding, and a wonderful hillside meal in Italy with Lina's father's family. The movie ends where it began—in Martha's therapist's office. The therapist is now cooking Martha's recipes. He has baked a torte; however, Martha can taste that he did not use the correct sugar.

*Mostly Martha* differs from *Soul Food* because Mario's conflict resolution interventions, unlike Ahmad's, are voluntary, or at least sought out. Martha purposefully brings Lina to the restaurant hoping Lina might eat, and Mario is invited into her home on the night they bond over the pasta pesto picnic. However, like

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30. 'Lido,' the name of the restaurant, is also a famous Italian beach, and the restaurant, like a beach, is an escape from the difficulties of life for Martha and Lina. Mario, the Italian chef in the restaurant, is a father figure for Lina—he replaces her Italian birth father whom she has not yet met.

Big Mama/Ahmad and Vianne's interventions, Mario's also make the parties feel safe. As such, we see that mediation interventions can be voluntary or non-voluntary and still be sound.

*Mostly Martha* supports the contention that non-neutral conflict resolution works if it is individualized to each dispute. Mario is not neutral and is very directive in his process. He has clear ideas about what the outcome should be, so Mario treads lightly around Martha, individualizes his approach to her extreme precision, and ultimately helps their small, unconventional family come together—his goal from the outset. Like Big Mama/Ahmad and Vianne, Mario takes a directive approach. However, he too is effective because he plans his conflict resolution interventions in the same way they all plan their menus—with great individual care and attention to the pleasure of others.

Finally, like the other filmic mediators, Mario's approach to conflict resolution celebrates emotion and pleasure. Through his cooking and in his attitude toward life, Mario embodies pleasure-seeking. He understands the power of words, images, sounds, smells, and cooking to enchant the mind and move the passions according to the enchanter's will.<sup>31</sup> *Mostly Martha*, like *Soul Food* and *Chocolat*, demonstrates that emotions and pleasure— affective, embodied experiences—are central to mediation. Filmic mediators manage to be effective in their unconventional mediation styles because they value, acknowledge, and encourage both positive and negative emotions. When emotions are privileged in the mediation process, the feelings of the disputants are made to count, and this is experienced as pleasurable. Thus, emotions and pleasure are linked in the films.<sup>32</sup>

### III. THE METAPHOR RESONATES

A close analysis of *Soul Food* and *Mostly Martha* reveals the operation of the metaphor of the mediator as cook. Creating, giving, and receiving food establishes trust, lifts spirits, and hints at love, forgiveness, passion, and healing, just as it does in *Chocolat*. These three films all use food and the metaphor of the mediator as cook to demonstrate helpful, positive conflict resolution interventions.<sup>33</sup> *Chocolat*, *Soul Food*, and *Mostly Martha* are texts that when read through Law & Film lenses, reveal cooks who use their humanity and feisty spirits to resolve disputes and capture the hearts of other characters and the viewers.

Some of the films have a storytelling style, often employing voice-overs and narrators. For example, *Chocolat* and *Soul Food* (and other films from the food genre, such as *Fried Green Tomatoes* and *Babette's Feast*) use voice-over and

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31. This phrase is adapted from RICHARD K. SHERWIN, WHEN LAW GOES POP: THE VANISHING LINE BETWEEN LAW AND POPULAR CULTURE 232 (2000).

32. As Goro, the noodle-making instructor in the Japanese film TAMPOPO (Itami Productions 1985), says to Tampopo about her soup: "You're making something good, so look happy!" Mediators should take pleasure in their work.

33. The films I have described have positive endings wherein the disputants reach closure and the mediators are able to effect change. However, happy endings are not necessarily what disputants and mediators experience in real life. The lessons these films offer cannot be perfectly transferred to people's experiences. For example, the lessons we may take from filmic mediators, who operate informally, and not as 'official' mediators, may not be transferrable to formalized mediation contexts, such as court connected mediation programs.

narrators.<sup>34</sup> The films that employ a narrator also have a mystical element, indicating that these two filmic devices may be linked. Many of the mediators employ a trainee—Joséphine in *Chocolat* and Ahmad in *Soul Food*. Thus, we see a commitment from filmic mediators to train future generations of conflict resolvers—something all mediators would do well to emulate.<sup>35</sup> All of the films present a construction of mediators as diverse. There are examples of mediators of color, such as Big Mama, bi-racial mediators such as Vianne, and white conflict resolvers, and both women and men are depicted in the role.

Filmic conflict resolvers use food to help parties communicate and resolve their conflicts, and thus the metaphor of the mediator as cook resonates in film. Whether selling dreams and comforts in the form of chocolate as Vianne does, deep-frying chicken as Big Mama does, or making comforting Italian picnics as Mario does, the benefits of food for encouraging communication cannot be underestimated and can be traced through many films. For example, in a Chinese film about three daughters and their father, *Eat Drink Man Woman*, food gives courage and opens lines of communication.<sup>36</sup> As Jia-Chien, the second daughter in *Eat Drink Man Woman* notes, “In our family, we communicate by eating.” This is true despite the fact that her chef father, Mr. Chu, has lost his sense of taste. *Tortilla Soup*, a movie based on *Eat Drink Man Woman*, but set in the United States and starring a Hispanic family, also ends with improved communication and resolved conflicts.<sup>37</sup> At the final meal in both films, the fathers regain their sense of taste.

*Chocolat*, *Soul Food*, and *Mostly Martha* also highlight the creativity of conflict resolvers. Cooks, hosts, event planners, and potluck dinner organizers, like mediators, are creative people, and these films celebrate that. The mediators in these movies can make exciting things with what to others look like mere groceries on a shelf or herbs in a garden. Vianne makes delectable chocolates and is able to creatively design social encounters to facilitate conflict resolution, thereby healing an entire town. Mama Joe is an extraordinary cook who, from basic ingredients, can win anyone over and even positively affect familial strife from the grave. Mario makes fantastic Italian pastas that enable a grief-stricken child to regain her sense of self through reconciliation with her deeply wounded aunt and, in so doing, creates a new family. Anne McGillivray notes that those with legal training often have a “richly associative imagination, [an] ability to interweave suggestive yet contradictory discourses without being troubled as to fit or association . . . and [an] easy juxtaposition of the rational and the irrational.”<sup>38</sup> Unfortunately, lawyer films do not usually highlight this creative aspect of the lawyer’s personality. Food-related conflict resolution films, however, do underscore the creativity that is the hallmark of mediator-cooks.

*Chocolat*, *Soul Food*, and *Mostly Martha* demonstrate the creativity, good humor, and sense of fun essential to conflict resolution. Conflict resolution scho-

34. FRIED GREEN TOMATOES (Universal Pictures 1991); BABETTE’S FEAST (Panorama Film A/S 1987).

35. THE SPITFIRE GRILL (Castle Rock Entertainment 1996) is another food film whose protagonist, Percy, performs mediative tasks and employs a trainee, Shelby.

36. EAT DRINK MAN WOMAN (Samuel Goldwyn Films 1994).

37. TORTILLA SOUP (Samuel Goldwyn Films 2001).

38. Anne McGillivray, ‘He Would Have Made a Wonderful Solicitor’: Law, Modernity and Professionalism in Bram Stoker’s *Dracula*, in LAWYERS AND VAMPIRES: CULTURAL HISTORIES OF LEGAL PROFESSIONS 225, 266 (W. Wesley Pue and David Sugarman, eds. 2003).

lars Coleman and Deutsch state: “Almost all students of creativity emphasize the importance of playfulness to the creative process. . . . [The play ethic] also permits fun, humor, and relaxation of internal censors that inhibit expression of challenging, unconventional, far-out ideas.”<sup>39</sup> Vianne, Big Mama/Ahmad, and Mario all embody this play ethic, good-nature, sense of humor, and creativity.<sup>40</sup> Their creative, good humor probably assists them in their conflict resolution endeavors because, according to Coleman and Deutsch, “Humor, play, and a sense of fun can all contribute to releasing tension and opening up one’s view of things, ultimately leading to development of a novel point of view.”<sup>41</sup> It is exactly their fresh takes on old problems that make these filmic mediators so effective at facilitating the resolution of conflicts.

Filmic mediators are successful in their conflict resolution efforts and we, as viewers, applaud those successes. By virtue of the fact that Vianne, Big Mama, and Martha are the protagonists in their films, we intuitively identify with them and their viewpoints. This is accomplished through filmic techniques. As Johnson and Buchanan note, “We understand now, in a way we perhaps did not 50 or 75 years ago, the extent to which subject positions (not to mention lighting and camera angles) can shape the way an event is experienced and how a narrative (legal or otherwise) is received.”<sup>42</sup> Viewing *Chocolat*, *Soul Food*, and *Mostly Martha* fosters our identification with women protagonists and mediators and makes us view the events of the films through their eyes.

Vianne, Big Mama, and Martha all possess the dominant gaze in their respective films. Margaret Russell writes, “Like Mulvey’s male gaze, the dominant gaze subtly invites the viewer to empathize with its viewpoint as natural, universal, and beyond challenge; it marginalizes other perspectives to bolster its own legitimacy in defining narratives and images.”<sup>43</sup> While in law films the dominant gaze is generally possessed by a male lawyer, in these three conflict resolution films, the dominant gaze is possessed by women. All the characters controlling the gaze are women, inviting all viewers to identify with them—that is, to identify with women mediators. Orit Kamir notes that despite the femininity of some filmic characters, they can be films’ “sole possessor of the gaze, inviting all viewers’ identifica-

39. Morton Deutsch & Peter T. Coleman, *Some Guidelines for Developing a Creative Approach to Conflict*, in THE HANDBOOK OF CONFLICT RESOLUTION 357 (Morton Deutsch & Peter T. Coleman, eds., 2000).

40. Brenda Austin-Smith, a Film Studies and English professor at the University of Manitoba, sent the following email to me relating to the good-humour of mediators:

I’ve gone back to my thoughts on food films with your mediator figure in mind. You are so right: the food figures are interested in much more of a disinterested way in the success of their endeavours than are other, more crusading protagonists like lawyers. The cooks in these films are also always characterized as having a sly sense of humour or irony, as having achieved an important sense of distance from their own egos that makes them aware of their own limitations, and so immensely sympathetic to an audience. Lawyer figures in pop culture seem more characterized by sheer aggression, persistence, and sarcasm than by slightly amused ironic distance.

Email from Brenda Austin-Smith, Professor of Film Studies & English, University of Manitoba (Aug. 26, 2005) (on file with author).

41. Deutsch & Coleman, *supra* note 39, at 361.

42. Rebecca Johnson & Ruth Buchanan, *Getting the Insider’s Story Out: What Popular Film Can Tell Us About Legal Method’s Dirty Secrets*, 20 WINDSOR YEARBOOK OF ACCESS TO JUSTICE 87, 91 (2001).

43. Margaret M. Russell, *Race and the Dominant Gaze: Narratives of Law and Inequality in Popular Film*, 15 LEGAL STUDIES FORUM 243, 244 (1991).

tion.”<sup>44</sup> This is true even for *Mostly Martha*, where viewer identification remains with Martha despite the fact that Mario is the mediator. The idea that viewers might be encouraged to identify with conflict resolvers who employ non-adversarial approaches to conflict resolution is significant and worthy of further exploration in the Law & Film field. Viewing and studying films about mediators instead of lawyers could lead to different perspectives on processes of conflict resolution.

Kamir notes that women protagonists who possess the dominant gaze are “treated by the camera—and consequently the cooperating viewer—as a male hero, without undermining [their] femininity and feminine point of view.”<sup>45</sup> It is important that the femininity of Vianne, Big Mama, and Martha is not undermined. If these characters were perceived as unattractive or overtly “male”, the films, in our sexist society, would not be made or would fare poorly. In order for society to be able to identify with these women protagonists, society must first be able to *see* the movies. (Then, as Joanne Hollows notes, “The female viewer has the cultural competence to actively make distinctions between the different femininities on screen, which itself may be a source of pleasure.”)<sup>46</sup>

Vianne and her conflict resolution compatriots are not heroic in the conventional, Hollywood sense because they are not tough, decisive, assertive, able-bodied, white, male lawyers. However, much of their behavior is heroic, if by heroic we mean behavior that represents fierce loyalty to a cause greater than themselves, even at the cost of their careers, health, and relationships.<sup>47</sup> Like many heroes, these filmic women protagonists and mediators “go it alone” and emerge triumphant. In *Chocolat*, Vianne loses business and is ostracized socially, but she emerges heroic. Big Mama, who died “for the cause” of good food and good familial relations, is a hero. Mario, the male mediator, is the only character who does not suffer, and he is therefore also not the hero of the film—Martha is. Mediators in the movies, though they might on occasion deceive, often have magical, even heroic qualities, excellent instincts, and are not afraid of working or partnering with others to get the job done.

#### IV. MEDIATION STYLES

*Chocolat*, *Soul Food*, and *Mostly Martha* demonstrate that the metaphor of the mediator as cook, taking pleasure in her or his work, resonates in popular culture.<sup>48</sup> All people eat, and all people have experienced the pleasure and communi-

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44. ORIT KAMIR, *FRAMED: WOMEN IN LAW AND FILM* 202 (2006).

45. *Id.*

46. JOANNE HOLLOWES, *FEMINISM, FEMININITY AND POPULAR CULTURE* 57-58 (2000).

47. Christine Alice Corcos, “*We Don’t Want Advantages*”: *The Woman Lawyer Hero and Her Quest for Power in Popular Culture*, 53 SYRACUSE L. REV. 1225, 1270 (2003).

48. Mario brings the warmth of Italian cooking to Martha’s precise, German kitchen. Though cross-cultural conflict resolution is beyond the scope of this article, the fact that the pleasure of cooking and conflict resolution is revealed through the same metaphor in this foreign film provides further support for the versatility of the metaphor. I believe the metaphor of the mediator as cook resonates cross-culturally, though further research would be required to bolster this claim. Of course, food can also be a marker for class and ethnicity. See *WHAT’S COOKING?* (Trimark Pictures 1999), a film directed by Gurinder Chadha. This film focuses on four ethnically and economically diverse Los Angeles households that each try to celebrate Thanksgiving in their own way, amidst family strife and tension.

ty engendered by sharing a meal together. Filmic mediators stress the central role that coming together—around the table, over food—has for communication and conflict resolution. The mediator as cook metaphor stresses this human interaction. Cooks, like mediators, bring people to the table, ensure their comfort, and plan the seating arrangement. They control the flow of food and conversation, nourish everyone, and hope all in attendance leave feeling satisfied and thinking it was a good experience. These films focus on conflict resolution characters who are deeply maternal (even Mario is maternal) in the gendered location of the kitchen, but they are wide reaching in their implications for conflict resolution. Specifically, when we trace the metaphor of the mediator as cook through these films, it enables description of at least five mediation styles.<sup>49</sup>

First, we note a deceptive mediation style. More must be said of this style than the other four because this approach is completely contrary to conflict resolution theory. Film's mediators, in their use of deceptive techniques, run afoul of classic conflict resolution literature which states that mediators should be neutral, impartial, and unbiased.<sup>50</sup> The Association for Conflict Resolution (ACR) is the largest North American conflict resolution organization. Its Model Standards of Conduct for Mediators outline "proper" or ethical mediation behavior. Standard II refers to impartiality and states:

The concept of mediator impartiality is central to the mediation process. A mediator shall mediate only those matters in which she or he can remain impartial and evenhanded. If at any time the mediator is unable to conduct the process in an impartial manner, the mediator is obligated to withdraw.<sup>51</sup>

While writers such as Cheryl Picard et al. note that certain mediators—for example social network mediators in communities and authoritative mediators in certain organizations—are not always neutral, it is still expected that they "will be fair and trustworthy."<sup>52</sup> The idea that mediators will operate without deception is thus a cornerstone of conflict resolution theory.

However, filmic mediators seem to incorporate a deceptive style to great effect. Vianne does not tell the villagers that the gypsies will be guests at her dinner party. As a result, the villagers attend, overcome their prejudices, and begin a relationship with the gypsies. Ahmad, channeling Big Mama, secretly schedules a series of private meetings in order to get the entire family together for a soul food dinner. Mario lies to Martha about his "dead" mother's recipe to get her to eat. Other movie conflict resolvers use deception too. In *The Negotiator*, Karen puts it

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49. As Mary Jane Miller, *Mirrors in the Robing Room: Reflections of Lawyers and the Law in Canadian Television Drama*, 10 CANADIAN J. OF LAW AND SOC'Y 55, 58 (1995), stresses: "The point is not the use of 'types' but whether they became stereotypes." My use of types is descriptive only.

50. See, e.g., Catherine Morris, *The Trusted Mediator*, in RETHINKING DISPUTES: THE MEDIATION ALTERNATIVE (Julie Macfarlane ed., 1997); Alison Taylor, *Concepts of Neutrality in Family Mediation*, 14 MEDIATION QUARTERLY 215 (1997); and Janet Rifkin, Jonathan Millen, & Sara Cobb, *Toward a New Discourse for Mediation*, 9 MEDIATION QUARTERLY 151 (1991).

51. Association of Conflict Resolution, *Model Standards of Conduct for Mediators*,

<http://acrnnet.org/about/initiatives/QualityAssurance/standards-conduct.htm> (last visited May 15, 2007).

52. CHERYL PICARD, PETER BISHOP, RENA RAMKAY & NEIL SARGENT, *THE ART AND SCIENCE OF MEDIATION* 106 (2004).

very bluntly to her husband, negotiator Danny Roman: “What are you trying to negotiate? You forget that I know that you lie for a living!” Using deception is contrary to conflict resolution theory, yet filmic mediators do it often. A deceptive style is heretical because it indicates that filmic mediators are not neutral; they know where they want to lead disputants.<sup>53</sup> Vianne, Big Mama/Ahmad, and Mario all attempt, and all succeed, in directing the parties where they think it is best for them to go.

Vianne, Ahmad, and Mario could therefore all be accused of breaching mediator codes of conduct. However, these breaches may not be as nefarious as one might think. Anecdotal evidence suggests that many mediators have, from time to time, exaggerated disputants’ positions, focused on some facts to the exclusion of other relevant facts, and played upon parties’ desires to resolve the matter at hand. All of these behaviors fall somewhere along on a continuum of “deception”, and yet no mediator has ever been sanctioned for such behavior.<sup>54</sup> Importantly, too, one must note that Vianne, Big Mama/Ahmad, and Mario never committed to being neutral. They may not have breached any mediation teachings or standards because they did not identify themselves as mediators nor did they promise voluntariness or neutrality. These filmic mediators never promised to equally value each party’s interests. Rather, either in words or by behavior, they demonstrated a desire to help parties in conflict work toward resolution. All three promoted caring, emotion-focussed conflict resolution assistance, and that is what they all delivered. Films such as *Chocolat*, *Soul Food*, and *Mostly Martha* might merely attune us to the fact that mediators mediate differently than how they were taught to mediate, or that classic conflict resolution teachings represent the ideal, but not necessarily the reality, of mediation practice. While empirical research would be necessary to fully examine the reality of ethical breaches in mediation practice, at this juncture it is most important to note that filmic mediators, through their use of mediation practices (such as deception) that subvert classic mediation theory, pave the way for broader understandings of what it means to be a mediator.

The second mediation style revealed in the films is a style that might be deemed magical, mystical, or in some way transformative. Bush and Folger promulgated the transformative approach to mediation:

According to transformative theory, what people find most significant about conflict is not that it frustrates their satisfaction of some right, interest, or pursuit, no matter how important, but that it leads and even forces them to behave toward themselves and others in ways that they find uncomfortable and even repellent. More specifically, it alienates

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53. Of course, mediators are not the only filmic characters who use deception to their advantage. Many law movies feature lawyers who routinely use deception. For example, Jessica Silbey, in *Patterns of Courtroom Justice*, 28 J. OF LAW & SOC’Y 97, 115 (2001), notes that for Dan Caffy (Tom Cruise) in *A FEW GOOD MEN* (Columbia Pictures 1992), “the best course of action . . . was to reject the institution’s rigid structure and disobey orders.” In other words, it was good strategy for Caffy to deceive and commit illegitimate acts.

54. Jennifer L. Schulz, *Mediator Liability in Canada: An Examination of Emerging American and Canadian Jurisprudence*, 32 OTTAWA L. REV. 269 (2001). Two reasons North American mediators have yet to be found liable for any substandard practice are the confidentiality of the mediation process and the quasi-judicial immunity afforded many American practitioners. The instance of suits launched against mediators is extremely low in both the United States and Canada. *Id.*



them from their sense of their own strength and their sense of connection to others, thereby disrupting and undermining the interaction between them as human beings.<sup>55</sup>

Bush and Folger argue that transformative mediation can best be understood as a process of conflict transformation,<sup>56</sup> and indeed, changing the quality of conflict interaction is what Vianne and Big Mama strive to do throughout *Chocolat* and *Soul Food* respectively. However, they do so by employing deceptive techniques that transformative mediators would not endorse. Vianne and Big Mama employ a “magical” mediation style with some transformative properties: Vianne is prompted by the North Wind, feels when things are awry without having to be told, and can guess people’s favorite chocolates. Big Mama magically puts love into her cooking (like Tita does in *Like Water for Chocolate*) and can even help resolve conflicts from a coma. Like transformative mediators, Vianne and Big Mama focus on transforming the parties’ conflict interaction by attempting to support empowerment and recognition shifts as they occur.<sup>57</sup> There is something extra-special, extraordinary, or even other-worldly about these two mediators and their ability to help others find their connection to one another. Their “magic” is concretized in their successful conflict resolution interventions and in the way they continuously encourage conflicting parties’ core capacities for personal strength and interpersonal connection.<sup>58</sup>

Closely linked to the magical approach to mediation is the third approach, namely mediators who cook or mediate on instinct. These cooks do not need recipes. They are flexible, think on their feet, and can make do even if they do not have all the necessary ingredients. Their kitchens are warm and friendly and extra guests can always be accommodated. These cooks can create wonderful dishes and help to resolve conflicts seemingly effortlessly. Just like their real-life counterparts, they are natural mediators. Indeed, the field of conflict resolution benefits from many untrained but excellent, natural mediators. Many people have years of experience mediating disputes in their community, in their industry, and in their spheres of influence, and have done so without formalized conflict resolution instruction. There are legions of excellent volunteer mediators who work in not-for-profit community mediation centers. All of these mediators are well respected, natural, or instinctive mediators. Their filmic counterparts include Big Mama, as well as the fathers in *Eat Drink Man Woman* and *Tortilla Soup*. The fathers in these two food films improvise to excellent effect when food emergencies arise in both filmic restaurant kitchens. The fathers fix the problems on the spot, creating a new dish and giving it a fancy name, and none of the diners are any the wiser. Cooks of this type work on instinct; they are fast on their feet; and their kitchens, like Big Mama’s, are havens of safety.

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55. ROBERT A. BARUCH BUSH & JOSEPH P. FOLGER, *THE PROMISE OF MEDIATION: THE TRANSFORMATIVE APPROACH TO CONFLICT* 45-46 (2d ed. 2005).

56. *Id.* at 53.

57. *Id.* at 233. By supporting empowerment, Bush and Folger mean how the mediator supports the disputants’ movements from weakness to strength. Recognition shifts occur when the disputants are able, with the mediator’s help, to move from self-absorption to understanding one another. *Id.* at 56.

58. *Id.* at 234-35.

Of course, there are also the cooks who follow recipes exactly. These are cooks like Martha, who are very precise, or almost scientific in their approach. Other movie cooks with this more exacting style are chef Primo in *Big Night*, Babette in *Babette's Feast*, and every dinner party host in *The Age of Innocence*.<sup>59</sup> Their real life mediation counterparts would likely include many lawyer-mediators and many newcomer mediators, who according to both research findings and anecdotal reports, favor a more regulated approach to conflict resolution, complete with university training.<sup>60</sup> We might intuitively feel that the warmth of the kitchen in *Soul Food* would be more conducive to developing community and resolving conflict than Martha's kitchen. However, heightened senses of pleasure and revelatory, critical moments can be had in kitchens like Martha's too. Both instinctive mediators, like community based volunteer mediators, and scientific mediators, like lawyer-mediators, can be successful in their conflict resolution endeavors.

The final mediation style revealed by film is a team or co-mediation style. This approach to mediation is best demonstrated by Mario. Mario works together with Martha at the Restaurant Lido, and the restaurant is improved for it. In the kitchen Mario demonstrates that two chefs may be better than one, and on the conflict resolution front, he does the same. While Mario initially mediates the dispute with Lina on his own—only he can convince her to eat—at the end of the film, Mario and Martha work together to bring Lina back to Germany and to establish their own restaurant. They demonstrate that a warm and structured environment, with everyone working together, is best for Lina and for the resolution of conflicts. Mario does not envision his endeavors to be solitary. He is always searching for an interactive approach to mediation because in conflict resolution processes we learn, understand, communicate, and make meaning together. Mario teaches Martha and the viewer that problems are best solved together, and in so doing, champions co-mediation.

The movies make it clear that filmic cooks and mediators have different recipes for success. Some follow the cookbook, others are improvisers, and others work with secret ingredients. Filmic mediators are a stylistically diverse bunch—they are deceptive, magical, instinctual, controlling, and team players—yet the metaphor of the mediator as cook is sufficiently robust to include them all. The metaphor of the mediator as cook functions as a coherent, conceptual meaning system capable of encompassing all of these divergent mediation styles.

Because mediators, like cooks, work differently, mediators can use the mediator as cook metaphor in different ways. The resulting mediation diversity could send contradictory messages. For example, more than one style of mediation can

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59. *BABETTE'S FEAST* (Panorama Films A/S 1987); *BIG NIGHT* (Rysher Entertainment & Timpano Production 1996). In New York City in the 1870s, the setting for the film *THE AGE OF INNOCENCE* (Columbia Pictures 1993), all important contacts were made over dinner, and people put as much effort into table settings as into food. Individually printed menus described to guests where the meal was going, and hosts, chefs, and guests valued the atmosphere as much as the cuisine.

60. For example, Cheryl Picard, *Why Mediators Mediate*, in *ALTERNATIVE DISPUTE RESOLUTION PRACTICE MANUAL 1501, 1509* (Allan J. Stitt ed., 2002), notes that “newcomers with law or business backgrounds were attracted to mediation by ‘job satisfaction’ as well as by ‘court reform’, but less so by ‘social change’.” It appears that newcomer mediators with these backgrounds are not mediating to change the world. Rather they see mediation as a great occupation, and in their efforts to professionalize it, they tend to promote regulated approaches to conflict resolution over transformative approaches.

be depicted in the same film, using the same metaphor. Martha and Mario, both chefs, have very different approaches to conflict resolution, and we have no clear view of the best mediation style.<sup>61</sup> This parallels other filmic ambiguities. For example, Norman Rosenberg observes that:

Hollywood mobilizes all of its visual and story-construction skills to create images of law that are ambiguous, contradictory, and contestable, particularly to the audiences that continue to watch them in search of the many different kinds of pleasure that movie-viewing can produce.<sup>62</sup>

Rosenberg's observation is true for mediation as well. The styles of mediation demonstrated in these conflict resolution films are diverse and contradictory. Filmic visions of mediators and mediation are plural, eclectic, and fun, and thus capable of broadening the contours of conflict resolution. *Chocolat*, *Soul Food*, and *Mostly Martha* encourage us to expand our understanding of mediation. Just as Vianne, Big Mama/Ahmad, and Mario effectively employ a combination of deceptive, magical, instinctual, scientific, and co-mediation styles, so too might real mediators broaden their approaches to conflict resolution. If conflict resolvers' "most essential purpose [is] to help people pursue conflict effectively and constructively,"<sup>63</sup> we might conceive of doing so in different, non classical, ways.

Bernard Mayer would likely applaud the mediation work of Vianne, Big Mama, and Mario because he argues that there is choice in what the role of conflict resolver entails.<sup>64</sup> We do not all mediate the same way, nor do we have to. The movies make it clear that there are diverse, unorthodox ways of helping people pursue conflict effectively. Some mediators might wish to bring people together, others to settle or resolve a dispute, and others to foster disputant empowerment. With different core value orientations, different strategies appear to flow. Films' portrayal of mediators should excite conflict resolution theorists and practitioners, rather than unsettle them. Films pave the way for new articulations of what it means to be a mediator and what it means to help those in conflict. For example, Mayer argues that we, as conflict resolvers, need to think about how we can assist disputants from non-neutral, non-third party stances.<sup>65</sup> Thus, we might spend more time theorizing how we might assist disputants in ways that mirror movie mediators' approaches. Mayer argues that if we think of ourselves as conflict specialists who focus on the entire process of conflict, not just on resolution,<sup>66</sup> we can broaden our effectiveness. By serving as coaches, organizers, advisers, allies, strategists, mediators, and trainers,<sup>67</sup> that is to say, by employing some filmic mediation practices, we could more effectively assist disputing parties.

61. In any event, I reject a normative quest for 'the best' mediator style.

62. Norman Rosenberg, *Looking for Law in all the Old Traces: The Movies of Classical Hollywood, the Law, and the Case(s) of Film Noir*, 48 UCLA L. REV. 1443, 1471 (2001).

63. BERNARD S. MAYER, BEYOND NEUTRALITY: CONFRONTING THE CRISIS IN CONFLICT RESOLUTION 295 (2004).

64. *Id.* at 242.

65. *Id.* at 117.

66. *Id.* at 215.

67. Mayer also includes 'advocacy' in his broader understanding of conflict resolvers. *Id.* at 217. I do not endorse broadening the conflict resolver's role to include advocacy, and note that filmic mediators also do not go that far.

In *Chocolat*, *Soul Food*, and *Mostly Martha*, non traditional conflict resolution strategies operationalized through the metaphor of cooking appear to work. By consciously using the metaphor of cooking in practice, Vianne, Big Mama/Ahmad, and Mario are able to uncover implicit meanings, discover different entry points for intervention, shift attention, ask more useful questions, and work with disputants to reconceptualize their conflict interaction in more positive, nourishing ways.

## V. EMBRACING THE METAPHOR

The metaphor of the mediator as cook resonates in film. However, do movie metaphors for mediation make sense in theory and practice? Will the metaphor of the mediator as cook and the image of conflict resolution as a process of nourishment take root? Will lawyers, mediators, students and others who wish to resolve disputes buy into this metaphor? There are at least two things to consider. First, does the metaphor make sufficient cultural sense, and second, is it catchy enough to take hold?

Without cultural coherence, without being able to fit into our current cultural construction of conflict, the metaphor of the mediator as cook (or any other metaphor for mediation) is unlikely to make sense. As Richard Sherwin notes, "To be sure, cultural affirmation is not something that can simply be willed into being."<sup>68</sup> According to Zoltan Kövecses, certain metaphors can be deemed conventional because they are widely understood,<sup>69</sup> and Thomas Smith notes that "[c]onventional metaphors, far from being 'dead', are very active in shaping cognition."<sup>70</sup> Because Kövecses includes cooking and food metaphors amongst this group of widely understood, conventional metaphors, the metaphor of the mediator as cook can be expected to make sense in society.<sup>71</sup>

However, a new metaphor will only sustain itself through constant repetition and in a cultural climate where its meaning is valued. North American society highly values winning, and therefore, the cooking metaphor may not be satisfactory enough, nor repeated enough, to take hold. As Elizabeth Thornburg notes, "Changed metaphors would work better if accompanied by systemic changes that decrease the incentive for competitive behavior."<sup>72</sup> Thus, in order to work, the cook metaphor must fit within metaphorical systems currently in wide cultural use; it must have resonance in multiple conflict resolution discourses.

How though, do we ensure that this new metaphor is able to fit into current culture and multiple discourses? Will it resonate with men and with women? Is it appealing and glamorous enough, with enough points of cultural congruence, to take hold? "Glam-factor" is important, and it is possible that the mediator as cook

68. RICHARD K. SHERWIN, WHEN LAW GOES POP: THE VANISHING LINE BETWEEN LAW AND POPULAR CULTURE 253 (2000).

69. ZOLTAN KÖVECSES, METAPHOR: A PRACTICAL INTRODUCTION (2002).

70. Thomas H. Smith, *Using Metaphor in Mediation and Negotiation* at 12, Social Sciences Resource Network, Jan. 2003, <http://ssrn.com/abstract=375640>.

71. KÖVECSES, *supra* note 69, at 18. In addition to cooking, Kövecses' list of common metaphorical source domains also includes the human body, animals, plants, buildings, games, and money. *Id.*

72. Elizabeth G. Thornburg, *Metaphors Matter: How Images of Battle, Sports, and Sex Shape the Adversary System*, 10 WIS. WOMEN'S L.J. 225, 278 (1995).

metaphor is not sufficiently glamorous. As John Barkai notes, “[A]lthough the key concepts of effective negotiation and ADR skills are contained in the ideas of ‘underlying interests of the parties’ and ‘effective communication between the parties,’ I hope that these concepts will be more enticing to readers if I say instead that the idea is for ‘the Savvy Samurai to meet the Devil’.”<sup>73</sup> Thornburg echoes this sentiment when she writes:

Another problem may be the metaphors themselves. The image of guardian is not as vivid as that of champion. The mental pictures it creates, if any, are passive. It sounds like a savings bank. . . . Fiduciary also brings no glamorous cultural icons to mind. . . . Being a teacher is just not as exciting as being a knight on a white horse. Being a cook is not as alluring as being a football hero. Being one of several speakers is not as glamorous as being the writer, director, and star of a very dramatic play. If litigators find the new metaphors boring or repulsive, they will have little impact.<sup>74</sup>

Just as litigators may not be charmed by lawyering metaphors they find non-enticing, mediators may not be entranced by the metaphor of the cook. How can we make the mediator as cook as intriguing as the savvy samurai? We can do so by acknowledging what the use of this metaphor could bring to our field.

Embracing the metaphor of the mediator as cook shows us dimensions of conflict resolution more clearly. Elizabeth Thornburg argues that the very point of a new metaphor is to call attention to neglected corners of experience.<sup>75</sup> As soon as we hear the word “cook,” the picture that is called to mind is pleasant. The metaphor of the mediator as cook can attune us to the critical importance of setting, mood, and atmosphere. The metaphor can also help construct images of the mediator and teach us new things about her. For example, the cook is someone who cares about her or his guests, has their comfort and satisfaction in mind, and makes great meals, whether front and center, or, like most mediators, behind the scenes. Real cooks cook with feeling, and therefore, the metaphor also conjures emotion.

The metaphor of the mediator as cook is capable of highlighting, explaining, and clarifying facets of the mediation process, and of changing the language of conflict resolution. For example, Thomas Smith notes that successfully reframing statements made in mediation must take metaphoric mappings into account,<sup>76</sup> and therefore that mediators strive toward metaphor mastery.<sup>77</sup> Despite the difficulty that metaphors often operate at an unconscious level,<sup>78</sup> developing metaphor mastery and purposefully using the cook metaphor would impact conflict resolution

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73. John Barkai, *Teaching Negotiation and ADR: The Savvy Samurai Meets the Devil*, 75 NEB. L. REV. 704, 706 (1996).

74. Thornburg, *supra* note 72, at 264, 280.

75. *Id.* at 269.

76. Smith, *supra* note 70, at 5.

77. *Id.* at 20.

78. GEORGE LAKOFF & MARK JOHNSON, *METAPHORS WE LIVE BY* (1980).

training, customs, and actions.<sup>79</sup> For example, rather than using adversarial language borrowed from law, nourishing, sustaining language from cooking could be used both in mediation sessions and when teaching future generations of conflict resolvers. Instead of *putting their dukes up* or *getting ready for a fight*, disputants could be *brought to the table* and asked to *break bread together*. Mediators would discourage disputant attempts to *rip the other party's arguments to shreds* or *shoot his or her arguments down*, and instead encourage *expanding* or *slicing the pie*, *putting some issues on the back burner*, and *not biting off more than one can chew*. Finally, if the mediation process leads to resolution of the dispute, the parties can be said to have found a *recipe for success* for their future interactions as opposed to declaring a *winner or a loser*.

By using the mediator as cook metaphor to converse, teach, and mediate we could greatly impact mediation practice. Food, kitchen, and nourishment connotations could be brought to disputes, thereby encouraging disputants to think about conflict in less adversarial ways. By consciously using the metaphor of cooking, the mediator could work with disputants to reconceptualize their conflict interaction in more positive, nourishing language, and demonstrate the pleasure that might be gained from participating in mediation processes.

## VI. CONCLUSION

Through close readings of *Soul Food* and *Mostly Martha*, I have argued that the metaphor of the mediator as cook resonates in popular film. Mediation can be metaphorically understood through food and cooking metaphors. The mediator as cook metaphor can function to interpret, structure, and organize action in conflict resolution. It does so while engendering and encouraging feelings of pleasure, and celebrating the emotions and passions of mediation. My analysis of *Soul Food* and *Mostly Martha* provides further support for the claims I first made in reference to *Chocolat*, that mediation need not be voluntary to be sound; mediators can be partial and still be effective provided they individualize their methods; and approaches to mediation that embrace emotion are to be celebrated. Not only does the metaphor of the mediator as cook resonate through multiple films, but tracing the metaphor through films enables description of at least five mediation styles: deceptive, magical, instinctive, scientific, and co-mediation.

I believe that the metaphor of the mediator as cook, in all its diversity, has the cultural coherence to catch on and inspire conflict resolution. Popular film may serve as a particularly accessible medium for the examination and critique of both older and newer mediation metaphors and images.<sup>80</sup> Through the metaphors found in film, conflict resolvers may begin to describe what they do in different

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79. Smith, *supra* note 70, at 20, notes that in mediation training, “[r]ole-plays give the opportunity to explore co-creation of metaphors to clarify communications, and to extend and elaborate metaphors so as to expand options.”

80. J.B. Colson, *Images that Heal*, in *IMAGES THAT INJURE: PICTORIAL STEREOTYPES IN THE MEDIA* 215 (Paul Martin Lester & Susan Dente Ross eds., 1996), states that images have the potential to heal negative stereotypes and create greater appreciation for diversity. Colson argues that by viewing photographs of traditionally stereotyped people taken in a non-stereotypical way, we can begin to change negative views. This position parallels my argument that by developing new metaphors for mediation and surfacing them in film, we might begin to understand mediation in new ways.

ways, using metaphors and language not culled from legal scripts. In so doing, new questions about mediation can be posed, and new approaches to conflict resolution can be tried out. By closely attending to conflict resolution as depicted on screen, our understandings of mediators and mediation will be enhanced. By insisting that non-adversarial processes like mediation be included in Law & Film analyses, we will learn more about mediators and lawyers. And, by promoting new mediation metaphors in practice and in scholarship we will highlight under-explored areas of conflict resolution, enabling important new ideas to surface. In so doing, we will discover new insights about mediator style, practice, and diversity, and we will come to realize that very different styles can all be effective.