

# COLLABORATIVE PRACTICE Toronto

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## Featured Article

### WHO KNEW THAT THERE WERE LIKE-MINDED ADR PRACTITIONERS IN OTHER PARTS OF THE WORLD?<sup>1</sup>

#### THE FIRST EUROPEAN COLLABORATIVE LAW CONFERENCE, VIENNA, MARCH 23RD- 24TH 2007.<sup>2</sup>

The idea of going to Vienna came to me when planning a much needed March break. It was a toss-up between a Utah ski vacation with my cousins – I’m a beginner so not so relaxing -‘vegging’ on a beach - now that would be relaxing, or going to the Vienna Conference.

From the brochure it seemed that I’d heard the presentations before. Frankly, the decision came down to – Vienna would be a relatively inexpensive holiday, being tax deductible, and I’d get to see Vienna again. My focus was on touring, not the conference.

So I booked my trip. I left Tuesday evening, arriving in Vienna Wednesday morning. My first 2 days/3 nights were spent touring this gloriously beautiful city. On my friend Nathalie’s advice, I stayed at the quaint Beethoven hotel - located within walking distance of major sites: the opera, the Sacher hotel, and the art museums. I visited the fabulous Klimts at the majestic Belvedere castle, saw the original “Kiss”, spent an incredible evening at the Vienna State Opera seeing “Fidelio”, paid several visits to the Sacher café to enjoy the famed sacher torte (inimitable chocolate cake with whipped cream), visited the famous pedestrian mall in the town center where Gucci and Prada stores intermingled with H&M and “Pashima shawl” stands. I spent a sunny afternoon at the Mozart Café watching the world go by and attended a concert at a centuries-old academy featuring chamber music, ballet and opera in one sublime program!

It was, frankly, most difficult to relocate on Friday morning to the conference site, notwithstanding it was a castle in the Vienna woods!

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<sup>1</sup> Article originally appeared in Spring issue of the ADR Section Newsletter, OBA

<sup>2</sup> The Conference was put on by the AVM, which is an Association, founded by the Austrian Chamber of Lawyers in 1998, which deals with issues in Mediation and Cooperative practice.

And so the conference began. When Stu Webb, the founder - and guru - of Collaborative law spoke in the first lecture, I observed the Europeans' interested but skeptical looks as we sat formally in our chairs.

The next event was the buffet lunch in the main foyer. Suddenly, after the participants left the various lecture rooms; there was a cacophony of excited chatter. People introduced themselves to each other. There were Toronto faces sprinkled through the crowd, and also faces from last fall's San Diego conference. People greeted each other like long lost relatives. In minutes I met people from all over the world: Fritz from Vienna, Eva from Czechoslovakia and Elise from Victoria, BC. The Europeans were fascinated by the fact that my father had been Viennese and my mother Czech, creating instant bonding!

This spirit of warmth, camaraderie and energy continued through the conference. There were approximately 100 attendees; although there were different languages and cultures, the unifying commonality was that we were 100 like-minded lawyers and professionals. The lawyers were fascinated by the promise of collaborative practice as an exciting and viable alternative to the adversarial and litigious practice that had consumed most of our careers thus far.

The Europeans stated admiringly how far ahead the North Americans were in the collaborative movement, and we assured them we weren't that far ahead! However it was true, that interdisciplinary practice was now happening in North America, while Europe was still at the 'lawyers buying-in to collaborative practice' stage. Interdisciplinary practice means the use of other professionals as needed, including mental health and financial professionals, in the Collaborative process.

One presentation involved a role play of a divorcing couple, their interactions with their collaborative lawyers, and the introduction of mental health professionals to deal with the couples' difficulties in coming to agreeable custody arrangements. There were two lawyers, the parties, two divorce coaches and a child specialist. It was clear that, prior to this role play, the Europeans didn't understand what interdisciplinary practice meant or why it could be helpful; asking the same questions that in North American lawyers had asked a year ago: "Won't this make divorce more expensive so why would clients agree to that?" I witnessed the transformation in the room, when the child specialist pointed out to the parent how they were each losing their son by their resentment against their spouse. The transformation included even the actors: Michael the "husband", our jovial conference chair, started crying when he realized what he had been doing to his "son"! The transformation at the moment of understanding was palpable and visceral: a proverbial light bulb suddenly lit up the room! Everyone at that moment knew and understood the nature - and value - of interdisciplinary practice!

There were the Saturday night festivities when we were bussed out to a remote part of town to a traditional Viennese “Heurigen.” The wine and conversation flowed. The buffet table included every kind of schnitzel and, for dessert, every kind of strudel imaginable! To illustrate our small world - while standing in line for the schnitzel table, I met the husband of a woman who had attended my high school - Don Mills - and now was a collaborative lawyer in London, Ontario!

There was Richard, the British lawyer’s fascinating presentation, presented with typically understated British wit, on how he had got his first international case through networking at a collaborative conference. The wife lived in California and the husband in England. The California lawyer, having met Richard at a conference, referred the husband to Richard. The lawyers collaborated, briefing each on the other’s legal system. The trust they had between them, having connected previously, and having been trained collaboratively to work in a good faith and transparent process, allowed each to rely on the other’s explanation of their respective legal systems. The two day meetings with the parties in California included divorce coaches to facilitate. The parties, having been educated by their lawyers about the two legal systems, chose the legal forum for negotiations. The case settled to both parties’ satisfaction.

Such resolution would have been unheard of in the conventional adversarial system, where the first battles would have been adjudicating the jurisdiction issue.

I was intrigued by the words of the Chief Judge of the Austrian Supreme Court, Dr. Irmgard Griss, who said, in that brilliant way good judges have of boiling things down to their essence, that a judge sees only the evidence in front of her and must decide based on the evidence, whereas there are many other considerations in family matters that Collaborative practice deals with. To elaborate: Collaborative lawyers deal with the parties’ underlying interests, wants and needs, that judges do not have access to.

There was Michael, my “Heurigen” bus seatmate, a civil litigator. Having led the civil lawyers’ seminar, he was convinced he could get “buy in” from his London civil law colleagues to the collaborative process if the proviso that new lawyers had to be retained if a party wanted to go to court was taken out. He was planning to present his suggestions at the upcoming Toronto Conference. And so the dialogue continues!

There were the one-on-one evening talks in the Hotel lobby with colleagues who, though living and practicing family law in different countries, languages and legal systems, were surprisingly similar in their values, humility and humanity ... and in their enjoyment of a good joke!

My thoughts that the conference would be too “basic” proved incorrect. Just as in other ADR processes such as mediation, collaborative practice is a dynamic, evolving

process where we are all, teacher and student, constantly learning from each other and moving forward.

We parted with regret, but with the universal refrain: "See you in Toronto! The IACP - International Association of Collaborative Professionals - Conference will be in Toronto, October 25th -28th, 2007. Everyone promised they would come, expressing great interest in seeing our fair city (just as I had wanted to see Vienna!). I was left with the feeling of having experienced a reunion with old friends that would resume in October.

Although I had slept little and tanned less, I returned home refreshed, invigorated and with renewed excitement about the promise of collaborative practice. ADR and Collaborative practitioners enjoy life and fun, as well as their work. Collaborative practice not only is helpful to the parties, but also offers the practitioner an enjoyable and "more peaceful" practice and a growing network of colleagues the world over who can be called upon for both friendship and brainstorming.

It is invaluable to know that Fritz in Vienna is trying to grow his collaborative practice, Eva in Prague and me in Toronto, that we share common interests and values, and that we will meet again.<sup>3</sup> It is indeed through the common values, interests and philosophies of ADR practitioners - whether collaborative or mediators - that the world is truly becoming a smaller place!

© Anne E. Freed, May, 2007

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<sup>3</sup> The talk is that Cork, Ireland will be the next AVM Collaborative Conference venue. I'm there!