

ADR : NEW ZEALAND IS UP THERE WITH THE UNITED STATES

ADR is a big industry in the United States. Twelve hundred delegates, from all over the US but also from the United Kingdom, Rome and far flung places such as Slovenia attended the April 2005 American bar Association Conference on the "Golden State of ADR". They were all ADR practitioners of one kind or another but primarily mediators and arbitrators with a scattering of judges, court case managers and representatives of ADR organisations.

There was good reason for them all to be there. Like most things American, it was a conference with style and flair and, most importantly, a line up of drawcard speakers. Networking is a science in the US and much time is devoted to it. Most of the arbitrators and mediators I met invest considerable time and energy into practice development, enhancing their websites, University teaching and private training and presenting to raise their profiles. It is a competitive business, so they need to self-promote. Contrary to the NZ national psyche, it is accepted practice to put one's head above the parapet and be counted as one of the best. The result is recognition and work, not slaughter, our customary response to someone who acts self importantly.

On offer at the conference was a smorgasbord of skills workshops, plenary sessions and panel led discussions on topics to appeal to a variety of tastes, even the most eclectic. The topics ranged from mediating medical malpractice suits to the hidden wisdom of negotiation, to designing conflict resolution systems in the international arena, to Government ADR; shaping the future landscape. For relaxation, yoga and guided mindfulness were provided.

The ADR doyens speaking at the conference included Frank Sander, Leonard Riskin, Kenneth Cloke, Randy Lawry, Baruch Bush, Jay Folberg, Carrie Menkel - Meadows and Forrest Mosten. (These speakers were compelling but had they not been, gunfire on the streets outside the hotel in downtown LA served to deter delegates from roaming too far away from the conference, even by day!)

Professional organisations play an enormous role in the US. One organisation, JAMS, which has recently entered into a merger arrangement with its UK counterpart CEDR, has members who derive all their work from it and in return pay a considerable part of their income to the organisation.

For one of 2 practitioners from Down Under it was very useful to take a reading on what is happening in the ADR centre of the world.

Overall, it was affirming to identify as a mediator that our understanding of the mediation process and its breadth is the same. We are not practising an antiquated version of the US model. From a development perspective, practitioners are pushing through the same barriers, both here and there. We are also moving to look at the role of evaluative approaches, the psychological dimensions of conflict and negotiation behaviour and the impact of our own personalities and experiences on the dynamic in the mediation room. We have a way to go to become as focussed, proactive and efficient in the marketing sphere, but at the mediation table we are practising the same art.

This I believe is all good news for practitioners and consumers alike in New Zealand. I look forward to taking another reading next time around and heartily recommend the same to others who enjoy feeling part of a global ADR fraternity/sorority.

Deborah Clapshaw, FAMINZ, is a barrister and mediator in private practise in Auckland. She recently attended the American Bar Association Section of Dispute Resolution 7th Annual Conference, "The Golden state of ADR", held in Los Angeles in April 2005. For further insights into the conference, please contact Deborah by email on deb.med@xtra.co.nz.