

Balls, Knives and Flaming Torches: What I've Learned at the Helm of IACP

It was January 1. Although I was two months into my term as President of IACP, I knew that the time-consuming part, including significant travel, was just coming up. I was also well aware of my own trepidation about being able to do three things simultaneously: maintain my practice, do a good job as President of IACP (and I was not quite certain what that meant), and actually enjoy myself. Enjoying myself is important. I am old enough to have learned that time speeds by quickly, and I have never looked back and thought, "If only I hadn't enjoyed myself so much."

January 1 is not only the beginning of the year in our western calendar, but it is also my birthday. So I have developed a practice of trying to set intentions, every year, on January 1. Sometimes I am successful in fulfilling them, sometimes I fail miserably, which offers its own kind of learning. But I continue to do it because I believe that intention can shape our lives. What I haven't figured out is exactly how it works, and I often get surprised.

So, on this January 1 of 2009 I wrote in my journal,

"Do my presidency term well. 'Work hard, do good.' Bring light to these: rigour in practice, expanding the vision."

I also set out this, knowing that I am one of those people that needs to be physically active to maintain my balance:

"Play! Kayak with a friend, run for the sheer joy of it. Paddle for fun."

And I finished up my list of intentions with this: "Have fun – enjoy your year – this one wild and wonderful life!"

On January 2 I pinched a nerve and I couldn't run, and could barely climb in and out of a canoe. It got worse before it got better. I was a little grief-stricken, and I hobbled a lot. I wailed quietly to myself, "what if I can never run again?" And then I would remind myself to be grateful I could still walk.

The coincidence wasn't lost on me that perhaps I had added one thing too many, and my body decided to lead its own revolt. So, at the end of our January Collaborative group dinner meeting, I slipped into a corner with one of my dear friends who is also a mental health professional, and as she worked with me I heard myself saying: "I will enjoy my year." Even I managed to figure this one out – I had lost my present moment. So I took a breath and reframed: "I am enjoying my year."

This mantra served me well, all year, to loop me back into the present moment, in those

times when I felt a bit overwhelmed.

Looking back, at January 1, I was only thinking about juggling in terms of keeping all the balls in the air. What I have learned, since then!!

Felicia, bless her, gave me this portion of the title for this talk:

Balls, knives and flaming torches.

I had this rather simple idea, that I would just stand up and try to talk about what I learned. And having learned a lot, I didn't think it would be that hard.

But I love metaphor, and I enjoy the challenge of a good metaphor, so please bear with me as we see where this metaphor takes us.

We are all learning to juggle with balls. One of the things that I learned this year is how similar we are, around the world, as we start with one ball. The "how hard can this be" smoothness and heft of that first ball.

Around the world, people are going back to their home communities with that first ball. Julie McFarlane was explaining to me yesterday, after she finished her keynote address, that her daughter who closed the play, juggling on stilts with the lights turned down, was juggling with those little balls that light up. And as I reflect on this last year, that is such an extraordinary description of what is happening around the world. That first ball, like a round, glowing light in the dark, that excites the passion of one person in a community and then spreads.

And as it spreads, we start to add more balls. I see these balls as the work of it. What is it that we do in collaborative practice? Developing the skills, creating our practice groups, putting together study groups, adding teams, and building relationships amongst the professional groups. It should come as no surprise that many of the challenges, as we begin to add more balls, are the same around the world.

I know that one of the things that IACP has tried to foster is the generosity of the collaborative community. I was in Edinburgh in September with a group of lawyers from around Europe, and I took them through the IACP website. The website is rich with resources, which have been developed by practice groups around North America, and are shared freely. The IACP Basic Training Curriculum likewise was developed with the selfless donation of training materials from almost all of the collaborative training community, put together and revised by volunteers, and continues to be revised, and now is starting to be translated, again by people who have volunteered their time and given their work product away for others to use. There are power point presentations for people who want to go out into their community to give talks about Collaborative Practice, there are advertising materials, there is every copy of the Collaborative Review that has ever been published. All of this is about thousands of hours of

donated time from people in our community. This generosity is akin to gravity for a juggler. Without gravity, no one can juggle. Without this pervasive generosity, there would be no collaborative community.

Still speaking of juggling balls, I have learned that culture helps define the size, the colour, the specific attributes of the balls in each community, and in each country. Just as we spoke yesterday about the tension between orthodoxy and creativity, between protocols and developing client-specific practices, what works well in one four way may or may not work well in another. What works well in one community may or may not work in a neighbouring community, and may not work at all in a different cultural context.

For this work to be able to transcend cultural specifics, we need to be able to support the development of practice in other communities and cultures, offering all that we have, and at the same time refrain from dogma. When I set, as my intention for my year as president, this dual theme of rigour in practice and expanding the vision, I did so to remind myself that vital growth depends on both a strong and healthy root system and the soaring, delicate new growth. I know that aphids love the new growth better than the old, and can sometimes endanger the whole plant. I also lost two cedar trees in front of my house, that were a hundred years old, to a root fungus. Neither rigour in practice nor expanding the vision will save us 100% of the time. But I do believe we need both.

I cannot leave juggling with balls without speaking about our clients. The men and women who teach us everyday, are the reason we do this work. There are days when our clients make it feel like play. And there are days when we might have to glance at our hands, to make sure they aren't bloody, because it sure felt like the balls were studded with nails. This is our work, that we get paid for. We owe it to our clients to practice, practice, practice.

If I could only bring three balls to my collaborative work, I think these are the three balls I could not live without: be prepared, be present, and the third ball, reflect and learn. I think I could juggle happily with these three, for a long time.

But – hold it – someone has just thrown knives in my direction!! OK, Nancy, Ms.-Smarty-Pants-I-am-enjoying-my-year. Juggle this!! Swords!!

Julie McFarlane called them the Oppositionists. I call them the naysayers. In my term as President, one of their disguises was the Civil Litigation Section of the American Bar Association.

When they realized the Uniform Collaborative Law Act was getting close to being finalized by the National Commission of Uniform Laws, they gathered together to make certain that people knew they were not going to support the UCLA. Much of the critique they wrote was not a critique of the Act itself, but was a critique of collaborative law.

They called the disqualification agreement a “weapon too clever by half.”

I have enough of the old litigator in me that my immediate response was – swords? Bring them on! I’ll take one in each hand and one in my teeth if I have to!

But then I remembered, be present. Be curious. And I thought, “what does that mean? A weapon too clever by half?” Now I know one thing about cliches. If you really know what you want to say, you don’t use a cliché. Because cliches are nothing but a poor, tired, little collection of words that have lost their specificity of meaning. Of course we all use cliches sometimes. But this was important stuff! If this was really the best that the civil litigators could do, throw me some more knives. Because we know this work. We **know** what the disqualification agreement is. And we do not have to cede this conversation to the naysayers.

What we have to do, as we are juggling with swords, is show up for the conversation. If a debate is the only forum available, go ahead, debate. We are the experts in this field. Take our place as experts. Be articulate. Use our skills, and if there is an opportunity, create a dialogue instead of a debate. Move the conversation into the arenas where it really counts. Educate the public. Be present. Keep juggling those swords. Sometimes I need to remind myself that everyone dies eventually, and that in itself may change the nature of the opposition. Or, as Julie reminded us yesterday, these are distractions.

Which brings me to juggling with flames. If the balls are this work that we do, and the swords are the naysayers, I see the flames as the personal.

The Stu Webb video, which you helped co-sponsor, was viewed at the Minneapolis Forum. As a sponsor, your group will get a copy so that you have it in your library and everyone will have an opportunity to view it. But I want to speak for a moment about what I found most fascinating in the video.

Many years ago, Stu was at a personal development workshop, and they were told to do an exercise where they set out their intentions. Stu found his tucked away in a drawer, and it is shown in the video. You can tell it was typewritten, predating the general use of computers. Number one, on his list of intentions, says something akin to:

“I will change the way that family law is practiced.”

This caught my breath. But what I found even more intriguing was that, in a later portion of the video, Stu says, “It wasn’t that I set out to change the way that family law is practiced.” And then he catches himself and says, “well yes, I did write that down. But I forgot about it.”

I believe that this is the promise of intention. If juggling with flames is about the personal, intention is the ember that keeps the flame lit.

There are many complexities in juggling the flames of the personal. As I learned this year, there is only so much a body can do so, like we say to our clients, prioritize. I believe, universally, what calls us to this work, and keeps us here, is the promise of a professional life aligned with our personal values. So we have the advantage, as we juggle with these flames, that there is finally a congruity between the professional and the personal. There is much of this that makes it easier. Yet there is a part of this that also can make it harder.

The very fact that this work aligns with our personal values, that we feel passionate about it, that it can be a peace-building bridge in a difficult world, these very facts may sometimes make it difficult to, as the juggling instructions said, listen to the rhythm.

One of the mental health professionals in our group and I were talking about this balancing of the personal and the professional last week and she said, about her relationship with her significant other, "I love him and I love this work. He just loves me, so it's harder for him."

Increasingly, I hear people speak about Collaborative Practice changing their life. This is the flame. I know it has changed mine. Not just because it has changed the way I earn my living. It has done that, but it has changed my life in a much more profound way. It has introduced me to many people who are now dear friends, that otherwise I never would have met. It has encouraged me to study and think about conflict, and about dispute resolution, in deep and challenging ways. The flame of this work has encouraged me to listen. It has transformed my way of being in the world so that, occasionally, even in the most difficult of personal exchanges, I can remember to stay curious, instead of reacting.

This flame of collaborative practice has encouraged me to think about this: what if each and every one of us took this work so seriously that we took the best of our skills out into the everyday world. For me, being present in this work means doing this work with an open heart. I can't do it all the time, but I can do it sometimes. And the more I practice, the more I can do it.

Keeping the flame lit is important. Each of us has our own ember. Find yours. Put language to it. Keep it alive with your steady breathe, until it will burn on its own. Here, in the personal, we can each take our ember out into the world. This is how change happens.

I would like to finish by looking into the future. If we can successfully juggle balls, swords, and flames, what might the future look like?

I spoke in Minneapolis about my day-dreams for the future. I have taken some of that,

and thought about it within this metaphor.

So first – Juggling the balls into the future – The doing of this work

- IACP is already making plans for this one, hopefully in 2011, the Collaborative College. It will start relatively small in the first year, but will expand in subsequent years, with longer and more advanced skill building and training opportunities. It will become a leader in dispute resolution training opportunities, gathering together the best trainers, and giving all of us opportunities to continue to develop our skill and expertise.

From here I get to daydream out loud:

- Publications will increase. In addition to the Collaborative Review, IACP will partner with a university and produce a top-quality, peer-reviewed journal. IACP will also publish books for professionals, and materials for the public, and will have the ability to translate these into different languages. They will be offered through an on-line store, and – this one is difficult for me, because I like the tactile experience of books – will be downloaded from the on-line store. This will allow them to be easily revised and updated, to keep up with the most current research and the growth of collaborative practice.
- Web-based learning opportunities will abound. The support that IACP now gives to practice groups through its monthly practice group leadership telephone bridges will increase and expand, so that practice groups can tap into web-based seminars and trainings to continue to advance their skills.

Next – Juggling the swords into the future – what happens with those naysayers?

- The American Bar Association Model Rules will be amended, and there will be a detailed protocol, obligating lawyers to get client's informed consent before they commence litigation, and assuring their clients understand all the risks of litigation.
- A group in Colorado will issue an ethics opinion expounding that is unethical to have a judge, a stranger with no expertise in child development -- make an order about how much time a child can spend with each parent. IACP will support the ABA Civil litigation section in writing a joint critique of the opinion, responding that yes, rarely, but occasionally, the courts may need to make decisions in family cases, but even in those rare, court cases the skills of collaborative divorce coaches and a child specialist can be used.
- The ABA Civil litigation section, though still around, will be dwarfed by the ABA Civil Collaborative section. How did that happen – an ABA Civil Collaborative Section? This is because of a confluence of factors. The structure of the mega-

law firms imploded. They ceased to be financially viable. Lawyers practice in smaller groups, many of which are collaborative firms, with only a few, small litigation boutiques, which are always a little concerned they won't have any work. Through the work of IACP, and through the dogged leadership of civil collaborative lawyers in North America, Europe and Australia civil collaborative law has developed as a first option for most civil cases.

And finally – Juggling the flames into the future – The personal

- Law school training will finally evolve into training for dispute resolution specialists. This only happens because of the determination and passion of those committed to change. Young men and women who want to make a difference in the world, who want to expand peace-building will be attracted to law school, because the curriculum will be relevant to them, and will help them build the skills necessary to bring change in the world.
- IACP will have a large, and extremely active young lawyers section. This section will help support lawyers between one and five years out of law school, in building their collaborative skills, and in building their collaborative practices, so that the graduates of law schools who want to do this work from the day they are first called to the bar are able to do this work, and do not have to spend years working in litigation-based firms. These lawyers, with their enthusiasm and energy will be instrumental in making collaborative practice available and affordable to all segments of society, regardless of income.
- Divorce will no longer be defined, in the public eye, as a legal event. The work of interdisciplinary professionals will be the norm.
- The map of the world on the IACP website that shows how many hits the website has from different countries will crash because it simply can't keep up with the number of people in India, Africa, South America and China that are accessing the website. But its ok, IACP has enough money to invest in a new server that can handle all this traffic.
- Because of one person's passion, IACP will have a major benefactor, who will donate funds for a building that will house both IACP and the Collaborative College. It will be equipped with a technology section that will make Skype look like infant technology, and will enable practitioners to carry on cross-jurisdictional cases with the in-person feeling of a four way, but with people being in different countries. The technology will support sophisticated, interactive, web-based learning.
- Our great-grandchildren will tell their children about us – about the extraordinary group of men and women, at the beginning of the 21st century, who were passionate about changing the way conflict was resolved, world wide, through

collaborative practice. They will tell them about how these men and women stepped away from mainstream careers, because – and they will emphasize this part with their children as they tell the story - they were not satisfied with having to spend their day doing work that was not aligned with their personal values. They were brave, they were pioneers, our great - grandchildren will say. The world was a very different place. People did not know how to handle conflict well. There were wars. There was a lot of fear and anger. But this tenacious group of men and women banded together, learned together, and helped expand peace in the world.

I was privileged to travel through an exciting, exhilarating, and yes enjoyable year with IACP.

And whatever my body had done to itself, it has repaired, and I am even able to run again, though slowly, but with a much better appreciation of “run for the sheer joy of it.”