

Kluwer Mediation Blog

Stone Soup – Linking Mediation Theory and Practice

Rick Weiler (Weiler ADR Inc.) · Sunday, August 5th, 2018



It's August and I'm cooking up some Stone Soup.

What I'm actually doing is finalizing the syllabus, lesson plans, lecture notes, readings, guest speaker list and slide decks. The materials are for my [Mediation Theory and Practice](#) seminar at the University of Ottawa Law School starting in September. (Thank goodness for the last minute, otherwise nothing would ever happen!)

Linking mediation theory and practice has always been challenging. A scan of mediation literature reveals lots of theories and few practitioners willing to talk about what actually goes on in mediation.

Perhaps this isn't surprising given the confidential nature of the mediation process. Still, many codes of conduct contain provisions permitting disclosure of information from mediation, "when the information/documentation is non-identifiable, (unless all of the parties otherwise authorize identification), and is used for research, statistical, accreditation, or educational purposes and is

limited only to what is required to achieve these purposes;” (Section VI.2.e., of the [Code of Conduct](#) applicable to mandatory court-connected mediations in Ontario.)

There are certainly some valuable resources linking theory and practice; for example, the [American Bar Association Report on Research on Mediator Techniques](#), and the online journal, [Mediation Theory and Practice](#). Still, I suspect there are many practising mediators who subscribe to the old saying from the *Tao Teh Ching*, “Those who know do not speak. Those who speak do not know.”

The theory–practice gap is widely recognized and frequently lamented. To date there has been little discussion about *how* it might be bridged. That’s why I find Stone Soup so tasty.

The [Stone Soup Dispute Resolution Knowledge Project](#) is the brain child of [John Lande](#) and [Rafael Gely](#) at the University of Missouri School of Law. It is designed to promote collaboration by:

- faculty
- students
- scholars
- practitioners
- educational institutions
- and professional associations

It is meant to produce, disseminate, and use valuable qualitative data about actual dispute resolution practice.

I was previously unaware of the [Stone Soup fable](#) upon which the Project is based. In the story strangers arrive at a village with only an empty cooking pot. They find that the villagers won’t share any food. So the travellers fill the pot with water, drop in a large stone, and place it over a fire.

One by one, villagers ask what is happening and are told that the travellers are making “stone soup.” It tastes wonderful but needs a little of this or that to improve the flavour. Different villagers contribute various ingredients until the soup truly becomes a delicious meal, which is shared with all the villagers. A charming animation of the fable can be seen [here](#).

I’ve decided to cook up a little Stone Soup in my own seminar. Students will sally forth, in teams of two. They will interview someone who has been involved in a mediation within the last year as a mediator, lawyer or client. They are told the interview should take about an hour and they are provided with a list of suggested questions and topics. Students are asked to prepare and deliver a PowerPoint presentation in class summarizing what they’ve learned.

The goals of the assignment are to provide an opportunity to:

- learn from someone’s experience in an actual mediation;
- practice interviewing skills including developing rapport and protecting confidentiality; and
- reflect on how concepts we discuss in class may apply in actual mediations.

Additionally I seek students’ permission to share some of their presentations with the Stone Soup Project.

Thankfully the Project makes it very easy for adjunct professors like me to put the assignment together through an ever-expanding online collection of [Stone Soup resources](#).

There's a growing list of professors who are adding Stone Soup assignments to their syllabi, and not just for mediation courses. It seems to me that Stone Soup holds the promise of growing our understanding of what actually happens in the mediation process and how that links to mediation theory. Stay tuned.

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