



Winter 2024



Connecting Women Lawyers



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Remarks of the Chair

By J. Cherisse Friesen

This year's Canadian Bar Association National Women Lawyers Forum conference was held in Toronto, and attended by WLF members from across the country. The focus of this year's conference was "embracing our multifaceted roles in the legal profession and beyond." This theme acknowledges the varying roles that we, as lawyers, play in our personal and professional lives as well as the responsibilities, demands, and rewards that go along with them.



One role that is vital to the legal profession is that of a mentor. Many successful lawyers I know have had at least one person in their professional lives who had a significant impact on their career, often by guiding them through difficult situations or inspiring them to forge ahead and pursue their goals. It is difficult to overestimate the impact of a good mentor.

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There are many ways to develop a good mentoring relationship. It can be an informal relationship developed over time, with little structure or set expectations. These mentoring relationships can form spontaneously and through shared experiences. They can also develop through someone taking the initiative to connect. One of the best pieces of advice I received as a young lawyer was to take the initiative in developing a mentoring relationship. If you are a lawyer in the early days of your career, remember that many senior lawyers you know are not only running a busy practice but may have a multitude of other responsibilities. As a result, many of them may not take the first step but would be happy to connect with you if you reach out.

If you're looking to connect with a mentor in an informal manner, it's also a good idea to increase your exposure. Take the time to attend law-oriented events or volunteer for the Canadian Bar Association or other professional associations. You will have a chance to meet a diverse group of people this way over the years. Follow your interests and you are more likely to meet groups of like-minded people.

Mentoring relationships can also be established in a more formal way through a mentoring program. These relationships have been formed by design and the mentoring relationships develop through more structure. Many firms or organizations have established their own internal programs for this purpose, as they recognize the value in these relationships.

The CBABC Women Lawyers Forum Mentorship Program is one of several mentoring programs available to young lawyers in British Columbia, but it is unique in that it focuses on the needs of women lawyers in the profession, providing both substantive and personal advice. The WLF Mentorship Program operates throughout the province and gives mentoring partners the flexibility to meet in person or remotely. For women who live in smaller communities or whose firms do not have mentoring programs, the WLF Mentoring Program is a great option. It's also a great option for young lawyers who wish to confide in someone outside of their firm environment.

The WLF Mentoring Program itself provides some structure to help mentoring partners build a trusting relationship. The Mentoring Committee puts in considerable effort to make suitable matches, using the detailed information provided in the mentoring application form. The Mentoring Committee also ensures that mentoring partners have several events to attend together throughout the year, with various topics focussing on career growth.

The WLF Mentoring Program has been successfully matching mentoring pairs for many years, including peer mentoring partners. If you have not already had an opportunity to participate in the WLF Mentorship Program, particularly if you have been thinking of taking on the role of mentor, I highly encourage you to do so. Further information about the program can be found at cbabc.org.



Advocating for Equitable Access to Fertility Treatments in British Columbia

By Puneet Klar

It is no surprise that fertility planning is crucial to women for several reasons. Factors such as the health of the mother, educational and career goals, financial stability and infertility all impact the ultimate decision to reproduce. In this context, access to medical interventions like In Vitro Fertilization (IVF), Intrauterine Insemination (IUI), and fertility preservation has become increasingly significant, empowering women to make more informed decisions about their reproductive health.

Approaches across Canada

Despite the growing popularity of these treatments, equitable access remains an issue for women across Canada. Notably, British Columbia, along with Alberta, Saskatchewan, and the territories, stand out as jurisdictions that do not cover the costs of these fertility treatments. This is particularly challenging given the substantial financial commitment required for a single treatment, often beginning at \$10,000 - \$20,000.

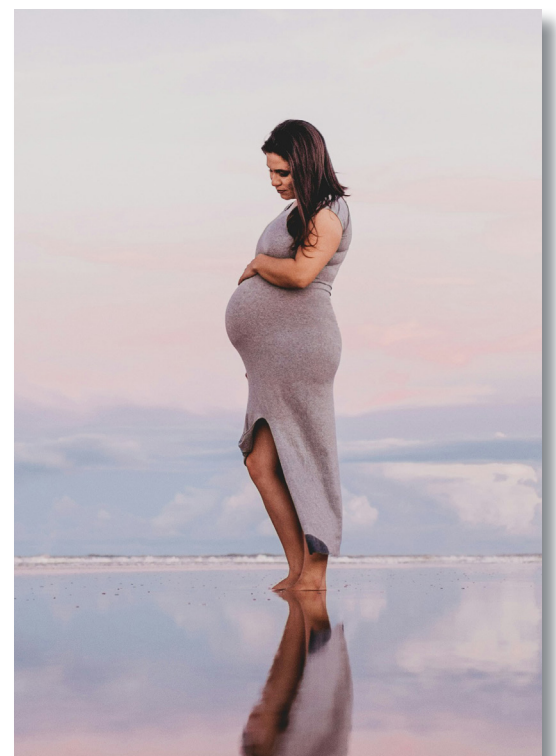
In contrast, other provinces, such as Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, and Ontario, have implemented some variation of financial aid for fertility treatments. For instance, Manitoba offers a tax credit equivalent to 40% of fertility treatment costs, up to \$20,000, with a maximum refund of \$8,000 annually. The province does not limit the number of treatments. Comparatively, eligible residents in New Brunswick can claim a one-time grant for 50% of the costs for IVF, IUI procedures, and medications, up to a lifetime maximum of \$5,000.

British Columbia

Recent advocacy efforts in British Columbia have focused on urging the provincial government to provide funding for fertility treatments under the Medical Services Plan (MSP). It has been suggested that British Columbia adopt a similar funding program to that of Ontario which provides eligible residents with funding for one IVF cycle or one fertility preservation cycle for women up to age 42, as well as IUI treatment with no age restriction or cycle limit.

While a comprehensive funding program is yet to be established, residents in British Columbia who have undergone fertility treatments can explore reimbursement through tax returns, and inquire about potential fertility benefits offered by their employers.

Ultimately the push for equitable access to fertility treatments in British Columbia reflects a broader societal effort to address the diverse needs and aspirations of women in their reproductive journeys. The CBABC WLF encourages our readers with an interest in this topic to stay informed about available options for financial support and actively engage with evolving healthcare policies.





Women Lawyers Forum National Conference

By Kyla Lee

CBA National Women Lawyers Forum held their conference in Toronto from November 2-3, 2023.

The first day began with an in-person executive meeting, during which many section members got to meet and mingle with each other for the first time. After the meeting, a facilitation session was held with Kate Moore of Vital Shift Consulting to explore the WLF mandate and how to make it more inclusive. Participation was engaging and thoughtful, enabling us to have a better understanding of how to be an ally.



The bi-annual WLF National Conference panels began on November 3rd. This was the first in-person conference since the pandemic, and it was a hit. The panelists were very interesting, beginning the day with a riveting discussion from Alexia Korberg, a New York lawyer who has been at the forefront of equality challenges in the US.



The group was then broken into four panels: Lawyers as Professional Leaders, Lawyers as Mentors and Caregivers, Lawyers as Community Activists, and Lawyers in the Future. These panels explored often-overlapping themes of the role that lawyers play, and the role that feminism plays in lawyering and engaging with the public at large. Each panel was followed by questions from audience members.

We would be remiss if we did not mention that the conference also featured two other excellent elements: a drag performance from Tynomi Banks, of Canada's Drag Race fame, and a presentation of the Cecilia I. Johnstone award to the inimitable powerhouse Myrna McCallum.

This conference was unique in that children were welcome to attend. There were designated spaces for childcare, quiet time, and working which allowed lawyers to balance their busy personal and professional lives while developing professionally. This is a model, I believe, all CBA conferences — and all conferences in general — should adopt in the future. It made the program more accessible and inclusive, with little difficulty to the organizers.

We are already looking forward to the 2025 conference!





SCC Intervention on Common Sense Assumptions and Consent: An Interview with West Coast LEAF's Humera Jabir

By Kyla Lee

West Coast LEAF and LEAF co-intervened this year at the Supreme Court of Canada (SCC) in *R. v. Tsang* on the issue of how courts approach the credibility analysis and review of common-sense assumptions in sexual assault cases. To get their perspective of this case, we interviewed Humera Jabir, Staff Lawyer at West Coast LEAF.

Background and Approach

The accused had argued in their appeal that the judge improperly made common-sense assumptions not grounded in the evidence when assessing credibility. The BC Court of Appeal agreed and ordered a new trial.

The intervention asked the Court to provide guidance on the approach to appellate review of common-sense assumptions connected to credibility. The co-intervenors argued against using a “rule against ungrounded common-sense assumptions” as a stand-alone basis for appellate review. Alternatively, they suggested guidelines to ensure appellate review of common-sense assumptions is “not affected by harmful myths and stereotypes about sexual assault and protects the equality and dignity of sexual assault survivors,” said Jabir.

Here, the co-intervenors’ approach was to focus on the potential consequences of such a rule on the development of sexual assault law and for survivors. If the court accepted the rule as an appropriate basis for appellate review, the co-intervenors asked that guidelines be established for its application to ensure courts consider the entire evidentiary record, avoid substituting their own assumptions, and ensure the analysis is consistent with existing law.

Concerns

The co-intervenors’ role was therefore to assist in understanding the implications of adopting a “rule against ungrounded common-sense assumptions”. The concern was that such a rule prompts appellate courts to finely parse reasons in search of error instead of adopting a functional approach. The rule has been applied almost exclusively in sexual assault cases, which often turn on credibility.

If the rule is adopted, Jabir outlined that a further danger is Crown may seek to “appeal-proof the record.” Calling evidence for every common-sense assumption could result in “invasive, prejudicial, and traumatic questioning of survivors.” This has consequences for access to justice for survivors, Jabir said.

Appellate review of common-sense assumptions may open the door for prohibited “twin myths” reasoning and stereotypes to be re-introduced into the process. The co-intervenors sought safeguards in the law. Jabir explained that judges reviewing common-sense assumptions must not “skip over” or fail to properly apply the law of consent.

The co-intervenors asked the SCC to uphold and reaffirm existing approaches to managing stereotypes, and decision-making aligned with the law of consent. Ultimately, the co-intervenors argued that the SCC should understand the consequences of such a rule and apply a trauma-informed understanding, recognizing the increased risk of highly invasive questioning.

Judgment is reserved.



Hot Tips and Mentorship at the WLF's Fall Launch

By Sonia Athwal

The Fall Launch of the Women Lawyers Forum took place this year at the offices of Clark Wilson on September 19, 2023, with the annual “Hot Tips from Top Mentors” panel. Each year we invite lawyers and judges to share their insights on the legal profession and mentorship. This year the speakers were Sandeep Mann, General Counsel & Chief Privacy Officer at Fraser Health Authority, The Honourable Justice Baljinder K. Girn, of the Supreme Court of British Columbia, and civil litigator and benchler, Cheryl D'Sa of Narwal Litigation LLP. Karissa Kelln hosted the discussion.

At each Fall Launch we invite lawyers and judges to share their insights on the legal profession and mentorship.

The speakers also emphasized that peer mentors are invaluable, including those law school and articling friendships that last far beyond promotions and appointments. Further, the speakers discussed how mentorship is two-way street; the mentor often gets their own benefit along with the mentee. Mentors want to know how you are doing, watch you succeeding, and see where they can help.

Sandeep Mann spoke about her first-hand experience in needing to re-establish her network, after moving from Australia to Canada following a decade-long career. She found mentorship in a colleague, which helped her navigate the BC licensing process and legal landscape. Mann also reminded us that no one should restrict themselves to rely on their firm to find mentors.

Justice Girn emphasized that even lawyers with different life experiences can provide the right mentorship. She spoke about the importance of one's reputation, and that mentors should teach and model ethical and professional behavior. Justice Girn also spoke of the importance of peer mentors during career crossroads, and encouraged us to commit to supporting internationally-trained lawyers to counter any misconceptions about their practice or skill.

Cheryl D'Sa has been a mentor with the Women Lawyers Forum for many years. D'Sa spoke about how being a mentee doesn't really end – she is still speaking with and learning from senior lawyers about how to run a law firm and manage a career pivot.

The speakers ended the session by emphasizing to prospective mentors that everyone has so much to offer, and there is often great fulfillment in just being someone who can listen.

Thank you to all of the speakers of this beneficial and educational event!





WLF Mentorship Program Orientation Breakfast

By Priscila Padilla

The 2023-2024 WLF Mentorship Program Orientation Breakfast took place on November 30, 2023, at the Allouette Bistro in downtown Vancouver. The Orientation Breakfast provided an excellent opportunity for participants in the Mentoring Program to meet in-person and kick-off the program. Mentors and mentees eagerly connected while sharing a delicious hot breakfast on a sunny autumn morning in Vancouver. Women lawyers from diverse backgrounds and practice areas gathered to commence their mentoring relationship.

The Mentoring Program is a central part of the CBABC WLF. The goal of the program is to provide women lawyers the opportunity to support each other in the practice of law and ensure their continued and successful participation in the legal profession; the retention of women in the practice of law is a key consideration of the WLF.

Since its beginning, the WLF Mentoring Program has matched hundreds of women lawyers in mentoring relationships where more experienced women lawyers help junior women lawyers navigate the various phases of their legal careers (including the bumpy ones). Central to the WLF Mentoring Program is the peer support women lawyers provide each other. Knowledge is also successfully passed forward and long-lasting relationships are formed. The enthusiasm and energy at the Orientation Breakfast indicate that the program will be a big success this year. I am very lucky to have joined such a great group of supportive and interesting women.

Stay Connected!

BC WLF membership is open to all CBA members.

For membership information call the CBABC at 604.687.3404, toll free in BC at 1.888.687.3404, or visit: cbabc.org/sections/enroll for a Section enrolment form.

We hope you will join the Forum!

Get Social!

Follow us on:

Twitter: twitter.com/CBA_WLF

Instagram: instagram.com/cba_wlf

LinkedIn: linkedin.com/showcase/cba-wlf for all things WLF.

Write Us

Are you interested in writing an article for the WLF BC Newsletter or do you have any comments or feedback? If so, please contact the BC WLF Marketing and Communications Committee Co-Chair: [Leah Seneviratne](mailto:Leah.Seneviratne@cbawomenlawyers.org).

CBA National WLF Newsletter

CBA National WLF Newsletter - The Common Room is available at cba.org/Sections/Women-Lawyers/Articles

The CBA National WLF is seeking article for its newsletters. If you would like to contribute, please contact: cbawomenlawyers@cba.org.



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WLF Education Event: Lessons on Fertility and Family Planning

By Jenny Musyj

On November 20, 2023, the CBABC WLF hosted “Planning for the Future: Family Planning within the Legal Profession.” This event took place at McMillan LLP in Vancouver, as well as remotely with attendees appearing from across the province.

Rachel Schechter, moderator and associate at Fasken Vancouver, opened the meeting and framed the discussion around providing empowering information to allow everyone to make their own decision on fertility and family planning. Panelist Dr. Caitlin Dunne, MD, FRCSC, specialist in infertility and egg freezing, began this discussion with an impactful presentation on the medical side of planning for the future. Dr. Dunne provided information on fertility treatment, planning for fertility, and deconstructing social norms surrounding fertility. Dr. Dunne emphasized that it is important to balance your expectations and be kind to yourself during the family planning process.

Panelists Paula Price, professional certified coach, and Leena Yousefi, lawyer and founder of YLaw, discussed the practicalities of being a working parent in the legal profession and the resources available to help manage this often difficult and new territory. As lawyers, we have all programmed ourselves to set high expectations and it is important to be open to recalibrating your definition of success. This definition may change when children come into the picture, impacting the way you rank and prioritize your values.

Lessons learned included: obtain information to make the right decisions for you and your life, starting with the basics, be kind to yourself, understand things take time, and do not be afraid to seek help.

Thanks to the CBABC WLF for a wonderful event!





Legislative Update: *The Canadian Modern Slavery Act*

By Priscila Padilla

The International Labour Organization estimates that 27.6 million people are currently living in slavery around the world.¹ Women and girls are disproportionately affected by forced labour slavery, accounting for approximately 78% of the victims in forced commercial sexual exploitation and 56% of those in forced labour in other private economic sectors.² Governments around the world are introducing measures to combat the spread of modern slavery and forced labour within their economy. In May 2023, the Canadian government enacted its first modern slavery legislation: *Act to enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act and to amend the Customs Tariff* (the “Act”).

The Act imposes reporting obligations on certain private entities and government institutions that produce, sell, distribute, or import goods in or into Canada, or that control entities that do so. These private entities and government institutions are required to file a prescribed annual report describing the measures taken to prevent or reduce the risk of forced labour or child labour used in their operations and supply chain. The annual report must be made publicly available through the government’s or private entity’s website and, in some cases, distributed to the shareholders of a private entity.

Although the Act does not require private entities or government institutions to make changes to their operations or supply chain, it relies on transparency to encourage responsible business practices.³ Nonetheless, failure to comply with the reporting requirements under the Act is an offence punishable upon summary conviction, carrying a fine of up to \$250,000.

In addition to penalties prescribed in the legislation, entities should be mindful of the risk of reputational damage associated with having modern slavery and forced labour in their operations or supply chain. In particular, businesses subject to the Act will want to review their operations to ensure they mitigate the risk of forced or child labour entering their supply chains. Hopefully, over time, these measures will help reduce the spread of modern slavery.

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1. <https://www.ilo.org/global/topics/forced-labour/lang--en/index.htm>

2. <https://www.ilo.org/global/topics/forced-labour/lang--en/index.htm>

3. [Legislative Summary of Bill S-211: An Act to enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act and to amend the Customs Tariff \(parl.ca\)](#)



In Memoriam: Kathryn ("Kathy") Sainty, KC

With heavy hearts we announce the passing of Kathryn ("Kathy") Sainty KC, on January 27, 2024.

Kathy was a valued and trusted friend, colleague, and mentor to many in the legal profession. She was generous with her time and spent countless hours volunteering both in and outside of the legal profession, particularly in the support of women. Kathy served as Chair of the Women Lawyers Forum, BC and was involved on the BC WLF Executive in various capacities for eight years, after which she served as the Chair of the National WLF from 2018 to 2019. As a leader and mentor, Kathy was known for her kindness, dedication, and unfailing sense of humour.

Kathy also made notable contributions to the legal profession through her career. In 2001, after serving as Legal Counsel to the Chief Justice and Associate Chief Justice of the Supreme Court of British Columbia, she was appointed a District Registrar of the Court and in 2010 she became the Registrar of the Supreme Court of British Columbia, serving in this role until 2014. After this time, Kathy obtained mediation training from Harvard Law School and pursued her passion for alternative dispute resolution. As a mediator, Kathy helped bring many disputes to a consensual resolution. She was appointed Queen's Counsel in 2015.



Kathy's optimism, even in the face of challenges, was an inspiration to many. Her positive impact on those around her will be felt for many years to come and she will be deeply missed by those who knew her.