



## MESSAGE FROM THE CHAIR

Dear Women's Trial Lawyers Caucus Members,

Welcome to the Summer Edition of the WTLC Newsletter! We hope this newsletter gives you something worthwhile to read while you (hopefully) spend some time in the sunshine.

So far the WTLC's Getting to First Chair Webinar series has been really well attended – and we couldn't have done it without our talented and generous panelists. With the assistance of Stacy Bailey and Michelle Jorge, the first webinar reminded us of the key ingredients to prepare for trial. The second webinar gave us insight and practical tips on how to improve our openings and closings with the expert assistance of Barbara MacFarlane and Adam Wagman. The third webinar helped us craft effective direct examinations and cross-examinations as we learned from some of the very best litigators in the Province – Maia Bent and Duncan Embury. Our fourth and final webinar is coming soon – October 4th - so don't miss it! We will get to learn all about practice management and work-life balance during the trial process. Thank you again to everyone for putting together this wonderful series!

WTLC also has four Roundtables planned for this Fall – Toronto, Hamilton (September 24), London and Ottawa. We will be busy connecting with members from various regions, and invite you to join us. The dates and specific locations for these popular events will be set soon – so don't forget to keep an eye out for them.

Just in time for summer, Jasmine Daya explores the concept of "work-life balance" as a busy lawyer and even busier mom. Jasmine's article suggests that although equal time between work and life may not always be possible, focusing on your passions goes a long way in helping to make the time you spend outside of work valuable, nourishing, and fulfilling.

As a part of our Getting to First Chair article series, Heidi Brown of Bogoroch & Associates has created a beautifully written memoir of how her career developed and brought her to where she is today – an effective trial lawyer and partner at a personal injury firm. Heidi traces through her experiences with gender from childhood, law school, and her professional career in a moving and vivid way. Heidi reminds us that our professional development is a journey through

different phases that when woven together can make a beautiful and compelling story.

Sophia Dales shares how the desire for a "social justice" career while in law school has been more than met by the personal injury practice she has undertaken as a new lawyer. Although surprising to some outside of the personal injury industry, Sophia reminds us of the intimate link personal injury lawyers have with their clients, and the deeply "personal" part of personal injury law that makes it a true social justice area of the law.

Finally, Ines Jelic outlines the recent Law Society of Ontario requirements to encourage licensees to promote and work by important principles of Equality, Diversity, and Inclusion. These changes include the requirement that licensees log three (3) hours of Equality, Diversity, and Inclusion Professionalism Hours through accredited CPDs before 2020. Luckily for our members, OTLA will be ensuring that members get a variety of options to fulfill their requirements and expand their knowledge base on these very important issues.

This is my farewell note as Chair of the Women's Caucus. I want to thank all of you for your support, contributions, and vision as we moved forward as a Caucus over the past two years. Working with the Caucus has been an inspiring experience from start to finish – and everyone who has been involved, and especially all of the OTLA staff, are owed a huge debt of gratitude. I also want to thank and congratulate Ines Jelic for her new position as Chair, and Andra Preda as our new Vice-Chair. The Women's Caucus could not possibly be in better hands!

Please enjoy this great collection of inspiring articles from our WTLC contributors, and have a wonderful summer!

Yours in advocacy,



**Daniela Pacheco**

NEINSTEIN PERSONAL INJURY LAWYERS  
WTLC Chair



## WORK LIFE BALANCE

By Jasmine Daya

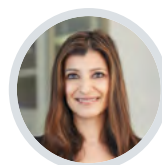
During law school, I kept hearing about the concept of "work life balance". It seemed that law firms wanted to sell us on the fact that their firm absolutely enabled you to achieve work life balance and my peers seemed enticed by this selling point. I on the other hand could not have cared less about work life balance at that point, I just desperately wanted to secure a solid articling job because I recognized that without one, I would never get called to the Bar!

As I moved up the ranks from articling student, to associate, to named partner, to managing partner and now to owner of my law firm, the concept of "work life balance" was never at the forefront of my mind. How could it be? Between my career, my family which includes three children and a bit of a personal life, there has not been time to reflect on the concept except when asked. Within the last year, I have been fortunate enough to have achieved goals outside of law which include publishing my first chicklit novel, *Law Girl's Bump in the Road* written under my pen name Leia London and I have launched my food and lifestyle blog, *JD in the Kitchen* ([www.jdinthekitchen.com](http://www.jdinthekitchen.com)) with my first Indian cookbook *Appetizers and Chutneys* being released shortly. This whirlwind of activity also known as my life has resulted in many people asking me two questions: (1) Do you sleep? My answer: Yes! Every night and very well; and (2) How do you do it all and achieve work life balance? It's the second question that makes me circle back to over a decade ago when I was in law school and first heard these buzz words.

Years ago, when I heard the concept, I pictured a set of scales with one side being work and the other side being life or rather, everything outside of work. As you are likely aware, that is not the case. You are not spending 5 hours at the office to enable you to spend 5 hours on the golf course. There is no equal part work, equal part life. As I reflect on my life, the best advice I can provide is to do everything you love and the chips will fall into place. Do not fear failure because it will occur and it will make you stronger but instead, fear regret because that will haunt you for the rest of your life.

A couple of years ago, I was extremely stressed out at the firm due to tight timelines on various proceedings all requiring my attention. I unloaded on a good friend of mine and told him that I wished I could just cook! I told him how much I loved cooking, that it was such an outlet for me and how much I derived pleasure in seeing other people enjoy my food. I am quite certain he was only half listening to me but nonetheless he simply looked up from his phone, stared at me and said, "So why don't you?" In that moment, I was so annoyed to say the least. What did he mean, why don't I? He clearly hadn't listened to everything I was working on. My life was and continues to be so ridiculously busy, just hearing about my days exhausts anyone that cares to listen. About a week later, still stressed out and enduring neck and shoulder pain due to too many hours at my desk and on my computer, I sighed and said to myself, "Why don't I?" What was stopping me? I love practicing law but the truth is that nobody said that you have to be a lawyer and have nothing else in your life. My cookbook series and food and lifestyle blog are all thanks to my passion and some guy that said, "So why don't you?"

I don't believe that there is an equal balance between work and life but I do believe that I am a much better lawyer with a positive attitude and increased efficiency when I pursue my passions outside of the office. The time I spend with my family and friends socializing, hanging out with my kids, laughing with my girlfriends about nothing and everything, checking out new restaurants, taking weekend getaways, reading for pleasure, trading stocks, monitoring the real estate market, listening to new music, hitting a pilates class, watching the Raptors, writing for my books and blog, recipe testing and doing everything else that I love to do is what gives me balance. You are your only limit!



**JASMINE DAYA**  
JASMINE DAYA & COMPANY



# GETTING TO FIRST CHAIR IN A ROUNDABOUT WAY

by Heidi Brown

I did not spend my childhood dreaming of becoming a lawyer. Mind you, I was always a good debater having won my grade 9 public speaking contest on the existential topic of how humans could find a way to exist in a post John Lennon universe.

What I do recall being of paramount importance to me throughout my formative years, was to try and to surround myself with smart women. One of those women was my mother, who would have made an excellent physician had she not been forbidden to attend medical school by her father who was a physician. Social work, he felt, was a better fit for a woman in the early 1960s. My mother was also a busy community volunteer and sat on numerous boards and committees, often as the lone female voice. She urged me to strike my own path, speak my mind and to be fearless. She encouraged me to take risks, travel, see the world and expose myself to different cultures and ideas. She raised me to be ethical, principled and to fight for what I believed in. I grew up never doubting that I could be whatever I wanted to be.

I did not seriously consider going to law school until I fell hard for Gregory Peck in *To Kill a Mockingbird* in Grade 13. Not only was I struck by the powerful and persuasive advocacy of Atticus Finch as he addressed the jury in defence of his wrongfully accused client, it was the concept of access to justice in a political climate devoid of social and political equality which I found exquisite. What could be more fulfilling than being the voice for someone deserving who could not speak for himself?

I entered law school in 1988. For most of my 3 years there, the majority of the male faculty members were not on speaking terms with the female faculty members who were embroiled in a dispute with the university over historical systemic inequity in obtaining tenure. They communicated through notes thumbtacked to a communal bulletin board. It was the first time that I was faced head on with issues of gender inequality in the workforce, to which I had given little thought by that point. It dawned on me then that being the brightest and most qualified for the job might not always be enough, something my mother had clearly learned years before. I also realized that I wanted to spend my legal career learning from women, and from men who value and appreciate women.

I articulated and spent the next 7 years of my legal career working at the Office of the Children's Lawyer, surrounded by the brightest and most dedicated women lawyers around. These women taught me that the first 5 years of lawyering was to be treated as a residency, no different from a medical residency. Self-study of law and procedure was vital. I was expected to be able to rattle off case law and section numbers by rote. They also encouraged me to be goal oriented, and emphasized the importance of 5 year plans to help ensure my career was a priority and not a fallback position. It was at the OCL where the concept of access to justice was cemented in me. The more passionate I felt about my work, the more effective an advocate I became.

Throughout the 1990's the Children's Lawyer was Willson McTavish, a bright, talented and witty advocate. He was in the unique position of overseeing a group of predominantly female lawyers. He championed us all, and deferred to our judgment on cases in a way that most men of his vintage would have found perplexing and even disconcerting. Through his mentorship, I handled countless contested applications on my own, ran my own trials and argued a case at the Court of Appeal. Willson also believed in the 5 year plan, warned me about complacency and urged me to give private practice a shot in 1999 when a new opportunity presented itself.

# GETTING TO FIRST CHAIR IN A ROUNDABOUT WAY

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For the past 18 years, I have been practising personal injury and medical malpractice litigation at Bogoroch & Associates and have been a partner for several years now. My mentor and law partner, Richard Bogoroch, has always been a true equal opportunity employer. We work collaboratively and not in silos. This is the only way to practice given the inherent stresses of a busy litigation practice. We rely and support each other. Our firm is a meritocracy. Those who work hard, achieve good results for clients, practise the art of writing and speaking and devote countless hours to self-study are rewarded with the ultimate prize – trials!

Medical malpractice trials are, in my view, the ultimate in access to justice and the most challenging from an intellectual standpoint. The legal and medical issues are complex, the opponents are top notch, and the legal hurdles to overcome are daunting. I have been fortunate to serve as co-counsel on several medical malpractice trials and have also been lead counsel. Apart from my wedding and the birth of my children, there is no sweeter feeling than to hear the jury foreperson find for your client.

To conclude, the lessons I have learned from my mother, my mentors at the OCL and from Richard Bogoroch, are what have gotten me to first chair. I have also discovered that many great women whom I deeply admire have also been driven to success by these lessons which can be summarized as follows:

1. Be passionate about what it is you want to do, work hard and surround yourself with those who share your passion. Check your ego at the door and drop the sense of entitlement. In her remarks to the graduates of Dartmouth College in 2014, trailblazing television producer, Shonda Rhimes said the following words to which I wholeheartedly subscribe: “Dreams are lovely. But they are just dreams. Fleeting, ephemeral, pretty. But dreams do not come true just because you dream them. It’s hard work that makes things happen. It’s hard work that creates change So, Lesson One, I guess is: Ditch the dream and be a doer, not a dreamer.”
2. Don’t be afraid to fail. In the words of novelist, J. K. Rowling, “Some failure in life is inevitable. It is impossible to live without failing at something, unless you live so cautiously that you might as well not have lived at all – in which case, you fail by default.”
3. Take chances and be assertive. Take a lesson from Abby Wombach, former captain of the U.S. Women’s Soccer team and one of my soccer playing daughter’s top role models. I can’t say it any better than Abby: “I stayed on the path out of fear, not of being eaten by a wolf, but of being cut, being benched, losing my paycheck,” she said. “If I could go back and tell my younger self one thing it would be this: ‘Abby, you were never Little Red Riding Hood; you were always the wolf.’” She went on to talk about Yellowstone National Park, where wolves were reintroduced after a decades-long absence, and helped restore the park’s ecosystem. “The wolves, who were feared as a threat to the system, turned out to be its salvation,” she said.

Her message is simple and compelling: Be the wolf.



**Heidi Brown**  
BOGOROCH & ASSOCIATES LLP

# Acknowledging the “Personal” in Personal Injury: A Forgotten Social Justice Practice

by Sophia Dales

Four years ago, I was sitting at the University of Ottawa law school wondering where I would article and where my career would take me. I certainly never envisioned that four years later, I would be a personal injury lawyer that consults the *Insurance Act* while eating breakfast.

Throughout law school, I felt a visceral need to somehow use my law degree towards “social justice”. However, “social justice law” was routinely associated with legal aid clinics, labour and employment, criminal defence and prosecution, and immigration and refugee law. No one in law school suggested personal injury law as a “social justice” practice area to me.

After graduating law school at the University of Ottawa in 2014, I landed an excellent articling opportunity to work with a sole practitioner who happened to practice exclusively plaintiff personal injury law. I moved from Ottawa to Richmond Hill to article for ten months. Immediately, I was struck by the emotional intensity of the work. I learned that victims of accidents are in *urgent* need of emotional support, legal advice, medical treatment and income supports to survive. Each client has a disability (visible and/or invisible), pain, and losses that ultimately cannot be truly quantified monetarily. Some clients are more vulnerable than others. However, all plaintiffs are vulnerable to the ups and downs of insurance litigation. The challenge and privilege to work with people in such need feels bigger – more chaotic – and more rewarding the more I learn about personal injury law.

Personal injury lawyers in Ontario are certainly not absent from the media lately. There is a distinct image of personal injury lawyers as contingency fee-settlement-seeking (i.e. profit) litigators at the expense of our clients. However, not surprisingly, there are many realities of personal injury practice that are missing in the news.

The chaos of personal injury litigation is real. Clients often call me because they are anxious or depressed. Their condition worsens when they are cut off income replacement benefits, denied physiotherapy, and then denied the psychological treatment - which would help with the other denials. People want action and there are moving parts in litigation outside of our control. A day in the life of a personal injury lawyer is rarely what you wrote in your agenda.

Many personal injury lawyers take on the subsidiary claims that support, stem from or even replace tort actions, such as Accident Benefits disputes, Criminal Injuries Compensation Board claims, long-term disability benefits litigation, Ontario Disability Support Program appeals, and Canada Pension Plan appeals. Clients' personal injury claims are complicated and most go beyond the four corners of any one Statement of Claim. These “subsidiary” claims are sometimes very complicated and time-intensive. They are the same types of legal services that some legal aid clinics provide.

Another reality about personal injury law is the profound and – obviously - *personal* nature of a plaintiff's relationship with his or her lawyer. Clients and lawyers involved in personal injury litigation often spend many, many *years* together tackling the most personal issues affecting the client – his or her health, livelihood, social/

# Acknowledging the “Personal” in Personal Injury: A Forgotten Social Justice Practice

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family life and future.

A plaintiff is forced to open his or her entire life to scrutiny by lawyers, insurance companies and juries to advance claims relating to an accident that he or she did not cause. What could feel less fair or more unjust? Plaintiffs have to explain to (sometimes aggressive) lawyers very personal medical notes about their bodies dating back years, when they typically do not even remember the visit to the doctor. Other times, clients have a loss of intimacy related to their impairments sustained in an accident and need to explain the physical changes in their marriage at discovery. This creates a lawyer-client relationship that is unique because of the subject matter and the litigation process. We are often hanging in for the long haul to get fair compensation for our clients, although we are alive to the fact that money will not repair the damage done to a plaintiff who survived an accident in most cases.

I often wonder why personal injury is not considered a social justice profession. Perhaps it has to do with media coverage. Or, maybe we fail to talk enough about “the personal” in personal injury. We fail to talk about how our role as plaintiff lawyers stretches far beyond the parameters of a contingency fee, and reaches the most intimate details, concerns and outcomes of another person’s life. The privilege and challenge remain in my view daily. I would certainly tell my younger, law student, social-justice-seeking self that plaintiff personal injury and insurance law count as social justice law. My experience has taught me that the personal nature of personal injury is the most rewarding – and that chaos is a permanent fixture of accident litigation.



**SOPHIA DALES**

MCNALLY GERVAN LLP

WTLC is always looking for contributors for its biannual newsletter. If you would like to share your experience on any of these topics, contact [Jeff Hanlan - jhanlan@otla.com](mailto:jhanlan@otla.com)



## EQUALITY, DIVERSITY AND INCLUSION

by Ines Jelic

Created by Convocation in 2012, the Challenges Faced by Racialized Licensees Working Group's mandate was to investigate the challenges faced by racialized licensees and consider strategies for enhanced inclusion at all career stages.

After four years of study and province-wide consultations on December 2, 2016 the Law Society's governing body approved the final report of the Working Group. The report contained 13 recommendations designed to address issues of systemic racism in the legal professions. Input showed that racialized lawyers and paralegals face long-standing and significant challenges at all stages of their legal careers.

Overall, the submissions received from the profession and the public were positive and supportive regarding the five areas of action in the report: accelerating culture shift; measuring progress; educating for change; implementing supports; and operations of the Law Society.

The project built upon the Law Society's experience with its Justicia Project, created in 2008 with the goal of retaining and advancing women in private practice. The project saw more than 55 law firms voluntarily sign agreements with the Law Society to develop practical resources for law firms and women lawyers. The Justicia resources addressed topics such as: leadership, career advancement, business development, flexible work arrangements and parental leave.

Contrary to the Justicia Project, the Law Society concluded that *required* minimum standards of equality, diversity and inclusion, would reinforce the human rights responsibilities of licensees – obligations already required by the *Rules of Professional Conduct*, the *Paralegal Rules of Conduct* and, more generally, the *Human Rights Code*.

Following the approval of the final report, the legal profession moved forward to implement these recommendations, which reinforce the special responsibility of licensees to promote human rights in their own workplaces – and in their relationships with the justice system and the public.

In 2017 the Law Society required licensees to:

- Create and adopt a mandatory Statement of Principles on equality, diversity and inclusion (licensees were required to report on their compliance with this requirement in their 2017 report)
- Develop, implement, maintain and/or review a mandatory Human Rights/Diversity Policy for legal workplaces of 10 or more licensees (licensees were required to report on their compliance with this requirement in their 2017 report); and
- Complete an Inclusion Survey.

As of 2018 licensees are mandated to meet the very reasonable requirement of 3 Equality, Diversity and Inclusion Professionalism Hours, to be completed by 2020, which will also be offered by OTLA.



# EQUALITY, DIVERSITY AND INCLUSION

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Only time will tell whether implementation of the recommendations, which are designed to ensure the profession is diverse, inclusive and free of discrimination and harassment will effect culture change. One of the telling times may be as early as this year when the Law Society publishes the results of the Inclusion Survey that was conducted in 2017.



**INES JELIC**  
MANN LAWYERS LLP





## UPCOMING EVENTS

**Stay tuned for Fall WTLC Roundtables:**

- Hamilton (Sep 24)
- London
- Toronto
- Ottawa