



Reach Canada™

EQUALITY AND JUSTICE
FOR PEOPLE WITH DISABILITIES

ÉGALITÉ ET JUSTICE POUR
LES PERSONNES AYANT UN HANDICAP

WITHIN REACH Summer 2008

June 26, 2008

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MESSAGE FROM THE ANNUAL REACH AUCTION CHAIRPERSON

Reach Canada Auction Night

On behalf of the Reach Auction Committee, please be sure to **reserve the date** for our **28th Annual Reach Auction – Thursday, October 30th 2008**. Your attendance at this event is, as always, an affirmation of your support for the excellent work that is being done by Reach Canada to provide equality and justice for people with disabilities.

Our entertainment comes from internationally known magician **Elliott Smith** who will be performing during the evening. Our venue this year is **St. Elias Centre located at 750 Ridgewood Avenue (across from Mooney's Bay)** hosted & catered once again by **Vittoria Trattoria** who is a great friend of Reach Canada. Dinner is also graciously sponsored by **Nelligan O'Brien Payne LLP**. As has become a tradition, the Master of Ceremonies for the live auction will be **JJ Clarke** and **David Smith**.

If anyone is interested in volunteering during the evening or would be willing to help our committee, please contact the Reach office (613.236.6636). We are also looking for donated items for both the live and the silent auctions as well as sales for corporate tables. Each table seats 8 and can be reserved at a cost of \$1,100. Provided are cocktails, dinner, gift bags, publicity on the program and in the Ottawa Citizen advertisement, as well as on the tables. Individual tickets can be purchased for \$115 with a partial tax receipt. Arrivals after dinner (8.30pm) can purchase tickets for \$25.

Doors open at 5.30pm. If you would like to make a donation for the auction or purchase a table/ticket, again, please contact the Reach office 613.236.6636 or reach@reach.ca.

Thank you for your support.

Hold the dates!

Reach Canada Annual Conference will take place on **December 3**, International Day of Disable Persons, and relate to issues surrounding Employment for persons with mental health issues. Please view our website in late summer for more details www.reach.ca

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The following interview is with a second year English student at Carleton University who has Cerebral Palsy.

INTERVIEW WITH THE WRITER: LAYLA GUSE SALAH

By *Suzie Kotzer*, Pro Bono Students Canada

Suzie Kotzer: *What is your major and your current year of study?*

Layla Guse Salah: I am currently pursuing a major in English and minor in Philosophy in Carleton University. I will be entering my third year of study in the fall of 2008.

SK: *How did your interest in writing first begin?*

LGS: My interest in writing really came to the fore at the age of seventeen, though it has always been a strong point for me. In grade twelve I had very influential teachers who stressed to me the importance of writing as a form of expression. I had more freedom in my English and Writer's Craft classes than I had been given before in terms of freedom with regards to what I wrote about, and very supportive teachers in both cases. Because they were encouraging me to write about things I was passionate about, I was completing run-of-the-mill writing assignments with dedication and excitement because I was writing about things I was passionate about and knew something of. The apparent power I could yield with my words came as a surprise. I was writing assignments and essays I considered to be good, but nothing special. The pieces I thought were simply well written assignments were things my teachers were so impressed by that they started circulating them through my high school, singing my praises and urging me to attempt to get them published. Even though I'd never considered myself good enough for publication, I was flattered that my teachers and mentors were encouraging it. It was then that I truly began to understand that I had a knack for writing and I had the power to touch people with my words. I write for myself and am happy to show it to anyone who shows an interest, any success I might garner from it is simply a bonus.

SK: *What role, if any, does disability play in your writing?*

LGS: My disability-themed writing is what caught everyone's attention to begin with. Before the age of seventeen, before grade twelve, even though I've been somewhat of a disability advocate all my life, I'd never considered disability issues as a theme for writing. It started with an assignment in my English class in which we were asked to write a persuasive essay, on whatever topic we chose. I knew I wanted to do something that was unique and different, so I asked my teacher what he thought about me tackling a disability issue. He gave me the green light and was incredibly supportive. I was very nervous the entire time as it was my first foray into disability issues and because it was something I was directly affected by and very passionate about, the last thing I wanted to do was misrepresent it or mess it up somehow. It wasn't until after the essay was graded that my teacher approached me about how impressed he was with my expressive ability. He being an author himself I trusted his opinion implicitly. I wrote the letter to my disability after I wrote the essay on relationships. All I had was the general idea of writing a letter to my disability, I had no idea what I wanted to say or if I would succeed in writing in letter form properly. I wrote it in one night, and the words just flowed out of me like water. I turned on some music and got started, and I looked up three hours later and I saw that I had five pages in front of me, and I went, "Huh! I guess I'm done." When my letter received a very similar positive reaction, I began to seriously consider my power as a writer.

SK: *What does writing mean to you?*

LGS: Writing is my therapy. If something's on my mind, if something's bothering me, if there's a message I want to share, I write it. I write through my issues because sometimes I can articulate them better with a pen in my hand than I can by trying to get it out in words.

SK: *What do you hope to accomplish with your writing- both career wise and as an influence and inspiration to others?*

LGS: I know that I possess a talent with my writing, if only because of the reaction my writing has received. As I've already said, I don't write so that others can sing my praises, I write for me because it helps me fight my own demons and express myself. I still find it hard to believe that anything I wrote is even worth this much attention. In terms of career aspirations, in terms writing I don't really have any. I'm going to continue writing and any success or career opportunities I might have because of it will be a bonus. If the interest in my writing continues, I'll take advantage of the opportunities I see fit, if they should present themselves, but I have no intentions in solely pursuing a career in writing. I'm flattered that my writing might serve as inspiration to others. Because I tend to write about such personal issues, it's humbling and encouraging as a writer to see that issues that are so vital to me are important to others as well, and that my writing is able to speak people and shed light on important issues.

SK: *Do you believe you have to break more barriers in your field than other writers without disabilities? Why or why not?*

LGS: Because my writing was written without the initial intention of being published, the idea of breaking down barriers never occurred to me. Of course because I was writing about disability issues for a mainly able-bodied audience, I was aware of the importance of neutrality, clarity and passions seeing as these were not issues that might have been commonly talked about. I knew that my papers that I submitted to these teachers were likely the only representations of such writing that they had seen. The only concern I had in both of these projects was to be truthful, even if that meant being raw and honest about the dark things relating to disability. When I finished both pieces I realized just how personal they were and even considered not handing them in because of their level of candor. I figured though, that they would shed much needed light on my life and my mindset, so that people might better understand me.

SK: *What inspired you to comment on the rarely discussed topic of love and disability?*

LGS: The initial idea came to me when I was in a store and saw a couple interacting where one was disabled and the other was not. When I looked around I noticed how many people were gawking at them as if they had never seen displays of affection between two people before, -as if the fact that one of them was disabled should make any difference- which angered me greatly. Also, being a young woman in a wheelchair, I find that it shocks many people to hear that when I picture myself in a romantic relationship, I don't see myself with another individual in a chair. This has prompted some to think that I'm hypocritical and discriminatory, when really my reasoning is very simple and not hypocritical at all: 90% of my friends are able-bodied, and so why should I segregate myself from the able-bodied community when thinking in romantic terms? The majority of my close friends are ambulatory men, so it should come as no surprise that I'd have no problem envisioning myself in a relationship with an ambulatory individual. I find that there is an automatic assumption that one person in a wheelchair will automatically be attracted to another in the same position. While I was not denying that relationships between two disabled individuals exist and are quite successful, I wanted to stress that this was not the only scenario. Saying or thinking that disabled individuals only date each other is like assuming that a black man is only attracted to black women, which could not be further from the truth. Not only is it not true, but such assumptions

are not tolerated in contemporary society, so saying, implying or thinking such of disabled individuals should not be tolerated either.

SK: Do you see misconceptions about love and disability changing? Why or why not?

LGS: The misconceptions I speak of in my essay are general and broad. I'm aware of several instances where no such misconceptions exist. I have seen my friends with disabilities happily paired with able-bodied individuals. I've spoken candidly to many of my male friends, asking them if my disability makes any difference to how men might see me. The response they give me is always the same: If a man were to be turned off by my disability, it would have nothing to do with me and it would mean that he was the one missing out, if he were to shy away from a relationship because of the chair, he wouldn't be worthy of me in the first place. While I acknowledge that romance is more difficult to come by for someone in my position, I have no reason to think it is impossible.

SK: Have you seen any positive representations of love and relationships either between persons with disabilities or between a person with a disability and a person without a disability, in your life or in the media?

LGS: I find that the media shies away from much that is disability-related. The idea of romance in a disabled person's life is rarely seen on a T.V. show or film unless the disability is caused by an accident and the person was previously able to walk. This provides a very one-dimensional picture in which the image is projected as the disability being an unforeseen circumstance, an unexpected hiccup in a relationship that existed before the disability came into the picture. While it is encouraging to see this representation, very little attention is given to the other side of the coin. Someone in my position –having had a disability since birth- is rarely shown as being able to enter a relationship with an ambulatory individual, which is upsetting, but it must be taken with a grain of salt. Many people would not give any thought to someone in my position unless the realities of a life like mine were thrust upon them. Even friends of mine tell me that prior to becoming friends with me, some of them gave very little thought to disability-related issues, which is to be expected. I have seen, in my own life, several disabled friends be engaged in happy and healthy relationships, both with others in chairs and with able-bodied individuals. Therefore, I have no reason to believe that the same thing would not one day be possible for me.

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The following is a letter that Ms. Salah wrote about love and disability.

Layla's letter

And they lived happily ever after. Isn't that what we all want? It is drilled into our heads from childhood that being in love is something that will make you happier than you've ever been, a fairy tale dream, something one in a million, but nonetheless, attainable. If you don't believe me, look at almost any Disney movie: "The Little Mermaid", "Sleeping Beauty", "Cinderella", "Aladdin", and countless others have the same formula: Even if all the odds are against you, love always wins, and if it can happen for a mermaid and a human, or a peasant girl and a prince, surely it can happen for you. But what if you were told that it couldn't? What if even the thought of you falling in love was discouraged, unattainable?

You and I both know that some people have better luck in love than others. But let's be honest, when you see a person in a wheelchair, or with any type of physical disability, do you think they'll have any luck at all? While it is true that the disabled have a tougher time finding romance than others, it has never once been proven impossible. Though the facts can be slightly discouraging, it has always been possible. "Family Dynamic", a social sciences textbook states, "Another [disadvantaged] group are those with visible physical differences such as a facial deformity or a crippling disorder requiring the use of a wheelchair. In addition to the disadvantage of a physical difference, these individuals are too often seen as little more than their 'disability' and thus as not being full participants in society. Besides, they are not 'supposed' to be interested in such activities as sex, marriage or child-rearing. Thus in the competition for partners, such individuals are multiply disadvantaged." As grim as that may seem, it isn't meant to be discouraging, it is simply stating the reality of the situation. Anyone can find love, even those people who are physically disadvantaged. It is the public's misconceptions of disabled people and how they live their lives that make the search for love even more daunting.

The person who one may find romance with, despite what people may think, makes no matter. People sometimes have a false assumption that those with disabilities will fall in love with someone else who is in the same position. This is not always the case. When you see a couple where one is disabled and the other is not, many people do not understand the disability has nothing to do with the relationship, or the person it affects, it is merely a part of who they are. In cases like this, the term '*in spite of*' comes up frequently. Ask anyone with a disability what they feel when they hear those words, and most will tell you they feel insulted. In an article entitled, "Voice of Inclusion: In Spite Of My Disability", a man with Cerebral Palsy named Norman Kunc talks about the devastating impact those words can have; "Slightly beneath her words, the unspoken insult was clear. Why would anyone marry a man with a disability? He's ugly, he's broken, not quite fully human." The assumption that people with disabilities automatically fall in love with one another is an unwarranted one. Would you ever tell a black man that he was only allowed to love a black woman? Surely you would not, it is horrible discrimination that is not stood for in today's society. Saying or thinking such of those with disabilities implies the same discrimination, although it is significantly more unnoticed.

What are even worse than people deciding who the disabled should rightfully love are those who think that they are not capable of love at all. There are people who think that a person with a disability is mentally deficient or not even a real person at all and therefore have an inability to love. The reasons vary as to why people may think this way. Some people have a stereotypical view of what the word 'disabled' means. When you hear the word disability it is easy to dart right to the image of a helpless, non-communicative individual who cannot act or think for themselves. News flash: They may be sitting in a chair, they may have a different way of walking or talking; but that does not mean that they are retarded. Their brains work and their hearts feel just as much as yours or mine would.

Whispers and stares sting just as much. Ignorance and rudeness carry just as much weight. Norman Kunc states, “Nevertheless, the words *‘in spite of’* reveal the difficulty this woman had in seeing me as a person, let alone a man. In her mind, I seemed to be a collection of abnormal speech patterns and involuntary movements.” Love and understanding is just as life changing and meaningful as it would be to you or me. Ask a disabled person a question, they won’t mind answering. They have no problem informing and educating people who might not understand. What become hurtful are the assumptions and opinions of those who do not understand and are afraid to ask. To someone with a disability, they are not just assumptions and opinions; they are degradation to their value as a human being.

Another lesson that you learn about love is that it is constant, unwavering, and is immune to like physical beauty that fade with time. It is said that even after the beauty of the face and body fades, the beauty of the heart and soul still remains, and that is where true love resides. Appreciating what is on the inside is what matters, it’s what counts. Did Prince Eric care that Ariel was part fish? No. Did Jasmine care that Aladdin was a peasant who lied about being a prince? No. In the end, their love was stronger than a few lies, stronger than the difference between being a prince of the land and a princess of the sea. In the end, they found a way to be together and no one told them it wasn’t right or tried to make it seem as though it weren’t possible. Why then, can’t that be true of the love between a disabled person and a person who isn’t? When will the day come when people with disabilities feel as though they can have their own fairy tale? For my sake, I hope that day comes. One day I want to find someone who loves me, wheelchair and all.

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The following article first appeared in the May 12, 2008 edition of ARCH Alert.

2008 Ontario Budget

By *Laurie Letheren*, Staff Lawyer, ARCH

On March 25, 2008, Ontario Finance Minister Dwight Duncan delivered the Ontario government's 2008 budget.

In the budget, the Ontario government has proposed a 2% increase in social assistance rates in the coming year as an "early initiative" towards poverty reduction, with a view to developing "a focused poverty reduction strategy with measures, indicators and reasonable targets by the end of 2008".

In response to the 2% increase announced in the budget, the ODSP Action Coalition issued a press release containing the following statements:

While the Coalition is encouraged that the government is developing a Poverty Reduction Strategy this year, and has taken measures to address some of the issues affecting poor children, they are disappointed that people with disabilities have been barely mentioned. Eighty-six percent of people who receive ODSP do not have dependent children. Single people with disabilities need to be able to eat nutritiously, maintain adequate housing, and cover all of the other necessities of life too. A significant increase to ODSP income support in this budget would have been a strong indicator that the government is truly committed to lifting people out of poverty.

"People with disabilities disproportionately live in poverty compared to other Ontarians. We call on the provincial government to clearly indicate that it will include people with disabilities and the organizations that work with them, in their consultations on the Poverty Reduction Strategy", says Nancy Vander Plaats, chair of the ODSP Action Coalition.

The Coalition calls on the government to implement an independent Social Assistance Rates Board to make recommendations on social assistance rates which would be adequate to pay for the average costs of shelter, nutritious food, transportation and other necessities. ODSP recipients who are able to work should also have access to the kinds of employment supports they need to overcome the barriers they face in the labour market. Those who are able to work should be allowed to keep all of their earnings, at least until they reach the poverty line.

The budget also indicates that the Ontario government plans to spend \$497 million for public transit in the Greater Toronto and Hamilton Area for Metrolinx projects and other transit priorities. The budget document states "Effective and expanded public transit will reduce traffic congestion and make it easier and faster to move people and goods, cut smog and provide cleaner air to breathe, help reduce greenhouse gas (GHG) emissions, and support sustainable urban development, which lead to stronger communities and a higher quality of life." The itemized breakdown of how the \$497 million is to be spent does not provide any indication that the costs of improving access to transit for people with disabilities would be covered.

The government proposed to spend \$100 million for infrastructure investments to rehabilitate existing social housing units, including energy-efficiency improvements. Although the budget states that "Progress is well underway on the Province's plan to create more affordable housing options for families and individuals across Ontario" no new money beyond the \$301 million the province committed under the 2005 Canada-Ontario Affordable Housing Program is promised in this budget.

The budget also indicates that the government is to invest \$30 million in one-time funding for capital projects to support community agencies that provide services to children and vulnerable populations, including families that require child care services; women experiencing abuse; adults and children with developmental disabilities; and youth with emotional or behavioural problems. Examples of how this money will be spent include expansions of women's shelters and children's treatment centres, and upgrades to improve accessibility. However, given the number of agencies who will be applying for this funding, it will likely be spread thinly among a wide range of community agencies.

The budget also announced that the Ontario Government is investing \$67 million in special needs funding in the 2008–09 school year through the Grants for Student Needs (GSN). This investment is to support the continuing reform of special education, enhance school boards' capacity to serve students with special education needs, and improve student achievement. The government is to provide \$24 million in additional targeted funding outside the GSN to support students with special needs. Full budget document can be found at http://ontariobudget.ca/english/papers_all.html.

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MY MOM IS HARD OF HEARING

By *Caroline Théberge*, summer law student at Reach

We've all heard about people with disabilities and how their lives are affected in every aspect of living. My point is that it is not only a challenge for people with disabilities but also for loved ones around: family, friends, coworkers, etc.

I would like to talk about my mom and me. My mom is a hard of hearing person who wears two hearing aids to be able to function. Without them she is completely deaf. It's a result of an accident (falling directly on her head) that happened when she was 4 years old. Starting that very instant, her life changed. Even though she doesn't remember much of her life before the incident, she can very well tell you that's it's been a challenge going from elementary school till the present time, and you can still feel her frustration from time to time.

I hear stories from her past on how this has affected her and her family. Of course the first thing that was thought once people saw that she wasn't responding to her environment was that she must be a "stupid" child. My grandmother knew better and went everywhere to find help. Desperate, my grandmother even climbed the stairs of the St-Joseph Oratory in Montreal on her knees, praying every step of the way.

My mom learned to cope with her disability over the years, telling herself that she could do anything she wanted, and that nothing could stop her. She has always loved to read and learn new things about anything and everything in this world. She learned about the sports world with me, as I competed in gymnastics and then diving; she listened to my non stop chatter about the Olympics and that gymnast or that amazing dismount that has a Russian name that we can't even pronounce then we would laugh about it. This even extends to hockey - God knows how I love to talk about my Montreal Canadiens! Or it could be that she learned something about the world of royalty in a *Point de Vue* magazine. We've learned a lot of fascinating things together.

In school, she coped with her disability by sitting in the very front of every class to be able to hear better and speech read. She would also read the lessons in advance so she wouldn't be totally lost as the teacher was talking in class.

She learned to cope with her disability and always had that "go get" free spirit. It seems to me that it is society that has not learned to cope with persons with disabilities. True, attitudes have improved how the general population sees persons with disabilities, but there is still much work to be done.

Mom never had it easy, always having to work hard for what she wanted, and maybe even harder to prove herself as a woman with a disability.

After doing a B.A. (English Literature) at the University of Ottawa, she decided to go into law school. There she was, a young smart disabled woman in law school! She got her degree and started her career as a lawyer. Was she ever scared! What if she couldn't understand what was going in court? What would happen if she couldn't hear the judge? And because of this, would she be able to defend her client to the fullest? All kinds of uncertainties came to her mind, affecting her self confidence. Nevertheless she ploughed through and she is now working at Justice Canada, where she has worked for the past 16 years. She has made a name of herself and now has quite the reputation; even here at Reach Canada, everybody talks to me about her and how she is a great person who believes in what she is doing. And I truly believe that, and I admire her for going through what she did and never giving up and for standing up for what she believes in. Yes she is a person with a disability and yes she can do all that she wants to.

Here I am following in her steps and now graduating from law school myself. But I have to say that I have some pretty big shoes to fill and might not even be able to do all the things she has done in her life even though I do not have a disability.

My mom has done well for herself career wise; it continues to be a battle. You can see her frustration from time to time because of her profound hearing loss. For example she cannot see a movie at the theatre if there's no captioning available. Sometimes when she's tired, or if she has an off day she will make you repeat- a lot. If you need to speak to her and she is not wearing her hearing aids you need a way to get her attention; hey I don't mind flashing the lights to get her attention. She has trouble understanding people on regular phones.

I've been living with my mom all of my life, and having a close family member with a disability made me more sensitive to people with disabilities in general. I understand that some people have special needs and that we should accommodate them. Through my mom, I have met all kinds of people with different disabilities and frankly I admire their courage and determination.

Every day I make compromises, in the sense that I do things to help my mom that I don't normally do with someone else, such as speak clearer and make sure she can see my mouth when I talk to her. But these compromises are not really difficult, they come naturally! And when I talk to people, such as my best friend or another law student about my mom, I make them realize how someone can be successful even with a disability. It is rewarding to see their faces when they meet her and see for themselves what I mean.

Whoever you are, you can do whatever you believe in.

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**The Child Advocacy Project:
Accessing Education Rights
for Children and Youth in Ontario Schools**

The Child Advocacy Project (CAP) is a free legal service available to low and moderate-income families whose children face challenges to their rights at school. Lawyers help students and their parents understand their legal rights and negotiate solutions when they feel unable to resolve conflicts with school administrators.

Common problems include:

- Unfair/unlawful suspensions, expulsions, exclusions or transfers;
- Inability to access special education;
- Being denied the right to attend school;
- Bullying, harassment and school safety issues.

People rarely think of these as legal problems. However, each issue is rooted in Education and Human Rights law and governed by precise legal rules and procedures. Although school administrators are required to uphold the law, their decisions sometimes reflect ignorance or avoidance of correct legal procedure. CAP believes even small violations in any of these areas can have a significant impact on a child's education.

CAP lawyers can help in three ways:

- By consulting with students/families on their legal rights;
- By intervening on behalf of students with school administrators (by letter, phone or in-person);
- By representing students at tribunals and hearings.

CAP asks the question: if school boards have legal representation in matters affecting a student's education, why shouldn't students?

For more information on the Child Advocacy Project, visit www.childadvocacy.ca.

Or contact Wendy Miller, Director, at 416-977-4448 x230 or wendy@childadvocacy.ca.

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**INTERVIEW WITH DOMENIC CROLLA: REACH CANADA'S HONOURARY COUNSEL
AND MANAGING PARTNER AT GOWLING LAFLEUR HENDERSON LLP (OTTAWA)**

By *Joshua Clarke*, Pro Bono Students Canada

Joshua Clarke: *Thanks so much for agreeing to speak with us. I was wondering if you could share a bit of your personal background. Where did you grow up? What is your family background?*

Domenic Crolla: I grew up in Ottawa and have stayed here most of my life. My parents are first generation Italian immigrants. They came here from Italy in the late 1960s. I am the second of four children. We all still live in Ottawa, which is great. I am also currently married to my lovely wife Catherine and we have three children Daniel, 15, Grace, 12, and William, 10.

JC: *That's great. You mentioned that you have been here **most** of your life. Where else have you lived?*

DC: I did my undergrad here in Ottawa but I lived in the Toronto area primarily while I was in law school at Osgoode Hall (York University). It was a bit of a tough choice to come back in some ways because the type of legal career you could have in Toronto was pretty exciting. However, when I had articling interviews here in Ottawa, I liked what I heard. So I was quite pleased to see there were great opportunities here in Ottawa. As it turns out, I spent a lot of time outside of Ottawa in a business context. But coming back to Ottawa is great. You really do appreciate it when you have gone away to the major metropolitan cities. Ottawa has a lot to offer.

JC: *You touched on law school at Osgoode Hall. What did you like about Osgoode and the Toronto culture and what led to the decline of the lure of Toronto?*

DC: Well I loved Toronto. It was a great place to go to school. I loved the diversity and the bigger city feel. As a person in their early 20s, it was exciting to experience that. I quickly found that I wasn't too crazy about commuting big distances and having to deal with subways for a long time. Living downtown and travelling to Osgoode Hall was arduous sometimes. At the end of law school, I moved into graduate apartments on campus.

[Toronto] was a great experience. I was enticed by the opportunity to deal with a lot of bigger cases and bigger deals. I was attracted to that. I was also very interested in public law, [*Canadian Charter of Rights and Freedoms*] issues, and that is what drew me back to Ottawa. On top of my other connections to the city, I figured it was a fabulous place to explore this area of interest. Gowlings, in particular, was a leading contender, and (founding partner) Mr. Henderson had a big caseload of those cases. There were a big group of people who worked on these cases. Mr. Crane, (now) Justice Richard...the list just went on and on. During interviews, [the firm] highlighted that as a big part of who they were.

So I was quite keen to come back, but I resolved that if I didn't get the position that I wanted, that I may go back to Toronto because you could do that in those days. Luckily I was offered a position here and it met all of my criteria and I found that it was much more diverse than I had assumed. It is a big office, being the largest firm in the city. I came here to article in 1985. At that time, Ottawa's high tech industry was really starting to take off.

JC: *Mitel, Corel?*

DC: Well Corel wasn't yet going but Mitel was big news. Northern Telecom, too, you could see things were happening there. I didn't know the details, but I could see that there was a vibrant business

community here as well. While articling, I realized that I was at least *as* interested in pure advocacy as I was in public law. There was less opportunity to do public law advocacy because there were so many big names ahead of me.

JC: *Especially in a big firm context...*

DC: Well there was Gordon Henderson, and then Brian Crane, and John Richard and then Martin Mason and I realized that it was going to be a little while until I was lead counsel on these cases. That is one thing I wish I had done more of in law school. I didn't do the legal clinic to gain exposure to advocacy early on. I think I would have discovered my groove a little bit earlier had I done that.

I also discovered that it is very important to have a good relationship with a group of lawyers. This was the second reason I decided not to focus on public law. I started to work with Margaret Ross who was a titan and a fabulous lawyer. I worked closely with her and that ended up being a very good working relationship. It showed me that advocacy was a way to have a fabulous career. I was hired to work with her. She was an inspiration to me on how to work with clients and on behalf of clients.

By the end of law school, it becomes a bit of a grind. I found articling was so invigorating. While it was very hard work, it's a very intense year. I loved it. I said at the end of that year that I have found what I want to do as a career.

JC: *What did you like about the articling process? At first glance when you hear 'a lot of hard work' people are hesitant to view that positively. You seem to have found your niche...*

DC: What is important to the articling experience and continues on to being an associate is comfort level on how you like to work. I found that being given responsibility was a big motivator for me. Marg was really good at that. She would allow you to do a lot and would have a hovering eye but she was not overbearing. It turned me into the problem solver instead of the person who was being told to do a task. Not everyone is the same, but I certainly see it in articling students now and associates as well. Some people are more comfortable taking on more responsibility. If you can find that right motivator, you usually see that person's development take off.

Some people prefer to work under a very structured approach with a very specific list of tasks and clients that they like to work with and that's fine. For me, it was "here, fly and let's see what you can do" - that really worked well for me. I also liked meeting clients. It surprised me how much I liked meeting people. I had not anticipated that the personal contact was going to be so fulfilling. I liked the law and the academic side of it, but I really enjoyed meeting with a client to talk about their problem (sometimes their desperate problem) and work together to craft a solution and that really motivated me.

JC: *It sounds like you're saying that the human side and the responsibility of protecting the client was as important to you as the intellectual gratification from solving problems analytically.*

DC: Absolutely. Some times my kids ask me "you know Dad, why are you working so hard?" After I deal with the guilt of having to respond to that question I say "you are going to have to deal with this in your own life. At certain times, you have to help someone solve a problem. That problem can be as simple as opening a door, but can also be to help them close a deal. It's always about that. Working with somebody else is pivotal to capitalizing on life as a social being. That is why I think Reach is such a wonderful organization.

Law firms are like that too. Instead of “Gowlings, Barristers and Solicitors” you could call us “Gowlings, problem solvers.”

JC: *Are you brainstorming new ideas for the firm?*

DC: <laughs> I’m not sure we’re there yet. But I do think that that is the way we should think about what we do.

JC: *Absolutely. Thank you for that. Before we talk about Reach, I wonder if you could talk a bit about what attracted you to professional and product liability, health law, and information technology as areas of practice?*

DC: Sure. Firstly, let’s start with professional liability and I must say that my practice was heavy on health services/practitioners. The more I got into those cases, the more they seemed to come. Over the years, it lead to expanding into product liability cases; medical device failures (for instance breast implant litigation) was one such expansion and was very interesting. The IT side of things was always an interest of mine. I remember in law school working on the law review and we had negotiated an agreement with a printing house in the United States on favourable terms. We were able to use computers to typeset and edit the manuscript. This was in 1983-4. Computers are now around. But this was a novel thing to do back then.

JC: *We certainly take it for granted now.*

DC: That’s right. We would edit the manuscript for the journal and take the disk and courier it down to the editor down in the States. That was a big technological development. Now you would email it. But doing that was a big deal. I took some computer classes in high school. It was amazing to me. I always had an interest.

Being here, being introduced in professional practice was a great development. I use IT a lot in our practice here. There are several applications in-house and sophisticated ways of managing cases. We now have a whole suite of documents that we use to do our work. In our practice, we use applications to manage the work for quite a number of lawyers across the country. It was all designed for the purpose of replacing the mountains of paper, but more importantly to help lawyers do their job more effectively. It also enabled lawyers to work better in teams. The occupation tends to attract individualism and feeling the burden to carry the whole weight by oneself. This is really foreign to the ways organizations work. They have to work as teams. That is how you achieve your goals. This software suite was a way to build linkages between professionals to collect information they had about types of cases, to help them produce documents together. It is now in its fifth version. We couldn’t think of practising without it. We have intellectual property involved in it.

Our firm has done a lot of this. Debt recovery, for instance, is all automated. The bank sends us electronic information to us and our automated systems develop the first version of all the documents required. That is the way the law will develop. To use an expression by Richard Suskin, we will become ‘legal information engineers.’ The goal is to solve the problem the best way you can. But what’s really interesting about all this, [the technology is] changing the nature of the relationship between a professional and their patient/client. The idea of just one lawyer and just one client is no longer impossible, but it’s increasingly becoming challenged by technology. You can get legal advice over the internet without having to meet anybody. It’s really big in telehealth and I’m very proud of this work. We put it high on the agenda on a number of organizations and try to help them figure out the implications of this.

JC: *Wow, thanks for that. Just before we close off, I was wondering if you could speak about with your experiences with Reach Canada? How did you come into contact with Reach and how did you end up becoming our Honourary Counsel?*

DC: Firstly, as you know our famous chair Gordon Henderson. Gordon was huge and was such an important part of Gowlings, both nationally and here in Ottawa. So, I had always heard about Reach while he was alive and their meetings were held in our boardroom from day 1. I knew about Reach as he would often promote it. I got to know it a little bit more in the community and heard about things that Reach was doing. I was interested in issues of accessibility for persons with disabilities going back to a period with the Canadian Coordinating Council on Deafness. I spent a summer with them in law school. It was very interesting looking deeper into that; looking into the legal issues that people with disabilities have to face and in their case people with a hearing disability. Since then I was looking for a place to follow through on that interest. So, Reach came up and I spoke with Gordon and subsequently with Ray Hnatyshyn who was another Honourary Chair and I became involved with Reach. I was invited to become Honourary Counsel. My role as Honourary Counsel has been primarily helping the organization itself deal with its issues. It's a large organization and it has a lot of issues and some are very interesting and challenging. I've been thrilled with what they do and I am very gratified to see their role. There is of course the whirlwind of activity that surrounds Ernie Tannis and Paula.

JC: *Well, I hate to conclude this interview but thanks so much for agreeing to speak with us.*

DC: It has been my pleasure.

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The following article originally appeared in the April 4, 2008 edition of The Lawyer's Weekly.

Disability planning: A look at long term care insurance

By
April 04 2008

Jan

Goddard

Clients who purchase long term care insurance have made an extended commitment to spend a significant amount of money on monthly premiums — and they need advice from estates lawyers as to whether that expenditure is worthwhile.

The purchase of long term care insurance interacts in at least two ways with estate planning. First, estate planning includes disability planning. Clients and the society in which they live want lawyers to help them plan for those years when they are disabled, whether physically, mentally or both.



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Second, clients who purchase long term care insurance are being sold a means of estate preservation. They want money available to meet their needs as they get older without having to encroach on the capital they have planned to pass on to their beneficiaries.

Many estate lawyers describe themselves as practising elder law. But elder law is more than drafting wills and powers of attorney for elderly clients. Elder law involves identifying legal issues that are of particular interest to elderly clients because of their situation in life, and giving them good advice on these issues. The purchase of long term care insurance is such an emerging issue, particularly in Canada.

In the U.S., where long term care insurance has been sold and bought in greater volume for much longer, many issues regarding coverage have already been litigated. A recent U.S. Court of Appeals case, *Milburn v. Life Investors Insurance Co. of America*, 511 F.3d 1285 C.A.10 (Okla.), 2008, dealt with a fundamental question every purchaser of long term care insurance should confront: what is this insurance going to cover? In *Milburn*, it turned out that the insurance policy in question did not cover care in an assisted living facility, only a nursing home.

What does long term care mean? It could mean care by a family member or private caregiver in the client's or caregiver's home, respite care, attending an adult day program outside the client's home, staying in a regulated long term care facility or living in a retirement home while paying for extra care. All of these are possibilities that your clients may be thinking of when they buy the policy. Are their expectations going to match the coverage?

An examination of sample policies from two major Canadian long term care insurance carriers illustrates the potential gaps between client expectations and coverage.

Both sample policies pay a greater monthly benefit if insureds are receiving "facility care" than if they are not. Yet staying at home and receiving care is often the preference of the elderly, and is often as expensive or more expensive than residential care.

The landscape of residential care available to elderly clients varies across Canada, but essentially there

are two types: government-subsidized, regulated, statutorily defined, long term care facilities or privately owned, for-profit retirement or “assisted living” homes, governed by landlord and tenant legislation, at which a resident can often receive a significant level of care, at extra cost.

In general, the latter is more expensive, but increasingly in demand by our elderly population because of their upscale, homey environments and less institutional feel.

Consumers don’t always distinguish between the different types of facilities. Instead, clients talk about “when I have to go into a home.” However, long term care insurance policies may distinguish between them. One sample Canadian policy specifically excluded a retirement home from its facility coverage. Another defined “long term care facility” such that some, but not all, retirement homes would be covered depending upon how the care is provided.

In both sample policies, coverage only extended to Canada and the U.S. If clients plan on spending their golden years in the old country, that sojourn will be without long term care benefits.

The paradox is that the type of client who can afford long term care insurance premiums is exactly the kind of client most likely to opt for care at a home or a higher end retirement home plus care or a villa in Tuscany.

Estate lawyers need education on long term care insurance, which can then be passed on to their clients. With insurance purchases essentially being made twenty years or more before the perceived need for coverage, all clients need to be advised that if they plan to purchase long term care insurance, they should ask their lawyer to review the policy first.

When clients ask you to look over their policy, find out what the client’s expectations are and then review the policy with the following questions in mind:

- When does coverage commence?
- Where can long term care be delivered?
- What kinds of care are covered?
- Who can deliver the care?
- Will the client’s premiums be refunded if no claim is made?

And, critically, why does the client want long term care insurance? Will the insurance deliver what the client wants? Estate preservation may be a fine or even important goal, but it must be balanced against the objectives clients have for how they want to live before they die. That’s what disability planning should be all about.

Jan Goddard is a lawyer, mediator and principal of Jan Goddard and Associates in Toronto. Her firm’s practice focuses on elder law, estates and trusts, and guardianship, power of attorney and estate litigation.

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The following article originally appeared in the June 13, 2008 issue of the Toronto Star.

SPINAL CORD INJURY NO BAR TO PARENTHOOD BUT RESOURCES ARE FEW, MOTHER'S STUDY FINDS

[Andrea Gordon](#)

FAMILY ISSUES REPORTER

Anita Kaiser always wanted to be a mother. That dream didn't change following the 1996 car crash that left her paralyzed from the chest down.

Kaiser, 36, gave birth to daughter Olivia five months ago. And yesterday, her groundbreaking study into the needs of parents with spinal cord injuries was presented at a Canadian Association of Occupational Therapists conference in Whitehorse, attended by 300 professionals from Canada and abroad.

"I want to break down the barriers and stereotypes," Kaiser said in an interview at her Richmond Hill home.

About 36,000 Canadians live with spinal cord injuries with 100 new cases each year. "There's no reason people with disabilities can't be just as great parents as the able-bodied, as long as we have the resources and services available to support us in the parenting role."

Her study, presented to the conference by a colleague, arose out of her master of science degree in rehabilitation science at University of Toronto.

It looked at the experiences of 12 mothers and fathers with spinal cord injuries, including social attitudes they encountered, division of labour between spouses and physical challenges of caring for a child.

"Having children seems to magnify a disability," said Kaiser, who received a scholarship for her studies from the Toronto Rehabilitation Institute. Without suitable information, contact with other parents facing the same challenges and devices to help, "you are compromised in many ways."

Among her recommendations: Developing childcare products with universal design for use by able-bodied or disabled parents. One example, a highchair that can be adjusted to several heights.

Forming a peer network for parents and those who want to become parents to connect with others and learn from their experiences.

Producing a resource guide about strategies and products, and providing more information to agencies and health care providers who serve disabled clients.

Dr. Geoff Fernie, vice-president of research at the Toronto Rehabilitation Institute, said there is "almost nothing" in the way of research to assist parents with spinal cord injuries.

Kaiser's dual role as a consumer and researcher means she links "research and reality" to come up with practical solutions, he said.

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*The following article first appeared in the Canadian Paraplegic Association's newsletter
"Spinal Column."*

BEIJING 2008 – ATHLETE PROFILE: SALLY THOMAS

Sally is a mere 44 kg woman who can lift 75kg. She is an avid sports enthusiast, who grew up in Toronto and Belleville. Her mother Sandra has been and continues to be inspirational, encouraging her to do whatever she sets out to do. Sally has played competitively in several sports over the years including sledge hockey, basketball, and track and field with the Ottawa Panthers. She has travelled to several countries to compete, mostly in lifting, including Hungary, Slovakia, Rio, New Zealand, the United States, Wales, Malaysia, Portugal and Korea to name a few.

Sally explains that her foray into lifting began during her days in track and field. The team was required to do a weightlifting test, which she excelled at, and thus became a powerlifter.

Sally can be found training four days a week at Top Shape Fitness Studio on Holland Avenue where she also works as a Certified Personal Trainer. As part of her training, she continues to play basketball on a weekly basis. Sally is excited to be going to Beijing and mentioned that her sister Mary, who studies at Ryerson will be coming to film part of a documentary on her. Good luck to you and all the best in Beijing!



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