



### **MEMBER PROFILE QUESTIONS**

#### **INTRO :**

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**Photo**

#### **QUESTIONS :**

##### **1- How did you get into criminal law?**

My mother, Gloria Maria Monje de Johnston, has been one of my greatest influences and I believe my interest in assisting others was first taught to me by her philosophy and actions. She comes from a small town in Colombia. She was the first woman in her family to get a university education. After earning an undergraduate degree in International

Relations and Diplomacy, she dreamed of working in that field. She enrolled in a program for a Masters in International Law which was cancelled after the first year, and she was instead issued a Diploma for a specialization in International Relations. Thereafter, she went to work with the United Nations/F.A.O. Mission in Bogota. My father, a Canadian, met her whilst he was in Colombia collaborating with the United Nations/F.A.O./C.I.D.A. My mother is an educated and passionate person – whose intellectual interests include Hugo Grotius, the Marquis de Montesquieu, Simon Bolivar/the South American Revolution, and Nelson Mandela.

We came to Canada in August of 1988 after I had spent my early formative years in Jamaica – stories about freedom fighters like Paul Bogle or Jack Mansong (aka Three Finger Jack) – a Robin Hood–esque character who led a band of runaway slaves that plagued the colonial authorities – left early impressions. In Canada, my volunteered with the Human Rights Institute of Canada, Human Rights International, UNICEF, The Assembly of First Nations, and otherwise spent her efforts advocating for the rights of others. Around that time, while I was in elementary school, I read a book about Abraham Lincoln. I was inspired by how a poor boy from Kentucky could help so many people, first as a jury lawyer, then as a politician. I wanted to be a lawyer for the people since that time. And, for me, as criminal and constitutional law most concern themselves with life, death, and liberty – assisting people who have been criminally accused feels as if it just comes naturally.

## **2- What type of cases do you enjoy defending the most and why?**

I most enjoy cases which are tried before a judge and jury. A jury trial is when the system, which always feels as if it is rushed, finally slows down. A jury trial is the legal forum where process must be most carefully observed; evidence must be carefully admitted. All justice system participants are reminded that they are just ordinary people when they

must appeal to the judgement of ordinary people – who have no aspirations for higher legal or judicial offices. The jury is unknown to us – and requires that everyone must be on their best behaviour. I personally have great faith in our citizenry and feel greatly honoured to work with members of our community in order to achieve justice..

### **3- How did the practice of criminal law change you?**

A little over a decade's worth of experience has caused me to temper my expectations of the justice system. There are incredible people in the criminal justice system – police officers, Judges, Crown Attorneys, and defence lawyers – but not all cases are decided on the facts and the law. There is an x factor. I remember reading a passage in William O' Douglas' autobiography – something said to him when he first joined the US Supreme Court. The passage left me with the same feeling I remember having as a child when I found out professional wrestling was not real and the same feeling I get after I receive certain judgments:

Justice Douglas, you must remember one thing. At the constitutional level where we work, ninety percent of any decision is emotional. The rational part of us supplies the reasons for supporting our predilections.

A checkerboard of justice where the justice that one receives can depend on which square a person lands, now seems more accurate. Justice still sometimes depends on the length of the Chancellor's foot.

**4- If there is one thing only you would like to see change in criminal law, what would it be?**

I am very concerned with recent political law reform. For example, the recent alteration of the jury selection procedures ought to be considered jurymandering. Legal reforms should not be reactionary. Legal Reform ought to be responsive to empirically /evidence based analysis; we need a non-partisan Federal Law Reform Commission.

**5- What advice would you give to your younger self when you first started practising criminal law?**

A decade will pass in the blink of an eye. Appreciate everything. Slow things down. The most important case is the one you are working on right now.

**6- How do you deal with bad work days?**

I am fortunate that Leonard M. Shore, Q.C., took me under his wing a decade ago. Leonard is more than a superlative lawyer – he is wise. Kind of like the forensic version of Mr Miagi in the Karate Kid. He has a wonderful heart. Our chambers/firm is a place that is full of great people, and lawyers. I am also blessed to have a wonderfully supportive family. Bad work days inevitably happen. Thankfully, I am surrounded by wonderful people to whom I can turn, and share my frustrations.

## 7- What do you think of Zoom court?

The verb “zoom” means: move or travel very quickly. The notion of Zoom court and Zoom trials feels oxymoronic – if anything other than a temporary solution. If a person is in custody a “zoom trial” will most likely see that person, who we presume to be innocent, sitting in jail likely clad in orange. Lawyers are now physically separated from their clients. As much as lawyers may dislike their client’s tugging at their sleeve, a client doubtlessly likes to have real time communication with their lawyer, and such communication can also be very helpful. The fact that the justice system participants are also not all in one room permits the possibility that many will be distracted. This is one reason why teachers are rejecting zoom school and questioning its educational benefits.

It also is troubling, for me, that Zoom is being considered as a permanent solution for some procedures. I am very skeptical of Bill C-23, which received first reading February 24<sup>th</sup>, 2021. Why do we need more telewarrants, or to pick juries by Zoom? Or why should names no longer be placed in a drum/box, and extracted in open court in front of all the litigants, when a jury panel is being selected?

- **487.1 (1)** Despite anything in this Act, the Attorney General, a peace officer or a public officer may, if they are permitted to apply for any of the following, submit their application by a means of telecommunication...

### **Electronic or automated means**

- **631.1** Any electronic or other automated means may be used to select jurors so long as the jurors would be randomly selected as

required by the jury selection process described in subsections 631(1) to (5)

### **Participation by videoconference**

- **715.27(2)** The court may, with the consent of the prosecutor and the accused, allow or require any or all prospective jurors to participate in the jury selection process by videoconference if the court is of the opinion that it would be appropriate having regard to all the circumstances, including
  - (a) the challenges related to the in-person participation of prospective jurors;
  - (b) the nature of the participation;
  - (c) the suitability of the location from where the prospective jurors will participate;
  - (d) the privacy and security of the prospective jurors;
  - (e) the accused's right to a fair and public hearing; and
  - (f) the nature and seriousness of the offence

Modernity, for me, is not an endless darling. I believe modernity and technology are being used to facilitate investigations, prosecutions, and to obtain convictions. It is not being used to the benefit of an accused person. Maybe some changes might benefit a person's lawyer, but this is not invariably the same. When were amendments recently made to improve the rights of an accused person? To make sure trials more fair? It was challenging enough to humanize a person accused of a criminal offence when we were in the same room as the person for several days or weeks. For me, the computer screen simply creates another degree of separation.

**8- Any embarrassing court story you're willing to share?**

I was delivering a closing address to a jury on an aggravated assault. I was about 30 minutes into a 60-minute address when the trial judge interrupted and declared it was time for lunch. I stormed back to the office where Leonard listened to my diatribe. I had no idea what to do. Leonard laughed, and with a glint in his eye said I should tell the jury I forgot where I was in my address so I would have to start the whole thing over. After lunch, I re-attended, and looked as solemnly as I could at the jury and apologized that I had forgotten where I was in my closing argument - and I hoped they would not mind if I just took the whole thing from the top. There was a tense moment before I broke out in laughter, as did the jury (maybe not the judge). I finished what remained of my address, and the jury acquitted of all charges.

**9- Who is your role model/inspiration in criminal law?**

There is a legion of people who I admire in this profession. To name a few: Clarence Darrow, Earl Rogers, Marshall Hall, K.C., Emmett Hall, Q.C., Arthur Maloney, Q.C., Edward L. Greenspan, Q.C., Brian H. Greenspan, David G. Humphrey, Q.C., David M. Humphrey, Jr., Johnny Cochran, Jr., and Leonard M. Shore, Q.C.

**10- What's your favourite song?**

Gonna Fly Now by Bill Conti

**11- What is your biggest legal inspiration?**

I am inspired by the people and cases which have challenged the prevailing legal status quo, often despite overwhelming odds. For example, William Penn and Bushell's case. Or, John Peter Zenger who published criticism of the Colonial government in New York and his jury which nullified, Joseph Howe who published criticism of the local constabulary and judiciary in Halifax and his jury which nullified, and Dr Henry Morgentaler and his juries which nullified. Similarly, I am inspired by principled dissents which sow the seeds of tomorrow's majority opinions. I always think of Mr. Justice Emmett Hall's lone dissent on the importance of criminal procedure and why a new trial was needed in the *Re: Reference Steven Murray Truscott* [1967] SCR 309. In 1967, Steven Truscott was represented by one of history's greatest lawyers, G. Arthur Martin, Q.C. Despite superlative representation Mr. Truscott still lost 8-1 at the Supreme Court of Canada. He was thankfully ultimately exonerated in 2007.

**12- What do you do outside of the law?**

I like to be involved in my community, including charity work with Barristers for a Better Bytown, debating politics, attending local initiatives, and lobbying Parliament. In my personal life, I spend time with my family - we love sports, travel, philosophy, history, and adventure.