



### MEMBER PROFILE QUESTIONS

#### INTRO :

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#### **QUESTIONS :**

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

In 2008 I spoke at the Fall Conference. I had never been to an event with so many people. After the panel was over, I was just going to leave, but I couldn't. Literally dozens of people came up to me to just chat. They were so kind, so supportive, it was like being enveloped in a giant soft blanket. Defence lawyers are also darkly hilarious. I fell in love with the whole of the bar that day. I formally joined the CLA in 2009, because I wanted to boycott. Frank Addario was leading the CLA to protest the chronic underfunding of legal aid in a way that I could not sit out. I

stood proud with everyone. At the same time my clients with mental health issues whom I had represented in the civil system were increasingly finding themselves in forensic psychiatric detention as NCR accused. My practice transitioned as a result to the criminal law.

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

I do mostly tribunal hearings, appeals and Inquests. I think I'm best in the inquest litigation context. Although it's not strictly criminal law, it gets me before a Jury. The Coroner's Inquest process also brings out my strongest skill sets. You have to collaborate with a dozen or more lawyers and parties to get recommendations adopted by the Jury, which is what you really want out of the process. I'm good with people. Even opposing counsel. I like working as a team, negotiating and doing something that is forward looking and corny as this sounds, noble. Inquest recommendations are geared to prevent future death in similar circumstances. Inquests are emotional, interesting and critically important. There is also no one client whose liberty interest is at stake, so you can ask whatever question you want, and be genuinely interested in getting any answer, just to get information. It's liberating not to have to worry every time you open your mouth that you may be making a mis-step that's going to cost your client his freedom.

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

Prior to being immersed in the CLA and being around so many criminal lawyers, I was representing individuals with mental health issues in the civil stream. There is a generalized societal paternalism in this idea that people who are unwell need help, that they need treatment and hospitalization. While I never ascribed to that benevolence, I got much better at representing my clients when I started to internalize that all involuntary detention is the State robbing an individual of their liberty. I learned more about the rules of evidence. I got better at objecting. I got stronger and braver. I stood a little taller. I got angrier. And I like to think I got funnier, somehow. I found my people in a group where we have a shared understanding that whatever our client has done, however bad, we are there to

stand with them and defend them. Being that person standing between the State and the individual is how I now conceive of myself. Basic, but hugely helpful. It's the difference between seeing psychiatry as necessary or altruistic, to seeing psychiatric detention as another cage, not fundamentally different from imprisonment. This perspective was critical in addressing the dangers of COVID in congregate settings, and our advocacy for clients in psychiatric detention, who are just as vulnerable as those in jail. It all drives me closer to being an abolitionist.

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

There is no reason to criminalize the actions of people who are not well when they commit criminal acts. Many charges could be diverted pre-charge. NCR is not the answer. Indefinite detention and supervision pursuant to the criminal law is not the way to go. The vast majority of people detained in forensic psychiatric hospitals do not need to be there. If we gave people supported housing, opportunities to go to school and to work, living wages and social supports, they'd all be living in the community among the rest of society, as they should be. Right now we give them nothing but medications and deprive them of liberty and autonomy in a system that is really a lot more punitive than it appears.

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

Do what you love, do it well, do it any way you want, be proud of yourself, support others and celebrate their successes but don't give a minute of your time to people who don't deserve it. I used to spend a lot of time worrying about people who didn't like me and perplexed about why they would work against me, in any way. The reality is that there is no shortage of people out there who want to knock us down, particularly young women in our bar. The reasons for that likely have nothing to do with you. Some people have an interest in preserving the status quo. Don't get bogged down in advice from the old boys' club about 'humility' for example. It's easy to be humble when you're a white man and every word out of your mouth is considered gospel because you look like what people

think a lawyer is. This business of a “humble brag” for example is the most dangerous messaging to young women. Don’t be bullied into false humility as a means of silencing you. When you’ve accomplished something, celebrate it. You’ve earned your place in the bar, take it. And take the time to fully experience the few and far between wins. Not just yours, but your colleagues’ as well.

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

I grieve big losses for that day. And that day only. The next morning it’s onto the next thing and I have put the horror behind me. Otherwise, I couldn’t, I wouldn’t go on. Also, I don’t smoke any more and I really don’t drink, but there’s always UberEats. That’s the one Covid era app that has been life-sustaining. There’s nothing more decadent than ordering one burger and one shake or one breakfast to your door, never mind anyone or anything else. That’s my idea of self-care. Yoga and bananas be darned, on a really bad day, comfort foods rock. Some days, we hold firm Zoom dinners and we commiserate together. That too can be soothing, because we always laugh till we cry. Misery sometimes does love company.

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

It doesn’t work for vulnerable clients with mental health issues particularly well. They need in person proceedings. The literature backs that up, and I’m working very hard to try to get tribunals to hear us on this. As for me, it’s ruined my back. Sitting in one place all day every day staring at a screen will destroy your body. It also takes incredible focus to follow the proceedings. Zoom exhaustion is a real cognitive problem. That being said, if you can turn off your mic and your video, you can curse and yell away with abandon, which is tough to do in an in-person hearing. That part is grand.

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

I once walked into an Ontario Review Board hearing at CAMH with about a dozen people in the room. 5 panel members, the Crown, the hospital lawyer and

presenting psychiatrist, my client, his family and the Court reporter. When I walked in the Crown announced: “Oh, Anita, I didn’t recognize you with your clothes on.” There was a very, very long silence while everyone stared at me. Turned out, the Crown was my aqua-fit instructor at the Y.

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

Lists are always problematic. You will end up leaving out important people inadvertently. But, I think it’s worthwhile to recognize at least a few of our heroes.

There are some lawyers I go out of my way to watch in Court. They make litigation look like an Olympic sport. Easy. Like anyone could do this. It’s a ruse. Only they can do it this well.

One example of this level of talent was Joe Arvay, probably the greatest appellate lawyer I knew. He was just stunning.

I am inspired by the few remaining senior women lawyers in criminal defence. Mary Boyce and her determination and stamina. Her big heart and feisty temperament. Sid Freeman and her tireless commitment to her clients and fairness. Mary Murphy with her no nonsense cut-to-the chase realness. Their collective wisdom and tenacity.

Danielle Robitaille is an amazing teacher. She uses her towering intellect and down-to-earth warmth, her humour and her careful choice of the perfect words to get her message across. You just want to be in her endlessly charming aura.

Lou Strezos knows more about criminal law than anyone I know. You can ask him anything and he’ll be like: “Well, on July 8, 1963, the size of the hole in the ice you can’t leave unattended was decreased by six millimetres and at the same time, these other important changes were made to legal aid as the private bar was entrenched as the foundation of .....

For a while the amicus roster for mental disorder appeals consisted of my good friends, Paul Burstein, Joe DiLuca, and Jill Presser on the criminal side of the panel. As they then were. Now, like all my friends, they are Judges. I have always been super fortunate to hang around these huge brainiacs, these brilliant, hilarious, creative advocates. I am a much better lawyer, a much better human being, for having known them all.

### **10- What’s your favourite song?**

Currently, Mad World by Tears for Fears – song for the pandemic. [The Gary Jules' cover is particularly haunting.]

Otherwise, Lost Together by Blue Rodeo. Come to think of it, also works for the pandemic.

### **11– How do you maintain work life balance and how do you deal with the stress of the job?**

I don't. I just put one foot in front of the other and carry on. I think it's a pipe dream to suggest we can achieve these elusive things. We do difficult work. It is stressful. Because it's worthwhile. Nothing truly valuable is ever easy. I guess the one thing I've learned is the importance of community. I like to build volunteer lawyer organizations and they make sure we are never alone. Myself included. That is how / why the Law and Mental Disorder Association (LAMDA) was born. My answer to everything is to build a new organization. I've done it a few times, and am bound to do it again!

### **12– What is your biggest legal inspiration?**

These days I would say I draw tremendous inspiration from a new generation of young lawyers, mostly, though not exclusively, young women like you Maya Shukairy, and the parents of young children, who have somehow survived the unthinkable during the pandemic. The strength and determination of Cassandra DeMelo, Stephanie DiGiuseppe, Neha Chugh, Anne Marie McElroy, Annamaria Enejor, Michelle Johal. Also by creative and vocal young lawyers. The courage and stellar advocacy of Caryma S'ad, Shaunna Kelly and Naomi Sayers. The quiet but outstanding work of Carter Martell and Sarah Rankin. The generosity of Jeremy Martin. The perseverance of Erin Durant. Among many, many others.

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

I watch baseball. I watch foreign language murder mystery series on Netflix and practice my Finnish and Icelandic or Spanish etc. I get pretty good at it all too. Also, I torture my teenaged children with about a million hugs, I make them watch old movies from the 80s and 90s (we've watched the Full Monty and Best in Show countless times each), and I drag them to ballgames. Before COVID, I traveled. A lot!! Trying to hit all the major league ballparks with the family. We are about half way there. During COVID I sit in my garden and breathe. Sometimes we forget to do that.

**14- What would your defence bar colleagues be surprised to learn about you?**

I grew up in Communist Hungary. And I liked it. I'm an actual Communist at heart.