

## INTRODUCTIONS AT THE LASKIN DINNER

By Carolyn Kay

I am delighted to be here this evening to pay tribute to Paula.

For those of you who do zoom hearings with her – or have seen the head shot in tonight’s promotional material - you may have noticed the bookcase immediately behind her which contains the iconic LACs – for the relative youth in the room – those are the reporting series where labour arbitration cases were originally reported starting in the 1950s.

Many of us have measured the longevity of our careers by reference to the series and volume of the LACs in effect at the time we started practicing.

I know I began practicing when the 2<sup>nd</sup> series was in publication – and it looks like that’s the series behind Paula.

I was hoping, however, to find some time before this evening to track down specifically when Paula and I had our first case together

But then I realized - none of you care about that.

I could hear you all saying “we get it Carolyn – you and Paula have been around for a long time” – move on

But knowing that there were 3 other speakers, I asked myself - what could I contribute to this evening that others will not already speak to?

We can all take judicial notice of the following:

- Paula has impressive credentials
- She has hundreds of decisions to her credit – some better than others
- She has written extensively
- She has taught regularly
- She mentors
- She has, and continues, to contribute to the advancement of our profession in multiple ways and has assumed leadership roles in doing so

But that’s not why I’m here

I'm here to honour Paula because of who she is as a person and how she exemplifies what a true, first class neutral looks like

At a small social gathering recently to honour Paula, Paula made a touching speech thanking those that she referred to as the legends in labour arbitration – Harry Arthurs, Owen Shime, Michelle and Pam Picher, among others

But what Paula doesn't appreciate – but hopefully she will after tonight – is that she too is one of the legends

She was one of the very few females who deigned to put her elbows up – and stand her ground - in an area of law that was very much male dominated when she began her career.

Just look at the list of recipients of this illustrious Award – seems a little imbalanced from a gender perspective – just an observation

But we ought not to shy away from acknowledging the challenges that Paula would have had to overcome given the reality of the times

Her pioneering has benefited all of us who have come after her.

And Paula is here tonight reaping the benefits of her tenacity

Arbitration is not just a job for Paula. She genuinely cares about the arbitration process and what it means to parties and our judicial system

Everything she does is designed to maintain the integrity of the process and its utility to the parties who retain her services – and those whom she is thrust upon by Ministerial appointment

She cares about all of the players in the process –

Even those who – through my very cynical management side lenses – may not be worthy of her time

Paula gives everyone her attention and empathy – not just counsel who like to take her aside and tell her what the case is really about and what decision she should make

Paula has a wonderful way of humouring counsel – present company included

Don't get me wrong - I'm not suggesting for a second that she is dismissive of what I have to tell her about the case – and what the outcome should be – it's generally obvious from my perspective

But she'll listen – with that little smirk on her face – perhaps petting a dog or two nearby – feigning interest

And then she starts - usually with a compliment about how skilled you are as a lawyer

How your positions taken make imminent legal sense

How your client clearly benefits from your legal prowess

And then – and you know its coming – she invites you to put all of that aside

And to join her in her quest of understanding (and sometimes compassion) for the grievor or the union's position

Something – many of you will not be surprised to learn – I often bridle against

But I go along with her – you kind of have to - she's in charge after all

She takes you on that journey – because Paula understands that at its core, labour arbitration is about how human beings interact with one another in the workplace – and the importance of ensuring that all participants in the process feel that they have been heard and are treated with respect so that they can continue to co-exist

Paula works incredibly hard to find a solution – she just doesn't give up. Even after I've folded up my tent and am heading for the proverbial door.

And no one is more disappointed that a solution could not be found than Paula. She will keep working at it long after others might have thrown in the towel.

But - when resolution proves illusive - you know you will get a solid, fair hearing on the merits - Of that there is no question.

Paula will bring all of her extensive legal skills and knowledge to bear in rendering her decision – one that is sound in law but equally important, practical in application.

Over the years Paula and I have laughed about life's unpredictability and the challenges thrown our way that test your resolve but ultimately keep you grounded and ever so human

Paula does not put on airs – she's someone you genuinely just want to sit down and talk with – about anything

Paula loves to entertain and has shared her home – and her wine – with an impressive cache of friends and colleagues including one of my partners who lives in her neighbourhood and came out of retirement tonight because she wanted to be here to honour Paula. – that's the impact that she has had on so many of us

There are so many positive attributes that Paula possesses - we could be here all night if I started to rattle them off

But it is the woman behind the role that is important to me – and to many in this room

With all due respect to probably ½ of this room - becoming an arbitrator is not that difficult – I said becoming - yes you have to have the requisite skills and qualifications

But in this business – the key to a career as a truly exceptional arbitrator – is acceptability, integrity and respect – all of which are earned

And Paula, you exemplify those attributes

Look around - you have clearly earned the respect of everyone in this room

And you didn't need the Bora Laskin Award to affirm that reality – but it is certainly icing on the cake – and you are most deserving

It's time for you to acknowledge what we in this room already know – you are yourself a legend

I am humbled by your accomplishments and tonight I – along with everyone else here - applaud you.

### **By Wassim Garzouzi**

This feels just like a termination case. Speaking after Carolyn Kay, going second, after Carolyn, is usually a bad idea. Just like a termination case, I suspect I am going to lose this one. Always a good idea to ask who will be speaking on a panel with you. I should have deferred. [Laughs]

I wanted to begin by discussing a case we are all familiar with, issued some twenty years ago, dealing with access to justice. Featuring an underdog story, this case probably defines Paula's career. It was the famous case, decided in a small boardroom, featuring big names.

Of course, I speak of Kenny v Spenny.

[https://www.youtube.com/watch?v=6w5clcxXs&ab\\_channel=KennyHotz](https://www.youtube.com/watch?v=6w5clcxXs&ab_channel=KennyHotz) (Starts around 16 minutes)

Paula – I hope you negotiated residuals. Some 200,000 views on that video, and counting! [Laughs]

More seriously, I of course want to discuss the case of Parry Sound. While most of you are aware of the facts, they are worth repeating here. A probationary employee alleged that she had been terminated for prohibited grounds under the Human Rights Code – namely on the basis of her gender, as she was pregnant.

The collective agreement prevented probationary employees from grieving their termination. The issue was a simple one: should the Human Rights Code be interpreted in a manner to allow the grievance to proceed? Or, as the Employer argued, should the same employee, relying on the same facts, dealing with the same parties, have to proceed with her identical complaint before a completely different tribunal, in a separate forum, without the representation of her union?

And while this issue appears to be obvious today, there was much debate at the time (and still today, if you ask Rick MacDowell!) Importantly, there is a Dissent from the Current Chair of the OLRB in that decision! It is well worth reading today.

Of course, the Supreme Court affirmed Paula's decision. Of course, Arbitrators may, and must, interpret legislation, especially human rights legislation, in interpreting a collective agreement.

And of course, this case summarizes so much about Paula's career: smart and common sense (statutory interpretation) but also practical. It makes no sense to refer a grievor to a different forum.

And that is why this decision summarizes Paula's approach so well.

Beyond her decisions, the level of enthusiasm and seriousness Paula brings to each case is noticed. Years ago, I invited Paula to lecture at the University of Ottawa. For anyone who knows the law school there – they know the range of opinion varies between Marxist Leninist to Far Left. There are some extremists, who may vote Conservative, but they are far and few between. And something remarkable happened at the conclusion of that class. For the first time, I had students wanting to not be advocates, specifically advocating for workers (or even, those extremists seeking to represent employers!) But for the first time, students wanted to be neutral. They wanted to become arbitrators, because they were inspired by Paula's description of her role as an arbitrator. She conveyed her passion for the craft: fixing problems.

And Paula took her responsibilities seriously. When asking colleagues about their experiences with Paula, there was one constant: every case felt important. Regardless of the stakes, Paula made every participant in the proceeding feel important, and feel heard.

She treats every case like it is the most important one. She takes it seriously, and tries to find solutions. She shows compassion, and ultimately tries to secure the best outcome for all parties. It is a sentiment that is felt by all participants in the proceedings.

Congratulations Paula on this well-deserved honour. Cannot think of a more worthy recipient.

**By Michelle Flaherty**

I'm very pleased and honoured to be part of this celebration. Paula you are a wonderful friend and colleague. And so very deserving of this award.

As we just heard from Carolyn and Wassim, Paula has had a huge impact on our community and on labour relations across the country. Her professional contributions cannot be overstated. To touch on just one example [as we've heard] Paula's decision in Perry Sound has fundamentally shaped the way we do our work.

We now take it for granted that human rights and other statutory obligations are incorporated into every collective agreement. Once upon a time, however, that question was very much open for debate. If Perry Sound had been decided differently, perhaps by a different arbitrator, the labour relations landscape would not be as rich and varied as it is today.

But as significant as her decision in that case was -- I don't think Perry Sound will be Paula's greatest legacy.

The reason Paula has established an excellent reputation because she does it all, and does it all so very well. She writes the best decisions – the brave decisions – the important decisions – the ones that change the way we look at the law.

More than that -- she is an expert mediator, she thinks creatively and she is skilled at finding a middle ground that will leave the parties better off than before.

The mediation-arbitration model is also something we take for granted today. But once upon a time, this was an important innovation. Instead of listening passively to the evidence, and then spending days deliberating on the outcome. Paula - and others -- showed us how effective it is to engage with the parties in mediation, identifying the real issues and helping the parties resolve their dispute.

One of the best things about our system of consensual arbitration: the parties get to choose the person they think is best suited to resolve their dispute. Not surprising that parties often turn to Paula to deal with some of their most challenging and important cases. She is smart and impartial and empathetic. Whatever the result of the hearing or the mediation, Paula will have really listened, and she will have treated everyone fairly and with respect.

As we know, in labour law, relationships are key. And Paula is masterful at building strong relationships.

Indeed -- Paula is an extraordinary arbitrator by any standard.

But as we think about her accomplishments, it's important to remember that Paula began doing this work in the early 80s at time when there were few women labour lawyers and even fewer women adjudicators.

I have heard Paula, with her characteristic humility, express gratitude to some of the men in leadership positions in the 80s. She gives them credit and talks about building her career on their shoulders. She's right, of course. People like Owen Shime and Harry Arthurs were progressive and ahead of their time. They valued different voices, they sought out and supported people like Paula. In doing this, they helped shape our community and make it more a inclusive one.

Owen told me that when he started promoting women adjudicators, there were questions. This was not something people were initially prepared to take for granted. Some of the

parties asked questions like whether women adjudicators could sit on mixed panels with men.

This was definitely a different era. Important to remember that it is in this context – at this challenging time -- that Paula learned to adjudicate. And Paula being Paula, she rose above those challenges and built her reputation as one of our leading arbitrators.

As many of us know, it is not easy to be among the first. But Paula (and a handful of equally determined, smart and courageous women) did this work so effectively and with such grace and professionalism, they made it easier for those of us who came afterwards.

I think Paula showed us all that there are different ways to be a highly effective arbitrator, and that those differences are desirable – they are important and ultimately enriching for all of us.

To be among the first women who were successful in our field, Paula had to break through the glass ceiling, at a very challenging time. This achievement is remarkable.

But what is even more remarkable about Paula is that wasn't enough for her to get through the glass ceiling. She championed others, worked actively made sure they could follow. Hers was not a one-off contribution. Paula's efforts to include and promote others have been steadfast and continue to this day. And Paula does all of this with generosity, kindness and humility.

What I'd like to you to know, Paula, is that for many of us, you are our Owen Shime. We know that yours are the shoulders on which we have been building our careers.

This award ceremony is an opportunity for us to tell you that– who you are, how you do this work – are important and they have made a difference.

Many of your colleagues have told me that when they have a question, need a pep talk or a sounding board, they turn to you. This is because they trust and respect you.

I know from speaking to some of my fellow graduates of the arbitrator development program. How much it meant that to have you in our corner, so committed to helping us succeed.

I know from speaking with counsel – including the newer generation of lawyers – that they respect and value you deeply as tonight's turn out shows – a sold out event.

Universally, the message I heard from our community is that your support, encouragement, generosity, availability have made a difference. They have made us better. Paula, you embody the highest standards of our community and you have been instrumental in making us more inclusive and collegial.

We have a lot more work to do before our community can claim to be truly diverse and inclusive. But as we stand on her shoulders today, we have Paula to thank for many of the inroads we have made so far.

I've had an opportunity to meet two of Paula's daughters. Sara said, I knew my mom would very good at her job. Until she received this award, I didn't realize that she's a big deal, how important and impactful her work is. Paula's characteristic humility runs deep. As you can see from how many of us have turned up to celebrate her and as you heard in Carolyn, Wassim and my own remarks. Your mom is a very big deal.

Please raise your glasses to the remarkable Paula Knopf.

**By Dean Daphne Taras – Chair of the Evening**

And now it is my honour to present this year's Bora Laskin award winner. I will try not to repeat what has been said so well by our three previous speakers. We've heard of Paula Knopf's warmth, brilliance, and sound judgment. I want to add a few thoughts. First, she built this spectacular career while raising, solo, three daughters. As a woman of a certain age, I can declare that it isn't easy having a career requiring incredible focus and acuity, while making sure three children also are getting the attention they want, need, and deserve, and she did it with love.

Second, you are looking at the woman who, through the Parry Sound decision at a 1999 arbitration that ended up at the Supreme Court of Canada, greatly expanded the jurisdiction of arbitrators. Paula describes the arbitration as a simple bread and butter case that she had no idea would go all the way up up up. But not only did the Supremes overwhelmingly affirm her reasoning in 2003, the case had profound implications for the practice of justice in Canada. Because of Paula, arbitrators can incorporate human rights statutes, privacy, health and safety, and so on, into their decision-making, rather than simply the four corners of the collective agreement.

Here is Paula Knopf, my dear friend, who most of you already know and admire, and if you don't know her, you will know and admire her today...