



## JUDITH A. WAHL – IN MEMORIAM

July 3, 1952 – May 15, 2024

It is with great sadness that the Advocacy Centre for the Elderly announces the passing of Judith A. Wahl, the founding Executive Director of the Advocacy Centre for the Elderly (ACE) on May 15, 2024, after a short battle with cancer. Judith was predeceased by her mother (Helen) and her father (Richard Edward), and is survived by her sister Pat Banel and her husband Joe Vaghelyi, her sister Carole Gallie, and many nieces, nephews, great nieces and nephews, great-great nieces and nephews, other family members, and many friends, including those in the legal-clinic system and those she met through her life of service to older adults.

Judith (Judy to her friends) will be remembered by all for her fierce advocacy for seniors, her lifetime work on the issues of consent, capacity and substitute decision-making which she fought for until the end, her work in supporting legal clinics throughout Ontario, and her refusal to back down from a fight.

Judith was a graduate of the University of Toronto (1974) holding a B.A. with Honours in English Language and Literature, and of Osgoode Hall Law School at York University (1977) with an LL.B. She was called to the Bar of Ontario in 1979. She articulated and spent five years in private practice with the esteemed Toronto law firm Birenbaum, Koffman, Steinberg (now Birenbaum, Steinberg, Landau, Savin & Colraine LLP, founded by the legendary David A. Croll – Canada's first Jewish senator – and that counted Norman Borins, Stephen Borins, Jerry Birenbaum and Howard Steinberg among its several partners).

Judith went on to become the first employee and the founding Executive Director of ACE in 1984. In this role, she set the tone for the work that continues at ACE to this day. Her voice is heard throughout the legal world, whether it be in elder law; health law; consent, capacity and substitute decision-making; long-term care homes; retirement homes; or the many other areas in which she had an impact as Canada's first elder-law lawyer. She

continued to work on behalf of older adults after her retirement from ACE in 2017, creating Wahl Elder Consulting, and she continued to speak, write and advocate throughout.

Judith's visionary leadership transformed a modest legal-aid clinic into a renowned institution with provincial, national, and international recognition for its expertise in elder law. Her unparalleled commitment to safeguarding the rights, interests, dignity and autonomy of older adults has left an indelible mark on the legal and advocacy landscape.

Judith's influence extends far beyond the confines of ACE, as evidenced by her pivotal roles in the development of elder law, the development of legislation, and landmark legislative initiatives.

When Judith began to practice elder law in 1984, there had been no such thing as “elder law” or an “elder-law” practice in Canada. It was through Judith’s work and mentorship that elder law became a unique and identifiable area of practice in Canada. Dealing with distinct elder-law issues such as consent, capacity and substitute decision-making; healthcare; long-term care; specialized housing; retirement homes; and life leases, these and other elder-law issues all emerged as significant areas of law for seniors in addition to the more traditional and recognized areas of practice in powers of attorney, wills and estates. This expanded focus has become the centre of what today encompasses an elder-law practice, which has spread through Ontario and to the rest of Canada. Elder law is now taught in law schools and continuing education programs in various settings such as universities, law societies and bar associations. The Canadian Bar Association and the Ontario Bar Association now have Elder Law Sections. All of these programs and initiatives can connect their roots to the elder-law work that Judith pioneered at ACE.

Judith’s mark on the legal landscape is vast. From 1985-88 she was appointed to the Attorney General's Committee on Substitute Decision-Making for Mentally Incapable Persons (Fram Committee), which culminated in the *Fram Committee Report*, which was the basis for the development of the *Substitute Decisions Act (SDA)*, the *Consent to Treatment Act* (predecessor to the *Health Care Consent Act*) and some of the *Advocacy Act* (which has since been repealed).

Judith was appointed to be a member of the O'Sullivan Committee for the Review of Advocacy for Vulnerable Adults in Ontario in 1987. The O'Sullivan Committee Report, *You've Got a Friend*, led to the passage of the *Advocacy Act* and the implementation of the Advocacy Commission, which unfortunately was soon disbanded by a subsequent government. She was later appointed as Chair of the Attorney General’s Interim Advisory Committee for the Implementation of the *Substitute Decisions Act*, helping to guide the implementation of the *SDA* across Ontario.

Judith also brought her vast expertise to various advisory committees on policy and legislative reform, such as the Office of the Public Guardian and Trustee’s Guardianship Advisory Committee, the Retirement Homes Regulatory Authority Stakeholder Advisory Council, as well as being a member of the Advisory Committees to Law Commission of Ontario on the Capacity and Guardianship Project and the Law and Aging Project.

Judith's casework, law-reform and public policy development work at ACE was also groundbreaking. For example, among her many other activities and achievements:

- Judith represented retirement-home residents in the case of *Grenadier (Tenants of) v. We-Care Retirement Homes of Canada (Ltd.)*, which confirmed that residents of retirement homes were tenants under residential tenancy legislation, that is now included in the care-home sections of the *Residential Tenancies Act*;
- Judith identified the need for representation of seniors who were institutionalized, most especially those in long-term care homes, and created a special lawyer position called the institutional advocate to meet those needs. ACE's unique expertise in this area has culminated in there now being two institutional advocates, and the creation of a vast amount of material to support those residents;
- A "small" project to develop a pamphlet for advocates of long-term care home residents turned into the 600+ page *Long-Term Care Facilities In Ontario: The Advocate's Manual*, that went into three editions, providing guidance for everyone from government officials, long-term care home operators, and advocates for and long-term care residents themselves, bringing clarity to a complex array of interlocking legislation that governed long-term care; and,
- In 2005, Judith appeared on behalf of ACE, with Staff Litigation Lawyer Graham Webb, before the Supreme Court of Canada, intervening in a successful appeal from the an Order of the Nova Scotia Court of Appeal under the *Adult Protection Act* in *Nova Scotia (Minister of Health) v. JJ*.

Judith was a highly sought after teacher on elder law subjects, imparting her vast knowledge on generations of professionals and older persons alike. She was a sessional lecturer on Law and Aging both at the Faculty of Social Work, Master's Programme, University of Toronto, and the Faculty of Social Sciences – Gerontology, McMaster University. She taught at many continuing education programmes at Osgoode Continuing Legal Education, both the Canadian bar Association and Ontario Bar Association, and for many different professionals, such as lawyers, health practitioners and police. More importantly, she educated seniors directly about their rights, happy to show up to a long-term care home, church basement or constituency office to explain the complex world of law that pertained to seniors in ways that they understood. She developed many plain-language pamphlets either through ACE alone or in conjunction with other organizations such as Community Legal Education Ontario (CLEO) or National Initiative for the Care of the Elderly in Canada (NICE), bringing important information to seniors and others.

Judith's impact transcends provincial borders, resonating nationally and internationally. Her collaborations with organizations such as Dykeman Dewhirst O'Brien LLP on a research paper for the Law Commission of Ontario as part of its project on Capacity and Guardianship helped shape elder care practices and legislative frameworks beyond Canada's borders, reinforcing her reputation as a trailblazer in the global elder rights movement. Their 322-page paper, *Health Care Consent and Advance Care Planning in*

*Ontario* (January 2014) authored by Judith, Mary Jane Dykeman and Brendan Gray, offered a detailed review of the law, policies and practices on health care consent and advance care planning in Ontario. It also included a comparison of Ontario law with the law in other jurisdictions in Canada, the USA, Great Britain and Australia, as well as reviews of policies, forms and documents on these issues that influence health practices in Ontario. Judith's contributions to law reform and education initiatives have influenced elder care practices worldwide, cementing her legacy as a champion of elderly rights on the international stage.

Judith contributed in her outside memberships, such as with the Canadian Bar Association National Elder Law Section Executive, where she served twice as section chair; an elected member-at-large of the Ontario Bar Association Elder Law Section Executive; the Board of Directors of the Ontario Gerontology Association; Vice-Chair and founding Board member of the National Initiative for the Care of the Elderly; and the Mental Health Legal Committee. She was a Senior Fellow of the National Institution on Aging, and a Distinguished Fellow of the Canadian Centre for Elder Law at the British Columbia Law Institute.

Judith's awards include:

- The Osgoode Hall Law School Gold Key Award for Public Service (2006);
- The Ontario Bar Association Award for Distinguished Service (2008);
- The Queen Elizabeth II Diamond Jubilee Medal for her role in establishing the Advocacy Centre for the Elderly and the development of elder law as an area of practice in Canada (2013);
- The Orville Thacker Award for Excellence in Advocacy for extraordinary advocacy for seniors, from the Ontario Health Coalition (2018); and,
- The Ontario Bar Association Award for Excellence in Elder Law (2024).

Judith will be missed by all. She made a significant difference in lives of many. Her legacy will live on through the work of ACE, and through her immeasurable contributions to elder law on behalf of seniors everywhere.

A Celebration of Life for Judith will be held at a later date.