

# LIFE BEGINS

Senior Lawyers Section Newsletter

RELEVANT  
INFORMATIVE  
ENTERTAINING

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## LETTER FROM THE CHAIR

By Jeanine Lutzenhiser, Interim Chair (Jan. – Mar. 2024)

### Greetings FROM YOUR OUTGOING rotating (winter) executive committee chair!

As the days get longer and we look forward to more sunny weather, I can't help but think that this has really been the Senior Lawyer Section's time to shine. Some of you wrote us after our recent "e-blast" asking for input — thank you! We appreciate your feedback.

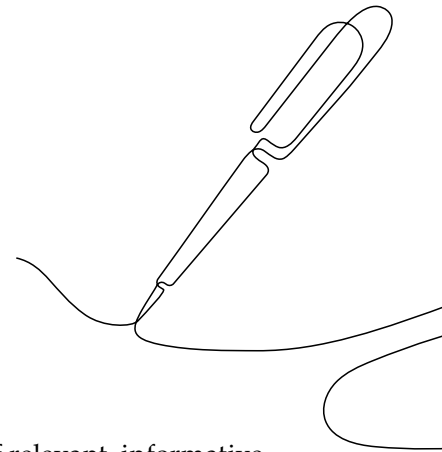
You may have seen in the March *Bar News* that the "Section Spotlight" shone brightly on our Section. The spotlight shared some of the many ways our Section benefits its members (and the Bar as a whole) through things like CLEs, mentorship, and our initiative in a successful WSBA bylaw change giving Sections the discretion to allow inactive members to vote and serve in leadership. If you missed it the first time, or want to enjoy it again, [click here](#). After hearing from fellow Section member Steve Crossland about the new Member Status Workgroup of which he is a part, we are watching with interest as that group tackles questions highly relevant to senior lawyers.

#### Going Forward

In keeping with the goal of relevant, informative and entertaining articles in our newsletter, you will find information regarding our Section, the BOG, our Supreme Court, and ethics, as well as an entertaining article by Jenny Rydberg on a fascinating trip Down Under. We are so grateful to have retired Chief Justice Gerry Alexander contribute an article describing his illustrious 60-year career as an attorney and judge member of the WSBA.

As I step down as chair and our colleague David Sprinkle takes the helm through June, I'm honored to have led a quarter's worth of meetings with members who are not only brilliant lawyers and/or judges, but also warm, thoughtful people. In the Senior Lawyers Section, relationships are a paramount value for us, and I'm grateful to the EC for indulging me as I shamelessly turned every "chair's report" into a new opportunity to

Continued on page 2...





2023-2024

**SENIOR LAWYERS SECTION  
EXECUTIVE COMMITTEE**

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David Sprinkle, *Fidelity National Title*

**Young Lawyer Liaison**

Vacant

**WSBA SUPPORT**

Carolyn MacGregor  
carolynm@wsba.org

share pictures of my grandchildren. In short, we have a good time, we do good work, and we like each other!

If you'd like to join us please submit an application by mail, or just email David Sprinkle at [david.sprinkle@fnf.com](mailto:david.sprinkle@fnf.com) to find out ways to get involved. And for additional inspiration, read further and enjoy this issue of *Life Begins!* //

**If you're not already a voting member of  
the Senior Lawyers Section, JOIN NOW!**

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

WSBA # \_\_\_\_\_

Please check one:

**Voting Membership:**

I am an active or inactive WSBA member who is over the age of 55 or my length of practice in all jurisdictions is at least 25 years. Please enroll me as a voting member of the Senior Lawyers Section.

**Non-voting membership:**

I am an active or inactive WSBA member who is under the age of 55 and my length of practice in all jurisdictions is less than 25 years. Please enroll me as a subscriber member so I can participate and receive your informational newsletter.

I am a law student or law clerk. Please enroll me as a subscriber member so I can participate and receive your informational newsletter.

Enclosed is my check for \$25 for my annual section dues made payable to **Washington State Bar Association**. Section membership dues cover Jan. 1, 2023, to Dec. 31, 2023. (Your canceled check is acknowledgment of membership.)

Mail to:  
Senior Lawyers Section  
Washington State Bar Association  
1325 Fourth Avenue, Suite 600  
Seattle, WA 98101-2539

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# SPRING TIME at THE SUPREMES *By Justice Madsen*



**S**TARTING WITH the Promethean Orders approving alternative pathways to licensure, the Supreme Court is jumping into spring term with both feet! In our two March 15 orders, the Court reduced the UBE (Uniform Bar Exam) cut score from 270 to 266, announced transition to the NextGen bar exam in 2026, and approved, in concept, multiple alternative pathways to joining the WSBA, including 12 credits of qualifying law school course work in addition to a 500-hour licensed legal internship. Our state is on a unique path, one we have studied and debated since creating our 2020 Licensure Task Force. Our decisions stem from concerns about the exam's disproportionate racial impacts and research showing the bar exam is likely ineffective for ensuring

competency, along with dwindling law school enrollment, and the paucity of attorneys in rural communities.

The dire lack of public defenders has teed up another action item on the court's agenda with a WSBA proposal to revisit attorney caseload limits, which experts urge is part of the burn-out issue for criminal defense counsel. The approved plan will reduce the caseload limits by nearly two-thirds. The need for defense lawyers is so grave that the Legislature passed SSSB 5780 appropriating funds for a law student rural defense program.

Turning to the "lighter" side, we enjoyed much needed in-person fellowship with our colleagues at the Court of Appeals at the Spring Appellate Conference in Walla Walla. Along with pickle ball and a little wine

tasting (after hours, of course) the conference studied the implications of AI, water courts and water scarcity, a recap of the depressing SCOTUS term, and how to write an appellate decision (one might think we had already learned). The AI presentation was mind-altering. With thoughts of the Terminator dancing in our heads, we learned about hallucinating cases. In one example from Missouri, ChatGPT generated a brief in which 22 of the 24 citations did not exist. And we learned about Crystal Ballalytics, or judicial analytic mind-reading software. By evaluating 120 data points, including cases and personal information, AI can predict the outcome of an appellate decision. Our next

frontier will be developing the rules for using AI. Volunteers welcome!

We also recognized Justice Susan Owens (pictured above) at her last appellate conference. Susan reaches mandatory retirement age this year and will soon enjoy year-round vacations. Susan's is a story of the road less taken. She grew up in a small North Carolina town where her father was a solo lawyer. As the eldest, Susan recalls her father encouraging her to pursue a career in law—as a legal secretary—but she had a bigger vision; she saw herself on the Supreme Court one day! Eventually, Susan married her college sweetheart, who played minor league baseball, traveling where the game took them. They finally landed in Forks, Washintgon, where she raised her kids and practiced law for nearly 25 years before destiny propelled her to the Supreme Court. She still loves baseball and the law.

Spring means we take to the road! This term we are traveling to Sunnyside High School. The court will hear two cases, *In re Marriage of Wilcox*, involving the interpretation of RCW 26.09.090 providing long-term spousal maintenance, and *State v. Smith*, questioning whether the trial court abused its discretion in failing to remove a juror for cause. Because traveling court is about outreach and education, the court's Minority and Justice Commission and the Tribal State Court Consortium will sponsor a panel and reception with members of the Yakima Nation and Heritage University featuring presentations on Filling the Pipeline, The Practice of Law for Justice, and a panel from the Yakima Nation.

May is a big month for court outreach with judging mock trial, moot court, Jury Appreciation Week, Reunification Month and Law Day. Watch your local paper—you may soon be visited by one of the Supremes! //



## WSBA Sections JOIN NOW!

*Connect with others in the legal profession.*

### WHY JOIN?

Membership in one or more of the WSBA's 29 sections provides a forum for members who wish to explore and strengthen their interest in various areas of the law.

### BENEFITS

- Continuing education
- Professional networking
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- Leadership opportunities
- Career advancement
- Opportunities to affect change in the legal system

### JOIN NOW, ONLINE!

Learn more about the sections and join today!

[www.wsba.org/aboutsections](http://www.wsba.org/aboutsections)

# WORDS OF WELL-BEING: LAUGHTER IS THE BEST MEDICINE

By Eric York Drogin, Harvard Medical School

**Lawyers**— especially those who are compelled to hire doctors as expert witnesses—know that there is rarely any unanimity of opinion in the medical field. Nonetheless, despite the predictable objections of the pharmaceutical companies that love them not wisely but too well, we can count on a healthy number of our caduceus-wielding colleagues to line up behind this perspective. Even cardiologists and laparoscopic surgeons are willing to endorse the eventual hearty chuckle or belly laugh, as long as enough post-procedural time has elapsed to keep their patients literally as well as figuratively in stitches.

Perhaps the most visible promoter of the cackling cure is Kentucky's own Clifford Kuhn, M.D., who goes by the anything but sobering sobriquet "The Laugh Doctor." Jibing in support of rather than at the expense of patients, Dr. Kuhn is described here as having "learned to appreciate the healing benefits of laughter" on the basis of "working intensively with cancer patients and their families." A professional comedian in his own right, Dr. Kuhn often presented seminars with the late Jerry Lewis—the original *Disorderly Orderly*—on laughter's manifold medical benefits.

Ironically, the lifestyles of those who produce laughter for a living are typically anything but a model for sustained wellness. Writing for *Forbes*, Lipi Roy, M.D., MPH asks "If Laughter is the Best Medicine, Why are So Many Comedians in Poor Health?" Among the interview-based answers provided are "isolation," "long periods of traveling," "poor diet," "lack of sleep," and a general tendency to "go a long time without seeing a medical professional." Does this seem uncomfortably similar to life on the road for the multi-jurisdictional peripatetic pro hac vice litigator? Self-neglect in the service of day-to-day professional pursuits is no laughing matter.

If laughter is the best medicine, is it possibly the best defense as well? Not according to George Washington,

one of a minority of our non-lawyer presidents. He opined far earlier than either Jack Dempsey or Pat Summitt that it was actually a good offense that was often "the surest, if not the only" defense, at least "in some cases," as preserved on the website for the National Archives. This does not mean, of course, that humor has no place in the courtroom, or that it cannot turn the tide in counsel's favor when applied judiciously, as it were. If lawyers want to pursue that quaint, humanizing, ice-breaking laugh, then they are best advised to do so on their own instead of leaving such antics to the witnesses. Counsel won't be asked on cross-examination, for example, "Just what's so funny, doctor, about my client's injuries?"

Abraham Lincoln, the quintessential lawyer president, would surely have flourished on the then-burgeoning vaudeville scene had he progressed from rail splitting to side splitting instead of professional politics.

The Hope Charter School has curated a number of Lincoln's one-liners for posterity. When described once as a "two-faced man," he replied, "if I had another face, do you think I would wear this one?" Upon encountering a soldier even taller than his own then-phenomenal six-foot-four frame, Lincoln remarked "Say, friend, does your head know when your feet are

cold?" When he lost a Senate race just two years before becoming elected president, he joked that, "I feel like the boy who stubbed his toe; I am too big to cry and too badly hurt to laugh."

It isn't necessary to attain a certain age in order to laugh; in fact, as confirmed by Sabrina Stierwalt, Ph.D., in a *Scientific American* article, "We laugh even before we can speak." Dr. Stierwalt identifies laughter as a phenomenon that "clearly serves a social function," as "we're almost 30 times more likely to laugh in a group," while "young children between the ages of 2.5 and 4 were found to be eight times more likely to laugh at a cartoon when they watched it with another child even though they were just as likely to report that the cartoon was funny whether alone or not."

Cited in the same article was a social scientific study in which research subjects listened to "simultaneous

laughter" and "determine the level of friendship shared by the laughers," with the result that

"they could reliably tell the difference between people who had just met and those who were long-time friends."

The doctors at the venerable Mayo Clinic have posted a list of "scientific benefits of laughter and humor." These include such clearly welcome developments as the ability to "relieve pain," "improve your mood and decrease depression and anxiety,"

"we laugh even before  
we can speak."

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## Laughter is the Best Medicine

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bring us “closer together,” afford a “new perspective,” “reduce tension,” “improve your immune system,” and “increase resilience.” Overall, laughter “is also good for your relationships,” given that it “serves as a powerful tool and safety valve for dealing with conflict,” in addition to which “you cannot overdose.” This is all well worth considering for those of us whose day jobs are played out within the context of what can seem at times to be a relentlessly adversarial system.

If laughter is such a cure-all and overall hot commodity, where are we most likely to find it? Beyond resorting to stand-up, sitcoms, and silly movies, we sometimes find it socially expedient to produce this condition on our own. Authors Molly Edmonds and Joseph Miller describe the nature and quality of what they term “etiquette laughter,” by means of which we “tend to laugh with anyone who can help us out, which is why a group of undergraduate students may guffaw at a professor's bad joke, while a job applicant's attempts at humor may fall flat with those who are already gainfully employed.” Indeed, judges observe wryly on occasion that “as soon as I got on the bench, my jokes became much funnier.”

Whatever its source or sincerity, laughter is as solid an investment in wellness as any of us are likely to find—and that's no joke. //

Eric Drogin, J.D., Ph.D., ABPP, is an attorney and board-certified forensic psychologist serving on the faculty of the Harvard Medical School. Examples of Dr. Drogin's professional roles have included commissioner of the American Bar Association (ABA) commission on Mental & Physical Disability Law, commissioner of the ABA Commission on Law & Aging, chair of the ABA Science & Technology Law Section, chair of the ABA Senior Lawyers Division Center for Excellence in Elder Law & Dementia, chair of the American Psychological Association (APA) Committee on Legal Issues, chair of the APA Committee on Professional Practice & Standards, and president of the American Board of Forensic Psychology. Dr. Drogin's multidisciplinary practice encompasses mental health law, expert witness testimony, and trial consultation.



Hi Anne,

I'm planning on retiring in the next few years. I handled several cases on a contingency fee basis that settled with payments made over time. I receive the payment, deposit it into my IOLTA account and disburse the funds to my client and my firm. Those payments will continue for a number of years after I retire. I'm planning on resigning my bar membership when I retire and closing my IOLTA account. What should I do when I get these checks? Can I just deposit them into my personal account and distribute the client's funds from that account?

Signed, *Retiring in Renton*

Dear Retiring in Renton,

RPC 1.15A requires that all funds received in connection with a representation have to be deposited into a trust account. The payments you describe are funds you're receiving in connection with your past representation of clients, and therefore should be deposited into a lawyer trust account. You are correct that if you resign, you should close your trust account because only a lawyer or LLLT can be a signatory on a trust account. If you resign your Bar membership, you will no longer be a lawyer.

But this question is a little more nuanced than it initially appears. If you resign from the Bar Association, you are no longer a lawyer and not subject to the RPCs. However, the Office of Disciplinary Counsel has jurisdiction over lawyers who are not admitted here if they provide or offer to provide legal services here. ELC 1.2. And it is a crime to engage in the practice of law if you are not authorized to do so. RCW 2.48.180(3)(a). Thus, the question boils down to whether it is the practice of law to receive funds, deposit them into an account such as a trust account, and disburse them. There is an advisory opinion that opines that operating a trust account constitutes the practice of law because a lawyer with a trust account is required to “resolve third party claims to the funds and more particularly, to select and use legal processes to resolve disputes about the funds.” Advisory Opinion 201903.

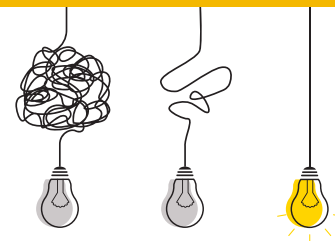
I have to disagree with that analysis. RPC 1.15A(g) does not require a lawyer to act on behalf of a client or anyone else to resolve a dispute. The prior version of RPC 1.15A permitted nonlawyers to be signatories on a trust account. The current rule allows LLLTs, who are not permitted to “select and use legal processes to resolve disputes” to be signatories on trust accounts. In my opinion, simply receiving and disbursing funds is not the practice of law as that term is defined in GR 24 (definition of practice of law).

In short, I can't say that you would be subject to the RPCs after you resign, but obviously, it would be a lot safer to comply. Assuming that is your goal, it's great you're thinking ahead about this. You have several possible options. The simplest solution would be to ask the issuer of the check to send one check to you and a second check to your client. I understand that often is not a possibility. If you trust the client, you could have the check sent to the client and have the client agree to pay you your share. That obviously presents a risk that you would not get paid.

A third option is to have another lawyer process the checks on your behalf. This is often the best solution for lawyers who are selling their practice. As part of the sales transaction, the purchaser agrees that the firm will receive these checks and disburse the funds to the lawyer and client, sometimes for a small fee. Alternatively, it's possible the future fees would be treated as an asset of the firm that's being sold and you would be compensated for those fees as part of the sale. Many sole practitioners don't explore selling their practice, but your practice may be worth more than you think, and selling the practice to a qualified lawyer often helps with issues like this as well as others such as maintaining closed files or transitioning the remaining clients.

A creative lawyer might be able to come up with other solutions. Unfortunately, for some lawyers, none of the options are appealing. If that's the case, you may want to stay on active status until you've received all the payments. //

I'm looking forward to getting more questions from readers! Send your ethical dilemma to [ethicscolumn@anneseidel.com](mailto:ethicscolumn@anneseidel.com).



# LOOKING FOR A GOOD BOOK?



## **THE ESCAPE ARTISTS: A BAND OF DAREDEVIL PILOTS AND THE GREATEST PRISON BREAK OF THE GREAT WAR**

By Neal Bascomb // Published 2018

WORLD WAR I was just over a century ago, but it feels so much longer. The sun wouldn't set on the British Empire for another half century. To the persistent POWs hailing from all over the British Empire who considered it their patriotic duty to escape from prison camps behind the German lines to freedom in Holland, the sun was an apt metaphor for the goal of their escape attempt—subterranean and above ground—from increasingly more secure prison camps.

Alternatingly quaint and arbitrary, mannered and brutal, expansive and claustrophobic (the skies above, the tunnels below), Bascomb's nonfiction account is both intimate and vast.

Use of original sources, unpublished personal materials, and contemporary sketches and photos of the good guys and bad guys brings their humanity and vulnerabilities to the fore. The resourcefulness and resilience of the POW escape artists makes this an endearing tale that will endure in your soul. //



## **THE WAGER: A TALE OF SHIPWRECK, MUTINY AND MURDER**

By David Grann // Published 2023

ON JANUARY 28, 1742, a ramshackle vessel of patched together wood and cloth washed up on the coast of Brazil. Inside were 30 emaciated men, barely alive, and they had an extraordinary tale to tell. They were survivors of His Majesty's Ship, the *Wager*, a British vessel that had left England in 1740. They were greeted as heroes.

But six months later, another, even more decrepit craft landed on the coast of Chile. This boat contained just three castaways who told a very different story ... claiming the survivors were, in fact, mutineers. A court martial ensued to determine who was telling the truth. A very compelling and suspenseful story of treachery and murder. //



## **FAIRNESS AND FREEDOM: A HISTORY OF TWO OPEN SOCIETIES, NEW ZEALAND AND THE UNITED STATES**

By David Hackett Fischer

// Published 2023

IN THIS BOOK, David Fischer explores the difference in the core values that organize society in New Zealand (justice, fairness, and equity) versus

the United States (freedom, liberty, and democracy), going back to the origins of the history of societies and governments in both countries. His premise is that a key difference charting the very different outcomes of these two free countries is the timing of when in the course of the British Empire they were invaded/settled by Europeans. In an era of increasing inequality, his is a timely argument, and one well worth hearing. //



## **STARK JUSTICE**

By Judge T.W. Small, Ret. // Published 2023

STARK JUSTICE is an entertaining and illuminating legal page-turner set in a picturesque, small farming community. Retired Judge T.W. "Chip" Small brings a serious personal injury case to vibrant life.

Arnie Adams, a hard-charging, caring, and ethical plaintiff's attorney takes on the case of Elmer Stark, a promising and industrious jockey involved in a devastating accident that crushes his lifelong dream. Adams and Stark are up against a smug defense attorney representing a wealthy and powerful family. The cast of characters includes Elmer's sweet fiancée, his unstable brother, seasoned law enforcement and old high school sweethearts. Old dalliances and grievances surface as do questionable motives. The characters' private stories interwoven with the gripping courtroom drama make for an enjoyable read.

Compelling characters and real life subplots make this small town trial a fascinating journey through a personal injury case from start to finish. Small keeps up the suspense until the exciting and surprising conclusion. //

"A great book should leave you with many experiences, and slightly exhausted at the end. You live several lives while reading."

— William Styron, *Conversations with William Styron*

# MEMBER SPOTLIGHT

REFLECTIONS OF BRIAN COMSTOCK

## THE DOWNFALL OF JOSEPH MCCARTHY

**MAYBE** IT'S JUST THE CURRENT political climate, but my thoughts these days drift back to Senator Joseph McCarthy and his final days as a national figure.



In 1954, having just graduated from the University of Washington, I was lined up to serve two years as an Army ROTC officer. I was somewhat shocked to be served secret orders to report promptly to Fort Holabird in Baltimore.

Driving there immediately, I met guards at the gate and was ushered into a complex operation that appeared intensely secret. I settled in and was finally

run through six months of intense training on the basics of counter intelligence. Graduating with honors, I was sent to Washington, D.C., to serve secretly as an undercover agent of the Counter Intelligence Corp (the CIC). The CIC was a World War II and early Cold War intelligence agency within the United States Army consisting of highly trained special agents ("Counterintelligence Corps," n.d.). I lived there the next 18 months in a residential area appearing as a private businessman, while actually performing my duties as a secret agent of the CIC.

During the time from 1950 to 1954, a Republican senator from Wisconsin, Joseph McCarthy, rose to national fame as a result of his allegations of communists and communist sympathizers infiltrating the government and much of society. In late 1954, Senator McCarthy was removed as chair of his Senate Committee and censured by the Senate for his conduct in what was referred to as McCarthyism. It was shocking to me to witness the downfall of McCarthy, especially since it seemed I might have been part of his mission. For McCarthy, this was the end. Within three years, his health declined substantially, due in part to alcoholism, leading to his death in 1957 at the early age of 48.

It was a stormy nation back in the McCarthy era. The tide rather suddenly shifted to the surprise of many on all sides of the aisle. After two years of undercover work, I moved on to law school at Harvard and the political scene seemed to have drastically changed. The focus turned to the wars in Asia. The drifts of history reveal interesting parallels and repetitions. I believe even Napoleon would agree that democratic nations tend to go to extremes, drifting way off course and then somehow getting blown back on course. //

## "WALK ME ACROSS THE FLOOR ONE TIME"

By Jeff Tolman

The three retired couples laughed and reminisced and toasted our decades-old friendship. As we rose to head home, one of our group said, "I wonder what our kids would say if they'd have heard our discussion tonight."

I was reminded of one of my friend Jay's law school reunions. Seeing the dean, Jay asked if reunions tended to be similar or unique, each one-of-a-kind.

"Blindfold me and walk me across the floor one time and I'll tell you what year reunion it is ... by the conversation topics."

Reflecting on the dean's observation, I realized we three couples had discussed everything that would be expected from a group ranging from 67 to 78 ... health, kids, and grandkids. Life as a retiree. Adventures we took together in the past. Aspirational adventures for the future. The "good old days." How the world has changed for the better and worse (in our views) over the past decades. The modern opportunities and obstacles our children and grandchildren face. And the last but not least, the joy our friendships have given each of us.

In a recent "Blue Zone" episode about growing older happier, it was opined that an important element of healthy aging is feeling part of a community. Being relevant. Being valued. Being seen and heard. Not feeling you are alone in the world. Our meal-together feeling of belonging was, perhaps, as predictable, and important, as the subjects we discussed over and after dinner.

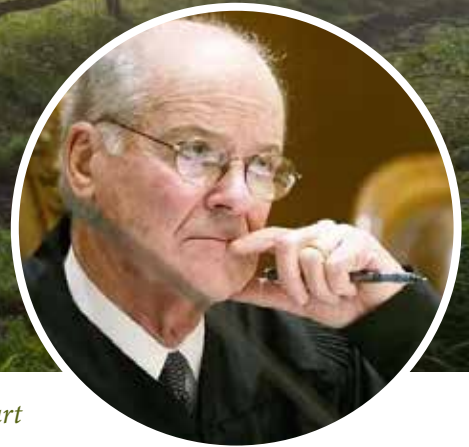
As to what our children would have thought had they been listening to our discussion, at their ages, they likely would have found the exchange odd and uninteresting, only to find themselves in their 60s and 70s having similar conversations. Just ask Jay's law school dean. //

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Judge Jay Roof

# FROM BAR TO BENCH AND BACK!



*By Gerry L. Alexander, retired Justice and Chief Justice, Washington Supreme Court*

ON DEC. 31, 2011, I officially retired from the Washington Supreme Court after having served on that court for 17 years. It was not my personal choice to retire. However, retirement was made mandatory by a somewhat obscure amendment to Washington's 1889 Constitution, Article 4, section 3(a), which provides that judges of the Supreme Court and Superior Court "shall retire from judicial office at the end of the calendar year in which he attains the age of seventy-five years."

Although I was well aware of this provision and the fact that I had turned 75 on April 4, 2011, I

use crying over something I had no ability to control. I did, though, tell my wife, Christine, that as a silent act of obstinance, I was going to stay in my chambers at the Supreme Court until midnight on New Year's Eve of 2011. I must confess that I failed to carry out this boast, instead going to bed at my usual time of 9 p.m. on New Year's Eve.

The day following my retirement, I began pondering what I would do professionally for the rest of my life. I knew that I didn't want to spend all of my time at home doing chores or watching television. I finally concluded that despite my advanced

age, I would like to go back to the practice of law in my hometown of Olympia. That is where I practiced law with the law firm Parr and

Baker, later Parr, Baker, Alexander & Cordes, from 1964 to 1973. I left the firm in 1973 to become a Superior Court judge for Thurston and Mason counties.

Following up on my desire to return to law practice, I soon joined the well-regarded Olympia law firm, Bean, Gentry, Wheeler & Peternell.

This was a very comfortable decision for me, particularly because the senior members of that firm, Steve Bean and Fred Gentry, were longtime close friends. I am happy to say that I am still associated with that firm in this my 60th year as a member of the WSBA. The association has been extremely pleasant for me and, hopefully, for the law firm as well.

My practice over the past 12 years has been unlike the general practice of law I engaged in from 1964 to 1973. During my time here, I have primarily limited myself to consulting with attorneys from other law firms who are handling appeals to the Washington Supreme Court or a division of the Washington Court of Appeals. I have also served as an arbitrator from time to time and even tried my hand as a mediator. Although I think mediation of legal disputes is a good alternative, I have to say that the mediation process was not exactly my "cup of tea." In thinking about my attitude on the subject, I have concluded that because I was a judge for so many years, I found myself wanting to decide the case rather than trying to work with lawyers and litigants to compromise their positions

"... I wasn't happy about being put "out to pasture" after an almost thirty-nine-year judicial career at three levels of Washington's Courts (Superior Court, County Appeals, and Supreme Court)."

wasn't happy about being put "out to pasture" after an almost thirty-nine-year judicial career at three levels of Washington's courts (Superior Court, County Appeals, and Supreme Court). In addition, I felt good physically and believed that I still had my wits about me. Nevertheless, I had to retire and concluded that there was no

*Continues on page 9...*



and settle the case. It wasn't something that came easy to me.

During my re-run in the private practice of law, I have often found myself reflecting on the many changes I have seen over the years. Space won't permit me to mention all of the changes I have seen, so I will limit myself to two that come quickly to mind. The first is clearly the growth in the size and diversity of the bar and bench in Thurston County, a growth that has been emulated in most Washington counties of medium or large size. When I began my practice as a lawyer in 1964, there were 34 lawyers engaged in private practice in Thurston County and all but three were men. I know this because when I started out I counted the names of all the lawyers listed in the yellow pages of the telephone directory, the only place where a lawyer could be publicly identified under the then existing ethical rules governing the profession. On top of that, all of the lawyers in the county had their office within a few blocks of each other in downtown Olympia and almost all of them considered themselves a general practitioner. This meant that they took in most legal work that came in the door.

The local bench was also small. Only two Superior Court judges, both men, served the joint judicial district for Thurston and Mason counties. Thurston County had not then elected to come under the relatively new District Court Act and, thus, justices of the peace still presided over minor civil and criminal cases at various "precincts" scattered around the county. The busiest precinct was in Olympia and its justice presided, as did the Superior Court judges, at the old Thurston County Courthouse in downtown Olympia. The building, nearly 100 years old, still stands and looks very good as an integral part of the East Capitol Campus of the State Capitol complex.

Today there are many more lawyers and judges serving Thurston

County. The number of lawyers in private practice is approaching 300 and almost that many lawyers are in government practice with Washington's Attorney General, Thurston County Prosecuting Attorney, and other government offices. Indeed, the county is now served by two active bar associations, the Thurston County Bar and the newer Government Lawyers Bar.

The bench has also grown, with nine Superior Court judges serving in Thurston County and three in Mason County. These courts are now assisted by several court commissioners, a feature that was not utilized in my early days as an attorney.

At first blush, the growth of the bench and bar in Thurston County may seem extraordinary. My view is that it is fully justified in light of the large increase in the general population. In that regard, the population of the state of Washington, according to the 1960 census, was less than three

million. Today it is approaching eight million. Similarly, when I started my law practice in 1964, Thurston County's population was less than 100,000 and today it is slightly over 300,000. This sizable growth, together with the ever increasing complexity of our society, clearly supports the increased size of the bench and bar.

The other great change that I have seen in Thurston County's legal scene has been the nature of private law practice. As I have indicated, almost all of the lawyers, in my early days as a lawyer in Olympia, were general practitioners. That is no longer the case, with most local lawyers here specializing in certain areas of the law. I lament this development to some degree. I believe that the camaraderie between lawyers that existed when most of

them had similar practices and saw each other on an almost daily basis is important. On the other hand, I must acknowledge that the more important point is that the public is better served by lawyers who specialize. The law is complex and becoming more so every day. It has become more difficult, if not impossible, for any lawyer to be proficient in all areas of the law. So specialization is here to stay and that is a good thing.

I haven't touched on the advancements in technology that I have observed over the years, many of which have allowed lawyers and their staff to do their important work for clients in a more timely and efficient manner. Gone, for the most part, is the technology of my days as a young lawyer. It consisted largely of dial telephones, typewriters replete with carbon paper for making copies, dictating equipment and cumbersome copy machines. While I must concede that I am a bit of a luddite

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when it comes to technology, there is no denying the fact that the new technology is far better than the old.

I feel very fortunate to have had a long judicial career, bookended by stints in the private practice of law. As I look back now, in the twilight of my life in the law, I feel good about the current state of our noble profession in Washington. I share those same feelings about our state's very fine judiciary and the Washington State Bar, an association I have proudly belonged to for 60 years. And who knows, maybe I will add a few years to that tenure. //



## *Traveling Down Under: A Celebration!*

By Jenny Rydberg

What better place to go to celebrate a 50th wedding anniversary than New Zealand and Australia? We'd already stood on six continents, so my husband and I headed to Auckland in late January to stand on the last one together after celebrating our golden anniversary with family and friends. Well, New Zealanders think theirs is the 8th continent, but eons ago it was tightly attached to Australia.

At Hobbiton, we saw Frodo's house, all 17 hobbit house fronts, the Shire, and walked through a human-sized hobbit house, a must for all *Lord of the Rings* fans. This is all located in a gorgeous, 1,250-acre sheep farm in a rolling, rural, green landscape, exactly what we saw in the movie, the making of which was a big business venture all over New Zealand. This after being greeted by a gorgeous sunset-created rainbow over Onetangi Beach on Waiheke Island the first night of our trip. What followed was a four-week, intense tour of both main islands of New Zealand and Eastern Australia with 21 new traveling companions and our faithful Road Scholar tour guide.

Every day was a highlight. Waiheke Island, our first stop, was restful and picturesque with many scenic wineries. Wines were flavorful, delicious, and abundant throughout our trip. Seeing exquisite embroidery creations of Gao Pei in Auckland's Art Museum was

an unexpected treat for me, a sewing hobbyist. Two dresses on display required 50,000 labor hours each to create! Why was our harbor tour by sail only two hours instead of all day? Well, there were other highlights to see and do. Milford Sound in the south island, also in *Lord of the Rings*, was absolutely stunning. Also stunning were the many lakes, rivers, mountains, valleys, and pastures we traveled to or through in New Zealand and the great big desert of Australia away from its green coasts. One favorite memory was posing for a photo at counsels' lectern in the Supreme Court's courtroom in Wellington, then going next door to the historical High Court courtroom with a miserable jail in the basement below. I remember feeling grateful I was not a prisoner, or counsel for one, in the days of uncontained sewage and floodwaters that sometimes filled the holding cells waist high.

Most meaningful to me was learning a bit about the history and culture of the Maori people, the first settlers of New Zealand. The Brits invaded New Zealand nearly seven decades after losing the American Revolutionary War. While there are many similarities between what our government did to Native Americans

and the Brits' devastation of Maori resources, land, and people, the British concepts of justice, fairness, and equity prevailed in New Zealand though not perfectly. A treaty was signed in short course, the terms of which will always be in dispute. The current New Zealand government has formally apologized to the Maori for the transgressions of their forebearers. New Zealand is now a dual-language country, and both English and Maori are taught in all public schools and are spoken publicly and privately

Every lecture, every concert, every presentation began with an acknowledgment of the Maori's first and continuing presence in New Zealand...

at the highest levels of government. Important documents are written in both languages. Some lands have been restored to the Maori, others protected as new parks precluding development. Every lecture, every concert, every presentation began with an acknowledgment of the Maori's first and continuing presence in New Zealand and original ownership of the lands upon which we stood. Memorials to those who sacrificed their lives for all in WWI and WWII are seemingly everywhere.

The wilderness throughout the

*Continued on page 11...*

country is by design protected and looks unspoiled. The government is years into a multi-decade plan to eradicate the presence of rodent predators (rats, stoats, weasels, ferrets, and possums) that came with Europeans in the 1800s and threaten the survival of many species of birds and flora, as New Zealand is naturally without predatory mammals. Full restoration of affected forests grown to maturity may take up to 500 years. Conservation efforts abound. New Zealand's citizens come from all over the world. The government tries to be fair to the Maori people, though strong differences of opinion exist about the adequacy of, and need for, those attempts. Acceptance of diversity is refreshingly the norm.

Australia in February is like August here – hot. It was in the 80s along the east coast and reached 105° - 110° at Alice Springs near Uluru. Highlights here included the boat tour of the Sydney Harbor and its iconic opera house where we saw three operas, watching about 2,000 blue penguins hop out of the ocean and up the hills to their borrows at dusk as they do every night at Phillips Island near Melbourne, tasting delicious food prepared with traditional Aboriginal spices, seeing the sacred Uluru in Uluru-Kata Tjuta National Park at sunset and learning how its shapes are the foundation of some Aboriginal creation stories, touring the home facility of the Royal Flying Doctor Service in Alice Springs and learning how they tend to the medical needs of those in the Outback, doing the same for the School of the Air that provides K-8 public education for children

living in the Outback and was much consulted by educators around the world during the pandemic, walking through a rainforest where it rained near Cairns, snorkeling over the Great Barrier Reef, and so very much more. Everywhere we had excellent local guides, including a retired trial lawyer in Melbourne who gave us a lecture of fine oratory on the contemporary history of Australia. As in New Zealand, Australia has numerous memorials to those who sacrificed their lives for democracy in WWI and WWII. In both

Europeans. In studying Aboriginal history, we were exposed to their rich and diverse culture, history, customs, and cuisine. We learned of their mastery of self-governance; extensive knowledge of Australian lands, flora, and fauna; unique and creative uses of natural resources; and extensive use of celestial navigation. It was dismaying to learn that Aboriginals are still mistreated, deprived of job opportunities, arrested and incarcerated at far higher rates than Caucasian Australians. Even one of

our tour guides, while deeply respectful of all peoples in general and Aboriginal cultural heritage specifically, confirmed this. I felt the effects of racism everywhere. Maybe this is why I feel I would love to go back to New Zealand, but Australia is one and done.

Grateful that Road Scholar afforded us many unique experiences not available had we traveled on our own, we ended our trip at

the Sydney Opera House, its iconic shell sheltering the building and its performance halls made of gorgeous woods within, watching Mozart's *The Magic Flute* with its beautiful but extremely challenging soprano aria and hilarity throughout. Written in German and sung in English, the translated script was modernized to contain subtle references to current events. Verdi's *La Traviata* was sung and placed in its original Italian and era with a performance that effectively revealed contemporary social justice issues faced by courtesans of all time. These exquisite performances were a capstone to very memorable travels. //



countries, we repeatedly heard comments about the global importance of American leadership.

Australia in its governance is also guided by the British principals of justice, fairness, and equity as opposed to the American values of freedom, liberty, and democracy. Here, too, presentations, lectures, concerts and the like start with an acknowledgment of the Aboriginals' original use of the lands here – new evidence shows they occupied Australia at least 60,000 years ago, migrating through India and the Indonesian Islands when the seas were lower. Aboriginal peoples, organized in hundreds of groups and languages with multiple dialects, mastered agriculture, navigation, desert survival, and more far earlier than did

# WHAT'S UP with the BOG?

By Jordan Couch, Palace Law

**B**Y FAR the biggest conversation at our March meeting was about caseload standards for public defenders. Long long long story short, the BOG voted to adopt new standards that should help reduce the burden on public defenders and ideally increase retention.

The Board also created a new Technology Task Force, with the plan to report to the Board in 15 months with recommendations to support and strengthen the use of technology in WSBA members' practices — emphasizing effective, efficient, and ethical use of technology that enhances equitable access to justice. The task force will be chaired by Jenny Durkan, former Seattle mayor and former U.S. Attorney for the Western District of Washington.

On the horizon the two biggest items senior lawyers should know about:

- 1 The WSBA is looking into a proposal to create a new license status that many of your members may be interested in for semi-retired practitioners.
- 2 The WSBA and the Board are deep into the budgeting process. How can we do more for members with the money we have or cut costs without harming our mission?

On a final note, you may be aware that the Supreme Court voted to adopt proposals to improve our licensure process by creating additional pathways to licensure in addition to a bar exam. I was heavily involved in this process for more than three years, so if any of you have questions I am available. //

Jordan Couch, a Partner at Palace Law serves as an At-Large member of the WSBA Board of Governors. He can be reached at 253-881-5626 or [jordan@palacelaw.com](mailto:jordan@palacelaw.com).

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