



LIFE BEGINS

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Washington State Bar Association
Senior Lawyers Section

Volume 14 Spring 2012 Number 2

Senior Lawyers Section 2012 Annual Meeting & CLE Seminar Friday, May 11, 2012 - Seattle Airport Marriott

7:30 am	Check-in • Walk-in Registration • Distribution of Coursebooks • Coffee and Pastry Service	1:25 pm	Annual Business Meeting
8:25 am	Welcome/Introduction by Program Chair <i>Stephen DeForest – Chair, Senior Lawyers Section – Riddell Williams, Seattle</i>	1:30 pm	Commerce, Spending, Taxes and Healthcare: Constitutionality of the Patient Protection and Affordable Care Act (ACA) <i>Vickie Williams – Gonzaga University School of Law, Spokane</i>
8:30 am	K-12 Education Funding and Washington Constitution <i>Thomas Ahearne – Foster Pepper, Seattle Ross Hunter – State Representative, Olympia Ben Rarick – The Washington State Board of Education, Olympia Hugh Spitzer – Foster Pepper, Seattle</i>	2:30 pm	Recent Developments in Residential Foreclosures <i>Scott Osborne – Summit Law Group, Seattle</i>
10:00 am	Morning Break	3:30 pm	Afternoon Break
10:15 am	Unique Traditions Under the Washington Constitution <i>Justice Debra Stephens – Washington State Supreme Court, Olympia</i>	3:45 pm	Remains of the Day: Disposition after Death <i>Karen Boxx – Keller Rohrback, Seattle, and University of Washington School of Law, Seattle</i>
11:15 am	Estate and Gift Planning in the Current Environment – and Professional Judgment <i>Frank Minton – (retired) Planned Giving Services Russell Speidel – Speidel Law Firm, Wenatchee Hon. Donald Horowitz – (retired) King County Superior Court, Seattle</i>	4:45 pm	Complete Evaluation Forms and Adjourn
Noon	Networking Lunch – Included with Tuition	4:50 pm	No-host Reception

Lodging Information

For your convenience we have reserved a block of rooms for May 10th at the Seattle Airport Marriott. Space is limited, so we encourage you to make your reservations now. Phone the Seattle Airport Marriott directly at 1-800-314-0925 and indicate you are attending the WSBA Annual Senior Lawyers Conference. Call now. The room block will be held until April 20th.

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SEMINAR REGISTRATION

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We encourage early registration. On-site registration is on a space-available basis. Coursebook included with price of tuition. I wish to register for the following seminar:

Annual Senior Lawyers Conference, #12860STC, 5/11/12

To register online, go to www.wsba.org/seminars and enter seminar # 12860STC

- Senior Lawyer Section Member Tuition Rate** • \$150
- Non-Senior Lawyer Section Member Tuition Rate** • \$225
- SPECIAL RATE FOR NEW SECTION MEMBERS:** Join the Senior Lawyers Section for \$20 and attend for the \$150 member tuition • total \$170 (Section membership ends 9/30/12). You must be at least 55 years old to join the Senior Lawyer Section.
- Omit my name from networking list made available to exhibitors and/or attendees.

If special accommodations are needed, please contact Heather Kistner at 206-727-8258 or toll-free at 1-800-945-WSBA, email: heatherk@wsba.org

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I do not wish to register for the seminar, but please send me the following CLE product(s):

- C12860 Annual Senior Lawyers Conference** seminar coursebook only
\$70 per book + \$9 S&H = \$79 subtotal + applicable sales tax* = \$_____ Total

Books available 10 business days after seminar.

*Effective July 1, 2008, sales tax for Washington residents is based on where the product is delivered. To calculate the correct sales tax based on the location to which your order will be shipped, go to the Department of Revenue's website at <http://dor.wa.gov> and select "I need to find a sales tax rate (GIS)". For example, the sales tax rate for products delivered within the City of Seattle is 9.5%. If you need additional assistance in finding or calculating the applicable sales tax rate, contact the WSBA Service Center at 1-800-945-WSBA. Out-of-state and federal government orders do not pay sales tax.

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- Check enclosed payable to WSBA
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Payment Policies

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Note • Please keep a copy of this brochure for your records.

Refunds • Registration fees may be refunded, less \$25 for handling, for written cancellations postmarked, emailed, or faxed by 5 p.m., up to 3 business days before the seminar. No refunds after that date, but you will receive the coursebook. Canceled registrations may not be transferred to other seminars. You may send a substitute (e.g., someone from your firm) in lieu of canceling.

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A Disabled Traveler's Las Vegas Adventure

by Fred Frederickson

All travel is an adventure, and recent issues of *Life Begins* have included articles by Phil De Turk (round the world by cruise ship), Carole Grayson (romantic France), and Tom Wampold (remote corners of exotic Asia). This travel article is about a trip my wife, Carol, and I took to Las Vegas. It focuses on the adventures and special challenges faced by a handicapped traveler.

Carol, I must explain, has multiple sclerosis. She ambulates about in a three-wheel sport model scooter that has two speeds, fast and faster. Carol has a sense of adventure second to none. Her scooter seems to share the same adventurous spirit. Once the scooter went to France, while we ended up in Spain. On another occasion, the scooter got lost in the St. Paul airport, courtesy of Northwest Airlines.

Forty years ago this October, Carol and I jumped on a plane (she could jump then) bound for Las Vegas and got married. To commemorate my victory over the competition, I suggested that we return to Vegas to celebrate our anniversary. We especially like to go to Las Vegas because a handicap-accessible taxi is usually available thanks to an ordinance adopted by the disabled-friendly Las Vegas city fathers.

A major decision for us is where we stay. I lobbied for the Venetian-Palazzo Hotel because I had been receiving a barrage of emails advertising a \$129 special on suites and because my IRA owns stock in the Las Vegas Sands, owner of these hotels. (Since this stock is underwater by over 50%, I saw this as a means of recouping some losses.) Unwilling to accept full responsibility for this decision, I insisted that Carol speak with the hotel staff so she could assure herself that the hotel met all of our needs. The Palazzo was duly selected.

FILO

Although nothing unusual happened on our flights to and from Las Vegas, flying for the handicapped traveler is always an adventure. As you may recall from Accounting 101, there are various method for tracking inventory such as FIFO (First In First` Out) and LIFO (Last In First Out).

All airlines apply FILO (First In Last Out) to handicapped passengers. Before the other passengers board, at least two burly teamsters accompany us on the plane and lift Carol onto her assigned seat. We then bid adieu to the scooter hoping that it too will journey to Las Vegas.

A benefit of FILO is that all of the overhead luggage bins are empty when we board the plane. I sometimes cringe when the first boarding passenger arrives and flings open the overhead bin, only to discover that our stuff is already there. As always the piper must be paid. FILO means

we are last out. Invariably the teamsters are on coffee break when we land. Usually the cleanup crew has tidied up the plane and departed before we disembark and are reunited with the faithful scooter. This means that the luggage carousel has long since stopped spinning and we must wake up the unclaimed baggage clerk to collect our suitcases.

We land at about 6 pm, hail a cab, check into the Palazzo, and head for our eighth floor suite with a panoramic view of a parking garage. After we scatter our chattels hither and yon, a command echoes from the bathroom. "Fred, come

here." Lacking even the courage to say "what," I tremble into the bathroom. My spouse then sweetly says, "Look at the bathtub." There it is, a regular tub & shower with a lip at least 30 inches from the floor. While this tub would prove no obstacle to an Olympic hurdler, I knew my wife would be pretty gamy if she had to reside in the room for the next four days without a shower.

A call to the front desk produces an explanation that the side of the tub opens to accommodate a handicapped person. Carol and I carefully inspect the bathtub; it is solid. We independently conclude that nothing short of a dynamite charge is going to open the side of that tub.

Moving Up

Knowing that my spouse's oratorical skills are far superior to mine at times like this, I watch while Carol calls the front desk. Hanging up the phone, she informs me with



Photo taken from Fred and Carol Frederickson's 47th floor suite at the Venetian, looking down at the Treasure Island Casino. No parking lot is in sight. Our intrepid couple has come up in the world since their initial foray on the 8th floor.

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a slight tinge of superiority that a bellman is on his way to move us to a new suite on the 36th floor. Hastily we cram belongings into our bags and wait for the bellman.

Forty-five minutes later, the bellman arrives and we ascend to our new suite on the 36th floor. Our new abode is eyelevel with the top of the Treasurer Island Casino. The parking garage is far below us. Demonstrating a modest learning curve, we immediately inspect the bathroom. No bathtub but instead a shower, the floor of which is elevated a full five inches above the bathroom floor. Even at top speed (5.5 mph), Carol's scooter is not going to propel her up & over that lip and into the shower. Then we notice the living room is sunken; two steps up and two steps down.

Brimming with confidence from her previous victory, Carol scooters at top speed to the nearest telephone. This time her opponent is more formidable. Despite Carol's protestations, the front desk informs her that this suite contains a roll-in shower because the suite description says that this suite contains a roll-in shower. (Apparently anything written in the suite description is sacrosanct.) The brave bellman, disregarding personal safety and continued employment, takes the telephone, identifies himself as a member of the hotel staff, and courageously informs the front desk that notwithstanding the suite description, this suite does not contain a roll-in shower. Game, set & match! We are on our way to a new suite on the 47th floor.

From the 47th floor, the top of Treasure Island is well below us. This suite does, indeed, have a roll-in shower and is probably large enough to house the Senior Lawyers Section annual seminar. I sneak a peak in the closet and see that the posted rate for this room is \$1,900 per night. Our nightly tariff remains \$129.

Who Hocked the Ring?

Of course, dear reader, this is the condensed version of the story. It is now midnight. The last good restaurant closed at 11 p.m. Only the coffee shop is open, so we spend one of our three nights in Vegas finding a suitable habitat, thereby solving a problem I thought was handled when I made the reservations initially. Fortunately this ends the adventure part of this article. As septuagenarians, too much adventure is not good. The remainder of this article includes highlights of our remaining two nights and two days.

I frequently watch the History Channel on cable television, including the reality show Pawn Stars, the venue of which is the Gold & Silver Pawn Shop in Las Vegas. Thus, Gold & Silver was on my "to do" list. Good sport that she is, Carol (reluctantly) agreed to go.

Gold & Silver is located in an industrial area. Prior to its appearance on television, it averaged about 70 customers

per day. Now it's a tourist destination and averages about 1,000 visitors per day. A cab driver told us that the line to get in can be up to two hours.

When we arrived, we paid the taxi to wait and fortunately went right in. The section containing display items is much smaller than it appears on television; a long, narrow, very crowded room. The only television personality present was Antwaun, the door guard. Antwaun is a very large, friendly man willing to pose for any tourist who wants to take his picture. I noted a Super Bowl ring with a \$100,000 price tag. Carol tells me that the ring is overpriced. How she knows this I do not know. I could only think how sad it is that someone had to pawn a Super Bowl ring.

The Strip & Steaks

My good spouse loves to explore casinos and their many shops. So long as the scooter battery has a charge, she can go on and on and on. Not so with me. My questions are what part of my anatomy is going to hurt first and what is going to hurt the most.

Nonetheless, we explored the Venetian, Palazzo, MGM Grand, Treasure Island, Cosmopolitan, Mirage, Bellagio, among others. The MGM Grand recently was upgraded and is the largest hotel in the United States. We were very impressed and may put it on our list of possible places to stay. Treasure Island and Mirage did not seem as nice as we remembered, although we did go through the Secret Garden at the Mirage and enjoyed seeing the lions, tigers and dolphins; certainly a place to take the grandchildren.

The Cosmopolitan is one of the newest casinos on the strip, and it is spectacular as well as loud. Not for the retired set. It reminded me of my Army days at Fort Knox, Kentucky, matriculating through the Armor school with cannons blasting all of the time. Those young employees, if they stay there for 20 years, are going to be deaf as a post. The flower gardens at the Bellagio are truly beautiful and well worth a visit.

I conclude with a restaurant review. Steve Bean, my law school roommate, a baron of the Olympia bar and a Las Vegas expert, recommended the Golden Steer as having the best steaks he has ever eaten. Steve was "spot on." The Golden Steer, purportedly a former Rat Pack hangout, is off the beaten track. It has a 1950s décor with Sinatra and Tony Bennett background music. We made 10:30 p.m. reservations only to find we were the last and only customers. Nonetheless, the staff was extremely courteous and didn't rush us one bit. Definitely a restaurant worthy of a return engagement.

This article is reprinted from the Fall 2011 issue of the WSBA Real Property, Probate, and Trust (RPPT) Section newsletter. It appears with permission of the Washington State Bar Association, the RPPT Section, and the author.

Teach Those Children Well: Successor Fiduciary Administration (and Litigation)

by Sheila C. Ridgway at Ridgway & Gafken, P.S. and Karolyn A. Hicks at Stokes Lawrence P.S.

You finished the probate and funded the testamentary trusts. Or, you finished the probate and created a family LLC. Either way, the tax returns are complete and the surviving spouse, who acted as personal representative, has been discharged. He appreciates your legal work and the assistance of his accountant throughout this process. Your client's daughter, the successor trustee of the testamentary trusts and/or successor manager of the family LLC, who attended a few of your meetings with her father, is also grateful.

You are fabulous, and everything is good, right? Hopefully.

This article addresses what can happen later on and the problems that can and do arise regarding the role of the successor fiduciary, using the daughter from our scenario above as an example. As trust and estate litigators, we will also discuss some steps that you can take to avoid, or at least mitigate, these potential problems.

Let's imagine that a few years have passed since the completion of the probate. The father has resigned as trustee and/or manager and the daughter has succeeded to such positions. She begins to receive questions from her siblings that are followed by demands for accountings. Eventually, she becomes the target of a TEDRA action seeking her removal, an accounting, and, of course, attorneys' fees under RCW 11.96A.150.

How and why did this happen? Can you prevent it? In our example, the trust instrument (or Operating Agreement for the LLC) named the daughter to serve as the successor trustee (or manager). She may have succeeded to that role as a result of her father's incapacity. At that point, she may or may not have sought legal counsel to accomplish the succession. If she did seek legal counsel, she may have used that counsel for the sole purpose of documenting the change of trustee or manager. She then proceeds to administer the trusts or LLC as she would her own assets. No one advised her about her new role. Along the way, the decisions she makes and the actions she takes may constitute a violation of the terms of the trust or LLC agreement and/or her fiduciary duties.

These types of situations typically arise from a lack of knowledge and legal advice. Frequently, the successor fiduciary is surprised to learn that he or she has handled things incorrectly and, more significantly, is shocked to find out that he or she faces potential personal liability. The

situation is usually more difficult if there is more than one entity involved. It is also *always* more difficult if there is a history of animosity or distrust among the siblings.

It is not uncommon for a child to accept the role of successor trustee of a testamentary trust, yet fail to seek legal guidance as to what it means to be a fiduciary, and what responsibilities and duties the fiduciaries owe to other parties. This also occurs when a child becomes the manager of a family LLC. Or, the new fiduciary may have a loose relationship with an attorney who has had a long-time relationship with the parents for estate planning purposes or business advice or maybe the attorney who handled the probate in our example above. Whatever the particular circumstances, a common theme is a significant lack of knowledge of the terms of the underlying instrument, the duties arising from the fiduciary role (either as trustee or as LLC manager) and to whom those duties are owed.

Additionally, the successor fiduciary may be unaware that she has periodic reporting duties – a problem we are even more likely to see after January 1, 2012, when the 2011 Washington Trust Act goes into effect. She may not know how to properly title assets or that commingling is not allowed. She may not have kept any receipts. It is likely that she has never even read the terms of the trust or the LLC agreement.

Why is there a problem now? If the successor fiduciary is a child of the former fiduciary, there are often other family members who have an interest in the entity or who may be a fiduciary for the parent(s) by virtue of another instrument, such as a power of attorney. Some event may occur, such as the commencement of a guardianship proceeding or the death of one of the parents, which triggers a closer look at the successor fiduciary's activities. Another scenario involves a sibling who becomes attorney-in-fact for a surviving parent and takes a keen interest in the activities of the successor fiduciary sibling. At that point, the successor fiduciary may begin to receive questions, requests for accountings, and, possibly, accusations of misconduct.

This situation can arise despite the fact that the successor fiduciary may have simply continued practices employed by the parent fiduciary. The other family members may have been unconcerned about the parent's management of the entity and content with whatever the parent wanted to do. After all, it is his money and property, right?

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What issues does the successor fiduciary face? Typically, they involve one or more of the following:

- (1) Commingling either between entities or with the fiduciary's individual funds;
- (2) Taking a trustee or manager fee that other beneficiaries believe is unwarranted;
- (3) Use of assets from one entity to benefit another entity or loans from one entity to another;
- (4) Failure to document decisions and transactions; and
- (5) Failure to obtain approval from the appropriate persons with authority to grant the approval.

What happens next? The successor fiduciary retains counsel. And the education process begins. One of the first things that the successor fiduciary learns is that, by virtue of her role, she will be judged by a higher standard. When the client comes in for the initial meeting, she often believes that she is involved in a dispute between equally placed parties. At that time, she learns that a court is not going to view her conduct in the same manner as a defendant in a commercial dispute or an accident case. She cannot believe that she is being scrutinized when she is obviously the child that the parents trusted the most to place in this position as successor, and has made personal sacrifices to attend to trust or LLC business.

Next, and once she settles down, the client is introduced to the concept of wearing different hats and learns about conflicts of interest. Clients typically grasp these concepts quickly, but often had never thought about them in this way before.

It is not uncommon to hear a successor fiduciary say, "No one ever told me I needed to do that." Or "Why didn't my accountant or lawyer (who handled probate or continued to function as an advisor for business) tell me I had to do that or that I couldn't do that?"

With respect to legal counsel, the problem, of course, is that the successor fiduciary never retained the attorney to represent her as successor fiduciary. Unfortunately, sometimes the successor fiduciary believes that the prior attorney relationship extends to her. Or, if she was present at meetings with the attorney during the probate process, she believes that if there was something she needed to know, the attorney would have provided her with instructions as to how to act as a fiduciary.

Clients also, not infrequently, believe that because they have worked with an accountant and discussed ongoing

matters involving the assets, somehow their conduct and decisions have been "approved." They fail to understand that their issues may require legal advice in addition to accounting or tax advice.

Query: *Should the accountant advise the fiduciary to seek legal counsel? Does he have a duty to do so?*

"But I just did things the way Mom and/or Dad did them!"

Sometimes, this is exactly what happened. But, if a will creates testamentary trusts into which assets are distributed, the trustee of those assets does not have the same freedom to act as the prior outright owner, the parent.

Or, in the case of a corporate entity, the parent also failed to function appropriately and the practice just continued. Unfortunately, when it is a sibling who is now in control, other interested parties (typically siblings) may not be willing to accept continuation of practices employed by their parents. Or maybe the siblings have been waiting for that favored sibling to mess up and the parents to be gone. You should never underestimate how family dynamics will shape these situations, and conversely how knowing what they are can be useful to resolving the conflict.

Say one of the siblings has taken over managing the family business -- that business may have been intertwined with the parents' other assets during the time the parents managed the business. What happens if there are multiple entities such as a corporation and a trust, both of which are managed or administered by only one sibling? What if that sibling decides to loan trust assets to the business without notifying the other interested parties? Before the creation of the testamentary trust, use of that basket of assets for loans may have been a relatively common practice employed by the parents. The problem is that those assets are now owned by the trust and the person with control of the trust may have a conflict of interest between his role as manager of the business entity and trustee. He may owe fiduciary duties to different people or in different percentages. Also, his use of trust assets to fund loans is now subject to scrutiny.

What can be done to avoid these problems? The best means for successor fiduciaries to avoid problems is to obtain legal counsel early on and check in with such counsel periodically. If you, as the probate or "family" lawyer, meet the child who is nominated as successor trustee, tell her that it is crucial to seek legal advice when she succeeds to the new fiduciary role. Encourage her to form a continuing relationship with an attorney, whether it be you or a trustworthy colleague who understands fiduciary duties.

If you represent the parent(s) and have never met the child, advise your own client of the importance to the parents and their successors of maintaining an ongoing

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This article originally appeared in the December 2011 "In Sight," the newsletter of the Oregon Attorney Assistance Program. <http://www.oaap.org>. It appears here with the permission of the author. The newsletter's full title is "In Sight for lawyers and judges: Improving the quality of your personal and professional life."

Organizing Life Your Way

by Meloney C. Crawford – Attorney Counselor, Oregon Attorney Assistance Program

Have any of the following situations ever happened to you? Were you late to an event because you misplaced your keys or wallet? Do you feel like you never get caught up with tasks at the office or at home? Do you start out with a "to-do" list but regularly get sidetracked by urgent matters that crop up? Have you tried to implement a popular time management or organizational scheme but gone back to your old behaviors after a week or a few days?

If you answered yes to any of these questions, you are not alone. Many people struggle with time management and organization, attempting over and over to adopt someone else's systems. Maybe you fervently wish that the next system, device, or organizational guru can provide the magic answer to get your life running like clockwork. But have you ever considered that maybe there isn't a "one size fits all" solution?

If you feel discouraged that your situation will never change, keep reading. This article will offer a new way to think about the subject. If you have a co-worker or family member you feel is hopelessly disorganized, perhaps this article will give you a new understanding of the organizational challenges many people face.

Part of the problem that has people wrestling with the issues of time management and organization is the nature of modern society. Today, our lives are filled with a continual

stream of information. In the not-so-distant past, we had to make an effort to seek out information. We now live in a state of 24/7 connectivity: information is frequently "pushed" to us, rather than something we go looking for. Most people agree that this isn't necessarily a bad thing. Information at the fingertips can be helpful, convenient, and fun – and we can use it to enhance our lives. However, we may not adapt to this barrage of information as well as we think we do.

Dr. Edward Hallowell, coauthor of *Delivered from Distraction: Getting the Most Out of Life with Attention Deficit Disorder*, observed that many people who seek treatment for attention deficit disorder (ADD) do not actually meet the clinical diagnostic criteria, yet exhibit traits of ADD. They may be easily distracted, impulsive, and restless. Or they may have difficulty completing tasks, be frequently late for appointments, and generally underachieve compared with their expectations. Hallowell identified these conditions as attention deficit traits, and attributed them to overload from the constant demands of high-tech devices in an information age. We have the illusion of getting more done, but actually our attention is diluted while we check e-mail, voice mail, texts, news updates, and so on.

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relationship with an attorney. Write a letter at the conclusion of the probate advising of the same. Consider asking your client, the parent, if you can send a letter to the nominated successor trustee advising her to seek legal advice if and when she assumes the role of fiduciary.

Also, you should consider providing a copy of the *Fiduciary's Handbook* by the Estate Planning Council of Seattle to your client and/or the successor trustee. Another possibility is to recommend that your client or the successor trustee consult with a professional fiduciary for some basic training as to how to function as a fiduciary.

You can also send a letter setting forth information regarding basic fiduciary duties and specifying certain actions that might take place during administration that would warrant advice from counsel.

You should definitely think twice before transferring assets into a family LLC as part of, or to wind up, the probate process. In this economy, some clients simply do not

want to liquidate the newly inherited assets, so it is tempting to advise them to place them in a family LLC until the economy improves and they can sell the assets. Based on our experience, this situation is begging for litigation unless the siblings get along famously and are all easy going. Consider instead non-pro rata or in-kind distributions of the assets outright to the beneficiaries so that they control their own destiny with regard to the assets and so that unsophisticated parties are not placed in fiduciary relationships that they are not equipped to handle.

Finally, if your client refuses any further services, memorialize that desire in correspondence and, again, recommend that he and any successor seek legal advice. Of course, your letter may become Exhibit A in the other siblings' case against the fiduciary, but at least you've done what you could to get your point across. The advice doesn't have to be constant, but education and advice can make a big difference to the fiduciary, especially a successor fiduciary.

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Ultimately, we can become anxious and irritable, losing the ability to access our higher brain functions: flexibility, humor, innovation. Hallowell concluded that lawyers are particularly susceptible to attention deficit traits: "They think they're working hard, and they think they're being productive, but they're not. They're busy, but they're not thoughtful." Compounding the problem of information overload is the fact that most lawyers have demanding schedules and workloads, making it very challenging to maintain an organizational balancing act.

This problem requires a different solution. Instead of thinking about how you can cram more activity into an already jam-packed day (or even just juggle your current schedule), contemplate what your life could be like if your daily experience was trimmed down to the essentials – the things that really mattered. Designing your day around what is truly important to you is a highly individual task – everyone's idea of balance and organization will look different. It is up to you to select from the available tips, tools, and suggestions and to customize a solution that works for you.

Let's first take a look at what some of the experts have to offer. In her book *Never Check E-Mail in the Morning*, organizational coach Julie Morgenstern suggests that the first hour or two in the office is the most productive for many people, yet we frequently spend it combing through our inbox, answering routine requests, and deleting spam. Alternatively, she suggests putting a header on your e-mail specifying when you check your incoming messages, and use that most-productive time for tasks that require innovative and creative thought.

Once you've carved out productive time, the next challenge is to identify the high-priority items in your day, particularly when the demands of your personal and professional lives overlap. Sorting out these matters can be as simple as making a list and prioritizing it according to most important, less important, and least important, or high, medium, and low priority. This type of format is favored by our logical and linear left brain, but it leaves our emotional, more intuitive right brain out of the decision-making process.

Business journalist and television commentator Suzy Welch presents a different model in her book *10-10-10: A Life-Transforming Idea*. She considers the impact of a decision in the following time frames: 10 minutes, 10 months, and 10 years. Considering the mid-range and long-term consequences of whether to work late or go to your child's softball game supplies a "big picture" perspective that might have been missing. Time management pioneer Alan Lakein (author of *How to Get Control of Your Time and Your Life*) coined the eponymous "Lakein's Question": "What is the best use of my time now?" Finally, some of us may

simply choose to take the next action that seems appropriate at the time.

However you decide to prioritize your time, make sure it is your own choice and reflects your values and concerns rather than external pressures. We all have to cooperate with outside demands on our time, but consider whether you are mostly making choices that are consistent with your overall life priorities or whether you are letting outside circumstances completely dictate your schedule.

Let's say that after reflecting on your true priorities, you see that you would like to free up some time or make your organizational systems work more effectively for you so that you can spend more time on other activities or with other people. So you decide you need to implement some changes. What is your next step? Where do you start?

A common temptation is to make big, sweeping changes, like tackling the entire office filing system, or upgrading all of your technology, or putting in place a new marketing plan. The motto is often out with the old, in with the new. But anyone who's ever made a well-intentioned but fleeting New Year's resolution (e.g., quitting smoking, losing twenty pounds, going to the gym daily) only to fall back into old habits within a week or two, knows how challenging radical change can be. Don't set yourself up to fail and get discouraged. Resist the temptation to overhaul any single system at one time.

Instead, most experts advocate gradual change as the key to long-lasting results. As the kindergarten joke asks, "How do you eat an elephant?" "One bite at a time!" Consider shrinking the size of the changes you plan to make in any given time period. When your office (or closet or car) needs to be decluttered, think about a 10-minute intervention – clearing your desk or sorting out a desk drawer – instead of tearing the entire room apart for the afternoon. Visualize the changes you want, step by step, including the successful result. It's great to have a long-term plan for major change. Just be sure you set a realistic time frame for accomplishing your goal.

Chip Heath, coauthor (with his brother Dan) of *Switch: How to Change Things When Change Is Hard*, wants people to think about change in an entirely different way. He observes that the key to personal change is the opposite of what we generally assume. Rather than *thinking* our way into change, using a logical, left-brain process, we might try to invoke a *feeling* to gain the necessary motivation, using the more emotional right brain. The Heath brothers use an image of the rider and the elephant to describe the change process. Although most of us assume that the rational rider holding the reins is in charge, it's actually the instinctual elephant who has the true power to get places. The rider takes the

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Guest Columnist

Starting with this issue, *Life Begins* plans to feature Senior Lawyers as guest columnists. Our first guest columnist is Bob Welden, recently retired WSBA General Counsel.

Columnists are free to opine in 500 – 1,000 words on the soapbox of their choice. Topics that most Section members have faced or will face will be of great interest to our members. However, guest columnists may write about any subject from astronomy to zoology.

One topic of wide interest to our readership is retirement, whether in the future, the present, or the past. What will I do with my free time? How will I finance the remainder of my life without a paycheck? What will I do with my 401(k)/IRA? COBRA? What books do I want to read? Where do I want to travel? What projects can I no longer avoid?

Life Begins encourages potential columnists to submit articles to our editor, Carole Grayson, at cag8@uw.edu.

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intellectual viewpoint and often gets bogged down in “paralysis by analysis,” while the elephant simply keeps taking action and correcting course. However, the elephant does not try to cover too much ground right away, sensing that starting any endeavor for the first time is always challenging.

This simple analogy reminds us that our goals should be positive and attainable. Think about why you want to make a change in how you manage your time or how you organize your life. What difference will that change make in your life? How will you feel as a result of that change? The answers to these questions are the keys to sustaining your momentum over the long haul and creating the lasting change you desire.

Making any kind of change is difficult enough on your own, so consider asking for support. It also helps to remember your successes, not your failures. Starting anything for the first time is the hardest thing to do. Give yourself credit for small steps. Expect and be forgiving about setbacks. Keep track of your progress, and make adjustments according to what gives you the best results. You will be impressed at how incremental adjustments add up to lasting, significant change!

R is for Retirement and Reading

by Bob Welden

Retirement. People ask, “aren’t you bored” or “don’t you miss working,” and the answer is emphatically “no.”

I was admitted to practice in 1970. I was in private practice in a small storefront law firm in Pioneer Square; I worked in a contract position with Legal Services; I was a Public Defender. I worked at the WSBA for 30 years – as discipline counsel for seven years and as General Counsel for 23 years. It was a wonderful job that, in law school, I never could have imagined because I didn’t know it existed. But after 30 years, and at age 66, I decided it was time to move on. So as of October 1, 2011, I became a pensioner.

My partner Jeff and I own a home in Palm Springs so at the end of October I headed south. I don’t play golf or tennis but Palm Springs is retirement heaven. In the nearly five months I have been here, there have been only three days when it was too cold or wet to sit on the patio with my morning coffee and newspaper. We visit friends, go to restaurants, enjoy the art museum, and just hang out.

Armchair Gumshoe

One of the first things I did was get a library card. The Palm Springs library is much smaller than Seattle’s, but it serves the purpose. I have chiefly spent my time on the patio by the pool reading mysteries. Here are a few of my recommendations. I prefer mysteries that are written in series, as you will see.

- **Donna Leon:** She may be my current favorite. Her stories are set in Venice, Italy, and feature Commissario Brunetti. As he sets about to solve the mysteries, Leon describes the city as he walks about. She also describes the wonderful meals that Brunetti enjoys with his wife and two children. There’s even a *Brunetti’s Cookbook*. Brunetti solves the mysteries but most of the times the bad guys get away with it due to corrupt Italian politics! I recommend reading the books in order. There are 20 novels, with a new one to be published in April. Information is at www.donnaleon.net.
- **Kate Atkinson:** She writes the Jackson Brodie stories that have been dramatized on PBS. They are set in and around London, and again I recommend reading them in order, starting with *Case Histories*.

continued on next page

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- **Rhys Bowen:** This author was a new discovery recommended by a friend. She has written three series of mysteries. The first books concern a Welsh Constable, Evan Evans, and are set in a small mountain village in northern Wales. The second series features a young Irish immigrant to New York City named Molly Murphy; it is set in the early 20th century. The third series features Lady Victoria Georgiana Charlotte Eugenie, cousin of George V, 34th in line to the throne and flat broke, who is charged by Queen Mary with particular spy duties, particularly keeping tabs on the Prince of Wales and Mrs. Simpson. All highly recommended.
- **Christopher Rice**, son of Ann Rice, sets his tales in California. The stories are good, but at times he gets very involved in his characters' angst to the point of annoyance.
- **Greg Herren's** stories are set in New Orleans, and feature a gay former cop turned private eye named Chanse MacLeod. Very atmospheric of New Orleans. We spent

the first week in February in NO for the ABA Midyear meeting (I am still on the ABA Standing Committee on Professional Discipline). The first of the Mardi Gras parades were put on that week. My favorite was one in the French Quarter called "Barkus" featuring people and their dogs!

- **Ron Goulart:** I just stumbled on these books in the library because the covers feature drawings of one of the chief characters, Groucho Marx. Because it is Groucho, sometimes the wise cracking goes overboard, but they are generally very entertaining.
- **Patricia Highsmith**, the master of "chilling menace" as one of the cover blurbs says, with her creepy protagonist Tom Ripley. Impossible to put down.

So many more, but that's enough for now. I encourage you, when the time comes ... enjoy retirement doing whatever it is you like to do.

Online Directory of Pro Bono Opportunities

The WSBA is pleased to announce the launch of www.ProBonoWa.org, an online directory of pro bono opportunities around the state. Designed to link attorneys with opportunities to serve low- and moderate-income clients in Washington, www.ProBonoWa.org will connect attorneys with organizations in need of pro bono attorneys.

As part of WSBA's strategic goal to enhance the culture of service among its members, the WSBA is excited to maximize the valuable work and dedicated commitment of pro bono attorneys. The WSBA will maintain and update www.ProBonoWa.org ensuring that attorneys seeking volunteer opportunities have the most up-to-date information available needed to link their skills with the clients who need it most.

Special thanks to the Northwest Justice Project, Probono.net, and the Washington Young Lawyers Division Pro Bono & Public Service Committee for their invaluable partnership and support to launch ProBonoWa.org!

Article Ideas? Your Input Is Needed!

Life Begins, the Senior Lawyers Section newsletter which you are reading at this very moment, works best when Section members actively participate. We welcome your articles and suggestion regarding *your lives in or out of the law*.

Please contact Carole Grayson, editor, to submit an article, or if you'd like to write an article, or if you have ideas for article topics. Here's how to reach her: phone (206) 543-6486, email cag8@uw.edu, fax (206) 543-3808, or snail mail at UW Student Legal Services, Box 352236, Seattle, WA 98195.

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- Sign up for the Moderate Means Program.

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