

# LIFE Senior Lawyers Section Newsletter BEGINS



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## Letter from the (Interim) Chair

# THE MORE IT CHANGES, THE MORE IT...

By Carole Grayson, Interim Chair (Oct. – Dec. 2022)

**A** cold, wet late spring. Summer also comes late... then goes on and on and on, hot days and hot nights (unseasonably, or Seattle's new normal?) through September's shorter days, hanging on until, yikes, Halloween! Trick or treat!

And now autumn in mid-November as I peck, one finger at a time, on the Notes function of my iPhone 6S, on day nine of crisp mornings, shiny sunny days. We will go on to break the record—14 consecutive November days with no precipitation. So much for November being the rainiest month of the year.

### Change happens in its own time, in its own way

CLE changes? The old, long-time trusted model was in-person. The newer model, Zoom. Then, seeking some

semblance of balance, came the hybrid model: attend in-person or remotely, whichever you want. What will our 2023 CLE crystal ball say? Our Executive Committee and WSBA staff are examining options. During the heart of the pandemic, the Senior Lawyers Section hosted several successful Zoom mini-CLEs. For 2023, we hope to hold a major CLE in late April or early May, perhaps the hybrid model, but nothing has been finalized. Stay tuned for developments regarding when, where, who will be the presenters, how many hours and CLE credits will be offered, and what the cost will be.

### The More It Changes...

*(Pick one of the following.)*

- ... the more it stays the same.
- ... the more it changes.
- ... the more I don't want to get out of bed.

### Tapping Resources

Our newsletter's Member Spotlight is on the Section's Young Lawyer Liaison, Sabiha Ahmad. She is a late

*Continued on page 2...*



2022-2023

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## Letter from the Interim Chair

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millennial, admitted early 2022 and a member of our Section. (Our bylaws allow a lawyer of any age to join the Senior Lawyers Section. To serve on the Executive Committee, however, one needs to be at least 55 years old or have been admitted to practice for at least 25 years.) Sabiha is interested in our experiences as senior lawyers. One thing I've learned from my UW career working with third-year law students since 2000, and during my retirement teaching fall quarters as co-instructor of the Solo & Small Practice class at UW School of Law, is that, indeed, we veteran lawyers know a lot. OK, not the latest court procedure or leading case. But the important stuff: persuasive advocacy, tapping resources, how to get things done. Sabiha is already lending her perspective and energy on some of our subcommittees. We look forward to her keeping us in the loop for potential opportunities to enhance the relationship between our Senior Lawyers Section and the Young Lawyers Committee.

The WSBA automatically includes all lawyers in their first five years of admission on the Young Lawyers Committee. At the other end of the practice spectrum, our Executive Committee Task Force, led by Brian Comstock, is re-launching efforts to increase section membership. One source of inspiration are state bars which automatically extend free membership in their senior lawyer sections to lawyers who have reached a particular age or extent of practice. According to WSBA licensing and demographic information for all lawyers as of Dec. 1, 2022 ([click here for more info – as of Feb 1, 2023](#)), the number of active status lawyers who have been admitted to the WSBA at least 25 years is about 13,000. Our Section has 223 members. The 13,000 lawyers possess extraordinary life experience in and out of the law. As our newsletter article by Dr. Charles A. Ericksen notes, we are exploring, consciously or not, what constitutes a life, at whatever stage, and how to create (find?) meaning.

### Mentoring

The links between young lawyers and senior lawyers, and Dr. Ericksen's article, lead me to wonder: Most of us are probably natural mentors. Did you know we can obtain CLE credit (1 credit for each 60 minutes of mentoring) in the WSBA's self-directed structured mentorship program ([Mentoring Program Guide](#).) Fortunately, there are guardrails to the mentor-mentee relationship. The express limits on scope and duration will be helpful to any mentoring lawyer fearing long-term shackles.

Our Executive Committee covers the spectrum of career cycles. Our dozen members are fully retired from lawyering or judicial service, or mostly retired except for part-time or seasonal gigs, or still fully practicing law in a firm or corporate setting.

Over the last decade, our Executive Committee has led successful efforts to address and acknowledge the widespread transitions lawyers experience over time. When I joined the Executive Committee in 2007, the WSBA's category for lawyers who had retired and ended their active status sounded, well, Nixonian. These lawyers were said to have resigned. Our Executive Committee thought the designation sent an unfortunate message of something not quite honorable. We contacted the WSBA with a suggestion that the status be changed to "voluntarily resigned." Time passed, and that indeed came to pass.

A more recent successful effort initiated by our Executive Committee resulted in the Supreme Court granting sections the authority to decide whether to allow inactive status lawyers to serve in governance positions (i.e., on their Executive Committees). For more info [click here](#).

Our other subcommittees are also hard at work. Our Survey Committee (EC members Brian Comstock, Jeanine Lutzenhiser, and David Sprinkle, and Young Lawyer Sabiha Ahmad) are developing a brief survey to send to our Section membership.

Our newsletter, *Life Begins*, has a new look and energy, thanks to Jim Riehl, ret., Kitsap County District Court.

Regular newsletter columns by Supreme Court Justice Barbara Madsen, Dr. Charles A. Ericksen, and Jeff Tolman are worth their weight in gold.

And now, my stint as interim chair is up. I served as chair of the Senior Lawyers Section from 2014–17. What has never changed in my years in the Senior Lawyers Section is my delight with our Section’s collegiality, institutional history, embrace of transitions, and advocacy for the unique needs of senior lawyers. I now turn the reins over to David Sprinkle, our interim chair from Jan. – March 2023. **See page three of the Fall 2022 Newsletter** to read all about David. //

# MEMBER SPOTLIGHT

BY SABIHA AHMAD



Sabiha is third from left, holding a balloon and flowers.

## THE EPISODE OF NETFLIX’S *THE CROWN* THAT NEVER AIRED

**I**N 1947, a 48-year-old Oxonian attorney was given five weeks to redraw the borders of India and create a new nation. Sir Cyril Radcliffe had never set foot in India, and after drawing the borders he never returned. An estimated 200,000 to 2 million people were killed in the violence that erupted, frequently between old neighbors and friends. Overnight, millions lost homes that had been in their families for centuries. Imagine splitting the baby down I-5, and not something more obvious like, say, the Cascades. Dominus illuminatio mea.

My family didn’t go to Oxbridge and didn’t get a vote on the matter. They were among the millions that fled across the new border and eventually to other lands. I was born in Auburn and grew up in a house my grandfather purchased just off Central Avenue in Kent. My sister and I ran around the bends of the Green River in our backyard, knowing nothing of Gary Ridgway. When the Regional Justice Center was built, with its grand columns and dome, my five-year-old self thought the White House had moved to town. The municipal court sat just behind our house, and what

we imagined was an old Victorian castle down the block was actually a criminal defense firm. My parents worked tirelessly to keep our heads in the clouds—afternoons whiled away at the local library, forever pining for a giant Arthur the aardvark stuffed animal that swung from the library ceiling.

In the clouds, I knew my father as a gregarious sole owner-operator of a

*Continued on page 4...*

small shop where he sold cigarettes and coffee for a living. He was so beloved we couldn't go anywhere in downtown Auburn without being stopped by his customers. I learned to mimic my father's regulars, giving him a dap and yelling "waaassssuuuuup Beeeenie!" as soon as he crossed the threshold after 12-hour seven-day shifts. When I emerged from the clouds in adulthood, I learned in actuality my father was forced to employ himself. Due to harassment, he had lost an opportunity to build a white collar career at Puget Sound Energy.

I suppose I am my father's daughter—I have never aspired to be an employee. However, I've read enough English lit to be enamored of the idea of being an apprentice—of learning a trade by close observation, with the intention always of branching out on my own. There is no age at which I can ever imagine being entrusted with drawing a border of a town, much less two countries. It's enough to hold onto a home, a language, a culture, a cuisine, and a community.

And that's the long and short story of how I ended up in a small and solo practice course taught by Andy Benjamin and Carole Grayson at UW law. After class one day Carole suggested that I consider joining the WSBA's Senior Lawyer Section as a young lawyer liaison once I passed the bar. It seemed sensible to get acquainted with seasoned practitioners who enjoyed the law enough to voluntarily continue associating with lawyers in their free time.

The Section has been a warm and welcoming bunch. I've felt immediately embraced and encouraged to contribute to the group's success. What I've learned from the history of my people is that free agency is the only agency, but free association is not too shabby—if you can keep it. Thank you to Judge Riehl for his incredible patience with this submission, and to Carole and the gang for always humoring my very free form of expression. Here's to more freedom, and more free association in the new year. //

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"The Section has been a warm and welcoming bunch. I've felt immediately embraced and encouraged to contribute to the group's success."

# WSBA Sections JOIN NOW!

Connect with others in the legal profession.

## WHY JOIN?

Membership in one or more of the WSBA's 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
- Resources and referrals
- Leadership opportunities
- Career advancement
- Opportunities to affect change in the legal system

## PRACTICE AREAS

With 29 sections, you'll likely find several that align with your practice area and/or interests. Learn more about any section at

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

## NEW MEMBERS FREE

Newly admitted members can join *one section for free* during their first year.

## LAW STUDENT DISCOUNT

Law students can join any section for \$17.66.

## MEMBERSHIP YEAR

January 1 to December 31.

## JOIN NOW, ONLINE!

<https://www.wsba.org/aboutsections>

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- Animal Law
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- Business Law
- Civil Rights Law
- Construction Law
- Corporate Counsel
- Creditor Debtor Rights
- Criminal Law
- Dispute Resolution
- Elder Law
- Environmental and Land Use Law
- Family Law
- Health Law
- Indian Law
- Intellectual Property
- International Practice
- Juvenile Law
- Labor and Employment Law
- Legal Assistance to Military Personnel
- Lesbian Gay Bisexual and Transgender (LGBT) Law
- Liquor, Cannabis, and Psychedelics Law
- Litigation
- Low Bono
- Real Property, Probate and Trust
- Senior Lawyers
- Solo and Small Practice
- Taxation
- World Peace Through Law



# WSBA Sections



# TRAVEL

## ANTARCTICA –

### *Journey to the Bottom of the Earth*



By Jenny Rydberg

*Icebergs. Whales.* Penguins who waddle up to you. Seals. Ice as far as the eye can see. Pristine wilderness. Icebergs of all sizes and shapes, their edges carved by wind and water. This and more in a once-in-a-lifetime visit to the Southern Ocean.

Inspired by fabulous photography taken more than 30 years ago by a Boeing colleague of my husband, Ray, we decided to celebrate the sale of my law practice with this month-long trip, scooting out of Seattle in early 2019 minutes before SeaTac

Airport was closed for snowstorms. We opted for the full-meal deal: Falkland Islands, South Georgia and Antarctica, the kayaking option for me, and a post-trip visit to Iguazu Falls. After overnighting in Buenos Aires, we stayed in Ushuaia, explored Tierra Del Fuego National Park, and took photos at the post office at “the end of the earth,” the southern end of the Pan American Highway. Guided by Polar Latitudes, we were off to sea in the *Island Sky* for 19 days in a ship of luxury—99 passengers, 70 crew, and an emergency room MD from Anacortes on board whose nurse/son was with us and is an alumnus of my husband’s high school in Burien.

We received a complimentary room upgrade, so were on the deck above the ocean’s surface. Note: Everything

except chairs was bolted to the floor; we were soon to find out why. Food available 24/7 and three fabulous formal meals daily in the dining room, also in the lounge or outside on the starboard deck. College-level, entertaining but substantive lectures, complete with slide shows and video, every morning and afternoon given by the scientists

tall seaside cliff, we viewed a huge albatross and penguin rookery: Birds soared and swooped over us, fed their young, and nested mere feet away from us. Check out the *The Falklands – MiniWars #1* on YouTube for an entertaining seven-minute presentation of the Falkland Islands history.

Another two days at sea brought us to South Georgia, a collection of uninhabited islands and one research station, and the first of 19 sea kayaking experiences. Ernest

Shackleton is revered here. Key to the success of the bird populations here is the more than 7 million rat eradication project, the success of which depended on the partitioning of the larger islands by glaciers that have since receded due to global warming. The focus today is on eradicating seeds and plants not native to South Georgia.

First stop: Salisbury

Plain. The fog lifted for us after breakfast, replaced by a rainbow, then we were on shore with 250,000 King penguins, including 60,000 mated pairs, with fur seal pups and mothers galore. Back to the ship to warm up and have lunch, then we were off to Prion Island, loaded with fur seals, albatross, and petrels. The 45 knot wind gusts were strong enough to knock me over with a gust had I been surprised, yet the albatross flew gracefully above us while we tried to keep our distance from the fur



*I did it! 19 kayaking trips! (photo taken in Grytviken Harbor, South Georgia)*

on board, who were also our guides. The in-depth science and research presentations on board ship were mesmerizing to us and understandable by everyone. Our historian was Captain Robert Scott’s grandson.

#### **Fog and Rainbow**

Breathtaking were the whales at sea, then the unspoiled wilderness greeting us following our two day sail to the Falklands. After hiking over one of the Falkland Islands to a rough,

seals, even when the corn snow was horizontal. My trip journal notes: **Bottom line, WOW this was an adventure!**

We spent eight days exploring the shores of South Georgia's islands, on board ship, in Zodiacs, walking on shore, and kayaking along the shores. For us, the weather was spectacular, and the wicked storms were always a day or so on our tail, thus not interfering with our experiences. Elephant seals are huge and ugly; fur seal pups are cute and adorable, though their bites are dangerous. We saw penguins just about everywhere. At one harbor, there was a surprise attack by a leopard seal when I was kayaking, so I witnessed thousands of penguins instantly leaving the sea and running away from shore with organized precision, leaving a frustrated seal behind them. We all paid homage to Ernest Shackleton at his gravesite in Grytviken, toasting him with special whiskey.

### Words Cannot Describe

St. Andrews Bay is home to about 120,000 mated pairs of king penguins, for a total of about half a million. Lots of fur seals and pups. We landed on the beach but could not go up on the grasses because there were so many seals on the grass. We kayakers were treated to a spectacular view of the sun-covered mountains as we rounded the spit into the bay.

Penguin Island gave us the opportunity to hike up to the caldera of an active volcano, see wildlife feeding on a beaked whale carcass, and kayak in glassy smooth water to view icebergs and the calving cliff of a glacier. It is noisy to paddle over ice!

One morning started with kayaking in Jonah Bay, the sea covered with a thin crust of ice formed by the snow. Wind at 1 knot; air at 32°. I wrote: "Words cannot describe how beautiful this was." We paddled through the ice crust all over the bay, keeping our distance from a leopard seal—about

an hour before we were there, it had reduced a fur seal pup to a skeleton; our guide said the skinning was cleaner than any he had done of a deer he hunted. Four male elephant seals claimed the beach we aimed for; we did not challenge them. The falling snow, fog, clouds, and sun over the mountains combined with far too many fur seals (one pup swam to the bow of my kayak), elephant seals, and birds to count and gave us a spectacular, gorgeous visual treat all morning.

### Sailors Heaven

Zodiacs brought us to shore and back twice daily, our returns greeted with hot chocolate and cookies. We saw king, chinstrap, magellanic, and macaroni penguins, fur seals, pups, leopard seals, crab eater seals, albatross, giant petrels, fin whales, orcas, humpback whales, southern right whales, dolphins (chasing the ship's bow), birds, and wildlife galore. Our Norwegian ship's captain navigated us into bays our guides had not been able to explore with prior captains. We learned why

*"Words cannot describe how beautiful this was."*

everything was bolted to the floor the night that waves and swells reached 15 - 21 feet, and winds of 30 - 35 knots were coming from 30 degrees off the starboard bow! I was in a sailor's heaven, but the ship's doctor was kept busy issuing strong anti-nausea medication to those who needed it.

During the two days' sail to Antarctica, we saw Elephant Island and its Point Wild, where Ernest Shackleton's crew survived for five months while he sailed to South Georgia to get help—it is open rock, so their upside-down life rafts were their only shelter. Gibbs Island is covered with over 80,000 chinstrap penguin nests—some of these penguins become food for male fur seals after they

breed—and giant petrels.

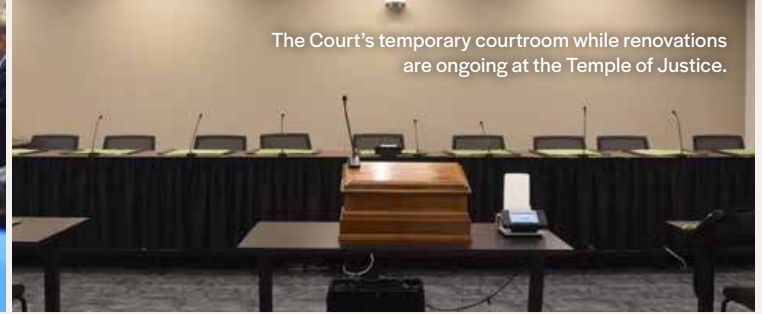
Finally, we arrived at the South Shetland Islands and the continent of Antarctica. Pristine white glaciers. Penguins by the thousands. Icebergs everywhere. Humpback whales breaching. Kayaking was spectacular, bringing us close to snow seals sunning on icebergs, mere feet from massive sleeping and breaching humpback whales, and through a sea of icebergs, all in sunny, dry weather. We came to latitude 64°37.9' South when "visiting the most humbling and powerful place on earth."

When our son learned we would take this trip, he was stunned that we would try to get through Drake Passage, notorious for its extremely rough waters. He quickly recovered and dared me to get in shape to kayak (I did!). But, with the wind and currents at our backs, the water's surface was as smooth as a mirror and we made record time for two days, doing 15.7 knots on a ship, the top speed of which is 13.5 knots, with warm, dry weather outside. This gave us time to view Cape Horn before

returning to Ushuaia through the Beagle Channel. After touring Ushuaia and its Prison Museum, we flew back to Buenos Aires for a whirlwind tour of the city (the Recoleta Cemetery is a mini-city of mausoleums, complete with boulevards and streets!) and a tango show, then spent three days exploring Iguazu Falls and the surrounding jungle, including rappelling down a 100-foot waterfall, ziplining through the jungle's canopy, and watching spectacular thunderstorms from the hammock on our screened-in porch before flying home with hundreds of photos and wonderful memories. //



The Court's temporary courtroom while renovations are ongoing at the Temple of Justice.



# THE WORK OF THE COMMISSIONS

*By Justice Barbara Madsen*

Every lawyer knows the Supreme Court's primary function is to hear the final appeal in state cases. Recently these have been heard in the Cherberg building but starting in January our home base is Tumwater Town Center (TC3), with gavel-to-gavel coverage on TVW. In a bit of self-promotion I note our court was the first in the world to televise appellate hearings.<sup>1</sup>

What is not so well known is what the court does when we are not sitting. Big picture, the court explores ways to improve justice, engages in rulemaking, provides leadership to the court system, oversees the WSBA and approves lawyer and judicial discipline. Each of these areas deserves its own discussion,<sup>2</sup> but the focus here is on the first imperative—improving the quality of justice. The court's understanding of its responsibility to ensure equal justice has evolved since I joined the court, leading to a series of court-created commissions and boards on which the justices serve or chair.

Beginning with the leadership and insight of Justice C.Z. Smith, the first (and biggest) issue we recognized was the impact of race on system outcomes.

To understand and address systemic racism the court formed the Minority and Justice Commission (M&JC) in 1990. The commission sponsors a yearly televised summit on "Race and the Criminal Justice System" and is currently conducting the largest jury demography survey in our state's history. Mary Yu co-chairs the M&JC.

Next, the court tackled the challenge of language access, a critical component in delivering justice. With leadership from Joanne Moore, the court established the first testing requirements for interpreters in the nation, later establishing the Interpreter and Language Access Commission. Its work has recently expanded to translating websites, court forms, and text-based documents. Helen Whitener is the court's representative.

Following a two-year study recommending sweeping reforms,

**Big picture, the Court explores ways to improve justice, engages in rulemaking, provides leadership to the court system, oversees the WSBA and approves Lawyer and Judicial discipline.**

the court next established the Gender and Justice Commission in 1995. The commission provides judicial education, bench guides on sexual and domestic violence, and guidance to the Legislature on protecting victims. Currently the commission is implementing recommendations from its multi-year study, 2021: How Gender and Race Affect Justice Now. Sheryl Gordon McCloud is chair.

Poverty drives injustice according to the Civil Legal Needs Study, a report commissioned by the WSBA and the court. Recognizing disparity based on economics, the court established the Access to Justice Board in 1994, housed in the WSBA. Recently the board adopted an ambitious state plan to reach underserved communities with race equity at its heart.

Injuries resulting from unauthorized practice of law was another concern the WSBA brought to the court. The famous story told by Gerry Alexander is of seeing a trailer on I-5 advertising wills for \$50. Needless to say, these services were not offered by lawyers, but did lead to creating the Practice of Law Board. The board currently focuses on public education and outreach. It

recently published its Legal Checkup Plan designed to help people determine if they have a legal problem and then guide them to legitimate resources for help.

The court's most recent commission addresses the child welfare system and its disproportionate impact on the poor and youth of color. The Commission on Children in Foster Care sponsors a yearly summit with the Mockingbird Society, developing a legislative agenda and recommendations for system reforms. Recently it oversaw development of standards for child representation. I co-chair this commission.

Finally, our newest justice, Helen Whitener, has expressed concern about court access for people with disabilities. As a result of her advocacy, it appears we have another commission in the works—the quest for justice never ends! //

1. The court required that coverage of the justices be voice activated to avoid recording justices yawning, turning their back on counsel, or having a bad hair day – concerns based on experience.

2. Coincidentally, giving this reporter significant material for future articles.



# YOU CAN'T TAKE IT WITH YOU— SPEND IT ON YOURSELF AND OTHERS

By David Godfrey

There is an old joke, that “if I can’t take the money with me, I am not going.” Living forever is not an option, but you can spend it on yourself and others while you are still here to enjoy it. Most baby boomers are children of parents raised during the Great Depression. Many boomers learned from their parents to be careful with money, avoid debt, and save for old age. The result is baby boomers have an unprecedented accumulation of savings. Forbes reports that the estates of baby boomers contain over \$30 trillion in assets. While it is nice to leave an inheritance, you can also leave memories of living well and sharing the joy.

### Take Care of Yourself

There are three motivations for saving for later life: (1) to make sure we have enough income, (2) to be able to take care of ourselves as we age, and (3) to share with others. Your needs need to come first, and you have saved your money, so make your life as comfortable as possible. We will discuss options for sharing the wealth while you are alive in the next section.

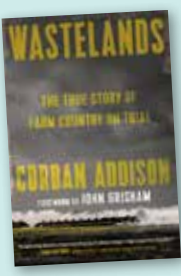
Investment advisors tell us they have the goal of assuring we have income for life. Part of how they do that is assuring that they have income for life by structuring investments so that the principal grows faster than income is withdrawn. A growing portfolio

assures an ongoing stream of fees and commissions to the advisors. Many of us will die with a higher net worth than we had when we retired. Most older adults are afraid to withdraw the principal. In our grandparents’ days, when the principal was often invested in bank certificates of deposit, this might have made more sense, but when invested in stocks and funds, the principal tends to grow over time. It is time to reexamine this practice.

Take care of yourself. Obviously eat well, stay active, stay socially and intellectually engaged. Some of this takes money. Do not feel shy about

*Continued on page 9...*

## LOOKING FOR A GOOD BOOK?



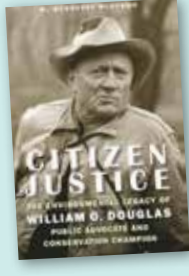
**WASTELANDS THE TRUE STORY OF FARM COUNTRY ON TRIAL**  
By Corbin Addison // Published 2022

THE ONCE IDYLIC coastal plain of northeastern North Carolina is home to a close-knit, rural farming community that for more than a generation has battled the polluting practices of large scale farming of hogs taking place in their own backyard. After years of frustration and futility, an impassioned cadre of local residents, led by a team of intrepid and dedicated lawyers, filed a lawsuit against one of the world’s most powerful companies—Smithfield Foods and its owners. After nearly a decade of litigation, the locals won. //



**DISCRETIONARY JUSTICE**  
By Kenneth Culp Davis // Published 1969

A BOOK PUBLISHED years ago but very applicable in today’s world. It explores the areas of discretionary justice that are beyond the reach of both judicial review and trial-type hearings. The author sets out the groundwork to confine, structure, and check necessary discretionary justice by government agencies while eliminating unnecessary ones, thereby enhancing justice. //



**CITIZEN JUSTICE**  
By Judge M. Margaret McKeown // Published 2022

JUSTICE WILLIAM O. DOUGLAS served on the U.S. Supreme Court for more than 36 years, longer than any other justice in American history. Famously liberal, he carved a deep and enduring path through American law, laying the foundation for the right to privacy and bolstering free speech, criminal defense, and environmental rights. But his legacy as an environmental activist off the court may have been even more profound. //



paying for the gym membership, or the expensive walking shoes, or going out to lunch with family and friends (well once it is safe to eat out again) that's money spent on keeping yourself well.

### Use your money to live where you want and the way you want

Over half of us will need long-term assistance with living, and about one-third of us will spend time in a nursing home in our lifetimes. The longer we live, the greater the likelihood that we will need to. It often starts with little things: needing help paying bills on time, difficulty with housekeeping, or meal preparation. Most older adults, unless they have had help over their lifetime, are reluctant to spend money on these services. Failing to do so can cascade into others thinking you cannot live in your own home any longer. So, hire the cleaning service, order delivery from your favorite local restaurant, or hire help with managing money as needed.

In over 20 years in this field, I have met only a handful of people who looked forward to spending the last weeks, months, or years of their life in a nursing home. Yet few people make realistic plans for care at home. The default action for health-care providers, when discharging a patient from the hospital who is going to need help with activities of daily living, is a nursing home placement. A nursing home may be the best option for short-term rehabilitation, or for persons who require intensive medical management. But most residents in nursing homes do not need that level of care; they are there because they needed some help and there was no plan in place for in-home or community-based help.

Assuming that the need for in-home care is post-acute, meaning following hospitalization for an illness or injury, it is probably best to work with a geriatric care manager to arrange in-home care. A geriatric care manager is an expert in coordinating services based on the

needs of the person and the availability of help from family and friends. For a person who has been placed in a nursing home, it is important for the person and their loved ones to start planning immediately for a transition home as soon as the person's condition is stable. The longer a person is in a nursing home, the greater likelihood they will die there.

How much care can be provided at home? As much as you can arrange and pay for. An emerging trend in other parts of the world is in-home ICU level of care. There are few programs doing this in the United States, but it is possible. Yes, it is expensive, but so is inpatient intensive care.

The model for providing care in a skilled nursing home is based on a hospital model of care and is much more intense care than most residents require—and at a much higher cost. The average cost of skilled nursing facility care in a semi-private room is \$89,297 per year; for a private room, it is \$100,375 per year. If we take that same amount of funding, at \$25 an hour, we can buy about 4,000 hours a year of in-home assistance. Unless the person needs complex medical assistance, in most parts of the country caregivers, housekeepers, and companion services can be hired for that rate. If you are going to pay for it, why not pay for it where you want it?

Don't I have coverage for nursing home care already? Yes, but not much. Medicare pays for a very limited amount of care or therapy in a skilled nursing home. Medicare covers the first 20 days, then the cost in excess of \$185 per day co-pay for up to 100 days. Medigap policies and some Medicare Advantage plans supplement this, but not for much beyond covering co-pays and deductibles. Medicare recognizes this as short-term rehab intended to get a person ready to return home, not as a long-term benefit. Less than 10 percent of Americans have long-term care insurance, and the market is shrinking, as insurance companies exit

the market and premiums rise.

Medicaid is the largest payor of skilled nursing facilities also known as nursing home care. Medicaid is a needs-based program, meaning beneficiaries are limited in what they can own. There are options for asset planning for Medicaid. If, heaven forbid, Bill Gates had a medical need for long-term care, give me 61 months and I can make him eligible for Medicaid. The first step is he transfers all his assets to me, all of his Social Security income to an irrevocable trust, then I private pay for his care for at least five years, then we place him in a Medicaid bed, in a semi-private room, and apply for Medicaid. That is a ridiculous example, but it is what a lot of middle-class families do when they engage in Medicaid long-term care asset planning. They surrender ownership and control of all but exempt resources with the best outcome being that Medicaid pays for nursing home care. Medicaid pays for some in-home care, but the benefit is not mandatory, and in most states the benefit is a fraction of what Medicaid would pay for inpatient care.

Medicaid asset planning falls into two categories, planning to protect a healthy spouse who is expected to outlive the spouse in need of care, and planning that merely preserves an inheritance for the children. The best-case outcome of this is the person whose life savings is being structured, will be placed with an unknown roommate in the nearest available nursing home with an open slot for a Medicaid patient. COVID-19 brought concerns about nursing home care to the forefront. About one third of COVID-19 deaths, over 100,000 people, have been residents in long-term care. Some facilities had infection rates as high as 80 percent.

I would urge that a much better plan is to use the assets and income you have to buy the care you want in the place you most want it.

An alternative to in-home care is

*Continued on page 10...*

"assisted living." Assisted living is complicated to write about because it is almost entirely licensed and regulated at the state level. What works in one state may not work in the next state. All assisted living provides private living quarters (most often apartments), as well as help with meals, cleaning, and personal care. In some states, assisted living can include limited health care assistance, in other states less so. Some assisted living allows professional home health care service providers to provide services in the facility, some do not. Some states limit assisted living for persons with limited mobility. Some assisted living facilities have specialized memory care services.

Virtually all assisted living is private pay. Medicare or Medicaid paid home-care may be able to provide limited home health services to a person in assisted living, but payment for the living accommodations, housekeeping services, and meals are generally all private pay. Assisted living costs can range from about \$3,000 per month to over \$6,000 per month, often with added charges for meals delivered to the room, personal care services beyond a minimum, or private transportation services. When you look at the cost of skilled nursing facility care, assisted living is almost always less expensive, and provides a much more home-like setting.

### Taking Care of Others: The Big Three

When you ask people who are about to receive an inheritance what they plan to do with it, the top three answers are to buy a car, buy or pay off a house, and pay off credit card debt.

When buying yourself a new car, consider giving your current car to a family member. There is almost always a difference between what a car is worth on the used car market and what you pay for it when you trade it in (the car dealer needs to make a profit.) That difference makes it possible to make a gift, at a reduced cost. Don't buy your kids a new car,

give them your reliable car, and treat yourself to a new one.

For most adults, their home is one of their two most valuable assets, the other being defined contribution retirement accounts. Helping our loved ones own homes is a great way to share our good fortune. A good starting point is increasing a down payment from the minimum to 20% or more. In most cases, this eliminates the cost of mortgage insurance, insurance that covers the lender in the event of default and does not benefit the borrower who pays for it. This can reduce the monthly payment by hundreds of dollars per month. Making additional principal payments can also make a huge difference. Adding \$250 a month in additional principal payment on a \$250,000 home with 20 percent down, pays the home off in just over 20 years, instead of 30 years. Even at today's extremely low-interest rates, the interest savings over the life of the loan are enough to buy a new Mercedes (when interest rates are high the impact is even greater). And you get to enjoy your loved ones enjoying the home. My father's only instruction to me as trustee of his estate was to pay off my house and encourage my brother to do the same.

Hopefully, if you have helped your loved ones avoid car loans, and afford a home, they will avoid the most expensive of consumer credit, borrowing on credit cards. Helping with essentials that are needed along the way, is another way to minimize credit card debt. Taking the kids and grandkids shopping for clothes, keeping their electronics up-to-date

and/or provide a family plan for cell service will help your loved ones avoiding expensive debt.

### Beyond the Big Three

Why should the kids wait until you are gone to enjoy a dream vacation? Go as a family. Spend quality time together and allow each other time apart. Explore the world or spend time in your favorite nearby getaway. Create memories that will last lifetimes for all of you.

Education can pay lifelong dividends. Higher education has gotten rather expensive. I am not a fan of anyone getting a free ride through higher education. I worked most of the time I was in undergrad and borrowed most of my way through law school, but a little extra cash from my parents bought groceries during law school. Make sure the kids have some investment in their education but help as you can.

Support causes that are important to you. Estimates are 4 out of 5 dollars in giving are from individuals. Giving based on a percentage of income is a "U" shaped curve, with a higher percentage of household income given by lower-income, and higher-income households. Another curve to flatten in retirement is to support causes that are important to you.

### Conclusion

I first encountered the concept of "spend it all" back in the 1990s. You cannot take it with you, take care of yourself, and enjoy your life savings with those you care about. Death does not care what your net worth is. Create memories, take care of yourself, and have a bit of fun along the way. //

#### David A. Godfrey, J.D. *Director, ABA Commission on Law and Aging*

David A. Godfrey, J.D., is a senior attorney to the ABA Commission on Law and Aging in Washington, D.C. He is responsible for the ABA's role in the Administration on Aging funded National Center on Law and Elder Rights. Prior to joining the Commission, he was responsible for elder law programming at Access to Justice Foundation in Kentucky. Mr. Godfrey earned his B.A. with honors at Rollins College in Winter Park, Florida, and his J.D. cum laude from the University of Louisville Louis D. Brandeis School of Law in Kentucky. He serves on the board of the National Academy of Elder Law Attorneys – and was named a Fellow of the Academy in 2019. He loves to travel and has been to 48 states and 15 countries.

# RETIRING WITH A CALL TO ACTION A CELEBRATION OF LLEW PRITCHARD!

August 10, 2022 | Four Seasons Hotel | Seattle, Washington

Remarks of Llew Pritchard



"Welcome to Seattle. I am honored and humbled to be here with all of you for today's luncheon, especially for the Eleanor Roosevelt Prize given to me today. I want to express my thanks to the Center for Human Rights, especially Michael Pates and Judge Jim Wynn, and to all the others who made this capstone to my career possible.

Any achievements derived from my lifetime of professional service, primarily through the ABA, would not have been possible without the help and support of so many people, too numerous to mention today. I want to recognize my family; my children, David, Cliff, Andrew, and Bill, who are here today; and my daughter Jennifer, from Oregon, who is here in spirit. But most of all, thanks go to my wife of 63 years, Jonie. You all made many sacrifices so I could pursue my causes. I am deeply grateful.

Any success I had is also due to an amazing coterie of Seattle lawyers, friends, and collaborators. Their individual contributions and collective achievement in the field of human rights, gay rights, immigrant rights, rule of law, and professional standards are unparalleled. I begin with the Bills, both ABA Medal winners, Bill Gates and Bill Neukom, whose generosity makes this luncheon possible. Bill Gates was not only my friend but my mentor, beginning when he was president of the

Seattle-King County Bar Association. Bill Neukom's World Justice Project has enhanced the rule of law all over the world. At my table today is my best friend, Tom Fitzpatrick, or Uncle Tom to the kids. Finally, there is Ninth Circuit Judge Margaret McKeown, or M3, who sends her greetings from Alaska where she is hearing cases.

My devotion to human rights derives from my faith. ABA President Deborah Enix-Ross mentioned our shared Methodist faith. I am honored to have with us today Bishop Elaine Stanofsky, whom I served as her chancellor. I was taught and came to believe, that when you look into the face of another, you see the face of God. Profound things flow from that belief. All people are entitled to dignity, respect, and human rights. The best way to promote and preserve human rights is democracy, based upon, in the words of our Declaration of Independence, "inalienable rights."

Today our democracy is imperiled. It was as well 50 years ago, during Watergate, which pales in comparison to the domestic threats we face today. Then, as now, the story of what occurred is primarily the story of lawyers: The good, the bad, and the in-between. An example of the power of a good lawyer from Watergate times is Bill Ruckelshaus, who refused to assist President Nixon's effort to stymie the investigation into

his wrongdoing. Joining us today and representing that spirit of integrity is his wife, Jill Ruckelshaus.

During Watergate the ABA and the profession rose to the occasion. The illegal and unethical conduct was forcefully denounced. A new ethics code was developed, and ethical training became mandatory in law school and for licensure.

Today it is imperative that the ABA and the legal profession meet this moment. It is time for action. Let me suggest three items to be put on the table. It is time we demand the United States Supreme Court adopt a code of ethics. As for the bad lawyers, those who brought lawsuits alleging election fraud with no evidence, and those who plotted a coup by searching for some legal theory to support it, it is time we demand they be thrown out of the legal profession. As for the in-between lawyers, it is time we make it a mandatory duty for public lawyers who become aware of planned or actual actions by public officials that imperil our democracy to reveal them publicly.

I close with my belief that we can meet this moment. I have that belief because of the commitment to human rights and justice by those of you in this room, across the ABA, and in the legal profession. If I sound optimistic, well, I am a native New Yorker. The motto of New York is *Excelsior* or *Ever Upward*.

*Excelsior, my friends. Ever Upward. Thank you so much."*

Llew Pritchard is retired from his decades-long career at Helsell Fetterman LLP in Seattle. He led a number of boards of organizations supporting arts, culture, and education. Long active in the ABA, he led the Advisory Committee on Immigration for a decade, served on the Board of Governors, and chaired the Section of Individual Rights & Responsibilities and the Executive Council of the ABA Family Law Section. A recipient of numerous awards, he delivered these remarks during the summer of 2022 when he was awarded the Eleanor Roosevelt Prize for Global Human Rights Advancement by the ABA Center for Human Rights.



# LOOKING BACK, LOOKING FORWARD

By Charles A. Ericksen

The following scene from the movie *Shawshank Redemption* finds the character Red, played by Morgan Freeman, up for parole after serving 40 years for murder.

SCENE: An iron-barred door slides open with an enormous clang. A stark room beyond. Camera pushes through. Six men and one woman sit at a long table. An empty chair faces them. We are again in Shawshank hearing's room. Red enters, sits. Twenty years older than when we first saw him.

MAN #1: Your file says you've served 40 years of a life sentence. You feel you've been rehabilitated?  
Red doesn't answer. Just stares off. Seconds tick by. The parole board exchanges glances. Somebody clears his throat.

RED: What do you really want to know? Am I sorry for what I did? ... There's not a day goes by I don't feel regret. Not because I'm in here. Because you think I should. I look back on the way I was then. A young, stupid kid who committed that terrible crime. I want to talk to him. I want to try to talk some sense to him. Tell him the way things are. But I can't. That kid's long gone and this old man's all that's left. I got to live with that.

In my wellness seminars, I often ask "if you could talk to yourself back in your college days, what would you want to tell your younger self? It's an interesting exercise meant to solicit reflection about the choices we've made, the habits we developed or didn't, and how we have spent our time. Almost universally, the responses revolve around time ... past and future. A few examples:

Judge W was nearing retirement with some trepidation. He had been singularly focused on the law. Now, with few interests outside of his work and retirement looming he wondered how he would spend his time.

Lawyer X had spent 40 years in the international domain advancing the rule of law in developing nations. She was well respected and deservedly so. She had made a major contribution in a field with constant activity and mental stimulation. Now, however, she wondered aloud...what's next?

Court Administrator Y left the National Center for State Courts after a distinguished career as a law office administrator,

court administrator, consultant, and recognized leader in the National Association for Court Management. All of his friends had been "in the club" and most of his time had been spent on the computer or attending professional conferences. What now?

Judge Z is a presiding judge of a large urban court in Albania. Her parents survived the brutal Hoxha regime, and she survived the extraordinarily stressful vetting process imposed during Albania's attempt to root out organized crime. Between running a court and the constant pressures of the reform process she has seen the last 10 years fly by. She regrets missing several of her children's events. She also regrets that she has gained a few more pounds than she would have liked. She acknowledges that she feels chronically stressed and would like to have some physical activity she could do with her kids, but it is uncommon for persons her age to take up sports or exercise in Albania.

Sadly, these individuals never charted a "life course" back in

college that prepared themselves for the rigors of work and the need to develop a balanced lifestyle. Most had interests back in college, but the time constraints of the legal profession compounded by other personal and professional obligations always seemed to get in the way.

## Three Principles of Life Course Theory

The life course perspective helps individuals think about what they need to know and do to maintain balance in their chosen profession, identify how to find or develop supports, and discover what it takes to live the life they want to live. The roots of the life course perspective can be dated back to the 1960s when researchers made serious attempts to understand how early events influenced future decisions and events such as marriage and divorce, engagement in crime, or disease incidence.

**Three key principles of life course theory are directly related to wellness:**

**1** The principle of **life-span development** emphasizes that human development and aging take place over the entire life course rather than being limited to certain periods

of life. In other words: old age is often shaped by earlier life habits and conditions.

**2** The principle of **agency** emphasizes that individuals are active in the construction of their own life course, within the limits of opportunities and boundaries.

**3** The principle of **balance** stresses that individuals develop a lifestyle that recognizes the importance of leisure as well as work, physical activity as well as mental stimulation.

Interestingly, leisure is mentioned in the works of Aristotle. He considered leisure the highest and most desirable form of existence. The Greek word for leisure is *scholē* (the root of school). Thus, what Aristotle considered leisure was not idleness but rather activities with intrinsic value (activity undertaken for its own sake) such as philosophy, aesthetic enjoyment, and religious worship.

Unfortunately, our schools have not succeeded in promoting a balanced wellness lifestyle. In her insightful book *You Are Your Own Best Teacher!: Sparking the Curiosity, Imagination, and Intellect of Tweens*, social scientist Claire Nader offers startling statistics. Decades ago, daily P.E. was the norm. These days, she said, only 4 percent of elementary schools, 7 percent of middle schools, and 2 percent of high schools have daily P.E. the entire school year. Twenty-two percent of schools have no P.E. at all.

What happened? To be honest, the experience many people report having in P.E. class has been counterproductive. I think it will take a concerted effort and commitment to inspire a national movement for more physical activity, particularly among children. But there are ways.

In contrast, Scandinavian societies have a different approach to health, wellness, and leisure activities. There, leisure activities are viewed as a component of an individual's living conditions, together with aspects such

as health and housing. Participation in leisure activities is considered a resource for the individual and a means for obtaining improved living conditions.

### Successful Aging

Despite the overwhelming evidence that supports a positive association between exercise and different measures of well-being, primarily quality of life and life satisfaction, I am careful not to push exercise and aerobics. I am fighting against an overriding bias against the "work" it takes to get in shape and stay in shape. Rather, I advocate finding "that which you love." I am convinced everyone can find something they will enjoy that will meet the needs for maintaining strength, flexibility, bone health, and cardiovascular health. But in the mix, more broadly, I aim to promote a passion for social and leisure time activities that add social and emotional benefits.

Recent thought on successful aging asserts that active engagement with life, defined as involvement in meaningful activities and close relationships, is an important component of successful aging. The association between leisure activities and well-being has also been studied in longitudinal studies. In a six-year study, participating in social groups for older individuals, volunteering, sports, hobbies, reading or writing, as well as the overall activity level were positively associated with happiness (Menec, 2003). Beneficial effects on well-being are also reported by studies investigating the role of leisure activities in the face of difficult life events, such as widowhood or disability. Individuals who maintain or increase their level of activity seem to maintain their well-being and adapt more easily to the new life circumstances.

A vast body of research has investigated the association between different kinds of leisure activities and cognitive status or dementia. Studies investigating the effects of physical activities on later cognitive

impairment and dementia report that midlife physical activity lowers the risk of dementia (Rovio et al., 2005). This association is further reinforced since physical inactivity, by influencing cardiovascular health, may be a risk factor for later cognitive impairment and dementia (Kivipelto et al., 2005). The risk of a sedentary lifestyle and the benefits of being physically active in relation to cardiovascular disease are widely acknowledged. If conducted regularly, even light physical leisure activities such as gardening or walking seem to improve older individuals' cardiovascular health.

### Capacity for Resiliency

How do leisure activities promote health? Aging can be referred to as the lifelong wear and tear on the body and its reserve capacity, both due to environmental factors and to damage in the body's organs and tissues that accumulates over time. Individuals have a sizeable reserve capacity, and although it is reduced with increasing age, it can be activated through exercise and other protective processes. Frailty occurs when the body's reserve capacity is depleted. The good news is, we have the capacity for resiliency. A life-course framework recognizes the importance of regular activity for our mental, physical, emotional, and social well-being.

So, again...what would you say to that kid?

**Postscript:** Judge W and Lawyer X took up painting in their sixties and both are now showing and selling their artwork. Court Administrator Y reengaged with photography and took up gardening. He stays in contact with his former colleagues but recently told me that he has broadened his social network considerably. And Judge Z? She took tennis lessons at the local club and frequently plays with her son.

Now if you will excuse me, I am off to a pickleball match. //

# GUIDANCE I RECEIVED ON RETIRING

By Jeff Tolman

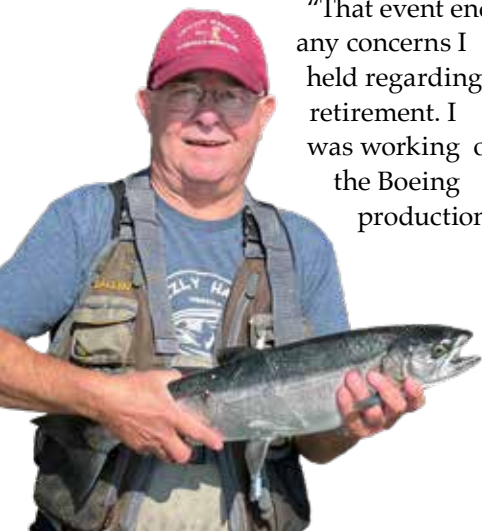


**A**s I glided toward my retirement landing strip, I asked clients and acquaintances—and likely strangers—about their retirement experience, and any suggestions they might share with me. Responses varied widely. Some struggled without the work template they'd lived with for so long, and no hobbies. Others blossomed through having a broader ability than ever to choose and govern their day-to-day life. One asked, "Do you remember where you were when you learned President Kennedy had been shot?"

I am 69. There are a couple of things virtually everyone my age remembers. First, for guys, their draft number. Mine was 186. They drafted to #125 that year. Phew! The second thing is where we were when we learned President Kennedy had been shot. I was walking to the high school fall play.

"Yes," I responded. "On the way to a play. Why do you ask?"

"That event ended any concerns I held regarding retirement. I was working on the Boeing production



line in Everett. Over the loudspeaker we were notified of the shooting and told to take a few minutes to collect our thoughts. The production line shut down. About 20 minutes later, as we

Volunteering to be the check-in person for the tournament at his golf club. A random act of kindness. Just something to brighten the world a bit, for a minute.

## "Wake up hopeful, go to bed thankful."

were returning to production, they announced over the loudspeaker that Mr. Kennedy had died, and Lyndon Baines Johnson was our new (36th) president. In that moment, I knew that if America can get a new president in 45 minutes, Boeing won't have any trouble replacing me on the line when I retire. And they didn't."

### Life is a Mystery to be Lived

Another client smiled and said he was enjoying retirement very much. "Every day," he said, "I dedicate myself to do (1) something for my head, (2) something for my heart, and (3) something for my community." I like his aspirational goals very much. For his head, he reads or writes or watches TV or a movie, something to stimulate his brain cells. For his heart, he exercises, meditates, or takes a few moments to connect with a relative or old friend, reinforcing those long-term connections. For his community, nothing large is required. Just something that makes his world slightly better. Helping someone out with their (heavy) groceries. Buying someone's morning coffee.

I have been journaling since I was in my teens. In the journals I have kept some of my favorite quotes about life, and how to enjoy it. They include Eleanor Roosevelt's "Comparison is the killer of joy." From a funny book about a bar wager that the author could hitchhike around Ireland in 30 days—with a refrigerator: "Life is a mystery to be lived, not a problem to be solved." A quote from Bruce Kennedy, editor of the local paper, from a 1960s "Grabbing the Bull by the Tail" column: "Talent is God-given—be humble. Fame is man-given—be grateful. Conceit is self-given—be careful."

Perhaps the quotation I try to remember each day—especially now in retirement—is a simple daily affirmation of "Wake up hopeful, go to bed thankful." Or, as I now (retired) think of it, "Wake up—whenever you choose—hopeful, go to bed—whenever you choose—thankful." The journey through the new chapter of our lives continues. With many evolutions, opportunities, challenges, unanticipated decisions, and freedoms. As this newsletter opines, in these years a new life begins. //



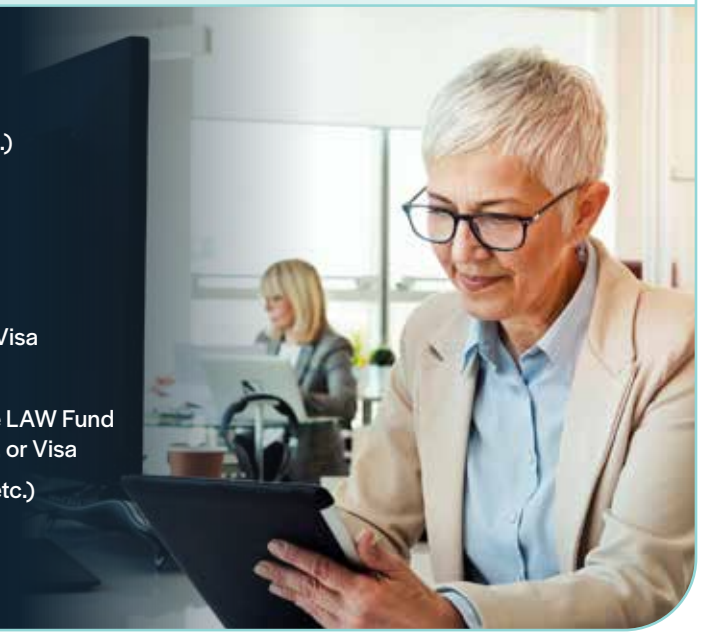
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