



LIFE BEGINS

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Washington State Bar Association
Senior Lawyers Section

Volume 13 Fall 2011 Number 4

Save the Date!

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

Here we go again. Another informative and entertaining CLE seminar is coming your way. You will be able to bank CLE credits, meet old friends and enjoy the day while attending our Section CLE.

Confirmed speakers as of mid-November include Justice Debra Stephens of the Washington State Supreme Court, trial lawyer Art Swanson, and Gonzaga law professor and health law expert Vickie Williams. The Executive Committee of the Senior Lawyers Section is brainstorming to fill out the CLE with other distinguished and stimulating presenters to speak on matters of interest.

Cost is to be determined, but we hope to hold the price once again to \$150 for Section members, \$170 to join the Senior Lawyers Section and attend the CLE, and \$250 for all others. This remains one of the best CLE bargains anywhere. In prior years, the cost has included the seminar, written materials, an excellent lunch, parking, and a social hour at the end of the session.

Please mark your calendar for May 11, 2012, and watch for the registration form in the mail, an upcoming Life Begins, or at www.wsbacl.org/seminars.

**Thanks for supporting the Section.
Please invite your colleagues to join.**

Annual Report of Senior Lawyers Section

by Steve DeForest, Section Chair

Another successful Section Annual Meeting / CLE was held on May 13, 2011, at the Sea-Tac Marriott, with 176 lawyers in attendance. The Seminar provided 6 CLE credits, including 1.75 ethics and 4.25 general credits. The speakers and their topics were Egil (Bud) Krogh, "Integrity: Good People, Bad Choices, and Life Lessons From the White House"; Justice Gerry L. Alexander, "Reflections on Judicial Selection and the Independence of Judges"; Lembhard G. Howell, "Police and the Community"; Karen E. Boxx, "Will Death Become Uncertain, Too? What We know and Don't Know about the Federal Estate and Gift Tax after Congress' Most Recent Actions"; Stephen R. Crossland, "Obligations for Planning Ahead: Death, Disability, Impairment or Incapacity of an Attorney"; and David Allen, "Both Sides of the Table: Defending Police Officers Who Shoot Citizens and Citizens Who Shoot Police Officers."

At the urging of the Executive Committee, the WSBA Bylaws were amended to specifically delineate three types of suspensions: interim, disciplinary, and administrative (e.g., non-payment of dues, failure to comply with mandatory CLE requirements). The WSBA is now working on having the Lawyers Directory indicate the type of administrative suspension. Additionally, the Executive Committee requested that the WSBA develop a method for members to indicate that they have voluntarily resigned, and this option is now available on the Lawyer Directory.

A donation of \$5,000 was made by the Section to the Equal Justice Campaign.

continued on page 12

In This Issue

Save the Date! 2012 Annual Meeting & CLE Seminar: Friday, May 11, 2012... 1	The Top 10 Things Practitioners Should Know About Upcoming Changes to Washington Probate and Trust Law 3
Annual Report of Senior Lawyers Section 1	WSBA 50-Year Member Luncheon Held on November 9, 2011 7
Section Makes Request to MCLE Board 2	Vive le France (et Corsica) 9

Section Makes Request to MCLE Board

As of December 1, 2011, the Section has not received a response from the MCLE Board on its request that APR 11, Regulation 103(l), be expanded.

August 22, 2011

MCLE Board
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Dear Ladies and Gentlemen:

The Executive Committee of the Senior Lawyers Section requests that Regulation 103(l) of APR 11, which identifies types of activities that may qualify for credit, be expanded by adding the underlined words to subsection (1), as follows:

“Courses about running and closing a law office – in particular, docket control, malpractice avoidance, education on substance abuse by lawyers and other legal professionals, time management, increasing office efficiency, business planning, office financial management, billing and collection procedures, office technology, legal and ethical obligations to clients upon termination of practice, financial planning for retirement, pro bono opportunities, and customer service, as each relates to the practice of law.”

At the January meeting of the Board of Governors, Peter Roberts, Manager of the WSBA Law Office Management Assistance Program (LOMAP), reported that since 2001, the number of WSBA members over 60 years old has increased by 309%. As a consequence, LOMAP is offering additional services to help senior lawyers transition out of their careers and plan for succession of their practices, if necessary.

The members of the Senior Lawyers Section either have practiced law for 25 years or more or have attained age 55. Most of our members, which currently numbers 339, are at least 65. A cross-section of the membership ranges from those who are in full-time practice to those who are retired but maintain membership in the WSBA. Succession planning, whether it be closing a law office, or an individual retiring from a law firm or corporate counsel position, is a subject which raises many questions and on which greater education is needed. At the Senior Lawyers Section Annual CLE on May 13, 2011, President-elect Steve Crossland's presentation on "Death, Disability, Impairment or Incapacity and Succession Planning: Meeting Your Ethical Obligations" was of great interest, because it exposed attendees to a wide variety of ethical and practical issues. Very telling was his own experience, where the other sole practitioner in Cashmere became disabled. For older lawyers, closing a law office is often of greater significance than running a law office. The adding of "and closing" to 103(l)(1) would clarify that courses that provide information on closing an office would qualify for CLE credit. Similarly, the addition of "legal and ethical obligations to clients upon termination of practice, financial planning for retirement" would better describe the final phase of law office practice.

Lawyers who have or are about to retire from an active practice are a tremendous resource to be tapped in extending the legal profession's ability to provide legal services to those who cannot afford to pay. The Bar needs to do a better job of encouraging retirees to maintain their contact with the WSBA, either by remaining as active members or as emeritus members under APR 8(e). The latter enables lawyers to provide pro bono services on a voluntary basis for qualified legal service providers. Consequently, we recommend adding "pro bono opportunities" to 103(l)(1).

If further information is needed or there are questions about the foregoing, please contact the undersigned.

Sincerely,

Stephen E. DeForest
Chair, Senior Lawyers Section

Editor's note: This article originally appeared in the Spring 2011 newsletter of the WSBA Real Property, Probate & Trust Section. It appears with the permission of the author and the Washington State Bar Association, Real Property, Probate and Trust Section.

The Top 10 Things Practitioners Should Know About Upcoming Changes to Washington Probate and Trust Law

by Kelly Bowra – Stokes Lawrence, P.S.

House Bill 1051, an act relating to trusts and estates (the "Act"), is the most significant piece of Washington state probate and trust legislation since the Trust and Estate Dispute Resolution Act ("TEDRA") was enacted in 1999. The Act has passed the legislature and the governor has signed it into law; however, it will not take effect until January 1, 2012. The Act is the result of nearly a decade of work by a Task Force established by the Washington State Bar Association's Executive Committee of the Real Property, Probate and Trust Section to investigate whether to adopt the Uniform Trust Code ("UTC") in Washington.¹ While the Act does not adopt the UTC in its entirety, it integrates portions of the UTC and other non-UTC provisions into existing probate and trust statutes. Some of the changes codify existing common law rules. The Washington probate and trust statutes, as amended by the Act, will provide more comprehensive guidance for trustees and allow for clearer expectations by beneficiaries than under current law (*i.e.*, through the end of this year). This article, which is intended to serve as a basic primer on the Act, summarizes its key provisions and contrasts such provisions to current Washington law.

1. The Act Clarifies the Duty of a Trustee to Inform Interested Parties About the Administration of the Trust

The Act provides that the trustee has a specific duty to notify the beneficiaries about the existence of a trust once it becomes irrevocable and keep the beneficiaries informed about the administration of the trust. This notice requirement applies only to irrevocable trusts established after December 31, 2011, and revocable trusts that became irrevocable after December 31, 2011, provided that all common law duties of a trustee to notify beneficiaries that applied to trusts created or that became irrevocable before such date are not affected. The trustor may not relieve the trustee from this duty to provide notice. This is significant because the trustor may modify many other statutory duties and powers of the trustee through the terms of the trust.

The Act outlines precise steps that the trustee can take to satisfy such duties. Within 60 days of assuming the role of trustee, the trustee must notify all "interested parties" as defined by TEDRA² about (1) the existence of the trust; (2) the identity of the trustor; (3) the trustee's contact information; and (4) the right of a beneficiary to request certain information from the trustee. The Act also clarifies which beneficiaries are entitled to such notice and amends the

virtual representation statute so that an income beneficiary with a general power of appointment (or certain limited powers of appointment) can accept notice on behalf of the takers in default. Through these changes to the virtual representation statute, a trustor who wants to limit notice to remainder beneficiaries will now have a clear mechanism to do so.

The Act provides that the trustee also has an ongoing duty to inform all interested parties about the administration of the trust. A trustee can satisfy this duty by giving a statement that contains the following information for the relevant period of trust administration:

- (A) Receipts and disbursements of trust principal and income;
- (B) Trust assets and liabilities and the values thereof;
- (C) The compensation of the trustee and that of the trustee's agents;
- (D) Disclosure of any pledge, mortgage, option or lease of trust property, or other agreement affecting trust property for at least a five-year period; and
- (E) Disclosure of all transactions that could have been affected by a conflict between the trustee's fiduciary and personal interests.

The statement must also notify the recipient that he or she may petition the superior court to obtain review of the statement or of the underlying actions by the trustee. Furthermore, as discussed in section 6 below, the statement must disclose that the statute of limitations for a breach of trust claim is three years from receipt of the statement.

Under the Act, if an interested party requests information from a trustee about his or her rights under the trust, the trustee has 60 days to respond to the request. The trustee may satisfy this duty to provide information by giving the requesting party a copy of the trust instrument.

The duties of a trustee are governed by the trust terms, statute, and common law. The current Washington statute does not specifically require the trustee to notify beneficiaries about the existence of a trust and the extent of the duty of the trustee to notify the beneficiaries under common law is vague. Similarly, the current Washington statute mandates only a few situations in which the trustee must provide information to beneficiaries, leaving the trustee to look to common law to provide guidance regarding the extent to which the trustee must inform beneficiaries

continued on next page

The Top 10 Things Practitioners Should Know About Upcoming Changes to Washington Probate and Trust Law from previous page

about the administration of the trust. For example, the current statute provides that a trustee cannot enter into a significant non-routine transaction³ without notifying the beneficiaries and the trustee must provide each adult income trust beneficiary with an itemized statement of all current receipts and disbursements made by the trustee unless the trustor provides otherwise in the trust instrument. RCW 11.106.020. For a statement of the common law, see *Esmieu v. Schrag*, 88 Wash.2d 490, 498, 563 P.2d 203 (1977) (finding that the trustee's duties of good faith, care, loyalty and integrity to the beneficiaries include informing beneficiaries of all facts to aid them in protecting their interests).

The foregoing changes to the statute flesh out the duties of a trustee and should facilitate trust administration by clarifying what the trustee must do to inform interested parties about trust administration and what such parties can do if the trustee does not satisfy this duty.

2. Trustees Have New Specifically Enumerated Powers to Manage Trust Property

The current Washington statute enumerates several specific actions and powers the trustee may use to administer the trust. RCW 11.98.070. The Act adds to this list, providing that the trustee has the authority to (1) contest or settle claims by or against the trust; (2) exercise tax elections; (3) prosecute or defend an action regarding trust property or actions by the trustee; (4) exercise appropriate powers to wind up the administration of the trust due to the termination of the trust; (5) clarify the method of making distributions to minors; and (6) select a mode of payment under a retirement plan, annuity, or life insurance payable to the trustee. Practitioners often include these powers in the trust instrument, but this change should increase the number of trustees who have the aforementioned powers as well as facilitate communication between trustees and third parties who feel more comfortable relying on statutory authority than that of the trust instrument.

3. New Bright-Line Rules Help Determine Whether a Trust Has a Washington Situs

The Act provides that a trust has a Washington situs if the trust has at least one connection to Washington that is of the type enumerated in the Act, described more particularly below, and (1) the trust designates Washington as the trust situs; (2) the trustee registers the trust as a Washington trust;⁴ or (3) the trust is an *inter vivos* trust and the trustor was domiciled in Washington when the trust became irrevocable.

The Act lists the following factors as ones that demonstrate a connection to Washington:

- (A) The trustee has a place of business in Washington or resides in the state;
- (B) More than an insignificant amount of the trust administration occurs in Washington;
- (C) The trustor resided in Washington when the trust was established or when the trust became irrevocable;
- (D) At least one beneficiary resides in Washington; or
- (E) The trust holds at least one piece of Washington real property.

In addition to the foregoing, the situs of a testamentary trust is Washington if the will was admitted to probate in Washington, or if the trust satisfies one of the factors corresponding to (A), (D), or (E) above. Alternatively, if the trust does not designate Washington as the situs and the trustee has not registered the trust, then a court can determine whether the trust has a Washington situs.

Washington law currently provides that if the trust does not identify a trust situs, the trust situs is based on the principal place of administration of the trust (*i.e.*, the trustee's usual place of business where the day-to-day records pertaining to the trust are kept or the trustee's residence if the trustee has no such place of business). RCW 11.96A.030. By creating new bright-line rules, the Act not only makes it easier to determine whether a trust has a Washington situs, but it enables additional trusts to claim a Washington situs.

4. The Act Streamlines the Procedure for Changing the Trust Situs

In order to transfer a Washington situs trust to another state, the Act requires that the trust have a specific connection to the new jurisdiction. Just as under the current statute, the trustee may only transfer the trust if it also determines that a trust transfer (1) facilitates the administration of the trust; (2) does not violate the terms of the trust; and (3) would be administered by a qualified trustee. RCW 11.98.045.

The Act modifies the procedural requirements for transferring a Washington situs trust. The Act provides that before the trustee may initiate a transfer of trust situs, the trustee must notify all interested parties and give such individuals at least 60 days to object. If any party objects, the authority of the trustee to transfer the trust situs terminates. If no party objects and the trustee transfers the trust situs, the trustee must file a notice of transfer of situs and termination of registration with the court of the county, if the trust was registered under RCW 11.98.045. Just as under the existing statute, a trustee may transfer the situs

continued on next page

The Top 10 Things Practitioners Should Know About Upcoming Changes to Washington Probate and Trust Law from previous page

of a trust through the use of a non-judicial binding agreement. RCW 11.98.051.

These new provisions clarify that if the trust does not authorize the trustee to change the trust situs, the trustee can change the trust situs if the trustee provides proper notice to the interested parties along with a form on which the interested parties can consent or object and the trustee receives no written objection within 60 days of the date of the notice. RCW 11.98.051. It is important to note that a change of trust situs is different than a change of trustee. A change of trust situs does not authorize a change of trustee. A change of trustee must comply with RCW 11.98.039. Similarly, a change of trustee to a foreign trustee does not by itself change the situs of the trust.

5. A Court Can Now Correct Trust and Will Terms that Are the Result of a Mistake of Law or of Fact

Currently, courts do not have specific statutory authority to correct trust or will terms that are the product of a mistake. The Act adds a new section that provides that if there is clear, cogent, and convincing evidence of the trustor's or testator's intent and the terms of the trust or will were the result of a mistake of fact or law, such terms can be reformed through a judicial proceeding or binding non-judicial agreement. Likewise, the Act modifies the definition of matter under TEDRA to include the reformation of a trust or will to correct a mistake. RCW 11.96A.030. Under common law, the intent of a trustor or testator is of paramount concern in interpreting and administering a trust or will, and the Act now provides a mechanism to correct mistakes and give effect to the trustor's or testator's intent.

6. New Factors Start the Clock Running for the Three-Year Statute-of-Limitations Period

The Act maintains the three-year statute of limitations but provides the limitations period commences the date the beneficiary (or the beneficiary's representative) receives a report that adequately discloses the existence of a potential claim for breach of trust and informs the beneficiary of the limitations period for bringing such a claim. If the trustee does not provide adequate disclosure to the beneficiary, then the beneficiary has three years to bring suit against the trustee for breach of trust from the earliest of (1) the trustee ceasing to act as trustee; (2) the end of the beneficiary's interest in the trust; or (3) the trust termination. If the beneficiary fails to bring suit timely, his or her claim will be time-barred.

Under current Washington law, a beneficiary must file a lawsuit for breach of trust against the trustee within three years from the earliest of (1) the time the alleged breach was (or should have been) discovered; (2) the discharge of

the trustee; or (3) the trust termination. RCW 11.96A.070. By adding the report requirement, the Act gives trustees greater control over when the limitations period commences and benefits the beneficiaries by disclosing the existence of a potential claim for breach of trust.

7. The Act Expands the Doctrine of Virtual Representation to Include Representation by Fiduciaries

The Act expands the doctrine of virtual representation found under TEDRA to enable fiduciaries to virtually represent the beneficiaries in situations in which the interests of the fiduciary and the beneficiaries are not in conflict. In such cases, (1) a guardian may represent and bind the estate that the guardian controls; (2) an agent having authority to act with respect to the particular question or dispute may represent and bind the principal; (3) a trustee may represent and bind the beneficiaries of the trust; and (4) a personal representative of a decedent's estate may represent and bind persons interested in the estate. This change to the statute should streamline the process of certain TEDRA matters by requiring the involvement of fewer parties.

8. New Provisions Apply Specifically to Revocable Living Trusts, Recognizing the Use of Such Trusts as Will Substitutes

The current Washington statute does not have any provisions that apply specifically to revocable living trusts. The Act adds a new chapter to title 11 that applies to revocable living trusts. It states that the capacity required for a trustor of a revocable living trust to create, amend, revoke or add property to such trust is the same as that required to make a will. Current Washington law provides that "any person of sound mind who has attained the age of eighteen years may, by last will, devise all his or her estate, both real and personal." RCW 11.12.010. Therefore, under the Act, any person who is at least eighteen years old and of sound mind may create, amend, revoke or add property to a revocable living trust. "Sound mind" is not defined by the statute, but has been developed through common law.

The Act provides that the trustor may not revoke or amend the trust unless the trust states that it is revocable. If the trust is revocable, then the trustor may revoke or amend the trust (only with regard to the trustor's portion of the property if there is more than one trustor) by substantially complying with the method provided in the trust. Alternatively, if the trust does not provide such a method, then the trustor may revoke or amend the trust by a written instrument signed by the trustor evidencing the trustor's intent to revoke or amend. A later will or codicil that expressly refers to the trust would constitute such an amendment or revocation.

continued on next page

The Top 10 Things Practitioners Should Know About Upcoming Changes to Washington Probate and Trust Law from previous page

The Act also adds a provision regarding contesting the validity of a revocable living trust. Specifically, the Act provides that a person may contest the validity of the trust within the earlier of 24 months of the trustor's death or four months after the trustee sent the person notice as discussed in section 1 above. This shortened four-month time period in which to contest a trust is similar to that of will contests. See RCW 11.24.010.

9. The Act Codifies the *Cy Pres* Doctrine

The Act codifies the common law *Cy Pres* Doctrine, which provides that when the original objective of the trustor is impossible or impracticable to perform, the trust terms must be interpreted as closely as possible to the original intention of the trustor to prevent the trust from failing. Specifically, the Act provides that if any charitable⁵ disposition made in a trust becomes unlawful or impracticable to achieve, the disposition does not fail and the subject property does not revert to the alternate beneficiary, but instead the court may order that the property be distributed in a manner consistent with the trustor's charitable purposes.

10. The Act Codifies the Common Law Duty of Loyalty

The Act also codifies the trustee's common law duty of loyalty, namely that the trustee not profit at the expense of any beneficiary and the trustee not be in a position of a conflict of interest with any beneficiary. If a transaction involves a conflict between the trustee's fiduciary and personal interests, it is voidable by a beneficiary "otherwise affected"⁶ unless: (1) the transaction was authorized by the terms of the trust; (2) the transaction was approved by the court or in a nonjudicial binding agreement under TEDRA; (3) the beneficiary is time barred (see section 6 above); (4) the beneficiary consented to the trustee's conduct or ratified the transaction; or (5) the transaction involved a contract entered into before the person was the trustee. The Act also provides that the court may appoint a "special fiduciary" to make a decision for a proposed transaction that could violate the trustee's duty of loyalty.

The Act provides that the following transactions are not voidable if they were fair to the beneficiaries: (1) an agreement between a trustee and a beneficiary about the appointment or compensation of the trustee; (2) payment of reasonable compensation to the trustee; (3) a transaction between a trust and another trust of which the trustee is a fiduciary or in which a beneficiary has an interest; (4) a deposit of trust funds in a financial-service institution operated by the trustee or its affiliate; (5) a delegation and any transaction made pursuant to the delegation from a trustee to an agent that is affiliated or associated with the trustee; or (6) any loan from the trustee or its affiliate.

Conclusion

In conclusion, Washington law, as modified by the Act, will provide a more comprehensive statutory framework regarding the duty of the trustees, the rights of the beneficiaries, and the procedures relating to trust administration in general. This clarity should benefit all parties to the trust. Among other things accomplished by the Act, the trustee will have clearer guidance on the trustee's duties; the beneficiaries will have clearer guidance to assess whether he trustee satisfies those duties; and should the trustee violate his or her duties, the Act clarifies how long a beneficiary has to file a claim against the trustee.

1 Members of the Task Force include Watson Blair, Karen Boxx, Michael Carrico, Tom Culbertson, Fred Emry, Al Falk, Marcia Fujimoto, Ivan Landreth, Twig Mills, and Ann Wilson.

2 "Persons interested in the estate or trust" means the trustor, if living, all persons beneficially interested in the estate or trust, persons holding powers over the trust or estate assets, the attorney general in the case of any charitable trust where the attorney general would be a necessary party to judicial proceedings concerning the trust, and any personal representative or trustee of the estate or trust. RCW 11.96A.030.

3 A "significant non-routine transaction" means: (1) certain transactions involving real estate that constitute 25% or more of the trust; (2) the sale of tangible personal property that constitutes 25% or more of the trust; (3) the sale of closely held stock if the stock in question constitutes more than 25% of the corporation's outstanding shares; or (4) the sale of shares of stock that would cause the trust to no longer own a controlling interest in the corporation. RCW 11.100.140.

4 The trustee may register the trust with the clerk of court in the county of the trust venue and notifies the interested parties of the filing within five days. A sample form for the notice of registration is included in the Act. The statement must include the contact information for the trustee; the name and date of the trust, name of the trustor, and the factors that qualify the trust for registration. A party receiving the statement has 30 days from the filing date to object to the registration.

5 Under the Act, a "charitable purpose" means one for the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes, or other purposes the achievement of which is beneficial to a community.

6 A transaction involving the management of trust property is presumed to be "otherwise affected" by a conflict between fiduciary and personal interests if it is entered into by the trustee with (1) the trustee's spouse or registered domestic partner; (2) the trustee's descendants, siblings, parents, or their spouses or registered domestic partners; (3) an agent or attorney of the trustee; or (4) a corporation or other enterprise in which the trustee has an interest that might affect the trustee's best judgment.

WSBA 50-Year Member Luncheon Held on November 9, 2011

1961: A Moment in Time

by Stephanie Perry

The year is 1961. The average salary is \$5,315, and unemployment is 5.5 percent. The average house costs \$17,200; a postage stamp is 4 cents; a loaf of bread costs 21 cents; and a gallon of gas is just 27 cents.

In February, Boeing launches its first Minuteman Intercontinental Ballistic Missile from Cape Canaveral. The three-stage, solid-fueled rocket is designed for rapid launch from underground silos or special railroad cars to retaliate against a surprise nuclear attack. About 500 Minuteman III missiles remain on alert today in Wyoming, Montana, and North Dakota "missile fields" as part of the United States' post-Cold War strategic defense arsenal.

In March, President Kennedy signs an executive order establishing the Peace Corps. Since 1961, more than 200,000 Americans have joined the Peace Corps, serving in 139 countries. Also in March, the Twenty-third Amendment to the United States Constitution, which allows residents of Washington, D.C., to vote in presidential elections, is ratified.

In April, the space race continues, as Soviet cosmonaut Yuri Gagarin becomes the first human in space during a single-orbit flight on *Vostok 1* in April. The following month, Commander Alan Shephard Jr. becomes the first American in space in a suborbital flight aboard the *Mercury 3*; although he does not achieve orbit, Shephard is the first astronaut to exercise manual control over his spacecraft.

Also in April, a team of CIA-trained Cuban exiles fail in their attempt to invade Cuba through the Bay of Pigs and overthrow the government of Fidel Castro. The fiasco is an embarrassment to the Kennedy Administration, leading to forced resignations from top CIA management and, ironically, increasing Castro's popularity in Cuba.

In May, the "Freedom Riders" test the United States Supreme Court decision *Boynton v. Virginia*, which outlawed racial segregation in the restaurants and waiting rooms in terminals serving buses that cross state lines, by riding interstate buses from Virginia to Louisiana. Throughout their journey, the riders are attacked and beaten by white supremacist supporters of racial segregation; local police in Alabama and Mississippi turn a blind eye to the beatings, and many of the riders are arrested for violating local segregation laws, in defiance of *Boynton*. In September, bowing to pressure from the Attorney General and the civil rights movement, the Interstate Commerce Commission finally issues new policies desegregating interstate buses and trains, as well as their terminals, water fountains, and lunch counters.

In August, construction on the Berlin Wall begins, dividing East and West Berlin. The wall will remain standing

until November 1989, when its fall will pave the way for German reunification.

On August 4, Barack Obama, the future 44th president of the United States, is born in Honolulu, Hawaii. Stanley Ann Dunham, his mother, is a Mercer Island High School graduate, and she returns briefly to Seattle with the newborn Barack later this year before settling in Hawaii in 1962.

The Pulitzer Prize in fiction is awarded to *To Kill a Mockingbird*, by Harper Lee. Popular books this year include *Stranger in a Strange Land*, by Robert Heinlein; *Catch-22*, by Joseph Heller; and *The Winter of Our Discontent*, by John Steinbeck. Also this year, Henry Miller's 1934 novel *Tropic of Cancer* is published legally in the United States for the first time, and Ernest Hemingway dies of a self-inflicted gunshot wound.

Popular shows on TV this year include *Gunsmoke*, *Perry Mason*, *The Andy Griffith Show*, *Candid Camera*, *My Three Sons*, *The Twilight Zone*, and *Mister Ed*. The first episode of *The Dick Van Dyke Show* is filmed, and ABC's *Wide World of Sports* also premieres.

At the Academy Awards, *West Side Story* wins 10 awards, including Best Picture. The award for Best Actor goes to Maximilian Schell for *Judgment at Nuremberg*, and Sophia Loren wins Best Actress for her role in *Two Women*.

At the Grammy Awards, the Record of the Year is "Moon River," by Henry Mancini. The Album of the Year is Judy Garland's *Judy at Carnegie Hall*. The award for Best Female Vocal Performance goes to Judy Garland for *Judy at Carnegie Hall*, and the award for Best Male Vocal Performance goes to Jack Jones for "Lollipops and Roses." The award for Best Rock and Roll Recording goes to Chubby Checker for "Let's Twist Again."

In sports, the World Figure Skating Championship is canceled after the entire United States team dies in a tragic plane crash. The New York Yankees' Roger Maris hits 61 home runs, breaking Babe Ruth's record set in 1927. At the World Series, the Yankees beat Cincinnati Reds 4-1. Although the Super Bowl does not yet exist, the Green Bay Packers defeat the New York Giants 37-0 in the NFL Championship Game.

Notable inventions in 1961 include the electric toothbrush and the first cordless power drill, introduced by Black and Decker and powered by a nickel-cadmium battery. Frito corn chips and Pampers disposable diapers appear in grocery stores, and ibuprofen is also introduced this year, although it wouldn't become available as an over-the-counter drug until 1984. Finally, Barbie gets a boyfriend as the "Ken" doll makes his debut.

continued on next page

WSBA 50-Year Member Luncheon Held November 9, 2011 from previous page

In Washington...

WSBA member Albert D. Rosellini is governor of Washington.

Construction at Sea-Tac Airport unearths an extinct giant sloth on February 14, 1961. Sellen Construction Company workers spot bones sticking out of a recently excavated 14-foot-deep hole dug for an anchor for a lighting tower. Paleontologists from the Burke Museum are called in to investigate and find additional bones, eventually recovering about 60 percent of the body of a giant sloth, which lived around 12,600 years ago and was the size of a small car. A display at the Burke Museum now showcases the discovery, mounted as a complete skeleton.

In April, ground-breaking ceremonies for the Space Needle are held. It will be a 605-foot high structure in a tripod design topped by an observation deck and a revolving restaurant that will turn 360 degrees an hour. It will become the tallest structure in Seattle, 86 feet taller than the Smith Tower.

In June, residents of First Hill and other Seattle neighborhoods affected by the construction of the Interstate 5 Freeway stage a protest; Seattle Police escort approximately 100 "Stop the Ditch" marchers along the proposed route. First Hill residents are concerned about the separation of their neighborhood from the rest of the city and about pollution and noise; downtown businesses worry about the loss of parking spaces and the increase in traffic. The freeway will eventually open in 1967.

In August, the Hood Canal Bridge opens, 15 months behind schedule. Thousands of spectators sit in a five-mile traffic backup waiting to cross the brand-new bridge. It is the world's longest bridge of its type, with a floating section consisting of 23 concrete pontoons stretching a distance of 6,520 feet; the total span of the bridge reaches 7,869 feet. Although planning for the bridge had taken a decade, it is still controversial, since the floating pontoon structure is the first of its kind to be built over salt water subject to tides, with water levels varying by as much as 18 feet.

And at the WSBA...

In January 1961, 34 people pass the bar exam. Compare that to February 2011, when 324 candidates passed the bar exam. In July 1961, 88 people pass the bar exam. In July 2011, 585 passed the bar exam.

The Clients' Indemnity Fund, created by Bylaw in 1960, begins operations on January 1, 1961. Washington is one of the first states to establish a clients' indemnity fund; today, every jurisdiction in the United States, as well as Canada, Australia, and New Zealand, maintains such funds. To date, the fund — now known as the Lawyers' Fund for Client Protection — has compensated victimized clients in an amount totaling \$5.3 million.

In May, Washington observes its fourth annual Law Day. Every public school in the state observes the day with ceremonies, and Spokane and Seattle's newspapers feature special Law Day sections. An hour-long KING-TV program called "One Man's Justice," aired in Seattle and Spokane, follows a man from his arrest for negligent homicide through his arraignment, trial in superior court, and finally to the Supreme Court; lawyers and judges are the actors, with judges playing themselves, and the University of Washington School of Law supplies the jury.

2011 Fifty-Year Members

To those 48 members of the WSBA who were admitted to practice in Washington in 1961, we celebrate your many accomplishments, offer you our thanks for your decades of service to the people of Washington, and congratulate you on achieving this very significant milestone.

Richard R. Albrecht, Seattle
 Richard F. Allen, Seattle
 Robert L. Anderson, Ocean Shores
 J. David Andrews, Seattle
 Hon. John K. Arnold, Tacoma
 Jorgen G. Bader, Seattle
 Robert Baronsky, Tacoma
 Donald C. Brockett, Spokane
 Fredrick Ross Burgess, Nordman, ID
 Dale Louis Carlisle, Tacoma
 Harold Bernard Coe, Mercer Island
 Donald G. Cohan, Seattle
 Bruce Walter Cohoe, Tacoma
 Richard Rex Cole, Anchorage, AK
 Frank Conklin, Spokane
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Frederick N. Halverson, Yakima
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 Edwin S. Stone, Seattle
 Lauren D. Studebaker, Bellevue
 Robert W. Thomas, Seattle
 Hon. Ralph G. Turco, Tacoma

Today we honor you...

You, the members of the WSBA class of '61, have seen many changes — cultural, political, and societal — during your years in the legal profession. We hope you enjoy celebrating your 50 years of membership in the Washington State Bar Association, as you gather here today with friends and colleagues to share stories and memories. Your achievements and dedication are an inspiration. You have served our profession and our community for 50 years, and have made us all proud to be lawyers. We salute you and we thank you.

Vive le France (et Corsica)

by Carole Grayson

The car ahead of me is going 20 in a 30 zone. It's my first Friday back at work in Seattle after three weeks in France (including Corsica) late this summer. 20 in a 30 zone!! I flash my lights.

So much for retaining my laid-back vacation vibe.

When traffic stops at the light, I look at the car. It's a Chevy. A Chevy Corsica. Corsica was the highlight of my summer vacation! I didn't know it was also a car!

Corsica ... The evocative place where "North Africa meets Europe," in the words of the KBCS radio announcer on October 25 during my morning commute, before playing music from Sardinia and Corsica. Indeed, Corsicans have been set upon by foreign powers for over two thousand years. Such is the downside of inhabiting a strategically located island, the most mountainous in the Mediterranean. Its invaders are legion: Torreens; Greeks; Rome and the Holy Roman Empire; Goths; Vandals; Moors; Italian city-states Pisa, Genoa, Siena; British; et finalment, the French...

Corsica does not feel French. I haven't been to Italy, but I hear Corsica is similar. I can tell you that Corsican, written and spoken, resembles Italian, not French.

Trains and planes

September 1. The 90-minute flight takes me, plus Alex Hart (spouse & twice happily retired lawyer), from Paris to Ajaccio (Aiacciu in Corsican). Corsica is 150 miles long, 50 miles wide, and has 300,000 inhabitants. Ajaccio, with 65,000 residents overlooking endless seas, is its largest city.

After getting a map at the tourism office, we walk a short block to the three-star Hotel du Golfe. The price list in the hotel's reception area ran through August 31. In my earnest, minimal French, I inquire what will be the price for today, September 1? The two employees confer, *et viola!* The price for our water-view room with balcony drops from 160 E. to 130 E.

Our fourth floor-room overlooks the open-air public market across the street. Local cheese, honey, fruits, olives, dried meats, savory pies, yum. Our room also overlooks the ocean 200 feet away. The "Sardinia - Corsica Ferry" arrives every morning; I never figure out why the words are in English. It is so hot (mid 80's at least) that I agree to Alex's suggestion that we take *le petit train* to tour Ajaccio. It gives us a good overview in French, Italian, English, and German. Napoleon is mentioned every few sentences. He was born here. After the tour, we walk around, staying on the shady side of the narrow streets.

Ingenuity over topography

Corsica's roads are legendarily serpentine. We opt for the train - a narrow-gauge, two-car train that trundles along spectacular, winding terrain at c. 30 mph. We travel from

Ajaccio to Corte (Corti in Corsican) to Calvi. The *Lonely Planet* is right on:

"Travelling by train in Corsica - a fun experience in its own right - is much more than simply a means of getting from A to B. Dubbed *U trinighellu* [in Corsican] (literally, 'the rattler'), the 110-seat railcars (also known as *micelines* trundle along a remarkable railway line constructed in the 1880s and 1890s. With 38 tunnels (the longest is 4 km), 12 bridges and 34 viaducts (one designed by Gustave Eiffel, no less), it represents one of the great triumphs of human ingenuity over topography and ranks among the world's great scenic railways."

My favorite spot on Corsica is Corte, in the center of the island, with 6,000 inhabitants. Corsica's only college is there. All of Corsica's six or so citadels are on the coasts save Corte's. Reading that Corte is in the mountains, I had packed accordingly, channeling chilly nights in the Cascades. Wrong. We are not up in the rugged mountains that rise to 9,000 feet. We are not traipsing the legendary GR 20. It is still hot. A walking stick is still a good idea, as I discover when we take a trailhead that starts in town (yes) and hike for a few hours.

A brother and sister run two hotels in Corte. We opt for the three-star one. The siblings speak excellent English. Their mother grew up in Cincinnati. She was a model in New York and Milan until she married a Frenchman and they became shepherds. The 70's, *mais oui*.

Desiring slumber *al fresco* rather than with A/C, we go to bed with the French doors wide open to our balcony and bucolic vistas. Between the heat and the thundering music until the dangerously wee hours, well, it reminds me of college at the end of the school year. Not much sleep was had - in any of our Corsican destinations, come to think of it. Fortunately, the sun and delicious repasts always revive us.

After two nights in Corte, we are off by train to Calvi, on the north coast, for two nights. Ferries from mainland France embark at Calvi, making it touristy. I am not much of a coastal person, so Calvi and Ajaccio do not interest me as much as Corte.

The Loire

After a final night in Ajaccio, we return to Paris. A few days later we take the train to Blois, in the Loire Valley, home of grand chateaux, and the emotional home of my spouse. During college, Alex lived nearly a year in Blois. So strongly did his Blois family influence him and his then-wife Sarah

continued on next page

Vive le France (et Corsica) from previous page

(who also spent time there) that they named two of their three children after their French family – Rene (father) and Catherine (cousin). Catherine returned the favor by naming her daughter Sarah.

The extended families on both sides of the Atlantic are very much in contact 50 years later. This was my fourth visit to the family. Each time my French improves, even though I never studied it. Alex's French family have been *marchands du porc* – pig merchants – for generations. His French father, Rene, lived close to the land, and close by home, his entire 99 ³/₄ years, except for four years on a German prison farm during WW II. Even as he lost his hearing and walked with two canes in his last year or so, Rene continued to be of use, lugging the garbage outside behind him in a box tied around his waist with string.

Rene's daughter's world has been as global as his was not. She married a classmate who has worked for Airbus for two decades. As a result, her family has lived in Frankfurt, Sydney, Seoul, and elsewhere. Her children spend time in Brazil, India, and anywhere on the Continent. They, and their parents, speak terrific English. Rene spoke nary a word.

The silence of the Rhine

We spend three nights in Basel with a biogeneticist who lived with us while interning at the Benaroya Research Institute. Basel is just across from France, in the German-speaking part of Switzerland. Flipping the TV channel yields French, German, Italian, and English (CNN). On French TV, I hear reference to upcoming *novelas*, and then the news comes on. Soap operas in Spanish (my 2nd language) are *novelas*. I eventually realize that *nouvelle* is French for news, not soap operas. The latter are *le soap*.

Basel flanks the Rhine. A fascinating way to cross the Rhine is in one of four historic ferries (essentially large dinghies) with no motors. They are hand-operated by tiller and cross the Rhine by tacking against the current. The silence is heaven. All we hear is the slap slap slap of the current. Swimmers in inflatable tubes ride the current downstream.

The ferries are held in position by a rope suspended above the river. This allows the current to push them across from landing to landing. To cross in the opposite direction they simply turn the boat the other way. Passage takes 5-10 minutes. The first ferry began operating in 1854. Whoever conceived of the idea 150+ years ago?

At the open-air café on the other side of the Rhine, the college-age woman speaks perfect German and English. Her mother is from North Dakota.

Cuisine, cuisine

I am a foodie. But there can be too much of a good thing. I am a fromage hound, but... it will be two weeks until I develop an appetite for cheese after my return to the U.S. Sidewalk cafes – ooh la la, but... after days of them I want to be holed up around the home fires or even in a corner of a restaurant. Composed salads, as beautiful to look at as to eat – *salade nicoise*, *chevre chaud*, salads with smoked salmon (European fish farms, alas) and beets and greens and tomatoes that taste like the tomatoes of my youth ... yes, but please give me something heavy and hearty and not French.

And so one night we eat at a Cambodian restaurant. Located at the foot of Rue Monge and Rue de Moffetard, south of the Parthenon, Restaurant Bayon is a ten-minute walk from our hotel in the 13th *arrondissement*, which itself is a 15-minute walk west of Gare Austerlitz. We take the proprietor's business card and in Seattle deliver it to Sam Ung, owner of the Phnom Penh Noodle House. We have known Sam and his family since soon after their restaurant opened in 1987. Sam speaks six languages though not French. He has never been to France. The Restaurant Bayon, he says, oh, it's in the 13th. How does he know? Because classmates from his Cambodia days live in Paris, and the community is centered in the 13th.

Tempus fugit

We walk everywhere in Paris. Watching traffic makes us bug-eyed. Cars make U-turns in arterials with four feeder avenues. Pedestrians and bicyclists tempt fate navigating each other, plus cars and buses. Helmets and lights are not *de rigueur* on bicycles, but dark stylish office attire is.

We visit the Museum of Jewish Art and History, and, on our last day, *Sacre Coeur*. That morning, WSBA Senior lawyer Marilyn Smith of Seattle leaves us a voice email and email: Former Seattle lawyer Gary Huie died in France the day before. We've known Marilyn and Gary since the 80's. Gary, admitted to WSBA in 1978, was on inactive status. Over the past nearly two decades, he cobbled together a living abroad teaching legal English to Hong Kong law students and French lawyers. His most recent article in the King County *Bar Bulletin* appeared in January 2011: "French and American Legal Perspectives: Waves Emanating from Opposite Shores."

This trip to France I learned a few important things. My spouse has a Gallic sense of humor. The flair that French men and women so easily possess, their clothes that fit and flatter, their very thin physiques, all those French words we use in English – *je ne sais quoi*, *panache*, *éclat*, *elan*, *savoir faire* –

continued on next page

Vive le France (et Corsica) from previous page

well, there's a reason. The French may seem like a caricature. But they are not. Unlike, perhaps, Americans....

Bienvenue a America

Our journey had begun with a phone call to Verizon. Would Verizon set me up for cell phone service in France and Switzerland? Yes, said the nice young woman. A few days later came instructions and pricing for France and Swaziland.

I phoned Verizon and said I'd ordered service for Switzerland, not Swaziland. Did this second nice young woman know where Swaziland was? No – no surprise there, and probably par with most Americans. It's a landlocked country within South Africa, I said. She didn't seem interested. I held a breath and asked if she knew where Switzerland was. She did not!

Our journey ends with a daytime flight over Greenland. It looks like another planet. We arrive at Sea-Tac on a lovely mid-September afternoon. At the taxi stand, a dozen folks are on line ahead of us. Cabs pull up every few seconds; the line rapidly shrinks. An employee points us to a cab. The cabbie meets us and opens the trunk. We are about to toss in our luggage when a man appears from behind the cabbie. He says he was ahead of us and the cab is for him. I am puzzled and try to reconstruct the line in my head. Alex and the man get into a shouting match. For the first time in the 30 years I have known Alex, I yell at him, "Don't be an idiot, Alex."

The cabbie and Alex place our luggage in the trunk, and we three get in the cab. The man appears at my open window, leans in, and lets us know what's on his mind. "I bet you voted for Obama!"

2011-2012 Senior Lawyers Section

wsba.org/lawyers/groups/seniorlawyers

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WASHINGTON STATE BAR ASSOCIATION

Senior Lawyers Section

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Annual Report of Senior Lawyers Section from page 1

The Executive Committee continues to investigate whether reduced dues for WSBA members who have would induce them to continue their membership in the WSBA instead of dropping out completely, and encourage them to volunteer for programs providing legal services to low-income persons and assisting non-profit and community organizations. Note: Currently emeritus membership is available for such purposes. The Section membership (currently 338) has increased only marginally in recent years, while the number of older Washington lawyers continues to grow substantially. Keeping more lawyers engaged would benefit both the WSBA and the public.

The Section's periodic newsletter, *Life Begins*, edited by Carole Grayson, and assisted by Fred Frederickson and Jerry Greenan, contained its usual mix of interesting and informative articles during the year.

The Section has recommended to the MCLE Board a modification to APR Regulation 103(l) to expand the description of the activities which may receive CLE credit to include courses covering legal and ethical obligations to clients upon termination of practice, financial planning for a retirement, and pro bono opportunities.

Contractual arrangements were completed, with the assistance of Kathy Burrows and Rex Nolte of the WSBA CLE Department, for the Section's Annual Meeting/CLE to be held on May 11, 2012, at the Sea-Tac Marriott.

If you're not already a member of the Senior Lawyers Section for 2011-2012, join now!

Send to: Senior Lawyers Section
Washington State Bar Association
1325 Fourth Avenue, Suite 600
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Please check one: I am an active member of WSBA
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Enclosed is my check for \$20 for my annual section dues made payable to Washington State Bar Association. Section membership dues cover October 1, 2011, to September 30, 2012. (Your cancelled check is acknowledgment of membership.)

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