

LIFE BEGINS

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Washington State Bar Association
Senior Lawyers Section

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This article includes summaries of the first half of the speakers at the Section’s annual CLE in May 2014. Part II of the recap will appear in the next Life Begins.

Recap of 2014 Senior Lawyers Section CLE: Part I

By Al Armstrong – Secretary, Senior Lawyers Section



*Karen Klein, CLE
subcommittee co-chair*

Your WSBA Senior Lawyers worked overtime to present an outstanding line-up of speakers at our 2014 Annual Senior Lawyers’ Conference, held as always at the Seattle Airport Marriott on May 9. Offering an expanded program of 6.75 CLE credits (including .75 ethics credit) at the same \$170 cost as the previous year, the program was an even better bargain than

in times past. Attendees enjoyed our traditional high-quality buffet luncheon (included in the price) that has come to set the standard for CLE fare. As in past years, registrants and walk-ins found a delicious assortment of pastries, fruit juice and coffee choices awaiting them upon arrival.

The program began with a short welcome by Senior Lawyers’ Committee Chair John Bergmann. He encouraged attendees to supply our Section with feedback by responding to our survey that had been distributed along with the traditional WSBA speaker evaluation forms. (The survey responses are analyzed by the Executive Committee

to ensure our CLE programs reflect our Section members’ needs and interests.)

Gair Petrie: Death and Taxes

Spokane attorney Gair Petrie was the kickoff speaker at the CLE. Addressing “**Tax Consequences of Financial Planning for Seniors,**” he focused on tax issues raised by contributions to, and withdrawals from, 401(k) plans and Individual Retirement Accounts. He noted that 401(k)’s are protected under ERISA from creditors (in most situations), and IRA’s are protected from creditors under the Bankruptcy Code and, outside bankruptcy, under RCW 6.15.020. The exemption granted IRA’s is limited to \$1 million, except in cases of rollover IRA’s from a qualified plan, which are not subject to the limit.

If you own five per cent or more of your firm, said Petrie, you have to take your required minimum distribution (RMD) after you reach the age of 70 ½; if you own less, your plan may allow you to defer distributions until you actually stop working.

Petrie discussed the pros and cons of IRA Roth conversions—the practice of paying one’s tax obligation on one’s IRA at once, thus enabling the retiree to then receive all IRA

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distributions, plus earnings thereon, tax-free. He cautioned that doing this requires about 13 years after the conversion for the retiree to actually save money, and one takes the chance that the market value of your IRA stocks may fall after conversion and payment of tax on the then-value of the IRA, thus leaving the retiree/taxpayer having paid tax on wealth that was never actually received. He noted other factors to be considered: the chance that another aspect of the tax law may change; the elimination of income averaging, inclusion of IRA's and 401(k)'s in valuation of estates for federal estate tax purposes, and the imposition, in 2013, of a 3.8 percent tax on net investment income.

The Surviving Spouse and the QTIP

Petrie noted that minimum distributions from IRA's, following the taxpayer's attainment of 70½, can be computed by totaling up all of one's IRA's and taking the minimum distribution from the sum of all, with the same being true of the sum of all 401(k)'s. The IRA's and the 401(k)'s cannot be added together for this purpose, however.

He outlined various aspects of estate planning, centering on the use of credit bypass trusts and QTIP (Qualified Terminable Interest Property) trusts. The deceased spouse's unused exemption (DSUE) can now be passed on to the surviving spouse. Each spouse now has \$5.25 million federal estate tax exemption; however, our state estate tax only provides for a \$2 million exemption.

A credit bypass trust can be funded by a disclaimer by a surviving spouse, who could still receive income from the trust during life, and, on death, the trust would be distributed directly to the next generation, *bypassing* the estate of the second spouse to die. Petrie was emphatic in characterizing the federal tax on funds placed in the trust itself as "almost confiscatory" in nature. Capital gain tax on the trust's earnings is also much higher than would be the case if the funds were not utilized to fund the trust. There is also no "step-up" valuation of the trust assets as these are not included in the estate of the second spouse to die. Where the surviving spouse has disclaimed in favor of a trust, Petrie suggested utilizing a QTIP trust election for federal estate tax purposes and considering the trust a bypass trust for the state estate taxes. Upon the death of the second spouse, the heirs can take the minimum distribution of an IRA throughout their lives pursuant to a schedule based upon their respective life expectancies.

Attendees praised Petrie's talk. Many commented on how clearly and cogently he had presented such a complex area of the law. "Excellent presentation"... "superior content"... "great job, thank you!" were typical evaluation responses to his presentation. "I am currently estate planning for my family. Mr. Petrie answered many of my questions without having to ask him," wrote another attendee.



Mary Wolney

Mary Wolney: Medicare, Medicaid, and Retirement

The morning's next speaker was Mary Wolney of Seattle. She is immediate past president of the Washington Chapter of the National Academy of Elder Law Attorneys. Utilizing her many years of experience actively dealing with long-term care and end-of-life issues, she addressed

the state of health care/elder care in Washington as it relates to the byzantine world of federal health care/elder care with her presentation on "Medicare and Medicaid: Their Impacts on Retirement." She gave a brief breakdown of Medicare coverage classification: Medicare Part A (hospital coverage), Part B (doctor visits, medical supplies), Part C (Parts A and B and other benefits obtained through a private insurer) and Part D (drug coverage).

Wolney painted a rather bleak picture of prospects for long-term care for all but the very wealthy. She pointed out that skilled nursing care in a facility is not covered in excess of 100 days by Part A: 20 of these days are free, the remaining 80 days carry a "co-pay" of \$152 per *day*. She estimated that care in a local skilled nursing facility can run to \$10,000-\$11,000 per *month*. The state COPES program (Community Options Program Entry System), administered by DSHS, has in the past offered meaningful help to those in need of this care, but an increasing number of care organizations and facilities do not accept COPES-dependent patients because COPES pays so little. An increasing number of facilities are turning patients out who cannot pay, but, according to Wolney, some facilities are better than others in this regard.

Observation vs. Admission: Not Just Semantics

Caregivers for persons nearing the 100-day coverage limit of skilled nursing facility care should seek help from Medicaid early in the process and not to wait until the last minute. Wolney noted that, in the 100-day nursing care scenario (when the Medicare coverage runs out), a spouse and care recipient can have as much as \$117,000 in assets. If they have more than this, they can use their excess net worth to purchase a "Medicaid Annuity" which would not be counted as an asset for eligibility purposes. This on-paper decrease in assets would render the spouse who is in the facility eligible for Medicaid. However, if the recipient of the annuity (the spouse who remains at home) dies before the policy pays out, the state becomes the beneficiary of any remaining value, to recoup the funds that were paid by Medicaid to the nursing facility. Partnership policies

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are a related device whereby a long-term care policy can be purchased and the assets of the Medicaid recipient will not be counted against the asset limit to the extent of the payout of the policy.

Wolney also advised caregivers to make sure, in the event hospitalization is necessary, that the patient is actually *admitted* to the hospital, not just allowed in for “observation,” which may not be covered.

Editor’s note: An op-ed column in The Seattle Times on September 10, 2014 addressed this trap for the unwary – and a pending bill to remedy it. “Medicare’s observation status is a financial black hole for families,” by Nancy Day, can be found at http://seattletimes.com/html/opinion/2024509059_nancydayopedmedicare11.xml. html.

Make sure that an estate plan is in place that maximizes the potential for government benefits, and look into possible long-term care insurance, although this can be rather expensive. Effective estate planning documents such as Durable Powers of Attorney should be prepared for the elderly and medically vulnerable. Limited help is available for veterans. As long as the veteran can prove he or she was in active service for one day during wartime, help may be available for non-service-connected disability that requires assisted living. However, this is a needs-based program that is limited to recipients with a net worth under \$80,000 and with medical expenses exceeding income. The maximum benefit is \$1,776 per month, with a maximum of \$1,100 per month for a surviving spouse.

Attendees’s CLE responses noted Wolney’s grasp of her subject. “Very, very good—information that was very valuable” was one comment. “Good job, appreciate her insights, this discussion was appreciated by me and others” was another.



Faith Ireland, Retired State Supreme Court Justice

Panel Discussion: Second Career and Volunteer Choices

The late-morning panel featured four bar members: Retired Washington State Supreme Court Justice Faith Ireland, Scott Wyatt, Robert Boruchowitz, and Jo-Hanna Read. Executive Committee member Stephen DeForest moderated the discussion.

Ireland led off the discussion, recounting her early inspiration to enter the legal profession, sparked by listening to hearings conducted by the House Un-American Activities Committee at the age of 12. “If I were a boy, I would become a lawyer,” she recalled

thinking. After 21 years in the state judiciary (King County Superior Court, Washington State Supreme Court), she was ready for a new challenge. Considering Alternative Dispute Resolution, she noted that she had had no experience in ADR but had conducted hundreds of settlement conferences. She enrolled in a short course in ADR at Pepperdine University and jumped into the field.

She has pursued a second career in mediation, founding “Just Results, Mediation and Consulting.” Marshalling what she considers the foremost personal assets in career-building (experience, reputation and training) she began her ADR enterprise. She recommended that new entrepreneurs implement and stay with a business plan that is as simple as possible. In her case, she rents access to office facilities near her home in Seattle, eschewing other more costly options. She urged others starting a second career to find a niche with which they may be comfortable. “I get satisfaction when I settle a case,” former Justice Ireland concluded.

Find Your Voice, Trust It, and Write

Panel member Scott Wyatt, an Issaquah attorney and author, shared his thoughts about his experience as a writer. With technology, he noted, “anyone can be a published writer today.” He urged others who want to write to just do it, whether the work be a novel, memoir, children’s book or other literary creation. He has produced two self-published novels since 2005 (*Beyond the Land Creek Bridge* and *Dimension M*) and in fact offered copies of them for sale to the CLE attendees. He is at work on a third novel.

Wyatt offered the following pointers and advice to those contemplating a writing pastime: join a writers’ group, read good writers only and avoid “junk,” keep a notebook of descriptive sentences and turns-of-phrases, and be kind to yourself and don’t be tempted to think you are not good enough. He noted that writing a book and marketing it are two separate undertakings; today, all writers, published or otherwise, are expected to actively market their work.

“Find your voice, learn to trust that voice, write the way you speak, tell an interesting story, and hold yourself out as a writer,” he advised. He indicated that the urge to write can be an acquired trait, a process that with practice can be internalized. Noting that he likes to write in coffee shops, he said that one must set aside some time, every day, for composing. “Writing is a way of exploring.”

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Bob Burochowitz

Minor Crimes, Major Consequences

Bob Burochowitz, our third panel member, was a 28-year veteran of The Defender Association (as Director) and now serves as a professor at Seattle University School of Law. He spoke about the 10-year study of misdemeanor-related court practices around the country

and locally, first on a Soros Sr. Fellowship and then as a researcher for *Minor Crimes, Massive Waste, the Terrible Toll of America's Broken Misdemeanor Courts*. He recounted the results of his three years of research, as Director of the Defender Initiative (funded by the Open Society Foundation) regarding representation of misdemeanor defendants in selected U.S. states, including Washington.

He noted that 50 years after *Gideon vs. Wainwright* (in which the U.S. Supreme Court held that all criminal defendants have the constitutional right to legal representation at public expense if they cannot afford counsel), many defendants charged with misdemeanor offenses are offered either inadequate representation or no representation at all. He emphasized that most people who go to court for any reason are there as misdemeanor defendants. A misdemeanor conviction can mean loss of a job, access to housing, availability of student loans and, for non-citizens, the threat of exclusion from the country, not to mention sometimes ruinous (for the poor, who constitute the majority of defendants) fines and court costs and, of course, jail time.

Boruchowitz noted that the Washington State Bar Association recommends no more than 400 cases per year per attorney in appointed misdemeanor cases. That, however, is just a recommendation, at least for now. He focused on *Wilbur v. Mount Vernon, et al*, which was filed as a class action in the U.S. District Court for the Western District of Washington, challenging the constitutional adequacy of public defender services provided to defendants in Mount Vernon and Burlington municipal courts. In December 2013, U.S. District Court Judge Robert Lasnik ruled in favor of the plaintiffs, holding that the two Skagit county cities had indeed failed to assure constitutional protections for accused persons. In April 2014, Judge Lasnik ordered a \$2.5 million attorney fee award for plaintiffs' counsel. This lawsuit had even drawn the attention of the U.S. Department of Justice, which had filed a "Statement of Interest" in the matter.

Teaching Trial Skills to African Lawyers

Jo-Hanna Reed served as our fourth panel member. She recounted her experiences teaching trial skills in the African nation of Botswana in 2010, under the auspices of WSAJ (Washington State Association for Justice), and JAA (Justice Advocacy Africa). She noted that in Botswana, as in other former British colonies in Africa, the British adversarial system is used, with the same order of proof as in Britain and the U.S. However, cases are only tried to a judge, not a jury.

WSAJ members Steve Fury and Mark Wagner accompanied Read to Botswana. Because no separate law schools and no trial advocacy courses are offered in these former British colonies, JAA has as its mission to share the participants' trial skills with local practitioners throughout sub-Saharan Africa. Botswana, as Read noted, was once the poorest in Africa but, since independence, diamonds were discovered, rendering it much more prosperous. Now, every citizen enjoys the right to free education. Read's association with JAA has "opened a door for me that would never have happened otherwise."

The attendees' response to this year's panel was very positive. "This is the best panel I've seen," wrote one attorney. Another appreciated the "great diversity among the speakers." Still another commented that the panel members set forth "some good ideas."



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- Shop at the WSBA store (order CLE recorded seminars, deskbooks, etc.).
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Opinionated Senior Lawyers Comment on Senior Lawyers Section, WSBA and More

By Fred Frederickson

At the May 2014 Senior Lawyers Section Annual Seminar, section members completed a questionnaire commenting on our Section and the WSBA among other things. The Section Executive Committee thanks everyone who attended the seminar and especially those of you who took the time to complete the questionnaire. The Executive Committee pays close attention to these responses and attempts to implement the collective wishes of section members.

This article summarizes comments on the Senior Lawyers Section and the WSBA. The commenters also created a "Bucket List" of things they would like to do when they retire or slow down and expressed their views on the prospect of future senior lawyer social functions. An article covering the latter two topics will be published in the next edition of *Life Begins*.

Senior Lawyers Section "Wish List"

One of the questions focused on the Senior Lawyers Section asking section members to create a "Wish List" of what they would like the Section to do. Here is a summary of the responses to this question.

*Have a List Serve (Does it?) [*Editor's Note*: The Executive Committee at its September 2014 meeting approved creation of the listserv for section members.]

*Help spread the word about the new WSBA Low Bono Section.

*Include in the section seminar a basic (bonehead) estate planning course principally for small estates (\$15,000 to \$800,000).

*Find a worthwhile public service project.

*Hold more CLE sessions emphasizing probate, Medicare, Medicaid, guardianships etc.

*I am happy with the current methodology.

*Continue the good work!

*This program is exactly what I needed including tax & health care information etc.

*Increase Section membership; encourage older lawyers to help meet the critical need for legal representation of those who can't afford a lawyer.

*Continue the annual seminar. [*Editor's Note*: We will.]

*Keep the seminar at the Sea-Tac Marriott.

*Keep us updated re important legal points and changes that affect section members, family, clients and others.

*Become more active in law simplification and reform.

*Consider a couple of social / nonworking sessions-one East of the mountains.

*Continue current program-Excellent CLE.

*Continue on as leadership has been doing—Great Job!

Section Members Have Mixed Views About WSBA

Another question sought "Gripes" section members may have regarding the WSBA. The responses were mixed. Several section members indicated, "No Gripes." One member commented, "It has gotten better over the last couple of years in being an advocate for its members." The following is a summary of the comments regarding "WSBA Gripes."

*Gripe: There has been a reduction in service due to dues reduction.

*Failure to lobby against the petty local superior court rules such as King County's "\$60 expedited document fee." Why can't an attorney just take an order down to ex parte and get the Commissioner's signature like we used to be able to do? These rules seriously burden small practitioners whose offices are located remotely from downtown Seattle or Kent.

*Gripe: Doing away with the RPC Committee.

*Gripe: No hearing aids were handed out. [*Editor's Note*: The Executive Committee will take immediate action on this gripe.]

*WSBA should vet cloud computing services; posting services are continuing – should be listed chronologically; it deemphasized the LAP conference in Chelan.

* Becoming too bureaucratic; Board of Governors spends too much time in management and too little time on policy.

*Expense.

*Gripe: Legion.

*Don't have any. They do a super job.

*Gripe: Ivory Tower Syndrome,

*Gripe: Taking political positions—especially those based on being "politically" correct.

Other Comments

The final item on the questionnaire gave section members the opportunity to jump on their "soapbox" and comment on anything and everything. Below are their comments.

*Thanks for getting me together with so many old friends for a good educational & entertaining program.

*This year's CLE: great location & price; lunch was tasty.

*Very much enjoyed the annual Senior Lawyers Conference. I will attend in the future.

*I think the Marriott is just fine.

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Report of the Immediate Past Chair

By John Bergmann



Article II of our bylaws provides in general terms that the purpose of this Section shall be to benefit the members of the Washington State Bar Association and the general public by:

2.1 Developing and promoting programs for lawyers 55 years of age and older to keep them informed as to matters pertinent to their particular status, age wise.

2.2. Providing the opportunity and forum for members of the Washington State Bar Association to exchange ideas in areas particularly of interest to lawyers in the designated age group and to engage in educational and related activities in connection with the continuing legal education committee of the WSBA and to set up social engagements.

2.3 Undertaking such other service not inconsistent with the bylaws of the WSBA and the State Bar Act as

may be of benefit to the members of the legal profession and the public.

It has been my privilege to have served on the Executive Committee of this Section for several years and to have served as its Chairperson for the 2013 and 2014 fiscal years. When I look back over these two years, three things stand out:

1. Continuing camaraderie with lawyers and judges I have had the privilege to come to know and work with over my 49 years of practice
2. The depth and quality of our two CLEs in 2013 and 2014
3. How much more we could do, and perhaps should be doing as a Section

From the moment I started practice in 1965 at the office of Ogden Murphy in Seattle, it became very apparent, very quickly, that one of my most valuable tools as a lawyer was the credibility of my word to my fellow lawyers. Of course in those days there was no such thing as email, no desk top or laptop computers. There was the first stage of electric typewriters and the phone. If someone gave me his word over the phone (for it was usually men I dealt with in those days), there was seldom need for a follow-up letter confirming our discussion. A lawyer's word was one of his most valuable assets.

Today, in this Senior Lawyers Section and in our Executive Committee meetings, I am constantly reminded of what a gift it was to be able to communicate relying upon the word of my opposing attorney. In our infrequent meetings today, I look back with fond memories to my work with some of these same lawyers years ago as opposing counsel or co-counsel. The adversary system does not have to generate distrust between opposing lawyers. I look back with honor at the many times I was able to simply take the word of my peers on an agreement made over the phone or even in passing on the street, or while waiting for my cases to be called at case settings in the Presiding Judge's department in King County.

Our 2013 and 2014 CLEs

Our newly elected Chair, Carole Grayson, came up with the title and theme for our 2013 seminar: "Snap! Crackle! What's Popping in the Legal Profession?" Michael Badger, Jerry Jager and Phil De Turk led a panel discussion on Managing a Practice into Your Senior Years. Supreme Court Justice Steven Gonzalez led us through the process of judicial selection and separation of powers. Renowned criminal

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*Good Seminar! Valuable information and CLE at a good location with a good lunch.

*The annual conference is always informative and fun.

*Great CLE today!

*Good event; thank you. Could we get the briefing slides/materials before the event so we can read and be familiar with the material/slides before attending.

*I like the present location. It's more convenient than going to downtown Seattle.

*Keep up the good work. The conference is always a win/win. Great fellowship with contemporaries; CLE credits; free parking; good food and a session to look forward to.

Final Editor's Note of outgoing editor Carole Grayson: The Senior Lawyers Section Executive Committee again thanks everyone for attending our annual seminar and for taking the time to respond to our questionnaire. This Section and in particular the annual seminar operates on a very narrow financial margin. To offer the seminar at the Sea-Tac Marriott, provide an excellent lunch coupled with free parking at the current price, 150 to 200 section members must attend the seminar. Next year bring a colleague, an old classmate or even the opposing counsel you despise to the seminar and help the Executive Committee keep the Section financially afloat.

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defense attorney John Henry Browne opened the session with a stimulating discussion of the art of communication in criminal defense. WSBA Professional Responsibility Counsel Jeanne Marie Clavere reminded us of the ethics of using social media in the practice of law. Two University of Washington professors, Karen Boxx (Law) and David Domke (Communications) gave us their insights in community property and how monies are spent in elections, respectively.

For our 2014 seminar, Lawyers in Transition was our focus. Gair Petrie and Mary Wolney started us off with the tax consequences of financial planning for seniors and the impact on retirement of Medicare and Medicaid. Robert Boruchowitz, Jo-Hanna Read, retired Justice Faith Ireland, and Scott Wyatt constituted a lively panel discussing second career and volunteer choices. Scott Osborne exposed us to planning for change in real estate. David Lenci gave us our ethics credit while discussing ethical issues for lawyers in transition. For many of us, the most intriguing presentation came from third-year University of Washington law student Shon Hopwood as we learned of his first-hand perspective on criminal justice reform.

What More Can and Should Our Section Be Doing?

As a Section, we essentially meet once a year at our annual CLE. Our Bylaws as noted above clearly spell out what we should be doing:

1. Developing programs for senior lawyers to keep them informed.

We fail pretty badly on this. We have one seminar a year and nothing else scheduled. Should we be considering quarterly mini CLEs on developing topics of interest to lawyers in our age group?

2. Providing opportunities for exchange of ideas and engage in educational and related activities in connection with the CLE committee of the WSBA and “to set up social engagements.”

We also fail pretty miserably in doing this. Every year after our CLEs, those in attendance repeatedly state how much they enjoy the opportunity to meet and greet and socialize with their peers. Why do we continue to limit this to our annual spring seminar? Other Sections have expressed interest in working with us. We need to follow up with them. For example the Low Bono Section is seeking mentors for its Coffee House Attorney Mentor Programs (CHAMPS). We need to meet with them and follow-up on this invitation. Should we not also be meeting with the Young Lawyers Committee?

3. Remember that our own bylaws provide that our purpose includes undertaking such other activities that may be of benefit to “members of legal profession and the public.”

What are we doing? Very little if anything beyond our annual CLE! Our membership count after the 2014 CLE stood at 301. I believe that around 8000 of the 30,000 active WSBA members are 55 and older. We do not promote our Section’s list serve. Should we be doing something in Central and Eastern Washington to get input and participation from potential members in those areas?

These failures, if you will, are for the consideration for all our members, not just our incoming leadership. I look forward to seeing how our Section, with assistance from our WSBA liaisons, better fulfills our bylaws.

WSBA Emeritus/Pro Bono Status

Are you paying for your “Active” WSBA license but not practicing much these days?

Are you thinking about changing your status to “Inactive” for a reduced licensing fee?

Consider WSBA “Emeritus/Pro Bono” status. Emeritus/Pro Bono is a limited license to practice in connection with a *qualified legal service providers* with the same low licensing fee as “Inactive” without the mandatory MCLE requirements.

For more information please contact Ana Selvidge, WSBA public service program manager, at 206-733-5905 or anas@wsba.org.

Self-Esteem to Self-Doubt: A Retirement Farrago *

By Charles E. (Ted) Watts

*"Haven't you retired yet?"
"I thought you'd retired years ago."
"When are you going to retire?"*

With increasing frequency I heard such types of comments in recent years. Whether these were well-meaning jests from friends or passive-aggressive comments on my declining ability as a private practitioner, I do not know. Nevertheless I heard such remarks often enough in the last few years to finally ask myself, "Why haven't I retired yet?"

I am age 73 and a few months. My parents both died in their early 80s, about 10 years older than I am now. After 49 years in the practice of law in the state of Washington, 47 of those in King County and 37 in Bellevue, the questions were no longer funny or rhetorical. They presented me with a serious choice: continue a way of life I have known and enjoyed for decades, or enter into a new and uncertain world called "retirement."

About a year ago I chose to retire. I then began the process of winding down my predominantly civil litigation practice. Right now I could not be happier with the decision I made. Self-doubt about my mental sharpness and toughness in the demanding and stressful civil litigation practice is now replaced with confidence that I made the right decision.



Ted (before)



Ted (after)

misstep to bring me down to my final breath. Anxiety is a bygone emotion. Serenity is rampant now!

Over the last several years I have developed a passing but relevant interest in the aging brain. As a lawyer I lived by my wits, not by physical strength speed or agility. The speed and agility and strength that I required came from my three pound fist-sized organ known as the "brain." I have read that the human brain continues to grow and increase in capacity until about the age that I graduated from law school in 1965. I have learned that from that age to expiration, the brain does not replace brain cells with new cells and daily loses large numbers of cells through attrition. I have learned that at the maximum the brain has somewhere

in the order of 100 billion cells that communicate with each other through a trillion or more neuron gaps. I have read about, and certainly observed, the reduced brain ability in short-term memory as we age and the increased ability of the brain to remember ancient irrelevancies. (I can remember to this day the name of my third great teacher, but cannot remember where I put my car keys last evening.)

I have noticed in myself a certain lessening of intensity in what I have always considered to be my greatest asset – my ability to think quickly and clearly on my feet and to express myself well spontaneously. I sense a lessening of concentration and attribute it to age.

Survival of the Fittest

No longer do I experience the anxiety of preparedness. No longer do I experience the stress of adversary proceedings against much younger practitioners. No longer do I sleep with a notepad beside the bed for those sleepless nights when I am planning deposition or trial strategies or legal arguments and immediately writing down my thoughts for fear that I would forget them in the morning if I did not. No longer am I preoccupied by devising and reviewing legal strategies and controversies and stresses while driving, recreating, socializing, or whatever else interests me now.

In the last few years the thought has never been far from the surface of my mind that my bar number (2331) multiplied by 20 is still less than the bar numbers issued to new admittees! In retirement I no longer consign myself to the fearful position of the aging bull elk pushed out from the herd by the younger quicker and more aggressive males, and encircled by snarling wolves waiting for the slightest

Path of Least Resistance

Franz Kafka said it best. "The meaning of life is that it ends." I have maintained for many years that I would continue to practice law as long as I was able to enjoy it and so long as I was "good at it." I obtained my life meaning from my ability to work with and assist clients in the pursuit of justice through the legal system to which I swore fealty. As long as the practice of law had meaning I wanted to be a part of it and serve it well. I now believe that the enjoyment and talents I prided myself on for so long are diminishing and that it is time to turn the page on life's "meaning."

Given the decreasing number of active remaining years nature has allotted to me, I now believe that my life has more meaning than simply practicing law, especially when I believe that the time is coming when it would not be in the best interest of my clients for me to do so. Abraham Lincoln said that a test of a good speech is to "leave the

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audience wishing for more – not less.” Similarly the test of a good legal practice is to leave judges, fellow lawyers, and clients wanting to read and hear more from me – not less. Let others balance the scales of justice. Keeping MY balance is hard enough now!

Another cranial statistic is that my brain, weighing approximately three pounds and representing much less than two percent of my body weight, consumes 25 percent of my energy. Presumably this is true whether or not I am making effective use of the organ, as the energy consumption must be quantitative, not qualitative. As with an airliner, I expended tremendous energy getting off the ground in my legal profession and ultimately attaining a level of efficiency where I could fly straight and easily carry out my goal of good and effective and professional advocacy for my clients. But, also as with the airliner, that path of least resistance in level flight where everything goes smoothly and efficiently ends. Age, like gravity, brings me back to earth. That is what retirement looks like to me. I am grounding myself from one chapter of my life and starting another. It’s the same take off, cruise time, and ultimate landing – but in a new non-legal and retired context.

No Longer Bringing Home Work

Does this emperor have clothes? For my entire professional career I have counted on my clients accepting and acting on my advice. Much of that advice was to assist the clients in becoming willing to modify their behavior and accept change in their circumstances. Clients come for advice, strategy, and planning because something in their life is changing or needs changing. Now I am in the same client role but reversed. Can I take my own advice and expend my energies on making the most of my remaining years of active health? (My parents probably had until age 80 where they were considered to be “active.”) If this emperor has clothes, he will heed his advice and willingly and excitedly enter into the new world of retirement and make the most of it. If not he will likely embarrass himself with his nakedness in the streets of professional challenges by higher bar numbers.

I have been married for 51 years and my wife deserves, and probably needs, a break from being married to a litigator. Nothing in my law practice was left at the office. Now I can start leading my new life at home and spend time with family in a relaxed participatory atmosphere. This has been denied to them for 49 years but not longer, I hope. I may fear this challenge and change with greater apprehension than any other. But the challenge will be worth it.

Was retirement a specific decision or a “process”? For me it was a process. As Carl Sandburg writes, and I paraphrase from “Fog,” the decision to retire “came in on little cat feet.” I found myself in the recent past increasingly chal-

lenged and discomfited by the technocratic and impersonal evolution of the practice of law. I found myself remembering trial assignment in King County through Bob Rockman and his Ouija board/auction trial assignment practice. I found myself remembering and fondly the “cattle call” style motion calendar in King County (and with Judge William Beeks in the District Court) where the lawyers would gather and get to know each other better and be able to put faces to names. I remember using phone calls instead of email as the method of communication with other lawyers, leading to a more personal relationship between lawyers.

Creating New “Good Old Days”

I have found myself writing emails of regrettable tone and content, characteristics I never would have said in person or by phone. I find myself remembering Room E – 942 in Seattle where dozens of lawyers would gather on a daily basis to await trial assignment. During those waiting periods I remember the times I spent meeting and getting to know the lawyers on a personal basis and sharing war stories and tips. I remember when trial judges used to walk the halls of the court house like regular people hobnobbing with and getting to know the other side of the bar. I remember when bailiffs like Harry and Mike were fixtures at the court house and true friends of the trial bar. This is where the aging process has led me. My short-term memory of the car key location is abysmal but my remembrances of the “good old days” are strong (although possibly inaccurate). Just the idea that I spend my time remembering the good old days suggests to me that it is time to start a new chapter in life by creating new “good old days” in retirement.

I was also led into retirement by the fact that judges in the trial courts are often younger than my children. Sometimes I have found myself addressing them as if they were my children. I have experienced instances where I relied on accumulated wisdom to carry the day and found myself resentful and uncomprehending of why a young judge was incapable of seeing things my “mature” way. I have noticed a tendency toward entitlement based on my experience and my years in the profession. I am less likely to accept bad outcomes as part of the legal advocacy process. Instead, I find myself personalizing reversals as an insult to my “seniority.” I do not feel that I am lazy, only that judges and fellow lawyers are not meeting my expectations due to lack of respect of my years of experience.

My retired friends claim to be “busier than ever” in retirement. I doubt that. I do not want to be that “busy.” I want to be able to pick and choose what I want to enjoy with my family and friends and to have idle time for reading, movies, TV, watching games, attending performances and simply doing nothing at all. Now I have time to smell the roses and I look forward to every day of it. My life will have

Myanmar: Visit It Now

By Tom Wampold

B.J. and I discussed going to Myanmar for years, but did not want to support the oppressive government. Because of the beginning of democracy in Myanmar, we went this year. Tourism has been growing by leaps and bounds, and prices have skyrocketed (but are still cheap by American standards). If you are interested, go now before tourism changes the culture, and it gets more expensive.

We arrived in Yangon, a city of over six million people. Traffic was horrendous. Unlike Saigon, by law no motorcycles are allowed in the city proper. After the British left, the country switched to driving on the right hand side. Until recently, residents couldn't afford new cars, so they bought used cars from Japan. Most of the new cars they now can buy are still from Japan, so almost all steering wheels are on the right hand side. This presents a problem when passing on narrow roads. Many times the truck in front signals with its blinkers when it is safe to pass; or the tour buses have a guy driving shotgun sitting on the left side, telling the driver when to pass.

Bountiful Buddhas

B.J. and I were on a tour. The tour was the two of us with a car and driver. The people in Myanmar are gaining more freedom and were comfortable discussing politics with us. We saw the home of Nobel Peace Prize winner Aung San Suu Kyi, who was released from house arrest after around 15 years. We visited the headquarters of her party which hopes to increase their representation in parliament. She is a currently a member there.



Bagan - 40,000 people; 4,000 pagodas

Yangon has a large market, and it is easy to spend a half day shopping. There were literally hundreds of jewelry shops. The jewelry was expensive, especially the rubies. (I

later discovered that they are cheaper at Inle Lake. I discuss this magical place later in this article.)

The majority of the people in Myanmar are Buddhist, and they are very religious. We went to one pagoda near Mandalay with 600,000 Buddhas in it. In other pagodas, people place gold leaf on the Buddhas. The sizes range from small Buddhas to one Standing Buddha that is over 400 feet tall. In the ancient city of Bagan, a city of 40,000 people, there are over 4,000 pagodas. After spending two days in Bagan, I do not want to see another pagoda EVER.

Living on the Lake

We enjoyed going to an elephant camp, an old age retreat for elephants that had been overworked in the teak industry. We were able to go with the elephants to a river and literally bathe them while standing on them and later ride on their necks back to their homes. We also planted teak starts as part of a reforestation project.



Senior Lawyers Tom Wampold and B.J. Levy wash an elephant

Self-Esteem to Self-Doubt: ***A Retirement Farrago*** from previous page

“meaning” and hopes but it will be pointed in a different and exciting direction. We already have our travel plans laid out for this year and next, and expect to take the time to see the world, even if it is only in our own country. It is time, perhaps past time, to use the mental skills of a lawyer on myself. I face a new challenge in my life. Change is good! I look forward to it – and to a full and restful night’s sleep.

* Farrago – A confused mixture, hodgepodge, jumble, medley.

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Myanmar: Visit It Now *from previous page*

The most interesting part of the trip was Inle Lake, which is about the size of Lake Washington. It is populated by 35 ethnic groups, all of whom live on the lake – not around the lake, but on it. The first thing we noticed were fisherman in small boats. They propelled their boats by standing on one leg on the seat and the other leg wrapped around an oar. Standing provides the rower with a view beyond the reeds and floating plants which cover the lake.



Fishing meets ballet

The buildings on Inle Lake include hotels and restaurants, and they are built on pilings. Vegetables, including tomatoes, are grown on floating gardens; the dirt clumps together and a pole is put on each end and pushed into the bottom of the lake to keep it in place. The ground on the side of the lake is being cleared for hotels, another reason to go there before it is overwhelmed by tourism.

Each ethnic group seems to have its own cottage industry, all of which are primitive. For instance, tools are made by taking scrap metal, heating it in a forge, and then pounding it out with sledge hammers. At a boat-building factory, we saw a long teak beam about a foot square. Two men were cutting it in half length-wise with a hand saw six feet long, with one man above the beam and one below, pushing the saw up and down. They did this for eight hours a day and were paid \$5 a day.

In summary, I recommend a trip to Myanmar. It is quite different from other Southeast Asian countries. The people all speak English and couldn't be more helpful or nice.

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Bellevue College Offers Interesting Noncredit Courses to Seniors

By Jim Cushing

Bellevue College's TELOS academic program offers a variety of compelling and fascinating courses of interest to retirees. Topics range from ancient art, to U.S. history, to modern technology. The retirees' classes are offered during weekday daytime hours and are held at the North Campus located at 14673 NE 29th Place, Bellevue.

The TELOS program, operating since 1976, is designed to fit the lifestyle and interests of retirees. The emphasis of TELOS is on learning, with non-graded, non-credit classes taught in a relaxed atmosphere. The classes generally meet for 90 minutes once a week Monday through Thursday.

Popular past classes have included Views of the News (about current events), Geology of the Pacific Northwest, The Relationship Between Science and Religion, Creative Writing, and T'ai Chi.

Visit Retiree Programs | Bellevue College Continuing Education (<http://www.bellevuecollege.edu/ce/retiree-programs>) for more information and registration. The fee is \$79 per class.

Life Begins' Critics Review Bellevue College History Course Sponsored by TELOS

By Fred Frederickson

My UW Law School classmate, Chuck Kimbrough, and I took a Bellevue College TELOS history class this past spring. The two-month class met once a week for 90 minutes. It focused on the first four presidents, Washington, John Adams, Jefferson & Madison (two classes per president) and was taught by Jim Cushing, author of the previous article. Approximately a dozen students/seniors took the class.

Chuck and I found the class informative and thoroughly enjoyable. Our instructor, Jim Cushing, nimbly incorporated a power point presentation into his lecture. He presented a pithy quotation or dramatic picture every step of the way. The class was populated with history buffs who were not shy in posing questions and sharing comments. Cushing handled the questions and comments with the grace and aplomb of a major league shortstop fielding ground balls all the while deflecting tangents and keeping discussion focused on central themes.

Chuck and I commented to one another several times about how much time it would take to prepare this class. Jim conducted the class like an experienced lawyer in full control of both the evidence and the law. We later learned that Cushing is a member of the Illinois Bar and former General Counsel to the Tribune Company, a Chicago based media company.

This fall Chuck and I along with our classmate, Ted Watts, and Tom Kraft (UW Law Class of 1966) are taking a U. S. history class. Chuck is also taking a class on Norway and I am taking one on baseball as well as history. We are looking forward to the winter classes and hope that additional Senior Lawyers will join us.