

# LIFE BEGINS

Senior Lawyers Section Newsletter

RELEVANT  
INFORMATIVE  
ENTERTAINING



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## Letter from the Chair

# EVOLUTION OF SENIOR LAWYERS

By Brian Comstock, Interim Chair (Summer 2023)



**Greetings!** Here we are in a changing world, fighting the COVID-19 pandemic, struggling through the wildest storms ever, seeing our North Pole melt away, etc. No surprise. These worldwide trends and events have had an impact on our Senior Lawyers Section, forcing change and challenging how we address all this in the future.

My participation in the programs and activities of our Section goes back to 2008 and has been most challenging, as I shall explain. Your thoughts and comments regarding all this will be much appreciated. (My biblical headings are simply to categorize my thoughts, not to preach religion.)

### GENESIS

Putting things in perspective, our State Bar was formed many years ago in 1888, in Washington's last year as a territory. Our Senior Lawyers Section was founded some decades ago. I recall being a member 30 or so years ago. It was in 2008 that I began getting actively involved. That was when I was elected to the Board of Governors and, as the eldest member to ever serve on the BOG, I was assigned as liaison to the Senior Lawyers Section. This assignment included my attending and participating in Executive Committee meetings. There I encountered many

of my old legal buddies going all the way back to when I joined the Bar in 1959.

In 2008, as part of my BOG liaison assignment to the Senior Lawyers Section, I got involved in organizing and attending our big all-day event at the Seattle Marriott by Sea-Tac Airport. Our Section members filled the main auditorium. Carole Grayson, as our Section's overall leader, ran the show. She not only recruited a panel of great speakers and organized our overall program, but then presided over the main show that filled the whole day. At noon, we held our annual membership meeting at which we elected the members and officers of our Executive Committee for another year. We preserved membership of our Section by attracting attendees to join or rejoin as members and be admitted to the event at the lowest price. Our Section retained and even increased

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2022-2023

## SENIOR LAWYERS SECTION EXECUTIVE COMMITTEE

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## Evolution of Senior Lawyers

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membership by offering a lower admission price to our members including those joining our Section at that time. Unfortunately, this now appears history.

Reflecting back to pre-pandemic times, our operations were different in many ways. Our Executive Committee had monthly meetings that were in person at the Broadmoor Golf Club. (One of our Executive Committee members was a member of the club. A scenic location with free and easy parking!) These were warm meetings at which we became personal friends joining to chart the course ahead. Then, with the pandemic, these personal meetings came to an end and may never recur. Much depends on how we decide to handle the future of our Section. Businesses and organizations everywhere are dealing with the changes forced on us by the pandemic and other forces. Times have changed and continue to evolve.

### EXODUS

While the pandemic forced changes on all of us humans, other things have affected us as senior lawyers. It was 40 or so years ago that the makeup of our legal profession began changing dramatically—with women entering the practice of law, first in rivulets, then in droves. Leaving the cultural and professional restrictions of their legal careers, women have taken a significant role in the leadership of the Senior Lawyers Section. Carole Grayson has led our Section for many years, chairing the Executive Committee and also heading up our annual CLE event. Eleanor Doermann has served as chair of our Executive Committee and has assisted in producing exceptional programs. Jeanine Lutzenhiser was most helpful in chairing our Executive Committee Apr-Jun 2023. I served as chair of our Executive Committee for several years prior to the pandemic and have also headed our Task Force (further discussed below).

### REVELATIONS

We are a Section devoted to senior lawyers. We have endured basic changes in recent years and will no doubt face new challenges. At a recent Executive Committee meeting, it was proposed that we extend Section membership to all attorneys qualifying for membership (age 55 or 25 years of service) and who express an interest in becoming a member of our Section, at no cost and on prescribed terms. We would likely preserve the present voting member system. This is on the agenda for our Executive Committee to review for potential action. This is a matter previously reviewed by our Task Force and stands for future action.

This proposal raises interest in what senior lawyer sections have done in six other states. They have expanded their existing programs in terms of membership and also have introduced a broad range of new programs. I believe we should further explore what these senior lawyer sections are doing and may have accomplished. We should possibly follow suit in some way.

Here's where we senior lawyers stand today. We would appreciate your thoughts and participation in the future of our Section.

Best,

Brian Comstock, WSBA 184,

*Interim Chair of Executive Committee, Summer 2023*

## WSBA Sections

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



## WSBA Sections



By Anne Seidel

### I'm introducing a new column that will answer ethics questions from readers of the Senior Lawyers Section newsletter.

In a prior incarnation, I worked for the Office of Disciplinary Counsel, eventually serving as Chief Disciplinary Counsel. For well over a decade, I have been in private practice. My practice is limited to legal ethics issues. I represent lawyers with grievances and consult with attorneys who have ethics issues.

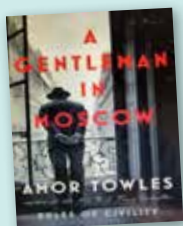
This column will depend on your participation. Please send in ethics questions to be answered in future newsletters. The questions should not be too fact-specific and should address issues that you believe would be of interest to at least some of those reading this newsletter. Your questions could be related to retirement, such as what to do if you're closing your practice and have some funds in your trust account of unknown

origin. Or they could be of a more general nature, like about when it is appropriate to withdraw and how to do so without drama. Or they might overlap with law office management, including technology, like wondering if there are red flags that should alert you that ethical considerations may be at play.

Anyway, the list of potential ethics questions goes on. I look forward to hearing from you!

Questions should be emailed to: [ethicscolumn@anneseidel.com](mailto:ethicscolumn@anneseidel.com)

## LOOKING FOR A GOOD BOOK?



### A GENTLEMAN IN MOSCOW

By Amor Towles //  
Published 2016

A HISTORY BUFF'S DELIGHT, this *NY Times* bestseller

follows Count Rostov's house arrest in the Moscow Metropol Hotel from 1922 until 1954. People and events in the tumultuous USSR swirl around the Count as he evolves from a rich aristocrat to a real person of substance. As *The NY Times Book Review* notes, "Towles chooses themes that run deeper than mere sociopolitical commentary: parental duty, friendship, romance, the call of home." This is a highly entertaining read. //



### VACCINATED: ONE MAN'S QUEST TO DEFEAT THE WORLD'S DEADLIEST DISEASES

By Paula A. Offit, M.D. //  
Published 2007

A FASCINATING STORY of the development of vaccines, the science involved, and the most famous person you've never heard of who was most responsible for our 20th century vaccines. The subject is very timely considering our current times. //



### YOUNGER NEXT YEAR

By Chris Crowley and Henry S. Lodge, M.D. //  
Published 2019

TURN BACK YOUR BIOLOGICAL CLOCK. A breakthrough book for men ... as much

fun to read as it is persuasive. *Younger Next Year* draws on the very latest in the science of aging to show how men 50 or older can become functionally younger every year for the next five to 10 years, and continue to live like 50-year-olds until well into their 80s. A guide towards enjoying life while being stronger, healthier, and more alert. //

# A BUSY FALL FOR THE SUPREMES

By Justice Barbara Madsen



It's back to work and back to school for the Supreme Court as we kick off fall term with a "Traveling Court" visit to the University of Puget Sound in Tacoma on September 13 and 14.

Beginning (appropriately) at the Welcome Center, the court will join our student hosts for lunch, followed by two panel discussions and classroom visits. **Panel Discussion #1** will review recent SCOTUS decisions and Washington state law, while **Panel #2** will highlight "Insights from the Bench," focusing on recent and future state and federal judicial trends, impactful advocacy, and career opportunities. Our busy day will conclude in a reception with faculty, staff, and students and dinner at the residence of UPS President Isiaah Crawford. As always, the programming will be open to the public and televised by TVW.

The court has selected two cases for argument: *Premera Blue Cross v. P.E.L., P.L., & J.L.*, which questions denial of coverage for a wilderness-based mental health treatment program, and *State v. Carter*, which questions whether the trial court had authority to impose a determinate sentence for aggravated first degree murder.

Fall term is always busy. It "officially" begins with *Muffin Morning*, a tradition started by Gerry Alexander, to welcome the new law clerks and interns. Since 1993 the Supreme Court has offered intern opportunities to law students. In 1995 the University of Washington added a 60-hour pro bono service requirement for graduation. Seattle University and Gonzaga University have similar requirements. This term for the first time, students will receive a stipend, making the opportunity more accessible for all. The court successfully lobbied for \$360,000 per year, enough for 25 externs.

## What's New and Upcoming

We also launched a new leadership position this fall. Last spring, the justices voted to add our own court

administrator. This position will be responsible for collaborating with the justices, department heads, and the state law librarian to develop and implement court-wide policies and procedures, including developing short and long-term goals for effective court administration. Ashley Lipford, former administrative assistant to Chief Justice Steven Gonzalez and judicial assistant in Pierce County Superior Court, was selected as the first Supreme Court administrator.

Another recently added position is the deputy bailiff. Long concerned with security, this position assists the bailiff with security for courtroom and physical facilities; conducts security-related investigations; coordinates Traveling Court security; and serves as security chief at the Fall Judicial Conference and the Spring Appellate Judicial Conference. The court selected Tracy Foster, formerly with

the Washington State Patrol for 25 years, including 11 years as a member of the Executive Protection Unit.

In other business, on October 11, the long-awaited report from the Washington Bar Exam Licensure Task Force

chaired by Justice Raquel Montoya-Lewis will present its recommendations for reforming Bar admission. The presentation, which will be streamed by TVW, seeks input from the court, the Bar and the public. The report questions the efficacy of the bar exam and licensing rules as well as their historical and current impact on people of color.

Finally, lest readers think the court is all work and no play, we will also be celebrating Halloween with our annual costume party. Started by yours truly, the court has set aside an afternoon for ghosts, superheroes, and Barbie, with prizes (funded by the justices) and a peek inside the minds and creative spirits of the court family. //



L to R: New Court Administrator, Ashley Lipford; New Deputy Bailiff, Tracy Foster; Justices Yu and Gonzalez





# LATER-IN-LIFE LAW SCHOOL TO LITIGATION TO LEGAL SERVICES: THE LEARNING CONTINUES

By Jeanine Lutzenhiser

“Okay, Monday we did court fines and warrants, and yesterday was paternity and DVPOs ... Today, should we start with parenting plans and child support, or do you want to tackle immigration?”

The words came from David Mace, my director at Open Door Legal Services (ODLS). My head starts spinning all over again as I recall those first weeks of training! A year ago, I told *Life Begins* readers about my circuitous route from high school teacher and full-time parent to law school at 48, and then my transition from civil litigation to legal services. Now that I’ve been staff attorney at ODLS a year and a half, the feeling I had after those first few months—that I am doing what I went to law school to do—has only grown stronger. I am grateful to be able to help clients solve legal problems and get closer to achieving their long-term goals. And as someone who has always loved school and learning new things, I am delighting in countless daily learning opportunities.

First, I am learning more than I ever dreamed possible about all kinds of law. How to quash a warrant in a half-dozen different courts. What qualifies an immigrant for asylum, and how an asylum petitioner can get a work permit. How to put together a strong immigration petition based on the Violence Against Women Act. The pros and cons of a judicial versus an administrative child support order. How to represent a client in a child support matter before an ALJ in the Office of Administrative Hearings. How to vacate a felony

or misdemeanor, and the effect this can have on a client’s employment or housing prospects. And parenting plans! I love writing parenting plans.

Second, I’m learning how strong and resilient and gifted my clients are. Most of them are guests in a one-year program at Seattle’s Union Gospel Mission, which could be for addiction recovery, situational homelessness, or domestic violence. Most have been victims of injustice: domestic violence, racism, poverty, family instability or abuse. Some have specific physical or mental health challenges. Many are forthright about the havoc they wreaked in their own lives and their loved ones’ lives before seeking and receiving help. Some have had the courage to start again after one or more relapses. So many see their heartbreaking stories through a lens of faith and hope for the future. Their dignity and strength humble me. Their example of gratitude makes me more grateful.

Finally, I’m learning to rest in a healthy humility. As a lawyer (in my experience, this starts in law school), I have felt a pressure to always know the answer, whatever the question is. But obviously, I won’t ever know even a fraction of everything about all the areas of law our legal services practice touches. Fortunately, my director knows a lot more than I do. And we are fortunate to practice in a wonderfully generous legal network, with members of groups like the Family Law Task Force and the Reentry list serve always ready to share advice and experiences.

But sometimes, we do not have an answer. The first phone call David had me make as staff attorney was to a client who expected a legal remedy

not available to her. She immediately began screaming profanities, asking over and over what I expected her to do. While I could acknowledge her pain and frustration, I didn’t have a legal answer for her. When David and I debriefed after that call, he explained, “Sometimes, the best service we can provide a client is accurate legal information.” They may not thank us for the information. But that doesn’t mean we haven’t served them as well as we can.

My learning includes cultural humility and awareness of my own blind spots. I haven’t lived the same experiences as my clients. I have benefited from privileges that I have taken for granted and which my clients did not have access to because of race, socioeconomic status, or language barriers. As I seek to advise my clients, I need to honor their experiences, suspend assumptions, and listen well. For example, when I work with a client on her declaration for a domestic violence protection order, do I pepper her with questions, rushing her to give me the facts we need to make her case? Or do I take the time needed to create a safe environment that does not re-traumatize her as she recounts details of the abuse? In a child support case, as I ask a client questions about his family history, am I sensitive to the pain he feels about the years with his children he lost because of addiction or incarceration?

I’m at an age where many of my (age-peer) friends are retired, or retiring soon. While I look forward to that myself someday, I have a strong sense now of being exactly where I should be, enjoying this legal work, these relationships, and this (still steep!) learning curve. //

Jeanine is staff attorney at Open Door Legal Services, a ministry of Seattle’s Union Gospel Mission. She lives in Kitsap County with her recently-retired husband Mark. They spend every minute they can with their two grandchildren.

## *A Road Trip to the Black Hills of South Dakota*



*I have to admit* that I wasn't looking forward to traveling on I-90 to South Dakota. Puget Sound's I-5 corridor, with its encroaching development and depleted green space, made me fear the same for I-90.

I have to admit that I was wrong. Our summer journey of 1,100 miles to the Black Hills, most of it on I-90, displayed in spades all the natural beauty one could hope for. Landscapes shifted; terrain grew steep or flat. Conifers yielded to shrub-steppe, plains, prairie. Rivers, lakes, streams. The sky showed many moods. Vast and blue. Or hanging like a shroud. Or quick-moving fronts with thunder, lightning, hail, pounding rain, and gusts racing across the land.

In the end, the beauty of our road trip through five states came in experiencing—at speeds ranging from a crawl to 80 mph—the slow unfolding of the Northwest and Great Plains. The pages of our two-dimensional maps became alive, in four glorious dimensions.

### **Where Downtown is Uptown**

We experienced plenty of blue highways, too, especially in the eastern half of our trip. With my partner Steve Knight behind the wheel of his 2020 Ford Transit van, I played happy navigator. Maps were the paper kind or on my iPhone if there was cell service. Counties, towns, hamlets, isolated intersections, freeway exit signs that read “Ranch Access,” farming, ranching, deer and elk and bison in the distance and sometimes on the roadway, timber, mining, tribal reservations, tribal colleges, private land, state land, federal land. I reflected, as I often do, on what constitutes community. What is sustainable? How does the natural

environment shape us? And how do we shape it?

On the eastward and westward legs of our trip, we moseyed around historic Uptown, in Butte, Montana. Think Seattle's Pioneer Square's brick buildings, though redder in color, and more Romanesque architecture. Uptown's early 1900 brick buildings and steep streets lie just west of the Continental Divide. This was my first time in Butte, the fifth largest city in the state.

I owe my interest in Butte to Jim Driscoll, my suite-mate for over a decade during our private practice days at First and Yesler in Pioneer Square. Butte is Jim's hometown. Over the 35 years that Jim has been my friend and trusted reality check, he has told me many a story, some colorful, some tragic, about Butte's (literal and figurative) ups and downs as a mining community rich in silver, gold, and copper.

### **Precious Elements, Complicated Legacy**

In Uptown, Steve and I enjoyed delicious meals at Metals Sports Bar. The sports bar's space was originally occupied by State Savings Bank, anchor tenant in the eight-story skyscraper. Known as the Metals Bank Building, it was designed in 1906 by nationally known New York architect Cass Gilbert. He is best known for designing the U.S. Supreme Court Building in Washington, D.C., and the Chrysler Building in New York City. It took 36 horses two days to drag the 32-ton steel door from the Northern Pacific rail yard up the muddy, unpaved hill to its resting

spot. The sports bar's display of Butte memorabilia includes a photo of the 36 horses slogging their way into history, cheered on by a sea of spectators.

Someday, I'd like to explore the Butte—Anaconda National Historic Landmark District. Its 6,000 “contributing historic properties” rank #1 in “resources” among all NHLD in the U.S., according to the National Park Service. At over 15 square miles, it is the third largest NHLD. Many immigrant groups comprised Butte's highly diverse community. The Silver Bow Creek/Butte Area Superfund Site was created in the 1980s to address the area's toxic environmental legacy. Encompassing 26 miles of streams and streamside habitat, it remains one of

Our summer journey of 1,100 miles to the Black Hills, most of it on I-90, displayed in spades all the natural beauty one could hope for.

the largest industrial cleanup efforts in the U.S. Though much has been done, it remains an ongoing Superfund site. Berkeley Pit, former open-pit copper mine (1 mi. long x 1/2 mi. wide x 1780 feet deep), is visible from many places.

### **Legal Deserts**

Some 225 miles from Butte, and southeast of Billings, we left I-90 for U.S. 212. Over two hours later, we passed through Hammond, in Carter County. Abutting the South Dakota and Wyoming borders, Carter

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County has a population of 1,415 (2020 census). This makes it ... only the 7th-least populous county in Montana. (Petroleum County, pop. 496, is the least populated.) Blink, and you'll miss Hammond. Comprising a tiny post office, a rancher's home, and a few abandoned buildings, Hammond lies 61 miles south of the county seat, Ekalaka (pop. 399 per 2020 census). The census a decade earlier placed Ekalaka's median age at 54 years; Montana's is 40 years; the U.S. is 38 years. The only online reference I could find to a lawyer in Carter County was the county attorney. We didn't visit Ekalaka, but its Carter County Museum is among the 14 sites on the Montana Dinosaur Trail, a statewide effort to promote education and tourism.

I wondered how rural, sparsely populated counties fare in the supply chain. How do they maintain community and infrastructure, including courts, law enforcement, roads, utilities, etc.? And I reflected yet again on the excellent, eye-opening [2021 article on Washington's own legal deserts](#) by WSBA executive director Terra Nevitt.<sup>1</sup>

Our trip would end in the Black Hills, in southwest South Dakota. A decade ago, South Dakota created the [Rural Attorney Recruitment Program](#) to address the shortage of lawyers in its many rural counties. It serves as the national model. WSBA's new [STAR Committee](#) will be looking at

South Dakota's experience as well as efforts in other states. Nonetheless, Washington's two least populated counties—Garfield, pop. 2,346; and Columbia, pop. just under 4,000—vastly outnumber the population of Carter County and many dozens of counties throughout the U.S.



*Badlands National Park*

### **Vroom!**

After Carter County, we crossed a sliver of northeast Wyoming and spent a night in Sturgis, South Dakota (pop. 7,000). Although its famed annual motorcycle rally was a month away, hotel parking lots were filled with motorcycles from all over the U.S. and Canada. The roar of two-wheelers filled the air. In researching this article, I read the South Dakota Department of Transportation's conclusion regarding the 2023 rally: "The 83rd City of Sturgis Motorcycle Rally saw a decline in attendance by around 8%, with 458,161 participants, compared to last year's 497,835." I cannot imagine the reality of this

weeklong rally, which winds through the surrounding Black Hills!

An hour east of Rapid City, we turned off I-90 to visit [Badlands National Park](#). Its 30-mile-long Hwy. 240 Loop is stunning. Come prepared for an arid many-hued sedimentary landscape, blinding natural light, and speed limits that plummet in advance of serpentine curves and serious drop-offs. Kiosks at overlooks describe geology, prairie ecology, wildlife, and human history. The federal government recognizes 22 tribal units as "Associated Tribes with Badlands National Park." The Black Hills region, including Badlands National Park, has long been considered sacred by many tribes. Settlers of European heritage who tried to farm the few narrow valleys

soon surrendered to the inhospitable environment and moved on.

After visiting the Badlands, we backtracked to meet our friends from Georgia at Spokane Creek Campground, near Custer State Park and about 30 minutes from Mt. Rushmore. The instructions from the campground were capitalized: DO NOT USE GPS. Glad we followed the instructions! We shared a cabin for three nights and found that visiting one major site a day was just right.

### **Pigtail Bridges**

Driving around the Black Hills, you can't help but take in [Custer State Park](#) (S.D.) a 110-square-mile jewel. The wildlife and highway engineering feats left us entranced. Needles Highway (SD 87), a spectacular 14-mile road, threads gorgeous pinnacles as it winds through some of the park. Our campground was on the serene stretch of Iron Mountain Road (US 16-A). Much of the road's 17 miles feature one lane tunnels, pigtail bridges, switchbacks, blind turns, and vistas

<sup>1</sup> Medical deserts also exist. [WWAMI, a 50-year-old program at the University of Washington School of Medicine](#), has long sought to address the medical deserts in WA plus the other NW or (partly) Great Plains states which lack any medical schools: Wyoming, Alaska, Montana, and Idaho. [One of WWAMI's many strategies is to recruit students from these underserved states.](#)



*Needles Highway*

*Mt. Rushmore*



commonwealths, and three territories. Walking through them made me feel proud. I was struck by the variety in their colors, designs, borders, and symbols. Only one flag has a green background: Our own Evergreen State.

**Dwarfing Mt. Rushmore**

The next day, we



*Crazy Horse Memorial - in progress*

galore. It was completed in 1933.

Within Custer State Park, we enjoyed the Wildlife Loop Road. The 18-mile loop will take 1 - 1 ½ hrs. It is easy to become captivated by the squeaks of prairie dogs as they pop up from their burrows in “towns” that measure acres in size. Always yield the right of way to bison, deer, elk, etc. One kiosk used narrative text, maps, and photographs to detail the relentless efforts by settlers of European heritage to wipe out indigenous populations by exterminating the bison. This animal was at the center of native cultures. From its body, which could weigh over a ton, they derived food, clothing, shelter, tools, jewelry, musical instruments, and items of ceremonial value.



*North American Bison*

the granite. Seeing it this June was a different experience: I was struck from how intimate it seemed. I wondered:

Would Washington, Jefferson, Teddy Roosevelt, and Lincoln recognize their own hopes and visions in today’s world? Did they muse about the changes in America and the world since they emerged from the granite between 1927 and 1941?

I also thought about the human effort involved in carving their likenesses. As you enter the Memorial, stop at the plaque listing the names

of the nearly 400 workers (not all were men) who labored to realize the vision of sculptor Gutzon Borglum. Despite the dangers inherent in removing 800 million pounds of granite, no one died. Reading the names of all the workers engraved on the plaque, donated in the 1990s by Don and Carolyn Clifford, was humbling. Don was the last surviving worker on Mt. Rushmore.

Past the plaque is the Avenue of Flags. As you approach the amphitheater that faces Mt. Rushmore, you are flanked on both sides by the flags of our 50 states, one district, two

visited the **Crazy Horse Memorial**, where, for the last 75 years, an entire mountain is being sculpted into a statue which, when finished, will be the second tallest in the world. The finished sculpture of Lakota warrior Crazy Horse Upon His Steed, when finished, will be 563 feet high and 641 feet long. To put this in perspective: Washington’s head at Mt. Rushmore is 60 feet tall. His head will fit in Crazy Horse’s ear.

Commissioned by Lakota Sioux Chief Henry Standing Bear, sculptor Korzak Ziolkowski commenced work on it in 1948. The memorial is on private land owned by the Crazy Horse Memorial Foundation, a nonprofit that receives no federal funds. When will this colossal effort—Crazy Horse, astride his horse, pointing with his left index finger to his tribal lands—be finished? “In Indian time,” people say.

The mission of the Memorial Foundation is ambitious: to serve the Native American communities of North America (Mexico, U.S., and Canada). Safely distant from the ongoing sculpture, the memorial complex

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includes several buildings. An excellent museum and a separate education and cultural center feature art, artifacts, carvings, textiles, etc., by Native Americans throughout North America.

I was intrigued to learn about the Foundation's vision for its Indian University of North America, which began in 2010. The restaurant has a distant view of the ongoing sculpture. I enjoyed a tasty bison stew, fry bread, and South Dakota's state dessert: kuchen (more like a pudding than a cake).



*Steve and I hiking on the Tower Trail.*

**Close Encounters of Another Kind**

One afternoon, we left the sunshine for a subterranean tour through [Wind Cave National Park](#). In 1903, it became the first cave in the world to be named a national park. Over 150 miles of it has been mapped. It is the sixth longest cave in the world. Based on airflow, experts estimate that only 10 percent of the cave has been explored. The temperature is a constant 54 degrees, so bring an extra layer and a hat for the tour.

The following day, the skies darkened as we approached [Devils Tower National Monument](#) in Wyoming, still in the Black Hills. The ensuing rainstorm was so intense and blinding that most vehicles pulled off. Steve crawled along (he says he is accustomed to torrential downpours from living in Georgia most of his life). Embankments sluiced down into the road and I realized, oh, gully washers! The rain made such a racket as it pounded the van that we could not hear each other

even when we were shouting (in a nice way). Then, as quickly as it had come, the storm raced away. The next day, we hiked around Devils Tower on the Tower Trail, 1.3 miles long. Our small

campground had a café and gift shop. The prior winter, the owner had kept her kindergarten age daughter out of school only one day, when it was 40 degrees below zero.

**Deepening Roots in Big Sky Country**

Throughout Montana, I thought of three of my former law students (Rule 9 interns who worked with me at UW Student Legal

Services). The Montana native in the bunch graduated from high school in Helena. After graduating law school in 2006, he clerked for the 9th Circuit in San Francisco and served as a public defender in Montana for a decade. (Just as long ago, judges rode the circuit, so did he and his colleagues.

Montana has over 20 public defender offices to serve its vast size.) He joined the Attorney General's Office for a few years before being appointed in 2020 as a state court judge of the First Judicial District. He is based in his hometown of Helena.

My second former student is a Seattle native who attended Garfield High

School and graduated law school in 2013. While in Egypt, she met her husband, a fourth generation Montanan born and raised in Great Falls. His roots there are deep: He is the third generation of his family to call Great Falls home. After years of juggling a long-distance relationship during which my former student was an associate at a major Seattle firm and he practiced law in Great Falls, she joined him there. She directed the Low Income Taxpayer Clinic for Montana Legal Services for a few years before hanging out her own shingle in Great Falls five years ago.

My third former student grew up on San Juan Island and graduated law school in 2016. One year later, she married a law school classmate who is a Montana native. They are both lawyers in Billings. He works as corporate counsel in the health care sector. She practices at a firm and travels as client needs require, making good use of her five state bar licenses.

Our road trip to the Black Hills, seeing the changes in the landscape, caused me to reflect on my former students and their deepening roots in Big Sky Country. How fortunate I am to know them, and the 100-plus law students I worked with during my UW career, including Jeanine Lutzenhiser, who serves with me on

*How fortunate I am to be a senior lawyer. Our legacies as practitioners and mentors are in good hands, near and far.*

the Executive Committee of our Senior Lawyers Section. How fortunate I am to be a senior lawyer. Our legacies as practitioners and mentors are in good hands, near and far. //

When she isn't out on the road, Carole Grayson lives in Seattle. Retired from her full-time UW position since 2017, she is an affiliate instructor of law at UW School of Law, where she co-teaches Small and Solo Practice.

# WHAT'S UP WITH THE BOG

By Jordan Couch, Palace Law

The WSBA Board of Governors met on August 11-12, 2023, in Richland, Washington. Although I would like to think that one of the highlights of the meeting was the celebration of my 32nd birthday on day two, here is a short summary of the actual highlights that came before the Board.

## Highlights

Francis Adewale (our current treasurer) was elected to be treasurer for another year! Congratulations Francis. As part of a potential series of conversations with leaders from our state, the BOG met with Tri-Cities native General Jim Mattis, Retired, before the meeting. The BOG also participated in a morning training session on diversity, equity, and inclusion. As usual, budget issues continue to be a very important topic. The budget for the 2024 fiscal year was voted on and approved at the September meeting.

## Personal Perspective

The current budget reflects very little change to the status quo at the WSBA. From my perspective, this is a time of opportunity for those with passion and ideas. The budgeting and dues setting policies of the current BOG do have room for new ideas and currently those ideas are not being thoroughly discussed. What can the WSBA do for you to improve your life? Launch a "got milk" style ad

What can the WSBA do for you to improve your life?

campaign for legal services? Negotiate retirement and other insurance benefits similar to what we have for the health care marketplace? Consider this my plea to hear from you. Are the WSBA and the BOG perfect as they are? Or can we do more or better? I'm all ears for you and I'm happy to be your voice on the BOG!

Jordan Couch of Tacoma serves as an At-Large member of the WSBA Board of Governors. He and Bellevue resident Kevin Fay (representing District 9) are the two BOG liaisons to the Senior Lawyers Section.

# COMBATING BIAS AND DISCRIMINATION: COURTS AND THE LGBTQIA+ COMMUNITY

By Mieko Failey

The American Bar Association's (ABA) Commission on Domestic and Sexual Violence's (CDSV's) LGBTQ Legal Access Project uses funds from the Department of Justice (DOJ) Office on Violence Against Women (OVW) to promote access to LGBTQ-inclusive and affirming legal support.



Judge James Riehl, Ret. and Mieko Failey, Esq.

As the LGBTQIA+ community faces unprecedented legal rollbacks in protections across the U.S., training for court providers is critical for LGBTQIA+ litigants. These communities often face bias and discrimination when accessing the courts. For LGBTQIA+ survivors of domestic and/or intimate partner violence, there are tremendous

barriers as they attempt to access safety within a broader social context of homophobia, biphobia, and transphobia. LGBTQIA+ survivors often confront legal systemic barriers, including misunderstanding on the part of court providers, lack of training, and/or explicit and implicit bias.

Judge James Riehl, Ret., of Kitsap County, who serves on the Executive Committee of the WSBA Senior Lawyers Section, and Mieko Failey, Attorney Director of Legal Services at the LGBTQ Center Long Beach, California, have both

## Faculty on the LGBTQ Legal Access Project will continue to advocate zealously at the local, statewide, and national level...

served as expert training faculty since the inception of the ABA OVW LGBTQ Legal Access Project in 2015. On July 18, 2023, Judge Riehl and Mieko Failey attended the National Council of Juvenile and Family Court Judges (NCJFCJ) 86th Annual Conference in Baltimore, Maryland, where they provided critically needed training to judges, attorneys, court personnel, and other court-related professionals on LGBTQIA+ anti-violence legal issues. Judges from across the United States learned how to increase access to inclusive legal assistance for LGBTQIA+ litigant survivors of violence.

Faculty on the LGBTQ Legal Access Project will continue to advocate zealously at the local, statewide, and national level with a goal of enacting desperately needed court systemic change. LGBTQIA+ cultural responsibility training is essential for promoting access to legal remedies and ensuring that the voices of LGBTQIA+ survivors are heard. //



# RECAP OF SENIOR LAWYERS SECTION CLE By Al Armstrong

July 14, 2023 | 4.0 CLE credits

## Senior Lawyers Conference: Learning & Lunch — Planning for Transitions plus Ethics

**B**ASTILLE DAY 2023 found our Senior Lawyer Section members enjoying the post-COVID revival of our beloved in-person annual CLE, held on July 14 at the WSBA's downtown offices. The program, "Senior Lawyers Conference: Learning & Lunch—Planning for Transitions plus Ethics," featured presentations on the basics of estate planning and taxation, financial preparation for retirement and unexpected challenges, staying healthy in retirement, ethical considerations when closing one's practice, the benefits of serving on a nonprofit board of directors, and volunteer opportunities for the retired practitioner. Attendees enjoyed boxed lunches from Gourmando while earning 4.0 CLE credits.

We learned from Poulsbo attorney Anthony Hinton to be ever mindful about recent changes in IRS treatment of inherited IRAs; Mr. Hinton also provided a refresher course on estate tax planning. Supplementing this was a presentation by Mr. Hinton's law partner, elder law attorney Richard Tizzano, author of *Accidental Safari: Planning for the Unexpected*.

Outlining points from his book, he emphasized the advantages of thinking ahead: get your powers of attorney updated and anticipate problems presented by uncovered medical expenses and long-term care costs. Utilize special needs trusts, he advised, and be aware of spend-



Carole Grayson introduces speakers at our July CLE.

down requirements of VA and Medicaid policy.

### Ethical Considerations

The WSBA's Senior Professional Responsibility Counsel, Jeanne Marie Clavere, who has graced us with her presence as a speaker at our past CLEs, had some cautionary tips for practitioners who are considering closing their offices. She outlined steps recommended or required when selling or closing a practice. Her written materials contained advisory opinions and summations of the relevant Rules of Professional Conduct. One of her many points: "Don't rush a matter to suit your retirement."

So, what is the lawyer to do in retirement? Well, if one keeps an active law license, one can serve on a nonprofit board of directors. Seattle attorney Andrew Ackley, working off of Washington's Nonprofit and Corporations Act, 24 RCW, told us that serving on a nonprofit board can make a big impact on the community, and that such service takes less time than most pro bono work, probably about 2-4 hours per month. "Whether you practiced in real estate, family law, contracts, or personal injury, you have expertise that nonprofits covet."

The duties and ethical obligations of a board member were discussed, as were the basics of board operation. Generally, a board member must act in good faith, use ordinary care under the circumstances, and act in the best interests of the organization.

### Find Your Rhythm

Other post-retirement avocational ideas for the attorney who chooses to keep an active WSBA membership were shared by Paris Eriksen, WSBA, certified volunteer administrator, who was joined by the WSBA's Julianne Unite and Joyce Díaz Sandí for a panel discussion. There are many WSBA committees, regulatory boards, and Supreme Court boards and panels that offer volunteer opportunities for the still-licensed attorney. A few others do not require current WSBA membership.

Dan Crystal, Psy.D., of the WSBA's Wellness Program invited us to "Find Your Rhythm in Retirement." He addressed questions dealing with when and how to retire, wellness after retirement, and finding a new purpose in retirement. Having been with the WSBA since 2008, he had observed his share of attorney burn-out, retirement angst and the evident need for aging attorneys to pay close attention to signs of declining mental acuity and/or willingness to endure the stress of practice.

The CLE was indeed a success, with 47 attendees (in-person and remote) enjoying a summer morning of learning and fellowship. The WSBA did a great job in welcoming the attendees and facilitating this event. Kudos to WSBA Education Programs Lead Rachel Matz, Program Chair Carole Grayson and her CLE subcommittee members and Co-Chairs Jeanine Lutzenhiser, Judge James Riehl (Ret.), Jennifer Rydberg and David Sprinkle, for a job well done. //



# THE FINANCIAL TRANSITION FROM EMPLOYMENT TO RETIREMENT

By Robert H. Louis

**F**or those lawyers working in law firms, in government, or the corporate world, the years of employment typically involve the receipt of a paycheck or a draw against future income. Generally, there is some regularity of amount and time of payment, which permits the planning of expenditures. The number might change from year to year, but the certainty of the payment schedule is a distinct advantage in financial planning.

But a day will come when those paychecks and regular draws will end. (While some lawyers, or their spouses or partners, will be entitled to a monthly pension or deferred compensation payment after retirement, most will not.) Instead, they will have one or more retirement accounts (retirement plans or individual retirement accounts—IRAs) with lump sum amounts, as well as other investments outside of retirement accounts. They will also have Social Security benefits, which are paid monthly, but these benefits will almost always be far less than the paychecks or draws previously received. So, an important transition needs to occur, between the period of receiving a regular payment from an employer to that of relying on Social Security benefits and distributions from retirement accounts and other investments. This transition can be difficult, because it moves the individual from a method of receiving income that has been the standard for many years. This is no doubt a reason why many lawyers try to delay moving into retirement: the difficult task of learning to live on different sources of income. “If I jump off the diving board, will there be water in the pool?”

How can this transition be made less stressful? The answer is in very

careful financial planning. This process is more than listening to lectures during public television pledge breaks or buying financial planning books or software. It is a process of transforming the financial arrangements you have lived with for many years into a new set of financial arrangements that are unique to you. Usually, it does not require special expertise, just a willingness to examine your income and expenses and reconcile them.

The first step is to consider what expenses you will incur during retirement. Many of these expenses will be the same before and after retirement, such as utilities for your home. Other expenses, such as medical insurance, might be very different in later life. But these expenses can be estimated, with some careful research, taking into account the likelihood that they will fluctuate and increase over time.

It is important to consider that expenses might change significantly if the plans for retirement include moving to a different home, either in the same area or in one of those states considered as a retirement haven, or making other significant lifestyle changes. Whatever the circumstances, there is a process by which you can determine at least a range of expenses for a continuation of your pre-retirement lifestyle or a new lifestyle elsewhere.

Once there is a reasonably accurate determination of ongoing expenses, both regular and special (such as travel), there will be a clearer understanding of the amount of regular payments that are needed from retirement resources of various kinds to cover those expenses, to replicate to the extent possible the regular payments formerly used to pay those expenses. The goal of this part of the process, then, is to work toward a complete summary of the range of expenses that can be experienced depending on the (probably-evolving) plans for retirement.

I would like to add an important caveat here about expenses. Older people are a highly desirable target for people selling products and services. If you watch television programs that are more popular with older people, including news programs, or if you have somehow gotten on a to-be-dreaded list, you will receive offers for health and life insurance, retirement communities, medical supplies, etc., etc. Some of these might be helpful to you, but remember that every one of these sellers is hoping to make money from you, nearly all of them know nothing about your personal circumstances, and more than a few hope to make a large profit from you. Add this to the list of reasons why

*Continues on page 13...*

people are reluctant to think about the transition to retirement finances: the often-mystifying offers to buy things that were not needed before and often aren't now.

Having determined the level of payments that are likely to be needed, the next step is to reduce that need by any regular payments of income that will be received. For most people, this will just be Social Security benefits. It is easy to determine what level of Social Security payments you can expect if you begin payments at the earliest age, 62, or the latest age, 70, by setting up an account in the Social Security website ([ssa.gov](http://ssa.gov)) and trying out various scenarios using the tools on the site. (If you have not set up such an account, you should, no matter how far away you might be from drawing benefits.) For most people, who will not receive other benefit payments, this means that the balance of the payments to carry out the transition from regular draws or paychecks to retirement payments must come from lump sum retirement plan accounts or IRAs. This is another calculation that requires some careful thought, because converting a lump sum retirement account into regular payments that cover expenses but also last the rest of one's lifetime is a calculation that can only result in a range of estimates. As with the expense part of the transition process, the income portion provides not one path, but a series of potential paths.

For retirement plans and most IRAs, minimum distributions must begin around age 73 (increased from 70 ½ and 72 and eventually to rise to 75). There are exceptions for those who continue to work in an entity of which they are not a significant owner—this summarizes in a few words a complicated but valuable exception. The amount to be distributed is determined each year using IRS tables. These tables consider the account

owner's age and that of a spouse and are designed to stretch out the stream of payments over a period that likely covers the rest of one's life. If these minimum payments (which rise at older ages until they eventually, usually after age 80, start to decline) cover expenses, the issue of transition has likely been solved: By arranging regular monthly payments of the yearly required minimum, the pre-retirement stream will be replaced in a way that gives a high probability of adequate retirement payments for the remaining lifetime. Of course, this conclusion is subject to many caveats. The value of retirement accounts might decline because of a bear market in investments, as has happened a few times in the past 20 years. In addition, the owner might encounter unexpected expenses, such as medical expenses or the desire or need to move elsewhere. It is practically impossible to establish with certainty how much is needed or how

distributions from retirement plans and IRAs is needed, that is not necessarily fatal to the chances of a comfortable retirement. Many people find that, in the early years of transition, they spend more than the minimum payment. Often, spending declines in later years as people finish projects such as travelling. Spending a little more than the minimum is not a problem, within limits. The minimum required distribution starts at around 4% of the account balance and gradually rises, and taking out 5% or 6% some years might not create a problem. However, if it is necessary to spend, for example, 8% of the retirement account each year, it might be advisable to rethink expenses or saving habits or both. The process of planning the transition, whenever and however it takes place, will be made easier by starting to plan it some years before the date of that transition.

There are some people whose aim will be to work until they are

The process of planning the transition, whenever and however it takes place, will be made easier by starting to plan it some years before the date of that transition.

much will be available in retirement. But this calculation process can make the transition less forbidding. And the calculations can and probably should be made long before the decision to retire or semi-retire. The process of planning expenses and payments in a transition can tell if retirement is possible in the next few years or, if it is not possible under the current calculations, might provide time to adjust both to improve the odds of success in retirement.

If more than the minimum required

carried out of the office—a horizontal retirement. (The founder of my law firm, John G. Johnson, apparently worked until the day before he died in 1917.) But for most people, a vertical retirement is preferable: working on some form of transition while there are still some years to enjoy other activities. Whenever, or over what range of time, the transition is to occur, it can be successful and less stressful if planning the transition process from employment to retirement finances begins sooner rather than later. //

Robert H. Louis is of counsel at the law firm Saul, Ewing, Arnstein & Lehr. A graduate of the Wharton School at the University of Pennsylvania and the Harvard Law School, he is the chair of the Senior Lawyers Division Financial Services and Retirement Planning Committee, and is a fellow of the American Bar Foundation, the Pennsylvania Bar Foundation and the American College of Tax Counsel, and a former trustee of the Philadelphia Bar Foundation.



# THE SCARIEST SAYING IN THE WORLD

By Jeff Tolman

I WAS GETTING TO THE

PUNCHLINE

of a story that usually gets good

reviews. It has interesting facts and a plot twist at the end that more often than not evokes a good laugh from the listener. As my monologue continued, I noticed my listener's lips were involuntarily moving along with mine, saying the words in sync, knowing the end of the story, courteous enough to act as if they didn't.

Horrified I was, as the vignette ended, and a friendly chuckle was received. How embarrassing and scary. As I age, I have come to believe the scariest saying in the English language is: "How is it that I can remember every detail of the story, but not remember who I have told it to?"

We have all had that experience as speaker—and listener.

Each of us has a quiver of tales that ingratiate us with new friends and old, unique experiences and odd turns of events that are usually enjoyed by those with whom we share. Recently I read a book about elected officials discussing their difficulty remembering names of so many folks they meet on the campaign trail. One elected official's wife recalled seeing a familiar face at a rally, knowing she should remember the person. A big donor? A member of the staff? A local volunteer? Then, she remembered, waved, and said to the person, "Hi, Mom!" Funny stuff. A good story.

Unfortunately, the quiver size for different people's stories varies greatly. I have friends who seem to have an unlimited bag of funny and interesting

stories to share, on almost any topic. They are dynamic, invigorating, and wonderful to spend time with.

At the same time there are folks who have had about three experiences in their entire lives to share and who attempt to fit them into any topic.

The singular highlight of one acquaintance's life appears to be his attendance at the Pendleton Roundup in the 1970s. In his mental file of stories to tell, the index card is labeled "1 of 1." No matter what question is asked, or topic is being discussed, Pendleton will be involved.

"Joe, will you pass the salt?"

"Salt ... boy, that reminds me of Pendleton. The Roundup. 1974. Though I concede it is 400 miles from any ocean, there was something in the air that seemed salty..."

Or: "Joe, have you seen Jim recently? He looked down-in-the-dumps when I saw him last week."

"I know a little bit about down-in-the-dumps. It was in Pendleton. The cowboy from Dufus, Texas, had just been bucked off the great bull 'Wish-I'd-been-a-dog.' What a monster that bull was. One of the greats. But that cowboy was as down as anyone I've ever seen. No, I haven't seen Jim in months."

A pal and I used to play a version of "Name That Tune." Those of you old enough will remember that the contestants would bet on how many musical notes they'd need to name a tune. "I can name that tune in five notes." "I can name that tune in four notes." And, when the lowest "bet"

was made, the pianist would play that number of notes and the contestant would try and name the musical piece.

My pal and I would play a similar game to get an acquaintance to tell a particular known story with the fewest statements of our own. For example, "I'll get a story about Jerry's experience being locked in the car ... in one sentence."

Go for it. For lunch.

Me: "I have a heck of a time with these keyless locks."

Jerry: "Don't I know it. When I was a kid, I got locked in the car when Mom picked me up at school. She got talking to the teacher and before we knew it..." I won lunch. Jerry, like all of us, had no idea we could tell the story verbatim. Why can I not recall who I have told my 10 best stories to, yet remember all the details of each vignette?

I had a client tell me once he had the greatest wife in the world. "Big words," I said. "Tell me why you say that?"

"After 43 years," he responded, "she still acts like she is hearing my stories for the first time." Quite a spouse, she is.

The good news is that some stories are timeless. I have heard tales from friends and acquaintances multiple times and still enjoy them. Maybe the answer isn't to quit telling tales.

Perhaps the answer is to get to the punchline as quickly as possible when the

listener's lips are telling the story in sync with yours. //

The good news is that some stories are timeless.

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Jeff Tolman practiced law in Poulsbo, Kitsap County, for over 40 years and has served as judge for Poulsbo Municipal Court for almost as long. But maybe he's already told you this.

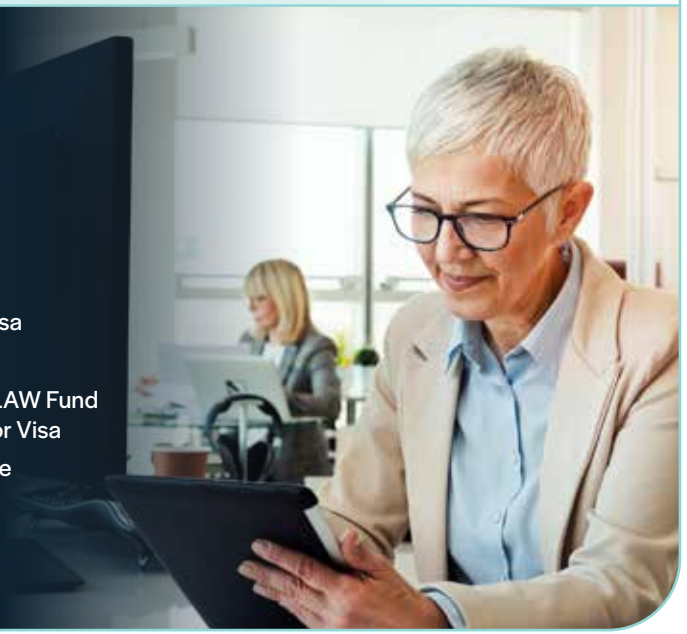
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