



LIFE BEGINS

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2012 CLE Recap: From K-12 to Death (and Beyond)

by Albert Armstrong

"Very well done program," wrote an attendee at the Senior Lawyers' Annual Conference and CLE, held May 11, 2012 at the Seattle Airport Marriott. This sentiment typified comments on the written evaluations.

This year 159 attorneys turned out to hear prominent speakers address timely issues of interest to the bar as well as matters of special concern to our Section members. Nearly half of the overall Section membership of 324 (as of the end of May) attended the CLE: 96 who were already members of the Senior Lawyers Section, and 57 who joined the Section when they registered for the CLE. Six others attended the CLE but did not opt to join the section. Twelve faculty presenters and the Section chair rounded out the numbers.

This year, thanks to the efforts of Senior Lawyer executive committee member **Jerry Jager**, Union Bank came on board and generously sponsored the CLE. The bank's sponsorship helped to maintain the very reasonable cost of the CLE. As usual, the well-regarded lunch buffet, pastry and coffee service and reception following the end of the CLE, free parking, and of course the 6.25 CLE credits, served to remind attendees of the value they receive for their \$150 (Senior Lawyers' rate) tuition.

K-12: Still Seeking "Ample Provision"

After introductory words by Senior Lawyers' Section chair **Stephen DeForest**, the program began with "K-12 Education Funding and the Washington Constitution." This topic dealt with the background and fallout of the January 2012 Washington State Supreme Court ruling in *McCleary v. State of Washington*. *McCleary* held that the State was not

meeting its duty as imposed by Section IX, Article I, of the Washington State Constitution, which specifically holds the State responsible for making "ample provision for the education of all children residing within its borders." Apparently anticipating the Court's ruling, the legislature has enacted ESHB (Engrossed Substitute House Bill) 2261, which would implement a number of funding reforms by the year 2018.

Three speakers – **Thomas Ahearne** of Foster Pepper, PLLC, Seattle; **Ross Hunter**, 48th District State Representative (which includes parts of East King County); and **Ben Rarick**, Executive Director of the Washington State Board of Education, Olympia – offered their views on the background of the current funding scenario. We learned that although a 1975 State Supreme Court case had held that the State is required under the State Constitution to provide for basic education by means of "dependable and regular tax sources" and that the system then in place (State funding supplemented by local levies) was unconstitutional, the Court left the specifics of the remedies needed (as the Court saw them) to the State Legislature.

The State Legislature passed the Basic Education Act, and the Levy Lid Act, which attempted to address the overreliance on local levies. In 1983, the school funding system was again declared to be unconstitutional by the Thurston County Superior Court. Although it was not appealed, this ruling, according to *McCleary*, largely shaped the legislature's design of the basic education program for the next several decades. In January 2007, a coalition of parents, school districts, and organizations filed the suit

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which ultimately resulted in the *McCleary* decision. The panel contrasted aspects of ESHB 2261, SHB 2776, and other legislative enactments with current funding practice.

The attendees were impressed by the preparation and the materials provided by the three speakers. One audience member wrote that speakers' presentations "[demonstrated] impressive knowledge of the problems involved in school funding...." Another noted that "[this was an] interesting topic regarding the financing of the K-12 funding mandate."

State Constitutional History

The second speaker, the **Honorable Debra Stephens**, Associate Justice of the Washington State Supreme Court, was particularly well-received in the attendees' evaluations. Her topic was the "Unique Traditions Under the Washington State Constitution." "Bring back Justice Stephens" is a fair summation of the attendees' appreciation of Justice Stephens' efforts. "[Your] presentation was engaging and [you] are well-versed in your subject," wrote another. Another wrote, "excellent presentation – highly instructive and enjoyable, [with a blend of academic and judicial approach.]"

In her presentation, Justice Stephens outlined the importance of the often-neglected study and history of state constitutions within the field of constitutional law. She reminded the audience that our state constitution is often interpreted by our state courts as granting rights to the accused greater than that afforded under the federal constitution. She contrasted state constitutional provisions with concomitant federal constitutional provisions in other areas as well. She pointed out that the framers of the federal constitution were often guided by provisions in various state constitutions that had already been drafted by the time of the federal constitutional convention.

Justice Stephens proved to be an apt choice as a presenter on the topic, as she was the author of the *McCleary* decision dealt with by the previous panel. Indeed, the subject of funding of education, central to *McCleary*, was grounded primarily in state constitutional law, education not being addressed at all explicitly in the federal constitution.

Planning Ahead: The Money Side

The third topic of the CLE was "Estate and Gift Planning in the Current Environment – and Professional Judgment." Two speakers addressed this topic: **Russell Speidel**



Honorable Debra Stephens

of the Speidel Law Firm in Wenatchee and **retired King County Superior Court Judge Donald Horowitz**. Speidel related relevant statutory changes relative to trusts and powers of attorney. He recommended trust provisions that specifically relate a Trustor's power to any applicable Trustor's power-of-attorney. He also presented materials prepared by **Dr. Frank Minton**, who had been set to join their presentation. Minton's materials dealt at length with all aspects of charitable giving, especially the federal income tax ramifications of making gifts.

Attendees reported that they found the materials very helpful as a reference and review. One wrote that "[I] appreciated learning of the amendments to [the power of attorney statute]" and that the materials were useful as a review. Another reported that Speidel's presentation set forth "good content and delivery – informative." Judge Horowitz followed up with a talk about his personal experiences in the field of charitable giving and the satisfaction it can bring. "An admirable presentation....," wrote an evaluator. "Very good," noted another.

Foretelling the ACA Decision

Vickie Williams, Associate Dean of Academic Affairs at Gonzaga Law School, delivered the after-lunch presentation. She tackled "Commerce, Spending, Taxes and Healthcare: Constitutionality of the Patient Protection and Affordable Care Act (ACA)" on an issue-by-issue basis. She hazarded a prediction on the then-pending U.S. Supreme Court ruling on each such issue and offered her analysis of the arguments adduced in favor of or against various aspects of the ACA, as presented to the Supreme Court during oral argument.

As for her analysis and prediction of how the U.S. Supreme Court would later rule on the question of the individual mandate, Professor Williams deserves real credit: She noted that Justice Roberts would be likely to join the majority, should Justice Kennedy vote for approval [along with the four liberal Justices] of the mandate.

Professor Williams' presentation was very well received. Some typical reviews read: "Super!!! [and] timely; Professor Williams is a great presenter. Great job of making a difficult and contentious subject understandable." "Outstanding!" wrote another. "Tremendously interesting and timely" was another comment.

Amendments to the Deed of Trust Act

The next speaker, attorney **Scott Osborne** of the Summit Law Group in Seattle and a past lecturer at the University of Washington Law School, dealt with "Recent Developments in Residential Foreclosures." Osborne recounted the history

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of the Deed of Trust in Washington State and its evolution from the enactment, in 1965, of the Deed of Trust Act (DTA) to the present, including amendments to the DTA following the precipitous decline in real estate values since 2007.

Attendees learned that recent legislative enactments obligate the trustee to maintain a physical presence in Washington State and a telephone at a Washington address. Certain notices to the borrower were mandated. Later, regulations of mortgage brokers were supplemented. As real estate values continued to decline, other statutes were enacted: The Deed of Trust Act was amended to allow homeowners to institute post-sale actions for fraud, misrepresentation or violations of the Consumer Protection Act; the Trustee was required to have proof that the beneficiary seeking foreclosure was an owner of the promissory note or other obligation of the deed of trust; and the lender is now required to contact an in-arrears borrower to assess the borrower's options for avoiding foreclosure.

In 2011, the legislature enacted the Foreclosure Fairness Act, requiring, for certain lenders, mediation (excepting federally-insured depository institutions that conducted less than 250 nonjudicial foreclosure sales during the prior year) as a condition of foreclosure if demanded by the homeowner borrower. One attendee noted that Mr. Osborne had prepared "thorough written materials" which were "well-explained and highlighted." Another wrote "[I] do not practice in this area but nonetheless found Mr. Osborne made the topic interesting...." Still another opined, "excellent presentation – timely."

Planning Ahead: Directives and Digital Assets

The concluding presentation – "Remains of the Day: Disposition after Death" – came from **Professor Karen Boxx** of the University of Washington School of Law. She reviewed RCW 68.50.160, which sets forth two alternative ways in which an individual can direct, in advance, his/her burial arrangements. We learned that an individual may express wishes in a witnessed, written document or by simply making arrangements with a funeral home. If an individual dies without having utilized either option, the burial decision is made by a family member in a specified order of priority.

Professor Boxx also addressed Advance Health Care Directives, touching on questions of what happens when a health care attorney-in-fact disagrees with a treating physician's reading of the directive itself or with interpretations of the health care directive principal's intentions. (The professor's advice: Avoid such situations by including specific provisions in the health care directive that address conflicts like these.) We also learned that RCW Chapter 71.32 authorizes Mental Health Advance Directives. Such a document can provide that the directive becomes irrevocable in the

event the principal becomes incapacitated – to prevent the principal from refusing treatment during a bout with, e.g., schizophrenia, bipolar disorder or severe depression.

Professor Boxx advised us, when preparing a health care directive, to address the issue of post-mortem anatomical gifts. Otherwise, absent a clear intent on the part of the principal, the attorney-in-fact may make the decision to make such a disposition. Lastly, she discussed an evolving area: retrieval of "digital assets" by a personal representative of a deceased person. We were advised to counsel our estate-planning clients to make a secure inventory of accounts and their respective passwords and to utilize secure online storage services accessible by designated successors in the event of death. The client should review the user agreements for the accounts and take necessary steps to avoid the possibility that the personal representative might later commit a federal crime by accessing the accounts of a decedent without proper authorization. She noted that the solution to dilemmas posed by these types of situations awaits comprehensive federal legislation.

As usual, the speakers' presentations were augmented by thorough written materials for future reference.

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of the WSBA Senior Lawyers Section**

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CLE Attendees Critique Senior Lawyers Section

by Fred Frederickson

At the Senior Lawyers Section's annual CLE seminar held on May 11, 2012, 66 section members responded to a questionnaire inviting comments on the Section, including CLEs (frequency, topics, speakers, and how to increase attendance), *Life Begins* (the Section's newsletter), how to increase Section membership, and other Section activities. Overall responses gave the Section excellent ratings.

Steve DeForest, chair of the Section, observed, "I am very pleased by the positive comments contained in responses to the questionnaire. The fact that nearly 60% of the Section's membership attended our June seminar indicates the membership really enjoys and appreciates our CLE programs."

Section Seminars *"I need CLE credits."*

#1 reason: According to the questionnaire responses, the top reason for attending Section seminars is to earn CLE credits. This is no surprise. Over 98% of the Section's members are active WSBA lawyers.

#2 reason: "The price is reasonable" was the #2 reason for attending Section seminars. "The Section attempts to set the seminar price at slightly above the projected breakeven point," said John Bergmann, chair-elect of the Section. "Any significant profit comes from generous sponsors such as Union Bank this year, and the Peterson, Wampold, Rosato, Luna & Knopp firm last year. Our thanks go to our sponsors. Their assistance enables the Section to keep seminar tuition low."

#3 reason: "To see old friends and colleagues" took third place on the list of reasons for attending the seminar. As one responder wrote, "This is the only seminar at which I know many attendees." In a related question, over 93% of the responses voted "NO" on whether to webcast Senior Lawyer Section seminars. This indicates that members want to attend a live gathering of old friends and colleagues.

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Next Year's CLE: May 10, 2013

We look forward to seeing our members, old friends, and colleagues again on Friday, May 10, 2013 at the next Senior Lawyers' Conference and CLE. Please spread the word about our annual event. As in past years, the site will be at the Seattle Airport Marriott. Let's see all of you next year.

In descending order, the other reasons for attending section seminars were:

The seminar topics are interesting.

The seminar location is convenient.

The food is good.

Other questionnaire comments regarding reasons to attend Section seminars include:

"I prefer entertaining speakers"; "The ambiance of the Marriott atrium is great"; "Justice Debra Stephens" and "Parking."

Seminar Topics *Likes & Dislikes*

"It is difficult to select seminar topics because our Section is composed of experienced lawyers whose areas of practice cover the entire legal spectrum," noted Section chair Steve DeForest. "A practice area of interest to one member is of no interest to another. We attempt to solve this conundrum by finding talented and interesting speakers and by selecting topics with a broad general appeal," he concluded.

The questionnaire listed ten potential seminar topics and asked attendees to rank them from one to ten in order of interest (one = highest interest). Lawyers being lawyers, many responses contained innovative scoring systems that would have daunted the authors of the Scholastic Aptitude Test. In parsing the individualized scoring systems, I was able to determine that the **top five topics of interest** to Section members, in order of preference, are:

- (1) Trusts & Estates
- (2) (tie) Real Estate
- (2) (tie) Current Legal Developments
- (4) Transition to Retirement
- (5) Life After Practice

As Section chair-elect John Bergmann reflected on these most popular areas of interest, "It makes sense that our members, as experienced lawyers, are interested in seminar topics that affect them personally. Certainly Trusts & Estates, Transition to Retirement, and Life after Practice are in that category."

In **descending order of interest**, respondents ranked the remaining seminar topics as follows:

- (6) Ethics re closing your office / succession planning
- (7) Federal or State Taxation
- (8) (tie) Ethics in general
- (8) (tie) Access to Justice
- (10) Personal Injury Law / Medical Malpractice.

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"What other potential topics or speakers are of interest?" apparently excited the responders to the questionnaire. Witness the following replies:

- Entertaining speakers
- Criminal Law
- Current major changes in the law
- Updates recent case law + statutory developments (civil)
- Attorney General
- Give us useful topics -
 - Not educational funding etc. -Not useful
- Divorce-Elder Law
- Elder Law (Asset Preservation) involving veteran's aid & assistance

What do attendees not like about Section seminars?

Responses were positive and negative:

- I was disappointed there is nothing on transitioning to retirement
- Slow topics after lunch.
- Did not happen today, thank you
- Nice job
- State Bar President should speak each year. What is the real effect of dues cut?
- Hotel's awful parking
- Don't have non-legal topics
- I enjoy everything
- Though lower than most, cost is too high for us old farts
- Most topics are bonny
- Useless topics. Find out how many senior attorneys are active and the subjects they deal with.
- This seminar sucks, other than Judge Stephens. Who the hell cares about your subjects?

Responding to a question about the **ideal length of a seminar**, a third wanted 6 hours, 47% wanted 6.5 hours and 21% wanted 7 hours. Thus, 68% want the seminar to be 6.5 hours or longer.

Responses were almost equally divided as to **whether the Section should sponsor more than one seminar per year**. Yes: 52+%. No: 47+%.

Life Begins, the Section Newsletter

Life Begins is the section's newsletter. It is usually published three times per year. *Life Begins* is edited by Carole

Grayson, assisted by Fred Frederickson and Jerry Greenan. The editor's position is secure, at least temporarily, because 82+% of the responders indicated that say they read *Life Begins* frequently or occasionally. Only 7+% said they never read *Life Begins*. Of the 7+, over one half have not seen the publication. One commented, "Too many old people like me."

In order of preference, in a very close race, questionnaire responses rated potential *Life Begins* topics:

- (1) Guest columns by prominent Senior Lawyers
- (2) Articles on aging and transition to retirement
- (3) (tie) Book reviews
- (3) (tie) Articles from other WSBA sections discussing legal topics
- (5) Travel tales authored by Section members
- (6) Articles on Senior Lawyer Section CLEs



Russell Spiedel and Donald Horowitz

See your name in print! Consider becoming a published *Life Begins* writer. If you are a budding author, submit your travel tale, book review or other article to *Life Begins*. Please email your magnum opus to fofrederickson@aol.com.

How to Increase Section and CLE Attendance? "Sell Cookies"

This question elicited the following representative replies, including "Sell Cookies." Other responses included:

A highlight of my year – always look forward to this gathering

Everything meets my standards

Given the graying of the Bar, we should be the largest WSBA section by far. Let's deepen our relationship with LOMAP [Law Office Management Assistance Program] & LAP [Lawyers Assistance Program]

Suggest lunch be reduced to 1 hour

This was an excellent seminar

Let non-seniors know more about quality & cost. It is a good deal.

Advertise

Greater publicity in the Journal; Word of Mouth

Expand exposure to the section members through the *Bar News*

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Senior Lawyers Are Our Present and Future, Says 2012 WSBA Membership Study

APR 11 Draft Rules Address Their Practice Needs

by Carole Grayson

Senior Lawyers! What suggestions do you have for your Section and/or WSBA leadership in light of the finding of the 2012 WSBA Membership Study that within the next five years, a whopping 56 per cent of WSBA members are projected to retire, change professions, or significantly reduce their practices?

"Over the next five years, retirements and departures will accumulate to a gross reduction of 31 percent of the existing membership roster – a total of 9,500 members exiting the profession. In addition, over 25 percent of the membership – approximately 7,500 members – plan to reduce involvement in the practice of law over the course of the next five years."

TrueBearing LLC, of Seattle is the research and evaluation firm that conducted the Washington State Bar Association 2012 Membership Study. www.truebearingevaluation.com.

The Largest Diversity Group

To view the 131 page study or its 13 page executive summary go to www.wsba.org and type "membership study" in the search box. To view the summary, click on

<http://wsba.org/~media/Files/About%20WSBA/Diversity/WSBA%20Membership%20Study%20Executive%20Summary.ashx>. The executive summary of the study is also located on TrueBearing's website. Interested in learning more about the Study? Nathan Brown, Ph.D., invites you to contact him at nathan@truebearingevaluation.com.

WSBA commissioned the study before the license fee referendum occurred.

"Older members," defined in the study as 40+ years old, constitute 79% of WSBA members. This is by far the largest of the seven "diversity groups" identified in the study. The next largest diversity group was women: 45% of WSBA members. The Bar has come a long way during the careers of Senior Lawyers in King County who remember when only three women practiced law in Seattle.

Transitions, Transitions!

The average Washington lawyer has 19 years of experience. Here is a breakdown of WSBA membership by age:

61+ : 21%
 51-60: 30%
 41-50: 20%
 31-40: 22%
 21-30: 7%

The study made these "recommendation highlights" for "transition-related recommendations": "Prepare for significant levels of retirements, departures, and reductions in practice across the membership. Issues to address include:

- Projected new member inflows
- Personal and professional needs of exiting members
- Retirees as a resource for consultation and mentoring
- Career stability enhancements
- Leadership development and mentoring among early-to mid-career WSBA members"

MCLE Board Incorporates Section's Proposals

On July 2, 2012, WSBA emailed to Washington lawyers the MCLE Board's draft of APR 11. It sought comments by July 20. The draft APR amendments address the needs of senior lawyers, states Kathy Todd, executive secretary for the MCLE Board:

"As the MCLE Board was deliberating the proposed amendments to the MCLE rules and regulations, they recognized the significant need that is arising – with the rapidly aging WSBA membership – to ensure that older attorneys are educated to competently address all the issues related to closing a law practice. The letter sent to the MCLE Board in the summer of 2011 from the Senior Lawyers Section executive committee was very helpful in outlining these needs. The MCLE Board included all of the Senior Section's recommendations in the proposed amendments.

1. Lawyers will be able to earn unlimited credit for courses pertaining to business planning (including succession planning) as well as to legal obligations to clients upon termination of practice

(n)(+) Other Examples of activities that may qualify for credit. The following types of activities may be approved for credit, subject to the other provisions of these regulations:

(2) Law office management courses. Credit will be granted for courses designed for lawyers that deal with means and methods to enhance the quality and efficiency of a lawyer's service to clients.

(A) Accreditable topics include docket control, time management, increasing office efficiency, business planning, office financial management, trust accounting procedures, billing and collec-

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Finalize speakers/agenda 2-3 months earlier. Email all lawyers and especially heads of county bar associations
Get and advertise well-known lawyer leaders, Gov, AG, U.S. Reps, Bar leaders etc.
Having great speakers and great topics
Sell Cookies (emphasis added)
1 more seminar per year, advertise
Get the word out to senior practitioners
Hope we all stay alive longer
Sponsor internet discussion group
Contact each local bar association president plus leaders of all minority and specialty bar associations
As the bulk of the bar ages, the section will get larger
Advertise; one more seminar per year

Take a Stand?

The questionnaire inquired whether the Senior Lawyers Section should take positions on issues of interest to experienced lawyers. Yes: 62%. No: 38%.

A follow-up question asked for issues on which the Section should take a position. Responses identified the following:

Increase tax base to fund education and social programs
Lower bar dues
Proliferation of attorney advertising
Bar Dues. There should be no bar dues for fifty-year plus WSBA members
Discounts for travel etc. Health care, reverse mortgages
Social Security, Medicare

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tions procedures, office technology, legal obligations to clients upon termination of practice, and customer service as each relates to the practice of law.

2. Lawyers will be able to earn unlimited credit for all courses that address ethical issues pertaining to a retiring lawyer.
3. Lawyers will be able to earn up to six credits per reporting period for help related to planning to give pro bono service after retirement (under Appendix APR 11 Regulation 103(d)(3))."

Based on this information, it appears that the amendments do address the issues raised by the Senior Lawyers Section.

Section Dues to Increase by \$5 First Increase in Section's History

by Steve DeForest – Outgoing Chair, Senior Lawyers Section

The Executive Committee of the Senior Lawyers Section has reluctantly voted to include an increase in the Section annual dues for fiscal 2013 (10/1/12 - 9/30/13) from \$20 to \$25 in its annual budget request to the WSBA Board of Governors. This is the first dues increase since the establishment of the Section in 1997.

The Section dues increase is a direct result of a decision by the WSBA Board of Governors, at its April 17, 2012 meeting, to modify its existing policy under which all sections were charged 75% of the direct administrative costs on a per-member basis. Under the revised policy, there will be a 100% pass-through to the sections. The Board of Governors acted upon the recommendation of its Budget and Audit Committee, and directed WSBA staff to pare down administrative costs. The initial estimate was that the current per-member charge of \$13.25 would need to be increased from \$5.50 to \$6.50. This number was revised, based on certain staff reductions and other costs savings, to \$4.00. This new Board of Governors policy means that if the Section's annual dues remain at \$20, \$17.25 of that amount will be retained by the WSBA, leaving only \$2.75 per member.

At its June meeting, the Executive Committee of the Senior Lawyers Section concluded that this \$2.75 was an insufficient amount to operate the Section, and therefore decided to request the increase to \$25 per Section member for the next fiscal year. The dues of this Section have always been at the lower range of dues paid by WSBA sections. Even with this \$5 increase, the Section should remain in that lower range, as it is expected that many other WSBA sections will also increase their annual dues for the same reason.

Give Us Your Ideas

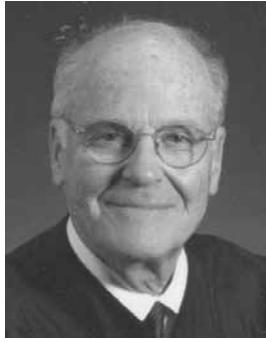
"Give us your ideas," said Spokane attorney Gene Annis, chair of a Senior Lawyers Section subcommittee given the task of investigating what services or assistance the section can provide to experienced lawyers. "In addition to our annual CLE and *Life Begins*, the section newsletter, my subcommittee requests suggestions or comments on what else the section should be doing for its members. The subcommittee is especially interested in comments dealing with transition to retirement," he added.

"If you have any thoughts on this subject, please email them to subcommittee member, Fred Frederickson at fofrederickson@aol.com," Gene concluded.

Guest Columnist

Reflections of a Retired Supreme Court Justice

by Gerry Alexander



Gerry Alexander,
now practicing law in Olympia.

On December 31, 2011, I officially retired from my position on the Washington Supreme Court. At the end of that day my 38 1/2 year career in Washington's judiciary came to a close. This was a sad day for me in many respects because I had thoroughly enjoyed being a judge from the day in 1973 when I was sworn in as a superior court judge for Thurston and Mason Counties until my last day on the bench.

It was not, as some of you may know, my choice to retire. Rather, retirement was made mandatory for me by a somewhat obscure provision in our State Constitution, Article 4, Section 3(a), which provides that justices of the Supreme Court and judges of the Superior Court "shall retire from judicial office at the end of the calendar year in which he attains the age of seventy-five years." I turned seventy-five in April of 2011 and, therefore, could only serve on the Supreme Court until the end of that year.

This mandatory retirement provision was not part of the proposed state constitution approved by citizens of the Washington Territory in 1889 when Washington became the 42nd state in the Union. It was added by amendment in 1952. There have been a few proposals before the Legislature in recent sessions of that body to submit a proposed constitutional amendment to the voters that, if passed, would do away with the 1952 amendment. These efforts have not, however, found favor with the Legislature.

Let the Voters Decide

My personal view is that our state constitution should not contain any mandatory retirement provisions for persons holding elective office within any of the three branches of Washington's government. Justices of the Supreme Court, like officials in the executive and legislative branches, are elected. We should leave it to the voters to decide who should hold elective office, recognizing that age, like a myriad of other issues, might properly be "grist for the mill" in an election campaign.

That being said, I, of course, knew when I was elected to my last term on the Supreme Court that I was approaching mandatory retirement and would only be able to serve on the court for the first five years of the six-year term. And like

many people facing retirement, I engaged in much reflection on my career and my chosen profession. In my case, my thoughts focused to a great extent on Washington's justice system because the state of that system was of significant interest to me during all my years in the judiciary, especially the nine years I served as Chief Justice of the Washington Supreme Court.

Having gone through that period of reflection, I can tell you that, in my view, Washington's justice system is in pretty good shape; indeed, it is better now than when I entered it. While I am in this reflective mood let me list a few positive changes I have seen in our state's justice system during the nearly half century I have served as a lawyer and judge. I will limit myself to three.

Improvements in the Courts

In my opinion, the number one improvement to the system since I became a lawyer in 1964 has been the elevation of the status and prestige of our courts of limited jurisdiction, primarily our district courts. To put this statement in context, let me remind you that in 1964 most of our counties still had justice of the peace courts as the court of limited jurisdiction. Although these JP courts, as they were called, may have been adequate during horse and buggy days, they were not at all suited for modern times. I say this because most justices of the peace were not lawyers, and most had little or no legal training. It was not unusual for JP's to hold court at their home or place of business. The civil jurisdiction of these courts was very slight. Their worst feature was that most JP's were what was called "fee Justices." They derived their income in criminal cases by taxing court costs. Since in criminal and traffic cases court costs could only be taxed if the defendant was found guilty, these judicial officers did not present a great appearance of fairness.

Happily, in the early 1960's, the legislature adopted what was then called the Justice Court Act. This was a great step forward because it allowed counties to jettison the JP system and establish district courts with increased civil jurisdiction and salaried judges who were lawyers. It was a huge improvement in fairness and efficiency. Over the years I have been gratified to see the increased respect that district courts have been accorded by the public and the legislature. Proof of this elevated status has been the legislature's consistent willingness to increase the civil

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jurisdiction of the district courts (now \$75,000). Further evidence of the legislature's esteem for district courts has been a willingness to authorize these courts to handle some matters that formerly fell within the exclusive jurisdiction of the superior court.

Another important improvement to the justice system was the Supreme Court's adoption of the "time for trial" rule in criminal cases. This rule, sometimes referred to as the "speedy trial rule," was adopted in 1973, the year I became a superior court judge. It has been amended somewhat since it was first adopted, but it still provides two important things: first, criminal trials take precedence over civil trials and second, if a person charged with a crime is not brought to trial within the time limits set forth in the rule, the charge or charges will be dismissed with prejudice.

Some today may look upon this rule as being a bit Draconian. However, when it was adopted by the court it was deemed necessary because criminal cases were badly backlogged around the state, and many individuals were languishing for long periods of time in county jails awaiting trial. This "time for trial" rule has been a very good thing. It has reduced delay in criminal cases consistent with the provision in our state constitution that justice shall be administered openly and without unnecessary delay.

Gerry Alexander was the longest serving chief justice in the state's history, serving nine years in that capacity. He now is of counsel at the Olympia firm of Bean, Gentry, Wheeler, Peterzell. He serves as an arbitrator, mediator, and consultant on appellate court practice.

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

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

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

**2011-2012
Senior Lawyers Section**
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