



# LIFE BEGINS

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Senior Lawyers Section

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## Save the Date!

Senior Lawyers Section

### 2014 Annual Meeting & CLE Seminar

Friday, May 9, 2014 – Marriott, Sea-Tac Airport

Once again, an informative and entertaining CLE seminar is coming your way. Earn CLE credits in the company of your friends and colleagues at the Section’s annual CLE. The CLE committee has put together a stellar faculty that should succeed in increasing CLE credit to 6.75 hours, from 6.25 hours. The higher amount of CLE hours was among the recommendations by section members in the questionnaire distributed at the 2013 CLE.

Confirmed speakers and topics include:

Washington Supreme Court Justice Sheryl Gordon McCloud: An Inside View of the Court’s Decision-making Process – With a Focus on the *McCleary* Decision.

Shon Hopwood of Seattle, on A Unique Perspective on Criminal Justice Reform. Hopwood is a Gates Scholar at the UW School of Law and author of *Law Man: My Story of Robbing Banks, Winning Supreme Court Cases, and Finding Redemption*.

Mary Wolney of Seattle, past president of the Elder Law Section: Medicare and Medicaid and their impacts on retirement.

Gair Petrie of Spokane: Retirement From Practice and Tax Consequences of Financial Planning for Seniors and Our Senior Years.

David Lenci of Seattle: Ethical Issues for Lawyers in Transition.

Scott Osborne of Seattle: Recent Developments in Real Estate

A four-person panel will discuss transition to retirement and “Second Career Choices” – using one’s legal education, training, and experience in a second career after law. Bob Boruchowitz of Seattle University, Seattle attorney Jo-Hanna Read, and Seattle arbitrator, mediator Faith Ireland, and Scott Wyatt (author).

#### Bang for the Buck

“One of the real attractions of our CLE,” says executive committee member Ron Thompson of Gig Harbor, “is the fact that parking is free, the CLE cost is low, and lunch is included. And you get to see your old contemporaries and compare notes. More ‘Bang for the Buck.’ How could one miss such a good opportunity to gain credits and see old friends at the same time?”

Please mark your calendar and watch for the registration form in the mail, an upcoming *Life Begins*, or on the WSBA website.

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

#### In This Issue

2014 Annual Meeting & CLE Seminar .....	1	Japan, Where Age is Revered .....	3
Our Life in the Law in Clark County .....	2	Attorney’s Fees Under TEDRA .....	6

## Guest Columnists

### Our Life in the Law in Clark County

by Bill and MarCine Miles



Raising two children and running a husband-and-wife law firm has been one heck of an adventure. Our Vancouver (WA) law firm has been in existence for 32 years, and our marriage for nearly 50 years. Neither

of us are Clark County natives, but our time there has confirmed our initial impression of the area as full of potential and family-friendly.

Vancouver, the largest city and county seat of Clark County, has more than doubled in size during our tenure here, now hosting a population of over 430,000. We didn't start our firm immediately upon arrival; we each worked at separate firms first, MarCine starting in 1977 and Bill in 1978, before opening our own enterprise in 1982.

We have seen the number of attorneys here grow from about 60 to well over 450. Clark County's expanding population had not gone unnoticed by new lawyers in an always tough job market. Furthermore, as the Admission to Practice Rules now allow for out-of-state lawyers to obtain a Washington law license without taking the Washington bar exam, many of our Oregon attorney-neighbors (we are located across the Columbia from Portland) have crossed the river to join us.

#### The Old Days

Thirty years ago, a practitioner knew almost every other attorney in the county. The camaraderie was reinforced by well-attended monthly bar luncheons at the Quay, a local hotel/restaurant along the Columbia River. There were three superior court judges when we first got to town; there are now ten judges and two full-time commissioners.

We can remember a time when you could just walk over to the courthouse, walk right in (no security checks, frisking, bag checking, etc.), walk into any judge's office, and get an ex-parte order signed. As the county grew (and security fears increased), so did the layers of order and formality. Ex-parte orders now have to be presented on a formal docket.

Our 1941 Art Deco courthouse, its interior remodeled several times since our arrival, has nonetheless proven too small to handle Clark County's legal matters. Originally it contained superior and district courts, county offices and

the county jail. Several nearby buildings have now been commandeered in the furtherance of Clark County justice.

MarCine came from a political family in Kennewick and has been active in Clark County politics throughout the years. Her late father served as Auditor in Benton County for many terms. Bill grew up mainly in the Midwest, and, after a short stint as a predesign engineer at Boeing in Seattle, joined the Air Force as a second lieutenant in 1962.

#### Setting Down Roots

We were married in 1967. MarCine went to law school first, attending law schools near where Bill was posted, except when Bill was serving his second tour of duty in Vietnam, when she attended the University of Washington. Bill had a 12-year career as an active-duty officer, and, upon leaving active service in 1974 (he would retire from the Reserves as a Lt. Colonel in 1991) attended the University of Tulsa Law School, graduating in 1977. MarCine was already a working lawyer with the Corps of Engineers when Bill got his law degree.

So, how did we decide to come to Clark County, to Vancouver? MarCine wanted to be closer to her parents in Kennewick but desired a cooler climate, and Bill was familiar with Western Washington from his time at Boeing. Both of us wanted the atmosphere of a smaller but growing town, so Vancouver it was. Our first child came along in 1979.

Many old-timers will recall MarCine appearing in court, her newborn held snugly in her arms, while arguing her client's position. "Our second son was born in 1981, and we got to repeat that drill all over again," remembers MarCine. Bill recollects putting in his time preparing meals for the growing family (he is the cook in the family).

Both remember the frenetic pace of life in those days: the daily stress of running a successful law practice sandwiched between getting the boys to school in Oregon in the morning and helping with and overseeing their homework in the evening. "Our boys grew into fine young men," says Bill. "One graduated from Reed College in Portland and is now with the U.S. Foreign Service, and our other boy graduated from Washington State and works as a custom photo finisher." MarCine smiles. "The pace of life has slowed for us somewhat, our sons have grown, married and moved away, but we relish our new roles as grandparents."

After a third of a century in the law, we do toy with the idea of retirement, but that decision gets postponed, as there is always another case to attend to. Things we do not miss: typewriters, carbon paper and the old Thermomax copier.

## Japan, Where Age is Revered

by Carole Grayson

Japan, where age is revered ... What a fitting locale Japan would be for our Senior Lawyers Section CLE! The island country is home to the highest percentage of centenarians on the planet (3.43 per 100,000 people, compared to 1.73 in the U.S.) and the highest life expectancy (86 for women and 79 for men, compared to 81 for women and 76 for men in the U.S.).

Witness the Japanese reverence for *sabi* and *wabi*. These two words that happen to rhyme (wah-bee, sah-bee) carry such resonance for the Japanese.

Witness the moss in their gardens. Visit its Buddhist temples and Shinto shrines, its imperial palaces, and you may notice gardeners tenderly transplanting moss from flats.

### The Rust of Age

In 1971, my family hosted Kiyomi Tobe as an exchange student. I was 18 and Kiyomi was 17. Fast forward 41 years, to March 2012, when Kiyomi and I travelled around Honshu (Japan's largest island) for two weeks. It was my first visit to her oceanic country. She was an ideal traveling partner. I have never laughed so much.

Back to the moss in their gardens. One day, as we strolled in a garden, she told that a rolling stone gathers no moss was also a proverb in Japanese: *Korogaru ishi ni koke musazu*. However, its meaning was opposite to our American take. My eyebrows rose. The Japanese believe that if you are running around (i.e., being a rolling stone), you will not have an opportunity to develop moss (i.e., depth, history). Be patient and you will persevere: These are the lessons of the Japanese proverb.

Which brings me back to *sabi* and *wabi*. Before my Japan trip, a high school friend who is an interior designer lent me "Elements of Japanese Design," by Boyè Lafayette De Mente. It is a lovely, thin book, elegant and simple at the same time – in other words, very Japanese.

*Sabi* is to savor the "rust" of age. In De Mente's words, The Shinto philosophy of revering nature, with its seasonal changes, its weathering, aging, and passing away, ingrained in the Japanese an appreciation for the *sabi* aspects of life and a natural tendency to reproduce it in the artifacts of their time. They selected stones that were already weathered. The straw they used [for sleeping

mats] took on the "rust of age" in a single season. Wood also weathered with the passage of time. The naturalness and simplicity inherent in these materials exuded a sense of tranquility – which eventually became associated with the *sabi* elements of living.

*Wabi* is "desolate beauty." It also refers to decline and desolation and dreariness. "Desolate beauty": a spare and poignant paradox. Is there an English equivalent?

### Dare to be Old

During my trip, I saw many ways in which the Japanese show their appreciation and integration of the old and/or the disabled into their everyday lives.

*Tree crutches:* So what if an old tree has only one branch left. The Japanese will lovingly support it with a crutch. Inspired, I created a crutch for my massive camellia upon my return to Seattle. Storms in January 2012 had left it so snow-laden that a major horizontal branch cracked nearly in two. A trunk from a dead *styrax japonica* serves as the crutch. It has a "Y" at the perfect height. I remember my trip to Japan every time I walk by it.

*Old folks bicycling:* Wizeden, white-haired folks who must be in their 80's (or more) were out there with everyone else, on one-speed bikes, trundling along at a companionably slow pace, biking to and from shops and train stations, no helmets, dark clothing, biking in the narrow streets, the narrower bike lanes, even on the sidewalk.

*Visually impaired assistance:* Street tiles: Dots mark the path; lines mark the end of the path. Writing this article, I discovered that Japan pioneered tactile paving,

way back in the mid-60's. Imagine that. [http://en.wikipedia.org/wiki/Tactile\\_paving](http://en.wikipedia.org/wiki/Tactile_paving) Tactile paving seems like a recent addition to Seattle, and only at some curb cuts.

*Trains.* Such accessibility! A *Shinkasen* (bullet train) had the best seating, and the best and largest ADA (oh, JDA) bathroom, I have ever seen for persons with (or without) disabilities in any country. And what magic in the bathroom: Wave your hand over a sensor and the toilet flushes.

*Buses.* Municipal Kyoto buses accommodated wheelchairs. Pictures designated seating for folks using wheelchair or canes, and for pregnant women (or was it mothers

*continued on next page*



Carole and Kiyomi at Kinkaku-ji (Temple of the Golden Pavilion), Kyoto

## Japan, Where Age is Revered *from previous page*

with young children? My deciphering may have been flawed). Only once did someone not hew to the signage. The bus was SRO. A teenager came aboard, already plugged into her earphones, and sat down without making eye contact with anyone. Behind her came an elderly man with a cane. Kiyomi and I were strap-hangers on the central straps (great idea! – they were flanked by the usual straps.) I tapped the girl on the shoulder twice and heard myself say in English, “Let him sit down.” Without taking her eyes off her phone or saying a word, she stood up and moved. Had she heard me? Who knows? Did she understand English? I doubt it. Perhaps the tone of adult disapproval is universal?

### Slurp. Slurp. Repeat

*Tabemasu, nomimasu:* Eat, drink. You have to love a culture where you eat out of small bowls which you bring to your lips, and where slurping is *de rigeur*. Kiyomi says the way I was raised – to keep my non-food hand on my lap – is considered bad manners in Japan.

Food in Japan bears little resemblance to Japanese food in the U.S. *Vive le différence!* The Japanese are locavores without trying: chicken, eggs with bright orange-red yolks, marbled beef that nearly melted in my mouth, *tako* (octopus). Kiyomi took photos of all of our meals. This was a first for me. I felt like I was on a Hollywood set. Meals featured small plates or bowls, on occasion more than 10! The food is more for a bite or two or three. No gluttony. I had worried how I would tolerate two weeks nonstop of Japanese food but it was so easy, and so much fun, and *oishii* (tasty).

Kiyomi would be the first to tell you that she is not a typical Japanese woman born in 1952. It’s even more true that her parents were not typical for their generation, either. They married for love, not in an arranged marriage. Both were college-educated. Kiyomi’s mother had her first-born at 37 and Kiyomi at 42.

Fast forward one generation. Kiyomi considers her own marriage to be “semi-arranged.” What did she mean by this? Mutual friends introduced her and Masaki. They exchanged preliminary information; the idea was not to date but to end in marriage, though either of them could bow out in the preliminary stage with no bad feelings. They did elect to marry. During Masaki’s career at an import-export bank, they and their two young children lived three years in Paris and three years in Sydney in the late ‘80’s and early ‘90’s. Of the three countries she has lived in during her marriage,

which is her favorite? Australia. She would move there in a heartbeat. She loved the Aussie can-do attitude. Which was her least favorite? France.

### The Tatami is Totemic

I was surprised how familiar the Japanese landscape looked. Then I realized that we are both Pacific Rim countries with similar flora. I loved the architecture in and out. Simplicity, tranquility, natural materials. Nearly every yard was very tiny, nearly every one had a garden.

*Shakkei*, or “shared scenery,” is an important design consideration.

Hot springs are primal.

Heated toilets are heaven. Who knew that toilets could be so talented? The Japanese have two major styles: traditional Japanese (ceramic, with a hole in the floor; I knew

these squatting toilets from Turkey and the former Yugoslavia) and what they call Western. But these ain’t like any Western toilets I know. These high-tech toilets feature an array of electronic bells and whistles, so to speak. It was always a thrill to see what would happen when I tapped on a particular button written in Japanese. (Did I mention

that I do not read Japanese?) It was especially thrilling in the dark of night when nature called. Once water spurted vigorously across the bow before I sat down. Instinctively I slammed shut the seat and conjured up the Sorcerer’s Apprentice trying to stem the tide of the endless broomsticks that he has unleashed.

To talk of a tatami mat is to engage in a redundancy. Tatami is the straw mat. Houses still are based on the dimension of the tatami (e.g., a six tatami room). Some rooms had a recess in the floor for one’s feet. The best had a heater in the floor to warm my tootsies. If these were ubiquitous, war would be no more. I loved sleeping on futons on the floor. Perhaps the Japanese live so long because they’re always going up or down a few steps, or squatting, or sitting on their heels?

Tip: Do not wear corduroy pants if you’re going to sit on your heels a lot or slide on your knees on tatami mats. The wear will show surprisingly fast.

Helpful uniformed (male) information guides were all over train stations.

Taxi drivers (male and female) wore navy blue suits with smart caps and white gloves. They pressed a lever that opened the back door. The back seats had white fabric.

*continued on next page*



*Mt. Fuji from our hotel room on Lake Yamanaka*

## *Japan, Where Age is Revered* from previous page

### Auditing Classes

Listening to Pimsleur's Basic Japanese for five weeks before my trip driving to and from work (15 minutes twice a day) gave me a basic sense of the language and some conversational skills. Of course, having a native as my travel companion made everything easier. I returned from my trip so stimulated that I continued to listen to Pimsleur tapes until even now, nearly two years later. Trying out my Japanese at local restaurants sometimes achieves the desired result!

Some things don't end; they just get better. Besides eating my way through Japanese restaurants, I checked out Japanese DVDs from the library. I re-created Japanese domestic serenity by ridding my house of clutter (dream on).

Best of all, I was so stimulated by my visit that I married an old area of interest (architecture and urban design) with my new area of interest (Japan). And thus began a new chapter in my life: auditing classes at the University of Washington, where I work. (Note to Senior Lawyers: Anyone who is 60 or older can audit UW classes for the cost of a few sandwiches through the ACCESS program. <http://www.washington.edu/students/reg/access.html>.)

Fall quarter 2012 I audited ARCH 441, *Visions of the Japanese House* ("Explores the origins, derivations, and permutations of the Japanese House. Outlines underlying principles and paradigms of Japanese domesticity through history and traces its evolution through aspects ranging from the house's expression in media to its constructional materiality.") It was my first time as a student (albeit non-matriculating) since graduating law school in 1977. Things have changed!!! Technology with a capital take-no-prisoners T.

Of the 15 students in the class, I was the only auditor and the oldest by 25 years. The students were a mix of grad students and undergrads majoring in architecture or landscape architecture, except for one art history student who had lived seven years in Japan and had been studying the way of tea for eight years. Two other

students had also lived in Japan for substantial periods of time. My "niche" was that I had visited it the most recently.

Winter quarter 2013 I continued the fun by auditing ARCH 498C, *Now Urbanism*. Under the same professor I had had fall quarter, our class of 15 made a whirlwind tour of Seattle, Tokyo, New York, London, Singapore, and Shanghai. Why these cities? They shared two traits: Each has been influenced by nearness to water. Each has hosted a World's Fair or Olympics.

Architecture is one of the schools within the UW College of Built Environments. Another is the School of Urban Design and Planning. Spring quarter 2013 I audited a URBDP course titled *Pedestrian Travel, Land Use, and Urban Form*. It confirmed what I had suspected: Bicycling in Japan

and northern Europe is primarily utilitarian. In the U.S. it is primarily recreational. Guess which place has the most obese people?

Fall quarter 2013 I continued in URBDP, this time in *Introduction to Historic Preservation Planning*. The current quarter I am auditing an architecture course that is examining what needs to change in the pedagogy and practice of architecture to make it more cross-collaborative with other

professions involved in building and design. This apparently has been an industry-wide concern for the last decade or so. The concern is that architects may become obsolete in a generation if they don't evolve.

I have stuck to seminars with a maximum of 15 students. Being in a classroom is a gift. Realizing that I have first-hand knowledge of content on their slides (uh, PowerPoints) – 1965 New York World's Fair, 1950's split levels, Grand Central Terminal – makes me smile in wonder. Another wonder: How did I get to be older than my professors? Yet being older has its benefits. That is what

I learned in Japan. There are many reasons why I want to return to Japan. Reverence for age is one, sure. Another is the thrill of seeing over the masses thronging its storied railroad stations. Being 5' 6" has its perks.



*Interior of our Kyoto B&B*



*Jinya (Government House) still in use in Hida Takayama. Photo shows instruments of torture of yore used on defendants.*

*“Attorney’s Fees Under TEDRA,” by Tiffany Gorton – Kutscher Hereford Bertram Burkart PLLC, is reprinted with permission of the Washington State Bar Association, the Real Property, Probate and Trust Section (RPPT), and the author, from the Fall 2013 issue of the RPPT newsletter. Any other use of this article without the express written permission of the Washington State Bar Association, the RPPT Section, and the author is prohibited.*

## Attorney’s Fees Under TEDRA

by Tiffany Gorton – Kutscher Hereford Bertram Burkart PLLC

Washington is governed by the “American rule,” which requires each party to litigation to bear its own attorney’s fees unless there is a specific agreement, statute authorizing, or equitable basis for the court to rule otherwise. Pursuant to the Washington Trust and Estate Dispute Resolution Act (TEDRA), RCW 11.96A.150, the court has discretion to award costs, including attorney’s fees, to any party from any party to the proceedings, from the estate assets or from any nonprobate assets that are subject to the proceedings.<sup>1</sup> Likewise, this provision gives the court the broad discretion to award attorney’s fees and costs as the court determines to be equitable, considering any and all factors that it deems relevant and appropriate.<sup>2</sup>

Courts commonly look at the following factors in exercising their discretion to award attorney’s fees: preservation of the estate, benefit to the trust or estate, whether the parties acted in bad faith or good faith, whether there was a breach of fiduciary duty, and whether the issue before the court was novel or unique. The broad discretion of the court makes the question of a fee award somewhat of a gamble. RCW 11.96A.150 is an excellent resource to allow the court to place the burden of litigation expenses on the proper party, especially when one has acted in bad faith. However, because these factors are not hard and fast, the outcome can be somewhat unpredictable, especially with respect to novel or unique issues, as discussed below. Therefore, as practitioners, it is important to raise the issue of ultimate responsibility for legal fees with clients as there is no guarantee that the court will award fees in favor of any party, even if it seems clear that one is completely without blame.

Generally, Washington favors the protection of estates through the award of attorney’s fees.<sup>3</sup> Because preservation of the estate for the intended beneficiaries is one of the main concerns of Washington courts with respect to fee awards, courts have frequently found that equity requires a party who unsuccessfully brings a suit that does not benefit the estate to pay the attorney’s fees of others involved in the litigation.

In *Villegas v. McBride*<sup>4</sup> the appellate court directed the trial court to award the Co-Personal Representatives their attorney’s fees where the decedent’s sister filed a creditor’s claim against her brother’s estate for loans she allegedly made to him during his lifetime. The estate moved for summary judgment, which was granted and then affirmed. The estate requested attorney’s fees and costs incurred at the trial

court level because the litigation deprived the beneficiaries of part of their inheritance. The Court of Appeals agreed that diminution of the estate was an equitable ground for an award of attorney’s fees under RCW 11.96A.150 and awarded not only fees and costs on appeal, but remanded for attorney’s fees and costs incurred below.<sup>5</sup>

Similarly, courts will look at whether the litigation benefitted the trust or estate in determining whether to award fees. The court in *In re Korry Testamentary Marital Deduction Trust for Wife* declined to award attorney’s fees to charities, concluding that unsuccessful litigation against the estate, which was prosecuted for personal benefit, was not a substantial benefit to the estate.<sup>6</sup>

Courts have frequently required a party acting in bad faith to be responsible for the attorney’s fees of other parties. This issue is often entangled with breaches of fiduciary duties where a trustee or personal representative is blatantly acting in his or her self-interest to the detriment of the beneficiaries, and the beneficiaries have to take action to have the fiduciary removed. Depending on the facts, this will often give rise to a fee award not only through RCW 11.96A.150 but also RCW 11.68.070 (personal representative’s failure to execute his duties faithfully) or RCW 11.76.070 (personal representative’s failure to give an accounting or report).

In *In re Estate of Jones*, the Washington Supreme Court held that the personal representative was liable for the fees incurred by the beneficiaries to petition for his removal because the litigation was necessitated by his multiple breaches of fiduciary duty.<sup>7</sup> In *Jones*, based on a prolonged period of administration and repeated requests for an accounting by the beneficiaries, the court concluded that the personal representative breached his fiduciary duties.

The other side of this factor is whether the party acted in good faith. The court in *In re Estate of Watlack* concluded that where an executor acted in good faith he was entitled to an allowance from the estate of his costs and attorney’s fees.<sup>8</sup> However, good faith will not always insulate a party from an award of attorney’s fees pursuant to RCW 11.96A.150; the determination is entirely within the court’s discretion.

The court may decline to award attorney’s fees to a party pursuant to RCW 11.96A.150 when it concludes that the issue involved was unique or novel. What qualifies as a unique or novel issue, however, appears to be determined on a case-by-case basis. Unlike some of the other factors the

*continued on next page*

## Attorney's Fees Under TEDRA from previous page

court has considered such as good faith or bad faith, resolution of whether an issue was "unique or novel" seems to be dependent upon the facts and circumstances giving rise to the issue. There are only a handful of decisions wherein the court has declined to award fees based on a difficult or novel issue and the reasoning is somewhat scant. Further, it seems that the use of "unique or novel issue" as a factor to decline to award attorney's fees is being further stretched to include "debatable or complex issues," as well.

In *Mearns v. Scharbach*, the former wife of the decedent was asserting that she should receive the benefits of his life insurance policy on which she was named beneficiary in spite of RCW 11.07.010, which essentially provides for the revocation of beneficiary designations on nonprobate assets upon dissolution or invalidation of the marriage.<sup>9</sup> The decedent's former spouse contended that there was evidence indicating the decedent's intent that she remain the beneficiary of the policy even after dissolution and that the retroactive application of the statute was unconstitutional. The *Mearns* court denied the decedent's children's request that attorney's fees be awarded against the decedent's former spouse for the privilege of litigating the difficult questions of operation and constitutionality of RCW 11.07.010.

The court in *Estate of Burks v. Kidd* cited the decision of the *Mearns* court in declining to award fees pursuant to RCW 11.96A.150 based on the presence of unique issues in the case.<sup>10</sup> In *Burks*, the decedent had two bank accounts with payable-on-death (POD) beneficiary designations but also made mention of certain bank accounts in her will. The court applied RCW 11.11.020, which allows individuals to dispose of certain types of nonprobate assets through their wills. The court ultimately concluded that the statutory requirements to change the decedent's designated nonprobate beneficiaries had not been met and attorney's fees should not be awarded based on the unique issue presented.

Citing *Mearns* and *Burks*, the court in *In re Estate of D'Agosto* declined to award attorney's fees because the case was one of first impression in deciding whether an insurable interest in the life of another was required to continue to exist after the making of an insurance contract in order for the named beneficiary to be entitled to the proceeds at the death of the insured.<sup>11</sup>

*In re Estate of Snyder* involved a beneficiary's challenge to the approval of the personal representative's distribution plan with respect to real property.<sup>12</sup> The court concluded that the distribution plan was consistent with the testator's intent as expressed in the will and that the court has authority to make a distribution or settlement of all estates in any manner that the court deems right and proper. The court declined to award attorney's fees, stating that the is-

ssues involved were "debatable." Similarly, the court in *In re Estate of Ginsburg* declined to award fees, stating that the litigation was hard fought and raised complex legal issues.<sup>13</sup>

It seems that the only thing that is clear with respect to fee awards is that they are unclear. The court has very broad discretion and may take into account any factors it deems reasonable in accomplishing equity. As practitioners, it is important to make clients aware that the court is just as able, and possibly likely, to award fees to the opposing party as to your clients. Fortunately, TEDRA contains broad authority that allows the court to act and place the burden on the proper party according to what is equitable. Unfortunately, this broad authority often makes it difficult to predict to whom and from whom the court will award attorney's fees.

1 RCW 11.96A.150.

2 *Id.*

3 *Laue v. Elder*, 106 Wn. App. 699, 712, 25 P.3d 1032 (2001).

4 *Villegas v. McBride*, 112 Wn. App. 689, 696, 50 P.3d 678 (2002).

5 *Id.*

6 *In re Korry Testamentary Marital Deduction Trust for Wife*, 56 Wn. App. 749, 785 P.2d 484 (1990).

7 *In re Estate of Jones*, 152 Wn.2d 1, 21, 93 P.3d 147, 157 (2004).

8 *In re Estate of Watlack*, 88 Wn. App. 603, 945 P.2d 1154 (1997).

9 *Mearns v. Scharbach*, 103 Wn. App. 498, 12 P.3d 1048 (2000).

10 *Estate of Burks v. Kidd*, 124 Wn. App. 327, 100 P.3d 328 (2004).

11 *In re Estate of D'Agosto*, 134 Wn. App. 390, 139 P.3d 1125 (2006).

12 *In re Estate of Snyder*, 2010 WL 3001423 (Div. 3) (unpub.).

13 *In re Estate of Ginsburg*, 2006 WL 3775847 (Div 1) (unpub.).

## Article Ideas? Your Input Is Needed!

*Life Begins*, the Senior Lawyers Section newsletter, which you are reading at this very moment, works best when Section members actively participate. We welcome your articles and suggestions regarding *your lives in or out of the law*.

Please contact Carole Grayson, editor, to submit an article, or if you'd like to write an article, or if you have ideas for article topics. Here's how to reach her: phone (206) 543-6486, email [cag8@uw.edu](mailto:cag8@uw.edu), fax (206) 543-3808, or mail at UW Student Legal Services, Box 352236, Seattle, WA 98195.

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