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Elder Law:

What They Don't Teach You in Law School

By Barbara West

In 1997, I found a small office space near the Regional Justice Center in Kent and hung out a shingle as an estate planning attorney. I envisioned building a law practice focused on assisting small business owners and their families in South King County develop transition plans.

What came through the door were seniors and their families seeking advice on Medicaid eligibility, planning for non-taxable estates, probate and trust matters, guardianships, disputes involving powers of attorney, fiduciary breaches and the abuse of vulnerable adults.

I am fortunate to have a family of recent European descent and so I have been instilled with social graces from a different time and place. Every senior who walked through my door was my much-loved grandfather, who lived to be nearly 99 years old. I found myself at ease with the nature and pace of both elderly clients and their concerns. My life lessons seemed to fit neatly with my venture into the world of elder law.

My colleague, Leslie Clark, thinks I have a "calling." Maybe she is right. With the perspective of more than a decade, I think that the right area of practice found me. It may be a cliché, but I do believe that over the years I have learned more than I thought possible from my clients and their families, as well as other practitioners in the field.

There are horror stories, of course, about family dysfunction, greed and dishonor, but it has generally been an honor to know and serve the vast majority of my clients, and it has been a privilege to work with the professionals in the elder law community.

My friend and mentor, Mike Longyear, says that we are just trying to help widows and children. He's teasing, but he is also accurately describing the underlying concerns that elder law attorneys routinely address: the right of seniors to remain financially and psychologically independent and dignified despite age and infirmity, and the struggles of families to support their ailing, aging loved ones while facing the realities of diminishing capacity, declining financial resources and increasing demands for care and related services.

The issue of protecting and preserving the right to self-determination of a person with diminishing capacity is a challenge and it is at heart a civil rights issue. When I assist a senior to retain the right to make decisions, or assist as they designate a surrogate decision-maker who truly understands the limits of fiduciary authority and retained rights, or when I help a client become a guardian for an incapacitated family member, I am keenly aware that my own family may offer me the same guidance at some point in my future.

Older age may be a golden time for some, but for many this period is characterized by losses: of eyesight, hearing, physical mobility and the ability to partake of activities that provided life with meaning and joy; of engagement with the outside world as impairment reduces the opportunities for ventures into the community; of declining or past employment and financial stability. Loss, grief and depression result from the deaths of friends and family and the disappearance of the society with which they were once familiar.

Elder law attorneys ply their trade as advocates in a multi-dimensional environment that regularly calls on us to be psychologists mediating generations-long family disputes; accountants discerning missing or misapplied funds; and medical and mental health professionals with an

awareness of the transience of dementia and an understanding of the wide variations in the manifestations of this most-prevalent disease. Most elder law attorneys over time compile a referral list of accountants, financial advisors, guardians and fiduciaries, home health and residential care providers, nurse case managers, geriatric specialists, mental health counselors, mediators, Realtors, and home repair and home assessment services, to name just a few.

My clients come to me in times of crisis and chaos and ask for my help in setting things right. When I succeed, the gratitude and thanks of clients and their families can be overwhelming.

There are times that the connection to clients grows personal, despite efforts to remain professional. One client, suddenly blinded by macular degeneration, asked for my help sorting through his affairs. After he believed everything was in order, he committed suicide. There was no way to distance myself from that shock and horror.

Another client, bereft of family after the death of her spouse, became like my own. When she died, the caretakers and advisors who had supported her in her last years were left to grieve her loss together. One client had a family beset by years of tension and distrust and he asked me to make the final decision with his physicians regarding terminating life support for him when the time came.

These moments symbolize for me the essential humanity of elder law and, no matter how difficult it is at times, I appreciate my opportunity to connect one-to-one and to sometimes make a positive difference.

I learn from my work every day. The most valuable lesson so far is that none of us is independent at any age, as much as that term is overused and applied — particularly in reference to seniors who fear losing this right. We are, rather, interdependent. All of us are aging and all who grow old will need help at some point.

If growing old gracefully is the goal (and it is, for this elder law attorney), then we can do this most successfully by

teaching our children how to offer respectful and appropriate assistance, by learning to overcome the fear of appearing weak or needy, and asking for and accepting help when it's needed.

And they didn't teach me any of this in law school.

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