

Retire or Refresh: One Lawyer's Perspective

by Jack W. Burtch Jr.

I learned an important lesson years ago about career planning unexpectedly — at our neighborhood Christmas party. My across-the-street neighbor John Roberts, age 80, had just sold his business, though he kept a small piece to develop on his own. As we stood at the buffet table, I asked him if he had set goals for this new business. “Oh,” he said, “I think I’ll just give it twenty years and see what happens.” John just turned 90; both he and his now ten-year-old business are doing fine. For John, retirement has meant focusing on the part of his business that intrigued him most.

Being a senior lawyer presents us with a dilemma. On one hand, we may be asking ourselves whether it’s time to think about retirement. On the other, we may have finally achieved that elusive state of knowing exactly what we’re doing. Some lawyers have the retirement issue settled for them, at least temporarily. A recent study found that about half of all American law firms have a mandatory retirement policy. Even firms without these policies may “de-equitize” partners or offer departure incentives to achieve the same goal. Ironically, this forced retirement comes at a time in our history when a declining birthrate means we may soon see a shortage of good lawyers. A few good law firms, however, have recognized this demographic trend and decided to abandon forced retirement rather than embrace it.

Approaching Traditional Retirement Age

Whether we are being forced out of a firm or not, the senior lawyer period of our career presents opportunities and choices. The key to navigating the terrain successfully is to understand that the

choice is ours. No one can chain us to our desk or kick us out of law practice if we do not concur. Of course, the current economic crisis presents yet another challenge. Uncertainty about our financial security makes the decision to keep working a safe bet.

Senior lawyers have to make their own individual decisions. For me, the loaded question is: “When are you thinking about retiring?” When I first entered my sixties, I began to examine the concept of retirement in personal terms for the first time. There wasn’t much about it that appealed to me. Few people in my grandparents’ generation lived long enough to retire. Many in my parents’ generation cut themselves off in their prime. They rewarded years of hard work by going to Florida, where they played golf until boredom set in. For my generation, a longer, healthier life expectancy challenges the long-held concept of retirement. We may want a rest, but not one lasting thirty years.

There is no lack of retirement advice. Financial consultants say they can help us finance our dreams. Professional journals detail how to wind up a law practice. But many of us are not ready to think about this just yet. If we are senior lawyers looking forward to continuing our law practice, we have our own personal reasons for doing so. Assuming financial pressure is not our

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primary motivation, we continue practicing either because we want to, or because we are too apathetic to do anything else. Identifying and embracing our own internal motivation could be the starting point for the rest of our legal career.

Capitalizing on Experience

In talking with other senior lawyers, I sometimes hear them ask, “Why would I stop practicing law when I’m just now figuring out how to do it

right?" If we find meaningful work, there's no reason to give it up. We don't use the term "law practice" for nothing. Generally, it takes us at least five years to learn what we are doing. It took me longer than that to figure out what clients want and what it is possible to achieve, even under optimal circumstances.

When I handled my first defense of an employment discrimination lawsuit, I was fully prepared in all the legal standards and shifting burdens of proof. I was ready to enter the labyrinth of proof leading to a favorable outcome. But today I have the additional benefit of a reservoir of past experiences, both good and bad. This familiarity with law practice helps me better understand the opportunities and challenges at each decision point, as well as the likelihood of a case breaking in one direction or the other. There are times when a younger lawyer overvalues the need to take action, whereas an experienced lawyer can appreciate the wisdom of doing nothing.

As senior lawyers, we have learned from our experiences, both in the courtroom and out of it. We are no longer who we were on our first day of practice. We have succeeded or failed at marriage and relationships, raised and educated children, suffered illness, family deaths, and achieved many lifelong goals. We have also fallen flat on our faces. The lawyers we are reflect the people we have become.

Discerning My Direction

Several years ago, I took six months off, in order to step away from law practice and spend some time pursuing interests I had long neglected. While this was a transforming experience in many ways, it also brought me up short. I had always thought I was not as identified with my job as I had perceived others to be. I was wrong. Somehow, my personal identity and my being a lawyer had become intertwined. This was partly the result of our somewhat unnatural process of legal education. My professors sought to make students think like lawyers, and this thought pattern was then reinforced by years of practice. So the process of legal analysis I was taught became transformed into an intuitive mode of thinking. I shouldn't have been surprised when the lawyer and the person finally achieved a level of integration.

Today, I have a much better sense of who I am as a lawyer. At some point in our careers, we senior lawyers either embrace our calling as lawyers or else we just continue to trudge along. In a profession characterized by pressure and competition, we have to find our own "sweet

spot." This is the place where who we are and what we do intersects with our natural talents and abilities. Not long ago, I was sitting across the table from a distinguished lawyer from Alexandria who told me he had no intention of retiring, because he was finally getting the cases he wanted. He had found his sweet spot.

Then there is the other viewpoint, summed up by the conversation I had with a lawyer at a party some time ago. "Just have to grind it out for four more years, and then I can quit," he sighed. My heart sank. If I felt like that about practicing law, it wouldn't take me four years to quit. Moral: if law practice makes you miserable, find something else to do. If you want to keep practicing, enjoy the chance to concentrate on the legal matters in which you shine — matters that provide you with energy and personal fulfillment.

Embracing My Choice

So, being a senior lawyer means I have had to be honest with myself about why I show up at the office every morning. Is it just because I have a lot of work to do and failing to do it will be humiliating? Or do I show up because there are important things I can do well and clients for whom my advice will make a difference?

One of the reasons I wanted to be a lawyer is that I wanted to give good advice. I enjoy helping others get what they need. Continuing in this profession allows me to do something that makes me happy. I also want to show up because I get to work with younger men and women who are just beginning their legal careers. My own formation as a lawyer came from the patient mentoring of partners in the law firm that first hired me. They allowed no compromise of professional, technical, or ethical standards.

I have tried not to lose sight of those ideals. I can't go back and adequately thank those who helped me. Passing on what they gave me, the best I can, is just the right thing to do. For a number of years, I have had the opportunity to teach two classes at the University of Richmond School of Law. I believe law students can benefit from exposure to practicing lawyers, just as they do from their daily encounters with professional academic lawyers. My law practice continues to give me professional credibility with my students, while they continue to provide me with inspiration and energy.

Making a New Choice

There can be compelling reasons for a senior member of the bar to stay engaged in law prac-

tice. But staying engaged in law practice does not mean we have to continue doing what we have always done. We can think of this stage of our lives as an opportunity to do what many others are doing at this time of life: embarking upon a second career. Our new career can be the law practice we always wanted to have. At last, we can allow ourselves the luxury of taking on cases that interest us, and eliminating cases that don't.

Just playing with this idea of choice allows us to think about issues we haven't considered for a long time. For example, examine those elements of law practice you handle really well and thoroughly enjoy, that also help other people and satisfy your economic needs. Most lawyers are naturally restless. Law practice takes us from one client to another, from one problem to another. Sometimes we change firms. Sometimes we change specialties. Every now and then, we need to change our attitudes.

At this time in our lives, we need to ask ourselves what is really important to us right now and what do we want to achieve in our remaining working years. Combining the answers to these questions with our particular skills as lawyers is a road map to our new second career. Probably the only thing holding us back is the fear we will fail. Well, we haven't failed so far, so there is no reason to think we will.

Contributing Experience

Senior lawyers who began their practice more than thirty years ago have lived through several revolutions. We saw the introduction of the billable hour and the beginning of its demise. We were trained by a mentor system that is no longer economically feasible. Doing our work once required offices, secretaries, and libraries full of books. Now we can — and do — work anywhere with a laptop computer and a cell phone.

The digital revolution is not limited to condensing the amount of space required to practice law. It goes much deeper than that. The new generations coming into law practice think differently than we did. They are comfortable in non-hierarchical relationships. The technological advancements of the past twenty years have endowed the new digital generation with certain innate capabilities that are foreign and exotic to senior lawyers. This digital revolution has poised an entire generation of young lawyers at the crest of a wave that will inevitably change the practice of law as we know it today.

Yet we, as senior lawyers, still have valuable skills to contribute to the digital revolution. No

matter how easily new lawyers can manipulate Lexis and Westlaw, if they omit book research, they may miss the key precedent. There is no technological solution to helping clients get to the heart of a problem or helping them tell their story. This is a truism young lawyers can learn by watching senior lawyers.

Remembering Values

To embark on our new second career, we may first have to look backward and consider why we

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became lawyers. Some lawyers were attracted to a legal career during college or even later. I knew I wanted to be a lawyer by the time I was aged ten, though I can't really say how. The lawyers in my home town seemed to be the people who did the most interesting things in the community. They served on the city council, ran the school board, and were active in their churches. They mediated the disputes in our small community. I had no idea what they did at the office. I imagined they were all like Perry Mason, but I had never been inside a courtroom, so I didn't know for sure. What I did know was that they were doing important work, and I wanted to be a part of that dynamic.

Some of my childhood impressions have proven correct. Despite our current public relations challenges, most lawyers still offer themselves as private public servants. We serve, sometimes as volunteers, to advance the public good. We serve on boards, councils, and committees for all types of charitable and religious organizations. We provide advice and counsel where it is needed, whether or not we receive a fee. Any lawyer active in the community provides valuable free service without ever thinking of it as pro bono work. Lawyering is a service profession. Our cultural role as lawyers — as "private public servants" — is as essential today as it was in my childhood.

Rejoicing in the Freedom to Choose

For the last twenty years, legal publications have been filled with articles decrying the transforma-

tion of the legal profession into the law business. While today's economic pressures affect every one of us, I continue to believe that law is a noble profession. The ideals of justice, honesty, civility,

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order and freedom have been upheld by men and women devoted to this profession. This is a tradition all of us need to embrace and pass on, whether we decide to retire or refresh.

We are living at a very wonderful time in history, a time when each generation in law practice has something valuable to give to the other. If senior lawyers check out prematurely, our profession will be diminished. Giving ourselves permission to set out on new, second careers can add

motivation and focus to our work. We can practice law the way we enjoy it most, without sacrificing our values. Senior lawyers thinking of law practice as a new career can enjoy the ability to commit to the long-term view.

I, personally, have decided to "give it twenty years or so and see what happens." So feel free to check back with me in 2029. ■