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Aging and the Legal Profession
18th Annual Downs Scholarship Golf Tournament

Friday, May 9, 2014
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12:30 p.m. Lunch
1 p.m. Tee off

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On the cover: Laura (J.D. ’89) and her father Edward McConwell (J.D. ’66) share both a surname and a law practice.
My daughter, who is 36 and single, recently purchased a condo in Philly, where she lives and works as curator of the theater collection for the Philadelphia Free Library. As her mother — and as a lawyer — I advised her to consult with an attorney ASAP (she has legal coverage through her union) to prepare a will and trust now that she has property in her name. I believe I gave her good advice, but there’s a bit of irony here: I do not have those very documents myself. They say the cobbler’s children have no shoes, and I guess the legal analog of that directly applies to me.

Although I have been talking about having an estate plan prepared for quite some time (and I do have a durable power of attorney for health care and living will), it seems I just never get around to it. I thought my brother’s death last summer might prompt me to act, but so far that hasn’t happened. Why is it we lawyers, who should know better, procrastinate when it comes to planning our own estates? Frankly, I wish I knew.

I often say it’s because I’m too busy, but I know it’s more than that. Maybe it’s because I don’t want to have to figure out everything I have and I’m not sure what I want to happen to everything after I’m gone. Perhaps it will require me to think about what’s fair for my two kids, who are remarkably different when it comes to finances and perceived needs. It could be that I don’t want to be reminded of some of the poor investment choices I’ve made or disclose my innermost financial secrets to someone else. Or maybe it’s because I want to believe that everything important that I have is already accounted for through joint tenancy or beneficiary designations. But whatever the reasons, they are not good enough, given the consequences of waiting too long.

As I read through drafts of this magazine, I have begun to develop the resolve to get this process going. With a disabled husband, it’s particularly important for me to get this done. And the main thing in the way of my making a planned gift to UMKC School of Law is my lack of an estate plan. So, my hope is that, by the time you are reading this magazine, I will have completed and executed my plan. Feel free to ask me if I have, because if not, maybe the embarrassment of having to say no will be a sufficient call to action. And if you are in the same situation regarding either an estate plan or a practice transition plan, I hope this issue of *Res Ipsa* will give you a little push as well. And while you’re at it, a planned gift to your law school would be nice.

Ellen Y. Suni

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1. Greeting new first-year student Corey Adams at the annual matriculation ceremony.
2. Speaking to the Class of 2016 during the matriculation ceremony.
3. Meeting with members of the 50+ alumni group during the annual alumni reunion.
4. Posing with alumnus Donald Fehr (J.D. ’73) during his visit to UMKC to speak about his work with the National Hockey League Players’ Association and the Major League Baseball Players Association.
The road less traveled

Elder Law Pioneer Martha Brown (J.D. ’81)

Martha Brown initially intended to be a legal services attorney. After graduating from UMKC, she began her career working with a small law firm that specialized in probate matters, handling the guardianship cases for the firm. As she built her practice, Brown slowly began working with Medicare and Medicaid matters. By 1994, she had an elder law practice, although at the time she was not entirely aware that’s what it was.

A National Elder Law Foundation Certified Elder Law Attorney, Brown has now been practicing in elder law for more than 25 years. Her practice, Martha C. Brown & Associates, LLC, is located in St. Louis.

Brown recalls that when she began practicing, there were only four elder law attorneys in St. Louis and 10 in all of Missouri. The then nascent area of practice, which focuses on helping people navigate the countless issues that come with aging, was scorned by the traditional estate-planning bar, Brown says.

“Some estate planning attorneys thought elder law was a scam on the government,” Brown says. “Others could not understand how representing the middle class could be profitable enough to support a law practice — let alone intellectually challenging.”

Now more than 400 attorneys in Missouri belong to the Elder Law Committee of the Missouri Bar, including Brown. Elder law, which deals with issues like estate planning, long-term care and employment discrimination, has become a “hot” area of law — and also a crucial one.

As baby boomers age, experts expect the demand for elder law services to continue growing.

In the last 10–15 years, Brown’s elder law practice has expanded to include special needs law. She now considers this area of law to be her greatest strength as an attorney and finds it “very satisfying to help someone with a severe disability improve the dignity and the quality of their life.”

Brown works with families who are trying to help other family members, whether they are elderly or have special needs. Brown says she enjoys both kinds of work.

In 2008, Brown received the honorble Powley Award from the National Academy of Elder Law Attorneys. The award is given to an elder law attorney who has demonstrated a commitment to promote, in the minds of the general public, a greater understanding of the rights and needs of the elderly and of people with special needs. She considers that award to be her greatest professional achievement.

At 59, Brown is looking forward to her own retirement. Now that her two children are grown, she enjoys traveling and sailing with her husband. In the next year she plans to visit Peru and Cambodia to explore Machu Picchu and Angkor Wat.

As she reflects on her career so far, she has some advice to offer to those looking to become lawyers and those looking to practice in elder law.

“It is important as a young attorney to have an experienced attorney as a mentor,” she says. “Learning to practice law has a steep learning curve and having a mentor is essential to becoming a good attorney.”

Brown believes that elder law is a satisfying practice area because of the good she’s been able to do. Her only regret is not discovering elder law sooner.

— David Engel
Jack Gant’s (J.D. ’54) reason for enrolling at UMKC’s School of Law is simple.
“I knew I wanted to practice in Missouri, so I wanted to study law here in Missouri,” he explains.
That meant UMKC.
“T’ve never regretted it,” says Gant, whose post-law school career is something for both him and the school to brag about: a decade in the state senate, and 37 years as a state circuit court judge.
Gant is one of the regulars at the annual 50+ Alumni Luncheons hosted by Dean Ellen Suni at the school. He’s been coming since the sessions started in 2009.
“You get to see friends you wouldn’t see otherwise,” Gant explains. “I have stayed very active with both the Law School and with UMKC overall.”
The oldest guest at the November luncheon was Florence Fordemwalt, one of only three women in her 1942 graduating class. She practiced tax and probate law until she “retired” when she married in 1955. She was an
early commuter student, driving a family car from her home north of the Plaza to campus daily for law school classes, which, she recalls with a laugh, were “a lot of work.”

Clyde Meise (J.D. ’51) teases Suni, and the rest of the group, with a trivia question: “OK, Ellen, who was it who said, ‘There has never been such a distinguished group assembled at one table, except when Thomas Jefferson dined alone?’”

No one gets the answer: John F. Kennedy at a cabinet meeting.

Norm Besheer (J.D. ’55) has been a part of the gatherings from the beginning. He enjoys the camaraderie, he says, “talking about old times and old cases, renewing old friendships.”

He, too, stays in close contact with the school. Of all the changes that legal education has gone through in more than a half century, one clearly stands out for him.

“When I started, research was such a chore. You had to go to the library, to the books, and look up every case, read every opinion,” Besheer says. “Now, everything’s online and research is so much easier, so much simpler.”

A festive mood prevails at the luncheons, with lots of individual conversations ebbing and flowing across the table:

“Are you going to the Native Sons event? We’re going to honor George Brett.”

“Once I told them I was giving up my practice, it didn’t take them very long to find another lawyer.”

“Told him he looks great for 89. And he never goes to the doctor. He doesn’t even have a doctor.”

One attendee talks about attending a Chiefs game at Arrowhead Stadium, the stadium the Guinness Book of World Records officially certified as the world’s loudest.

“They were passing out 75,000 sets of ear plugs, and I was thinking, what a class action case.”
Baby Boomers are moving into retirement at a rate of 10,000 per day.
Elder law is becoming far more important now than it has been in the past, because the population is aging so rapidly — the demographics are amazing," says UMKC Law School Professor Mary Kay Kisthardt. "I tell my students — only partly in jest — that 20 years from now, all law will be elder law."

Aging on New Terms

The practice of elder law is an evolving multidimensional fusion of legal planning to meet an array of financial, health and social needs for the aging population.

Today’s seniors are setting new precedents for what “retirement age” looks like. Improvements in health care and research mean people are living longer, and many — whether out of desire or necessity — are staying in the workforce past age 65.

The traditional life trajectory whereby education, work and leisure occur in a linear time span is becoming obsolete as a more cyclical plan takes its place. Boomers want to live on their terms and that desire is reflected in the growing demand for elder law services.

Estate Planning

One of the most important of those services involves estate planning. But preserving family assets goes well beyond concerns about distributing family heirlooms via a will. One of the primary goals of estate planning is to minimize potential tax liabilities. Financial donations or gifts made before or after death may incur federal (and possibly state) taxes. Karen H. Weber (J.D. ‘94) notes constant changes in the federal tax code, singling out the lifetime gift tax exemption, which is $5.25 million for 2013, up from $1 million as recently as 2010.

“I think that figure will change again this year or next," she says. “The uncertainty provides some planning opportunities.”

As the population ages, more people will depend on attorneys to understand these taxes and the estate planning strategies that allow assets to be transferred with minimal tax consequences.

However, asset protection is not just for the wealthy. Many aging Americans never anticipated living into their 80s and are not financially equipped for their later years — let alone to leave any sort of inheritance. Estate planning also involves planning for the possibility that nursing home care will be required. For some families, this means depending on Medicaid. But Medicaid spend-down requirements often leave clients feeling stripped of financial security.

This is where many families falter — and where an attorney well-versed in elder law issues can help. For example, an irrevocable trust can be useful for people who may rely on Medicaid benefits for long-term nursing home care in the future, and want to preserve their assets.

The Realities of Aging

Attorneys who specialize in elder law issues are particularly crucial when it comes to planning for the possible diminishment of physical and/or mental capacity with age. A recent report from the Alzheimer’s Association indicates that while the aging population is set to double by 2050, the
number of Americans subject to Alzheimer’s disease and dementia will increase by 300 percent.

Probate courts are seeing a substantial increase in adult guardianships because people fail to plan properly in this area. Jackson County Circuit Judge and former Probate Commissioner Margene Burnett (J.D. '87) predicts that those numbers will be staggering within the next 10 years.

“What I see, especially with baby boomers, is that everyone plans for what happens to their estate when they die, but they don’t do life planning,” Burnett says. “What happens when you get to the point where you can’t stay in your house, you have trouble paying the bills, you’re getting confused at the doctor — or you’re not even going to the doctor because you can’t remember your appointments? People don’t plan for that.”

Although many resources are available for executing a durable power of attorney, people aren’t taking that crucial step. Burnett speculates that’s because they “don’t want to think about getting to a point where they’re incapable of making their own decisions.”

“However, we’re living longer and have to be cognizant that we will need that care,” she says.

Addressing Elder Law Needs
The Law School is effectively responding to the demand for elder law services. “We currently offer two dedicated courses in elder law,” Kisthardt says. “I teach one, and the other is taught by an elder law practitioner. But even in courses that don’t apply specifically to elder law, we’re incorporating discussion of elder law issues. It’s really encouraging to me that the Law School is taking active steps to prepare our graduates to address a need that is only going to grow,” Kisthardt concludes.

In addition, UMKC law students are increasing their participation in service-learning activities geared toward the aging population. Law Professor Anne Marie Marciarille, who teaches courses in health care law at UMKC, serves alongside Kisthardt as part of UMKC’s Aging Consortium. Outreach efforts on the part of the consortium revealed that retirement-aged community members needed help understanding Medicare. So Marciarille put her students to work. She worked through the summer with one student, Heather Beer, to develop a PowerPoint deck covering key Medicare issues, and then trained other students to go out into the community and deliver introductory talks on Medicare.

Although Marciarille is on hand to help with the Q&A after the presentation, she says her students put a great deal of work into these talks. “I’m really proud of them,” she says. “They’re learning to help people from all different facets of the community, at every education and sophistication level.”

And the program so far has been a success. “As we were leaving a recent presentation at Palestine Bible Church,” she says, “they were already trying to book us to come back.”

Perhaps the most interesting aspect of the whole process for Marciarille, however, is the discovery that, contrary to popular myth, the concerns of today’s aging population reach beyond their own well-being. “We’re seeing a real concern about how changes in legislation and benefits for seniors will affect the next generation — or two,” she says.

The Future of Elder Law
There is still some debate as to whether elder law is more than a practice area. It is not universally recognized as a distinct area of law in the United States, in part because it can be difficult to define. Everyone is aging, but each person does it differently, precluding a one-size-fits-all approach to the issues within the elder law purview. What’s clear, however, is that the various areas of law that serve the aging population can no longer function in silos, but must become part of an interdisciplinary, customizable approach that will ultimately affect us all.
Those over 65 are twice as likely to avoid estate planning as those under age 65.

Only 17 percent of Americans over age 50 have a current will and durable power of attorney.

Professor Christopher Hoyt
UMKC’s estate-planning expert

As the estate planning business looks forward to rapid growth in the near future, UMKC’s Law School faculty boasts its own estate-planning expert.

“My research niche,” says Professor Christopher Hoyt, “is the interaction of laws for charitable giving and retirement plans — how to get money from a retirement plan to a charity. Also the interaction of laws for a charitable gift from an S corporation. The charitable giving tax laws basically collide with the retirement plan and S corporation laws, and they’re not very pretty when they do. I try to find solutions that make a gift possible without a tax trap or other unintended consequences.

“What I’ve witnessed,” he says, “is how philanthropy and the spirit of giving can do good things for a family. A lot of family counselors integrate a culture of giving to bridge the generations and help avoid ‘affluenza’ — too much money can be a source of problems for some families, and a culture of philanthropy is one way to help cure that.”

Hailed by Ingram’s magazine as a top performer after he floated to the top in a poll of high-ranking executives of regional accounting and consulting firms, Hoyt teaches courses in the area of federal income taxation with an emphasis on retirement plans at UMKC and has been quoted in numerous publications, including The Wall Street Journal, Forbes, MONEY Magazine and The Washington Post. In addition, he has given presentations for accredited educational programs in 49 U.S. states. “Wyoming is the only state I have left,” he says.

It’s no wonder, then, that in November of 2013, at the 50th annual conference of the National Association of Estate Planners and Councils, Hoyt was inducted into the Estate Planning Hall of Fame. There’s likely not a better source for sound estate- and retirement- planning advice, so here are a few of Hoyt’s words of wisdom:

• Setting up a will is crucial; if you don’t draft your own will, the government will draft one for you.
• While the law allowing those over age 70½ to give directly to charity from their IRAs expired at the end of 2013, retroactive reenactment of the law is likely — so don’t let that stop you from making a charitable gift.

Finally, being the phenomenal speaker that he is, Hoyt closes with an apropos joke: “Little Johnny comes home from school one day and tells his mother he wants to be a philanthropist when he grows up. ‘Why is that?’ his mother asks. ‘Because,’ he replies, ‘they always seem to have a lot of money.’”

We’d add that if they’re lucky enough to know Hoyt, they’re also using it wisely.

Digital assets

Given the ubiquity of digitalization, it’s no surprise that some estate planners are now including digital estate planning in their legal repertoires. As digitalization grows, people are increasingly faced with administering a loved one’s digital assets, in instances of both incapacity and death.

Digital assets include digital images from photographs, electronic bank and investment account statements, email records and social media accounts. Some digital assets have significant intrinsic financial value or can provide integral access to assets with value; others have sentimental value that may be very important to a client’s loved ones. According to a 2011 survey conducted for McAfee, Americans value their digital assets at more than $54,000 on average, but few people take the time to create an estate plan for their digital assets.

Planning for the disposition and transfer of digital assets upon death or disability can help ensure that the value of the client’s digital assets is preserved for his or her intended beneficiaries. As a tech-savvy generation ages and becomes more interested in estate planning, attorneys will need to be more mindful of digital assets in the estate planning process.
Elder law attorneys are a special group that includes not only estate planners but also people who have a predilection for helping others, says Samantha Shepherd.

“It’s a social work profession, to a degree. I see us as holistic planners; we have relationships [that last until] death,” she says. “We have to commit to [elder law] heart and soul because it changes so frequently.”

We asked Shepherd and other UMKC alumni who specialize in elder law for help in identifying key issues in this quickly growing field.

**Same-sex couples**

Kay Madden (J.D. ’83) ticks off the estate-planning documents that any person over age 18 should execute: a durable power of attorney for health care, a living will, a durable power of attorney for financial purposes, a right of sepulcher, and a last will and testament. And if that adult is one-half of a same-sex couple in Kansas or Missouri, it is absolutely vital these documents be in place.

“Heterosexual married people need all this paperwork, too, but it’s even more important for same-sex couples” in states like Kansas and Missouri that do not recognize gay marriage, Madden says. Without these documents, a surviving partner may have no more legal standing than a stranger off the street.

“Blood relatives of the deceased same-sex partner can intervene and make decisions that the surviving partner knows would be unwelcome” regarding life support and burial, Madden says. When there is no will, the intestacy statute comes into play and an estate transfers to the family of the deceased, leaving a same-sex partner with nothing.

The social sands are shifting rapidly under the same-sex marriage issue, and it is an area that appears ripe for litigation. Currently, Madden says, a same-sex couple married in Iowa but living in Missouri cannot be recognized as legally married under the Missouri Constitution and laws. It’s an untenable situation that underscores the importance of basic estate planning documents, she says.

**Longer lookbacks**

Rumored changes in Medicaid eligibility requirements for nursing home residents would have a huge impact on estate planning, says William Stilley (J.D. ’82).

Currently, the government reviews an applicant’s finances for the previous five years to ensure he or she has not transferred assets at less than fair-market value in order to shrink the estate and qualify for Medicaid. Now a move is afoot to extend that “lookback period” to 10 years.

“The average person is going to be severely impacted by this,” Stilley says. “Who’s going to start giving away assets and hope they don’t need them for 10 years?”

Another issue, he says, is that any amount a senior gives away during the lookback period, no matter how small, disqualifies him or her for nursing home Medicaid benefits for a period of time based on the dollar value of the gifts. The larger the gift, the longer the penalty period.

“Even if you give away $50 to the Salvation Army or another charity, that will cause a disqualification,” Stilley says. “This forces people to not be totally truthful on their Medicaid applications.” It’s an ethics issue for elder law attorneys, who risk making false statements on applications when innumerable small gifts are not disclosed. “But can anybody really remember and track all of that? The $20 gifts to grandkids over the years are not done with the intent to reduce the estate,” he says.

Congress also is considering legislation that would introduce a three-year lookback period and transfer penalties for veterans’ pension and Aid and Attendance benefits, Stilley says.
Health care reform
The fledgling Affordable Care Act poses both challenges and opportunities for attorneys as it seeks to reform America’s health-care system, according to Professor Ann Marie Marciarille.

“Among seniors, there is widespread confusion about the act across all levels of education and sophistication,” she says. “This is a good time for all practitioners, not just elder law specialists, to do some relationship building with elderly clients.”

For example, attorneys can remind senior clients never to give out their Medicare numbers over the phone. Scam artists are using the Affordable Care Act as a ruse to phish for Social Security numbers, which double as policyholders’ Medicare ID numbers.

Attorneys and health-care counselors also can help debunk the myths regarding the Affordable Care Act. Overall, the act enriches Medicare by encouraging preventive measures and paying for annual physicals, colonoscopies, and breast and prostate cancer screenings, Marciarille says.

But those positives may be overlooked by seniors who fear the act will siphon off their savings. Wealthy seniors fear that higher costs may come in the form of more aggressive means testing. (Currently, single seniors with annual incomes of more than $85,000 — or couples who earn more than $170,000 — are charged higher premiums.) Other seniors worry they will have to pay for medical procedures that previously were covered. “Medicare has been like an all-you-can-eat buffet,” Marciarille says. “In the past, we haven’t asked a lot of questions.”

Long-term care insurance
The purchase of long-term care insurance makes excellent sense for clients who can afford it and who have not been diagnosed with a serious chronic illness, says Karen H. Weber (J.D. ’94). However, “unless people have had a parent in long-term care and know firsthand the extra expense associated with it, they are reluctant to insure themselves,” she says.

States are working on incentives to make the purchase of long-term care insurance more attractive, she says. Some are based on the “partnership” model: For every dollar that a long-term care partnership insurance policy pays out in benefits, a dollar of personal assets can be protected when applying for Medicaid. “There are some neat products coming out from the insurance companies,” she says.

Senior housing
One big emphasis in elder law today is “aging in place,” notes Kara T. Burgess. In this scenario, seniors move from their family residence into one facility that provides all the levels of care they will need until end of life under one roof. Seniors can start out living independently in an apartment, then move to an assisted-living wing where they receive minor medical care as well as help with showering and medications. When their health declines further, skilled nursing care also is available.

“Staying in one place is comforting for older people,” Burgess says. “And this is ideal for married couples where one needs more care than the other. Even though couples may be split up, they can still be together and spend time together. We need more care of this kind.” Burgess keeps brochures from area senior-living facilities in her office to aid in educating and counseling clients.
Laura McConwell jokes that in a perfect world, her father, Edward McConwell, would spend more time in his private airplane than in his law office.

“My father’s dream would have been for all three of his children to practice with him and then take over his practice,” says Laura McConwell (J.D. ’89), who has been working with her father for more than 20 years.

The reality isn’t quite like that. Edward McConwell, 72, is only beginning to think about slowing down at work. His busy law practice still keeps his airplane grounded most of the time. And only one of his children has a practice directly connected to his own.

But if the reality doesn’t match his dream on every point, Edward McConwell (J.D. ’66) still provides a good model for other solo practitioners and small firms.

Laura McConwell, who in addition to practicing law with her father has served as mayor of Mission, Kan., for more than a decade, is involved with many of her father’s cases and is on point to take over should something prevent him from working.

That clear line of succession from one lawyer to another is something law firm experts would like to see more often. While no one explicitly tracks succession planning, most industry experts agree that, based on a plethora of anecdotal evidence, too many lawyers simply have not done any formal planning.

“It’s the ‘cobbler’s children have no shoes’ problem,” says Barbara Glesner Fines, associate dean at UMKC School of Law and a professor who specializes in professional conduct.

Lawyers who have dotted every i and crossed every t for their clients haven’t prepared a basic succession plan for themselves — which would make all the difference to their clients’ representation should they die or become disabled.
Alan D. Pratzel, Missouri chief disciplinary counsel, whose office investigates and prosecutes ethical breaches by attorneys, says at least 10 times a year, his office has to step in when a lawyer dies without leaving a plan for his or her clients. And Pratzel says he’s seeing more cases like this all the time.

“We're seeing this a little more commonly just because you're starting to see this wave of attorneys growing older and hitting retirement age,” Pratzel says.

The predicament — expected only to get worse as baby boom lawyers age — has triggered growing interest throughout the profession in helping educate and encourage lawyers of every age to begin writing a succession plan.

**BASIC COMPETENCE**

While there is no authority looking in on every lawyer and checking to see that he or she has a succession plan, the Missouri Supreme Court Rules of Professional Responsibility require that each practitioner “prepare a plan … that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action.”

“It’s my opinion that basic competence requires having such a plan,” says Glesner Fines.

The primary concern is for the clients of solo practitioners. Clients represented by an attorney in a firm are automatically the responsibility of the other lawyers in the firm should their attorney become unable to serve them.

When a solo practice attorney dies, an assistant or paralegal may have knowledge about cases, deadlines and clients — but that non-lawyer has no authority to act on the clients’ behalf. The court can appoint a trustee to go through the deceased lawyer's files, notify clients and work on transferring cases, but that's not adequate representation either.

“‘The clients are the ones we're worried about,” Glesner Fines says.

Because almost half of private practice law firms are one-lawyer operations,
according to the American Bar Association, and with the bulk of those solo practitioners moving into their 60s, the concern is growing.

The very good question remains how the profession can push all lawyers—not just the ones who are close to retirement—to create a succession plan.

Concern is clearly growing in the legal community. According to a 2011 survey by legal consulting firm Altman Weil Inc., 47.3 percent of law firm leaders listed their firm’s ability to deal with the coming wave of retiring baby boom lawyers as a top concern. Another top concern, cited in the consulting firm’s 2012 survey, involved successfully transitioning clients to the next generation of lawyers.

Still, lawyers in general, and solo practitioners in particular, tend to dismiss the idea that anything might impede their ability to serve their clients, Glesner Fines says. She constantly hears about lawyers who, despite concerns, won’t take time—and don’t particularly have the desire—to develop a plan.

The reality is that, even if an attorney wants a succession plan, writing one isn’t a simple issue. Finding the right successor who is competent to take over a practice is one problem. Writing a plan that covers every legal base to adequately transfer representation and protect a lawyer’s own interests or the interests of his estate is another.

“All of these issues are going to be brand new to a lawyer at the end of his career,” says Chris Stiegemeyer, director of risk management for The Bar Plan Mutual Insurance Co., which sells malpractice insurance.

Stiegemeyer was involved with a Missouri Bar committee that in 1995 published a more than 50-page guide to help lawyers write succession plans. “Planning Ahead” is available through the bar’s website, as are many other online guides and resources.

Law schools also offer help with practice succession planning. UMKC’s continuing legal education programs, offered

Dan Sturdevant was just out of law school when he became an office associate for William Day, a 76-year-old Kansas City lawyer who was beginning to look at winding down his practice.

Day mentored Sturdevant and, little by little, passed off cases. After about 10 years, Day turned over his entire client list. That was the impetus for Sturdevant’s own successful practice, primarily focused on estate planning.

Sturdevant says he probably could have earned more money in the beginning by taking a job with a larger law firm, but the experience he gained working with Day was well worth that sacrifice.

“I could gradually work my way into it without being required to generate a lot of income,” Sturdevant says. At the same time, he was learning what he needed to very competently take the handoff when Day eventually closed the doors on his practice.

While most attorneys don’t want to retire at 65—or at all—Sturdevant understands from this experience how long it can take to wind down a practice and how important it is for attorneys to have a plan for the clients they will leave behind.

Almost four decades after Sturdevant took over for Day, he still represents one of Day’s clients. She is 104 years old.
in conjunction with the Kansas City Metropolitan Bar Association, often include the topic, says Daniel McCarroll, who directs the program.

**TRICKY ENFORCEMENT**

So there is clear interest in helping lawyers know how to write succession plans. But there is still no movement to enforce the professional obligation that they have one.

Recently, a working group assembled by the Missouri Office of Chief Disciplinary Counsel looked closely at the issue of succession planning, Pratzel says. While the group recommended expanding the authority given to trustees appointed to transition a practice from a disabled or deceased attorney, it left unresolved the issue of enforcement.

“The fact is that it’s something that we thought best addressed through educational efforts,” Pratzel says.

Enforcement is problematic, experts say, because the attorney without a plan most likely could be “caught” only when he or she dies or becomes disabled. At that point, discipline would be meaningless.

Glesner Fines argues that the better option for pushing more lawyers to create succession plans is through insurance companies. Malpractice insurers don’t require lawyers to have succession plans, but more are beginning to ask the question in the application process.

Most likely, malpractice insurance will cost more for lawyers without a succession plan — especially solo practice attorneys. “It’s definitely a best practices issue,” says Stiegemeyer of The Bar Plan. “A solo practice attorney who has a good succession plan, with a key person in place … that’s a much better risk than someone who doesn’t. Clearly we know what the best practices are. But it’s a risk-balancing inquiry for us.”

At 48, Lynn Bayes-Weiner is at the beginning of a second career. After working as a clinical counselor, she went to law school because she realized that her interests were better aligned with the legal than the therapeutic aspects of her cases.

Since finishing her law degree, she has been practicing with Jay Thomas, a Johnson County lawyer with more than three decades of experience.

While she knows she probably could make more money working for a big law firm, she likes the long-term opportunity she’s getting by joining Thomas’ practice. While she had classmates go into solo practice right out of school, she’s more comfortable with the chance she’s getting to learn from Thomas.

“The idea of having someone with his experience overseeing me for several years to let me get my feet wet before I start thinking about a solo practice was one of the attractions of this,” Bayes-Weiner says.

From Thomas’ perspective, having a capable, smart associate join his practice has the side benefit of giving his practice a strong succession plan, should he one day decide to retire.

“I don’t have any intention of quitting,” he says.

But he believes it’s just good practice to plan ahead.
**VARIED OPTIONS**

While the argument for having a succession plan is clear, what the plan looks like is as varied as each attorney’s law practice. It could be like the McConwells’: one family member taking over for another. But obviously not every retiring lawyer has a son or daughter waiting in the wings.

Succession also could be through a non-family relationship: a young lawyer joining offices with an older lawyer to gain experience while under the tutelage of a senior attorney. Glesner Fines sees a potential opportunity for young lawyers to step into practice relationships this way.

But in that scenario, young lawyers have to be willing to do their time, so to speak, earning less money as they learn and waiting for the opportunity to take over more of their mentor’s cases.

When Dan Sturdevant (J.D. ’75) joined a 76-year-old attorney as an “office associate” almost 40 years ago, he waited a long time for the senior attorney to fully retire.

“There was finally a declaration he made: ‘I’m old and not able to do much. Take over what else there is,’” says Sturdevant, 65. “That process took at least 10 years.”

But there’s no doubt, Sturdevant says, that the wait was worth it. Biding his time and gaining experience that way led him to his current successful Kansas City law practice.

A succession plan also can be as simple as two solo practice attorneys agreeing to step in for each other should something happen. This is the plan Laura McConwell is pursuing since she doesn’t know yet if her children, both of whom are in college, will end up becoming lawyers, let alone lawyers practicing with her.

McConwell has had discussions with other solo practice lawyers she knows and trusts and says she probably will arrange with one of them to take over for her should the need arise.

And when her father really does decide to spend all his time flying, she is confident she’ll have a succession plan of her own.

*When Laura McConwell decided to go to law school, it didn’t take long for her to realize that her perfect career path wasn’t a job with a big corporate law firm. In her mid-20s and recently married, she knew she could get the professional challenges she craved and the personal balance she knew she’d need once she had children by working for her father, a solo practice attorney who specializes in franchise and aviation law.*

“Sure, I could have gone other directions,” says McConwell. “But I had this great opportunity. He was going to have to hire somebody, so why not me?”

More than 20 years later, McConwell still practices with her dad, Edward McConwell, 72. Their practices aren’t identical, but she’s gradually taking on more of his cases as he starts to step back. She never doubts her decision to work with her father.

“You hear horror stories about what happens to women (who practice in large law firms) when they have children — how they’re marginalized,” she says. “Being in a smaller office, you have more control over your time.”
Alumni Events

Alumni enjoy fellowship and recognition

The All Class Reunion Events were held at the law school on Nov. 1. The day began with the 50+ alumni group luncheon, tours of the law school and a Supreme Court update CLE presented by professor Allen Rostron. More than 80 alumni then attended the dean’s All Alumni Awards reception, where the Law Foundation and Law Alumni Awards were presented by Steve Cosentino, president of the Law Foundation, and Scott Aripoli, Law Alumni Association president. Associate Dean Barbara Glesner Fines also presented the Faculty Awards. Following the reception, individual reunions were held for the classes of 1988, 1993, 2003 and 2008.

1. Alumni reception at the Tom and Vina Hyde Library Space.
2. Gabrielle Beam (J.D. ’08), Erin Kobler (J.D. ’03) and Lisa Westergaard (J.D. ’03)
3. Rebecca McGinley (J.D. ’98), Ross Nigro (J.D. ’92)
4. Barry Estell (J.D. ’93)
More than 90 participants, including students, faculty and alumni, recently gathered for the eighth annual Pat Kelly scholarship poker tournament. The tournament, which is sponsored by the UMKC Law Foundation, the UMKC Law Alumni Association and the Student Bar Association, was held Sept. 13 in the UMKC Student Union. Second-year student Blair Barbieri won the tournament and received an iPad 2 and the coveted Pat Kelly trophy for her excellent gameplay.

6. Robert Gordon (J.D. ’09), Stacey Wullschleger (J.D. ’07) and Eric Wullschleger
7. The addition of a craps table this year was a big hit.
8. Winners’ table

The school year began for 1L students on Aug. 15, when new students joined summer starters and LL.M. students from around the world for the annual matriculation ceremony. The Hon. Melissa Taylor Standridge, alumna and judge of the Kansas Court of Appeals, addressed the incoming class. Following the ceremony, students participated in the annual two-day orientation, which included information sessions, a mock class, a picnic sponsored by the Student Bar Association and volunteer projects in the community.

9. Robert Schaeffer (1L), Emily Sellers (1L)
Mike Albano

A mission to serve leads to a lifetime of accomplishment for winner of 2014 Bill French Alumni Service Award

For more than four decades, Mike Albano (J.D. ’68) has been a strong supporter of his alma mater — in terms of both alumni funding and advocacy. Now that steadfast dedication is being recognized.

At the university’s Celebration 2014 awards luncheon in April, the UMKC Alumni Association will honor Albano as a 2014 Alumni Award winner with the Bill French Alumni Service Award for his service, loyalty and commitment.

“When I learned I’d be receiving the award, I was rather surprised,” Albano says. “I literally had chills going up and down my spine. It’s truly a wonderful honor. Bill French is a wonderful individual, and I’m honored to have had the opportunity to know him personally.”

Finding His Niche

Since graduating from the School of Law, Albano’s expertise in family and matrimonial law has become a pillar in Kansas City. Today, the law firm of Welch, Martin & Albano is well known around the community and is one of the leading family law practices in Independence, Mo.

“During my undergraduate days, I always had friends who encouraged me to become a lawyer because I talked all the time and could memorize anything,” Albano laughs. “I used to be deathly afraid of speaking in front of people, yet here I am.”

Now, with 46 years under his belt and an extensive client list, Albano says he’s proud of the work he does. He says dissolving relationships can take its toll; however, when he receives positive feedback from clients — which is often — it makes his purpose more worthwhile.

Albano says one of his greatest career accomplishments was being one of two attorneys charged with writing the current Dissolution of Marriage Act for Missouri.

“It was a three-year process from start to finish,” Albano says. “We ended up talking to the head of every church across the state. They were adamant that matrimony is a sacrament and were opposed to breaking the bond of matrimony. But they would look the other way, if we just dissolved the bonds of matrimony like they did in California.”

Other accomplishments include serving as president of the American Academy of Matrimonial Lawyers, president of the American Academy of Matrimonial Lawyers Foundation and chairperson of the American Bar Association Family Law Section.

He’s also received numerous awards including the Missouri Bar President’s Award, multiple Family Lawyer of the Year awards, Best Lawyer in Kansas City and the Missouri Bar Association’s Family Law Practitioner of the Year award. In 2003, the University of Missouri System and UMKC awarded him the President’s Citation for Alumni Service.

A Roo Through and Through

Over the years, Albano has served a two-year term as president of the UMKC Alumni Association, on the boards of the UM System and UMKC Law Foundations, as a UMKC Trustee and, most recently, chair of the UM System Alliance of Alumni Associations in 2013. Albano and his wife, Grace, a graduate of UMKC’s School of Pharmacy, have also donated various scholarships to UMKC.

As an avid athletics fan, Albano is a season ticket holder for Roos men’s basketball games. During his time as Alumni president, Albano says, he spearheaded efforts to create a pep band to get fans more engaged during athletic events.

“I was disappointed when I went to games and saw season ticket holders just sitting in their seats and not acknowledging the team,” he says. “So I worked with the Alumni Association to put together a pep band.”

Albano and Dan Sturdevant, a fraternity brother, also donated money toward signs the university cheerleaders use to interact with the crowd, including ones that read “Stand Up” “Our House” and “Get Loud.”

Once named Roo Fan of the Game, Albano is known to yell “defense!” at the top of his lungs and he works hard to get people around him to stand up and cheer on the Roos.

As for the future, Albano says he’s not ready to call it quits just yet.

“I’ve been doing this for 46 years, and I can’t imagine doing anything else,” he says. “My friends think I’m nuts, but retirement isn’t anywhere in my near future. I don’t see myself leaving until I just can’t physically do it anymore.”

— Kara Petrovic
Gene Voigts (J.D. ’64)

**Lifetime Achievement Award**

The Lifetime Achievement Award is presented to the alumnus who has achieved outstanding professional success in the legal field throughout a long career. Gene Voigts clearly meets this standard. After graduating in 1964, Voigts was elected as a municipal judge in North Kansas City, Mo., and then as prosecuting attorney for Clay County. He was later appointed chief counsel for the Criminal Division of the Attorney General’s Office and as first assistant Missouri attorney general. Since 1976, he has been a partner at Shook, Hardy & Bacon LLP. Throughout his career, Voigts has been an advocate for and an avid supporter of UMKC School of Law and the Kansas City legal community, serving on the board and as president of the Law Foundation and remaining actively involved as an alumnus of the law school.

Athena Dickson (J.D. ’03)

**Decade Award**

The Decade Award is presented to an alumnus who has made an outstanding contribution to the profession in the first 10 years of practice. Athena Dickson is a partner at the law firm of Siro Smith Dickson PC. She is the current president for the Young Lawyers Section of the Kansas City Metropolitan Bar Association and as president-elect of the Association of Women Lawyers. Dickson has been recognized as a 2013 Super Lawyer, a Super Lawyers Rising Star for 2010-2012, a Missouri Lawyers Weekly Up and Coming Lawyer of 2012 and among Kansas City Business Journal’s Best of the Bar for the past four years.

William Prugh (J.D. ’69)

**Pat Kelly Service Award**

The Pat Kelly Service Award honors the alumnus who has provided exemplary service to the UMKC Law Foundation. William Prugh is a senior partner at Polsinelli and practices tax law. He is the immediate past president of the UMKC Law Foundation and has served on various committees for the law school since 1992. He received the UMKC School of Law Practitioner of the Year Award in 2004. He has been named a ”Best Lawyer” in Kansas City, Mo., as well as ”Lawyer of the Year” in 2012 – 2013, and he was selected for inclusion in *The Best Lawyers in America*, 2007-2014.

Dana Outlaw (J.D. ’03)

**Pro Bono Award**

The Pro Bono/Public Service Award is given to an alumnus who has made an outstanding contribution to the public welfare through the legal profession. Dana Outlaw has practiced family law at the law office of Dana M. Outlaw LLC since 2003. She has worked with Hope House, representing victims of domestic violence in dissolution, paternity, custody, modification and order of protection cases. In addition, she serves as a special master to resolve temporary child support, maintenance, expenses and attorney fees issues. She is a regular speaker at CLEs on these and related topics.

Bob Murray

**President’s Award**

This year the Law Foundation is pleased to honor a longtime friend and supporter, Bob Murray. While the Foundation can usually count on its great alumni for support, it also benefits significantly from the support of the legal and business communities. Bob Murray and The Bar Plan have consistently supported the Law Foundation as the lead sponsor of the Bob Downs Scholarship Golf Tournament, one of the organization’s most successful fundraising events. Murray, however, is more than just a sponsor. He often attends steering committee meetings and he participates in the tournament each year.
First-year students practice thinking outside the books

Students typically come to law school because they want to be lawyers, but the standard first-year curriculum involves reading cases and statutes and applying them to hypotheticals, without much opportunity to do the other things lawyers regularly do. UMKC School of Law wants to change that.

The school has rolled out an innovative new program aimed at giving first-year students the opportunity to apply their knowledge early in their education. This year’s 1L students were the first entire class to participate in the Integrated Learning Project, a week-long, hands-on learning and problem-solving experience.

“Everything we know about effective learning indicates that students learn best by doing and when they have context and see the relevance of what they are being taught,” says Dean Ellen Suni.

The integrated learning project idea, originally called the Section B experiment, arose out of the school’s strategic planning process. Suni says she believes it will help get students more engaged in their own education and help them meet competencies important for lawyers.

Professors Judith Popper and Wanda Temm began organizing the Fall 2013 project during the Spring 2013 semester. The project, which revolved around a fictional scenario devised by Temm and Popper, required the help of approximately 45 volunteers who served as witnesses, judges and competition monitors, in addition to other roles. Student participants worked on all aspects of a case, including meeting with the client, interviewing campus police and investigating the scene, and performing negotiations.
Law school sets its ‘sites’ on social media strategy

Although some see them merely as procrastination tools, social media expert Amanda Ellison sees LinkedIn, Facebook and Twitter as “the big three” social media sites — and the UMKC School of Law sees them as an untapped opportunity. These three social networks are the linchpins of the UMKC School of Law’s aggressive new social media strategy. The law school and departments therein are focusing on developing a comprehensive strategy to deepen connections with prospective students, current students, alumni and other community members. The goal is to generate discussion about UMKC’s School of Law, highlighting its community engagement and providing opportunities to connect and flourish professionally and personally. The School of Law will develop a three-prong strategy over the next few months:

Career Services
The largest initial social media presence will be generated by the Career Services Office (CSO) under the leadership of Director Jenny Redix Jordan and with the assistance of Alyssa Baker, CSO administrative assistant. Their plan is to focus on using LinkedIn to create an employment referral network of students and alumni by building a variety of connections between them. Jordan and Baker also will use Facebook to provide informal information about specific CSO-sponsored student events and Twitter to provide up-to-the-minute reports on opportunities and events occurring in the school and within the legal community.

Law Foundation
The Law Foundation’s Marketing and Communications committee, under the direction of the Honorable Margene Burnett (J.D. ’87) and Steve Consentino (J.D. ’97) and assisted by alumni and constituent relations officer Cary Powers, will focus on using LinkedIn to promote the Law Foundation, connect alumni, and keep users informed about law school activities. This approach will go hand in glove with the CSO initiative to create opportunities for students to connect with alumni.

Law School Faculty and Administrators
Law school administration and faculty will be promoting the law school through social media channels as well. Dean Suni will use her Twitter account to send real-time information on happenings and events, as will others on the law school’s faculty and staff. If you are on one of the Big 3, join us in our plan to more deeply connect the School of Law with our community.

Koger family generosity
The family of the late Frank W. Koger (J.D. ’53), who served as a United States bankruptcy judge, recently donated $150,000 to the law school for an annual bankruptcy lecture series. Later this year, the family will donate a portrait of Judge Koger that will be showcased at the school.

ABA site visit goes smoothly
The American Bar Association Section of Legal Education and Admissions to the Bar visits approved law schools every seven years to evaluate their compliance with ABA standards. UMKC hosted an ABA Accreditation Committee Oct. 27-30. In preparation for the visit, the law school completed a site evaluation questionnaire and self-study that provided information on applicants, course offerings, faculty and staff, physical space and library resources. The site team was able to verify this information and had positive feedback on our happy students, dedicated faculty and staff, and our supportive alumni and community. We expect a more detailed report from the team before the end of the semester.

Megan Cramer Scholarship
Friends and co-workers of Megan J. Cramer, the alumna who tragically died last year in the explosion at JJ’s restaurant, have established the Megan J. Cramer Endowed Scholarship Fund. The $25,000 fund will award scholarships annually to law students who demonstrate an intention to serve the lesbian, gay, bisexual and transgender community. Cramer received a bachelor’s degree from UMKC in 1990 and a law degree in 1994. As a student, she was active in gay and lesbian causes, and started a support organization for gay and lesbian students in the early 1990s. She is remembered as a pioneer and leader in efforts that directly influenced UMKC’s direction as a campus that is welcoming to gay students.
Well-known Kansas City, Mo., attorney Robert “Bob” DeWitt (LL.B. ’54) is closing his legal practice. Throughout his tenure, he’s served on numerous boards and committees and represented clients in the areas of family law, personal injury, workers’ compensation, real estate and probate. He has also represented several business organizations over the years. Now, he’s busy culling his abundant client list and packing up files to ensure that when the time comes, he’s ready to pass the torch to other bright attorneys in Kansas City. DeWitt recently established the Robert D. DeWitt Best Brief Award, to be presented in conjunction with the Ellison Moot Court competition.

How long have you been contemplating retirement?
I started thinking about it five years ago, but I just couldn’t bring myself to take that next step. I’ve always enjoyed practicing law — associating with other lawyers and judges and with people in the community. However, I’ve come to the conclusion that I’ll retire in 2014, 60 years after being admitted to the bar of the state of Missouri.

Describe the steps you’ve taken over the last few years to prepare for your retirement exit strategy.
Over the past year, I have made it known to my clients that I’m considering retirement, and if anyone came to me with a request that would take a great deal of time, I started directing them to other lawyers whom I trusted. However, I’ve made sure all my clients know I’m not leaving until everything is finished. This includes the liquidation of several real estate partnerships, which I am now concluding.

How did your clients react when you told them you’d be retiring within the next year?
Some of them said, “You can’t do that to us.” Others said, “We’ve been expecting this.” Over the years, many of my clients have become good friends as well.

With retirement in sight, how has the overall transition process been?
I’m pleased to say that it’s been a smooth transition.

What are you going to miss most about practicing law?
I’ll miss the pleasure and satisfaction of solving people’s problems, or in the case of a business, watching it succeed.

What would you tell other attorneys who are thinking about retirement?
Over the past 60 years, the practice of law has changed dramatically. And when I think about that, I also start to think about what got me to where I am today. For me — and I hope others believe this as well — with retirement comes the opportunity and responsibility to give back to the profession as well as to the school that prepared you for a successful, lasting career.

What’s your advice for young lawyers just entering the field?
I’d encourage them to become active in their community and/or their religious congregation. These are great places to build and develop clients who will last and be part of your professional career.

What are your future plans after retirement?
I’m definitely looking forward to traveling and spending more time with friends and family.

—Kara Petrovic
GOT NEWS?

New job? New baby? New award?

Whatever your news is, share it with your classmates.
Submit your update with the online class notes form at law.umkc.edu/alumni-friends.

“Don’t judge each day by the harvest you reap, but by the seeds you plant.”
— Robert Louis Stevenson

At the heart of every great law school are endowments that last forever.

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