



SENIOR LAWYERS

The newsletter of the Illinois State Bar Association's Senior Lawyers Section

Chair's column: Technology really is for seniors!

By John T. Phipps

With the new advances in smart phones, iPads and tablets, and new windows operating systems, the tech world for senior lawyers became a whole lot easier. Gone are the old DOS commands and many of the other problems that many lawyers who have now become senior lawyers did not want to deal with when the computers first started 30 years ago. Times have changed and it is now possible to dictate to the computer with good accuracy using voice recognition to draft letters and other documents. For example, this column was dictated on my iPhone and e-mailed to my Legal Assistant to put in proper format.

Thanks to the great work of Hon. Edward Schoenbaum, Lauren Golden, Gary Rafool, Senior Section Technology Chair Frank Ariano and

Don Mateer, the prior chair, the Senior Lawyer Section is putting on a Computer Basics Program for Senior Lawyers in Chicago on October 18. The details of the program are contained in another article in this newsletter. What this section has been working to develop for the last couple of years is to provide a resource for senior lawyers in order to assist senior lawyers to become tech savvy in the 21st century.

Our children and our grandchildren are technology savvy. My two-and-half-year-old granddaughter has been able to use the iPad and iPhone to play games and do various tasks on the iPad and iPhone since she was able to say "play!" If a two-year-old can manipulate the iPhone and

Continued on page 2

INSIDE

- Chair's column: Technology really is for seniors! 1**
- Save the Date! 3**
- Interview with a happily retired lawyer 3**
- Technology for seniors 6**
- Program registration form 7**
- Social security safari—Day 2. 8**
- Useful tech gadget 8**
- Upcoming CLE programs 9**
- Over the rainbow 12**

(Notice to librarians: The following issues were published in Volume 4 of this newsletter during the fiscal year ending June 30, 2013: October, No. 1; February, No. 2; June, No. 3).

Save the Date!

Computer Basics for Senior Lawyers

Presented by the Senior Lawyers Section Council

October 18, 2013
10 a.m. - 1:00 p.m.

NATIONAL LOUIS UNIVERSITY
122 S. Michigan Ave. • Chicago • Room 4024

REGISTRATION FEE: 10.00 per person - Must be Pre-Paid
No MCLE credit

Join the Senior lawyers with assistance from Young lawyers at this BASIC workshop on becoming familiar with your computer. You will become familiar with the computer workstation, using the keyboard and the mouse, menus; Basic typing/word processing; accessing the Internet-how to do searches, "google-ing" and links; and basics of e-mail and e-mail use.

A program registration form is available on page 7 of this newsletter.

Chair's column: Technology really is for seniors!

Continued from page 1

iPad there's no reason senior lawyers with all their education and experience can't do the same. It does take some time and some patience and the ability to laugh at one's own mistakes but getting the basics of tech savvy is worth the time and effort. There is a whole world of information out there and user-friendly applications "apps" that are on most smart phones and tablets can be taken advantage of to do word processing, edit documents, keep notes, and read books. The apps are intuitive and even senior lawyers with a little help can learn to use them.

E-mail is now the basic form of communication between family, businesses, lawyers and all other segments of our society. We have reached a point where senior lawyers need to be proficient with at least the basics of computers, smart phones and tablets in order to communicate with others, especially their children and grandchildren. The "not on my desk" mentality of many older lawyers is no longer appropriate because it denies them access to the world. There was a time when the learning curve required to be proficient with computers supported that statement. The difference is that today, a senior lawyer can have a smart phone or a tablet device that is user-friendly and reasonably intuitive which allows her or him to learn how to do what he or she wants to do. There is no big cumbersome computer that makes you tied to your desk and requires you to have a lot of knowledge on how to make that contraption work. Today's lightweight laptops and powerful desktop computers allow a user to become proficient in a short time.

Prices are going down. With the advance of Windows, Macs, the new iPhone and iPad and Android operating systems, work with computers and smart phones is even easier. The Droid phones and other competing tablet technologies and smart phones all have comparable features and are developing single-purpose apps as well. You can read books on iPads, Kindles, Nooks, Droids and other tablet systems and follow the steps in the books to learn what to do or answer your questions. Even the *Illinois Bar Journal* has an e-edition. Your iPhone can make dinner reservations and then can show you how to get to the restaurant. Fastcase, Lexis and

WestLaw Next are now accessible by smart phone. Sports scores and updated game information, as well as breaking news, can be sent right to your phone if you want. You don't have to use all the features and can pick and choose what works for you. The fact is you now have a choice and you can control what you want.

You can even save your grandkid's artwork, take action pictures of or videotape their activities on smart phones that are even better than a regular digital camera. Sharing art, photos and video are easy. Text messaging is easy and used by teenagers extensively. If you want to communicate with your grandkids, especially teenagers, learning how to do text messages is a must. In fact, using text messaging is probably the only effective way you will have to communicate with a busy teenager. I found it creates a whole new world of communication with my teenage grandkids that are too busy to talk on the phone but can text back and forth during their busy schedule. In fact I have an old iPhone in my office that my assistant and I use to text back and forth when I am out of the office and can't talk on the phone.

The desktop computer is now becoming obsolete and we are all going to start using tablets, laptops and smart phones to communicate, do our legal research, draft documents and engage in all kinds of other tech-related activities that many lawyers and real people already enjoy. Being computer-phobic is no longer a status symbol. It simply keeps a person from taking the opportunity to expand the possibilities to enhance his or her life.

Technology really isn't that difficult anymore. The Senior Lawyer section is trying to give senior lawyers an opportunity to learn the basics or refresh their basic skills so they can become computer-savvy and enjoy today's technology and what it has to offer. No experience is necessary as the program is basic and designed for those lawyers with limited or no computer skills and those that need help with or an update on the basics. It is designed to help you where you are and there will be people to answer your questions and assist you. Sign up for the Senior Lawyer's October 18th course and begin a new adventure. All thanks to the dedicated efforts of a

number of the hard-working members of this Section Council who want to share their expertise to help you enjoy what technology can do for you. You will be truly amazed at what you can do and how easy it is to learn. Take advantage of the opportunity, I am sure you will be pleasantly surprised about what you can do at the end of the course! ■

John T. Phipps is engaged in the general practice of law in Champaign, IL as John T. Phipps Law Offices, P.C. His primary emphasis is in the areas of family law, general civil litigation, real estate, probate, and business law. He is a past chair of the ISBA General Practice, Solo and Small Firm Section Council and Co-Editor of the Section's newsletter and Chair of the Senior Lawyers Section Council.

It's Campaign Season for the 2014 Election

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 - Under 37 Downstate (1)
- Assembly:
 - Cook (22)

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Filing of Petitions begins on January 2, 2014 and ends on January 31, 2014

Interview with a happily retired lawyer

By Don Mateer

I had the pleasure of interviewing Frank Ariano, a retired attorney from Elgin. He is thoroughly enjoying his retirement in Steamboat Springs, Colorado. Read this interview to find the secrets of his successful retirement.

Mateer: What was the focus of your practice and what did you enjoy most about it?

Ariano: The concentration of my practice was family law, dissolution of marriage and mediation. There are two things that come to mind as to enjoyment: (1) the interaction with fellow attorneys, usually at the court house and (2) meeting new clients in the initial interviews.

Mateer: When did you retire?

Ariano: June 30, 2004. I got into the car, headed west to Colorado and never went back to the practice.

Mateer: What were the mechanics of your retirement; did you sell your practice or retire from a firm?

Ariano: I retired from a firm. The firm continues to use my name and I was "of counsel" for several years, although I really have not practiced since 2004 in Illinois or Colorado. The firm made a lateral hire about four years before I actually retired and I integrated her into my practice, eventually turning it over to her.

Mateer: Was retirement the right decision for you, and if so why and if not, why not?

Ariano: Absolutely. I can honestly say I have never looked back and second guessed my decision. I was burning out—I practiced 34 years. I wouldn't say I was totally burned out, but I was ready. I wanted to do more of the activities that I had been only able to do for several weeks out of the year on vacations. So I started my count-down. I really feel so much better retired. I think a large part of it is being out from under the responsibility and stress of the practice. It is a wonderful feeling being able to get on to a different phase of your life, at a time

when you chose to do it. That was right for me, no question about it.

Mateer: What do you miss most about the practice of law?

Ariano: Again I would have to say the interaction with the attorneys and meeting new clients. It was the contact with a group of people that I was good friends with, not just the lawyers, but also the judges. I miss the clients that for the most part appreciated what I did for them. That was rewarding—that felt good. I enjoyed going to the court house each day. I am not a person who could sit in the office. But, to be candid with you, I really don't miss much else.

Mateer: Where are you living and what are you doing with your time?

Ariano: I live in Steamboat Springs, Colorado. We started on the idea of retirement by building a house in 1999 on property purchased earlier. It's a modest house, nothing real fancy, but it is right on the golf course, looking up at the ski mountains. In Colorado, you almost don't need a house because everybody spends all of their time outside. That's what I do, I spend as much time outside as possible. As to what I specifically do, in the winter it is skiing, cross country skiing and snow shoeing. In the summer it's golf, hiking with or without the dog, travel and I love to cook. I have taken over all the cooking since I retired. I read which I did not do much of in the practice, other than what was required, and I am enjoying that now. Just having freedom to do what I want. I even tried a little fly fishing. I also enjoy biking; I spend a lot of time on the bike. As part of my retirement philosophy, I decided to try to spend as much time each day outside doing an activity here in Colorado as I did in court. I have pretty much kept up with that, a minimum of two to three hours a day, and I am absolutely loving it.

Mateer: If you have one piece of advice for those already retired, what would that be?

SENIOR LAWYERS

Learn more about this section at <<http://www.isba.org/sections/seniorlawyers>>.

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Ariano: Keep active, absolutely, keep active. Develop a social network. We have a group here in the community of Steamboat Springs that is unbelievable. We have retirees from literally every walk of life. Interestingly, there are very few attorneys in my particular group. Some have little money, some have a lot, but they are a fascinating group of people. We can get together on a level that has nothing to do with litigation, and it's just fun. It amazes me, there isn't a week that goes by where there aren't parties. It is literally hard to find time to do it all. So my advice to people that either are retired or thinking about it—stay active. If your health holds, by all means, keep active physically. I don't think it is a good idea to spend too much time alone. I didn't do it in the practice and don't do it now.

Mateer: Do you have any warnings, suggestions or advice for those who might be considering retirement?

Ariano: Actually I do. I can only say, however, what worked for me. If it is possible, leave the area. Let me explain—I think if I were still back in Elgin, and one day stopped going to the office, I'm not sure that would have worked. There would have been a strong temptation to go see the people at the courthouse or to stop in to the firm, for whatever. While that may be fun for some, it would not have been for me. My advice, if you are like me, is to leave. I was very happy moving out of state. If you cannot do it on a full time basis, at least do so part time. If you have a vacation home, that is a great way to break away. Leaving the community you lived in makes the transition easier. The other thing I would recommend is to start a plan. It is not too soon to choose a time frame. As I told you Don, I had a count down. Fortunately in my county the lawyers and judges got a kick out of going along with me. I would often appear in court and the judge would ask me "is this day 264"? I counted down 3 years on the calendar, but I had to add a year, and that was tough. The addition was because of the economy at the time—I needed one more year. But I did it. I kept the countdown, crossing off

the numbers on the calendar. When the time came, all was on schedule. That's my personality, I have to have everything organized. That made it fun and also made it happen. The last thing I would say is "just do it." It is very easy to come up with a lot of reasons why you can't or shouldn't. If you are married and your spouse is on board with it, don't wait too long. I retired at 58, which some might think is early, but there are a lot of people out here that retired earlier. Time goes by so quickly, don't put it off too long. Don't be afraid. I am certainly not a wealthy person, but I can tell you that the cost of my living in retirement, as strange as it might seem, has actually gone down. You should explore it, don't make assumptions, do your homework like you would do for a client.

Mateer: Why are you still a member of the ISBA and what reasons can you give for retirees to stay members?

Ariano: I would definitely recommend keeping your membership. I remained active, including chairing Bar Services, after retirement. Presently I am only on the Senior Lawyers Section Council. I think it really helped in the transition. I was still able to see the people I knew on a regular basis. I was active on several committees. When I first retired I actually went back to Illinois about every six weeks. I did that not just for ISBA stuff, but I always combined it with visiting my mother who happened to be in a nursing home. I found that the participation on committees and section councils was even better, because now I had the time. I could really think about what I was doing. It made me a better contributor. I enjoyed the social events which were even more fun, after being away. Also, while I think the phrase "to give back" is overused, it is a good way to give back to the profession. I read E-clips and case summaries daily, but now I do it sitting out on my deck. It is a much more enjoyable experience—allowing time to reflect, rather than speeding through trying to get it done. Being an out of state member has not been at all troublesome. I still go to every annual and midyear meeting. Staying a member also helps you deal with the guilt.

That may seem silly, but I think almost all retirees have a feeling of guilt. Don, I don't know about your experience, but I literally have to pinch myself to believe that I am living this dream. I am amazed. Life is great. I love the freedom so much, that I am now even somewhat bothered to have a tee time! I play a lot of golf without a set schedule. That is how far away from the calendar I have gotten—I literally have to think about what day it is.

Mateer: What do you like most about retirement?

Ariano: I personally like the choices, the freedom. I do what I want to do, when I want to do it. Working, of course, did not allow that. I also love Sunday night dinner or other parties where I am not worrying about Monday. In addition, it is so nice to be able to devote time to family that was difficult to do when working—time with your spouse, kids and grandkids, and time for yourself. I remember talking about that before retirement, but you don't really understand it until you have it. For many, that could be the most compelling reason to "pull the plug." It goes quickly, you get older, everything hurts more, and travel is more burdensome. We travel often and I suggest you do as much as you can, sooner rather than later, while your health permits.

Mateer: Frank, could you give us some of your background?

Ariano: I graduated from the University of Wisconsin in 1967. I went to IIT Chicago Kent College of Law, graduating in 1970. I was a member of the American Academy of Matrimonial Lawyers, and am still a member of the Colorado Bar, life member of the Kane County Bar Association, and, of course, the Illinois State Bar Association. I have two sons who practice law, not together, in the Phoenix area. I have two grandchildren who we see as often as this "busy schedule" allows.

Mateer: Thanks Frank for taking the time to give us your thoughts and insights concerning retirement. It was much appreciated.

Ariano: You are very welcome, Don. It was my pleasure. ■

Technology for seniors

By Hon. Edward J. Schoenbaum, Loren S. Golden, Gary T. Rafool, Don Mateer and Frank V. Ariano

This is the latest of what has become a regular column in the ISBA Senior Lawyer Section Council newsletter. Hopefully you will take a turn in contributing a section on your own “Best Practices” or problems you have in using technology. Please let us know what you need.

Computer Basics Workshop

On Friday, October 18, 2013, our committee has organized a three-hour, hands-on “Computer Basics for Senior Lawyers” workshop at the National-Louis University Computer Lab at 122 South Michigan Ave. in Chicago, Room 4024. To get to that room, take the elevator to Floor 2, change elevators and proceed to Floor 4.

We will cover:

Familiarization with Computer Hardware (Keyboard, Mouse & Menus); BasicTyping/Word Processing (using Microsoft Word programs); Basics of E-mail; Accessing Internet (Using Mozilla Firefox/Internet Explorer).

We have five faculty to assist on the 24 computers. You may also bring your own laptop or iPad.

Please fill out the registration form on page 7 of this newsletter and sign up so we know how basic we need to be in small groups. Only \$10 for three hours of personal attention.

iOS7

For those of you with Apple devices (iPhone5, iPhone4, iPad2, iPad Mini and 5th generation iPod Touch), you will soon (9/18/13) be getting an update to the Apple Operating System. This new system is a major change from what you are finally getting used to. You will receive notification on your device or by e-mails when it is available for free download. According to Apple, it is “the biggest change to iOS since the introduction of the iPhone in 2007.....and will have a “totally new feel.”

It is far beyond this column (as well as this author) to detail all of the changes, but we thought you might be interested in a few that may be significant to us “seasoned attorney” technology users:

App Updates—they will now be done automatically in the background.

Control Center—With a swipe up and without going to “Settings,” you will be able to turn on wifi and bluetooth, as well as access the Clock, Calculator, Camera and Flashlight functions.

Camera—The new screen has filters that allow effects before and after taking the pic-

ture. Once taken, the Photos are automatically (“Smart”) organized into Collections, Moments and by Years.

Notification Center—on one screen (with a swipe down) you see missed calls, new e-mails and reminders, etc.

Multitasking—iOS 7 will also “remember” what apps you use regularly and when (e.g. USA Today News with morning coffee) and will update the content so it will be ready for you. Pressing the Home button twice will let you see what Apps you have open.

Air Drop—allows you to share photos, movies, contacts (anything from an App with a Share feature) with other Apple users in close proximity to you (using bluetooth and wifi) by just selecting the nearby person from the on screen list.

Safari—the changes to the screen and browsing functions make it easier to do searches—closest matches are automatically suggested from the unified smart search field. The new Tab View shows the web pages which are open, to allow easy access or deletion.

iTunes Radio—over 200 genre-based radio stations are now available on your device for free, while allowing you to change the balance between types of songs from which you can create a wish list for later purchase, if you so choose, from the iTunes Store.

The foregoing are only a sampling of the new system, based upon Apple information and summaries from beta users. There are also significant changes to the look of the icons (translucent, utilizing a “layer” look), as well as appearance and ease of use changes to the Weather, Clock, Compass, Calendar, Maps, Reminders, Notes, Newsstand, Stocks, App Store, Passbook and Siri Apps. iWork, iPhoto and iMovie will also be available for your device with the download (free). There is even an iCloud Keychain which can remember log-ins and passwords, etc. for quick access to sites, using 256 bit AES encryption (which I don’t pretend to understand), including a password generator.

We hope to “talk” more with you in future newsletters regarding the specifics of the foregoing new system features, once we download iOS 7 and consult with our grandkids on how to use them!

iPhone 5C & iPhone 5S

iPhone 5C—As predicted, Apple has decided to reach out to a large world market that was not willing/able to pay the cost of

the iPhones and announced the iPhone 5C, being released for pre-order on 9/13/13. This is good news for those wanting to start out with a smart phone that does not have all the “bells and whistles,” but is still state of the art (well almost). The iPhone 5C comes in 5 colors with matching cases. It has a plastic one piece seamless design, and comes with two built-in cameras, a flash, video recording (1080p HD), wifi, Bluetooth and runs iOS7 with most of its capabilities. It is even a telephone! You can get the 16GB version for \$99 and a two-year cellular contract or the 32GB version for \$199. It will do all someone starting out with a smart phone could ever want, and a lot more you won’t use. For phone (including FaceTime), e-mail and internet, along with well over one half million available applications (many of which are free), you really should check it out—your grandkids will love it!

iPhone 5S—Now, for those of you who want actual state of the art and a smart phone that truly “threatens” the PC, the just announced (at the time of this article) iPhone 5S is a must have—at least we think so! At \$199—\$399 with a two-year cellular contract for the 16GB to the 64GB versions, coupled with the iOS 7 features, all of which it can utilize, you can have the following:

- A7 chip-64 bit (don’t worry about what that means—I don’t know either—but know that it is multiple times faster than the iPhone 5, with better battery consumption).
- M7 Core Motion chip (not sure about that one either, but you will notice the video and graphics effects, including slow motion video).
- Improved cameras with larger pixels (making for better quality photos and videos). The camera takes multiple pictures (in the background) and chooses the best one.
- Two-color flash LEDs that combine for more accurate color low light photos.
- Touch ID fingerprint sensor which allows the phone only to be used by you (or others authorized) and allows truly secure on line purchases without passwords or PINS (encrypted fingerprints are not stored on Apple servers or in iCloud).
- 10 Hour battery life (3G talk time) and 250-hour standby time (3G).

The foregoing list does not begin to describe this new iPhone and we will undoubtedly be giving more information in future articles, once we get our hands on one and attend a grandkid training session or two! ■



ILLINOIS STATE
BAR ASSOCIATION

“COMPUTER BASICS FOR SENIOR LAWYERS”

FRIDAY, OCTOBER 18, 2013

10:00 a.m. - 1:00 p.m.

NATIONAL LOUIS UNIVERSITY

122 S. Michigan Ave. • Chicago • Room 4024

REGISTRATION FEE: 10.00 per person – Must be Pre-Paid

Sponsored by the Senior Lawyers Section Council

Join the Senior Lawyers with assistance from Young Lawyers at this BASIC workshop on becoming familiar with your computer. You will become familiar with the computer workstation, using the keyboard and the mouse, menus; Basic typing/word processing; accessing the Internet-how to do searches, “google-ing” and links; and basics of e-mail and email use.

Name _____
First Last

Law Firm/Agency _____

Address _____ City _____

Zip code _____ Telephone _____ E-mail _____

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Social security safari—Day 2

By Loren S. Golden

I recently had cataract surgery which was a complete success. However, when the doctor's office sent the bill to Medicare, Medicare advised that my wife's health insurance policy was primary and Medicare was secondary. I called my wife's health insurance company at the request of my doctor to tell them that I have Medicare Part A and B. I did. However, that was not enough. Soooooo... I put on my trusty pith helmet and safaried back into the local social security office. A very nice lady helped me immediately. She said that the records should have been changed to provide that Medicare A and B was now the primary insurer and that my wife's insurance was now secondary because she had retired. The social security lady prepared the papers to change their computer to read that Medicare was now primary and the private company was now secondary. She said that the change in the social security computer will take a month, but it was taken care of. I've come to learn that the social security safari will probably be a lifelong event, but that's ok, if you get my drift. I suggest that you sleep with your pith helmet on your night table—just in case. Happy hunting everyone. ■

Useful tech gadget

By Don Mateer

My iPhone battery runs low all the time. It is especially frustrating when I travel and am not near an outlet to recharge it. I have found the perfect solution, a portable charger about the size of a large tube of lipstick. In minutes it will get you out of the red, and in about an hour it will fully charge your phone. It will hold enough power to charge your phone about 2 and Yz times. The one I have is made by Anker and is called the Anker Astro Mini 3000Ah Ultra- Compact Portable Lipstick-Sized External Battery Backup Charger. The name is larger than the backup device! I bought mine on Amazon for \$22. There are many other makes and models of the same type of portable charger.

Some are larger and hold more of a charge. But, for traveling, I recommend this small unit that gets you from one outlet to another with no fuss. ■

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Thursday, 12/12/13- Chicago, Sheraton Hotel (Midyear)—Legal Writing in the Smartphone Age. Master Series presented by the ISBA. 1:00-4:15.

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February

Wednesday 2/5/14- Webinar—Introduction to Fastcase Legal Research. Presented by the Illinois State Bar Association – Complimentary to ISBA Members Only. 12:00 Eastern.

Friday, 2/7/14- Webinar—Advanced Tips to Fastcase Legal Research. Presented by the Illinois State Bar Association – Complimentary to ISBA Members Only. 12:00 Eastern.

Friday, 2/7/14- Bloomington-Normal, Marriott Hotel and Conference Center—Hot Topics in Agricultural Law- 2014. Presented by the ISBA Agricultural Law Section.

All Day.

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Thursday, 2/27/14- East Peoria, Holiday Inn and Suites—SETTLE IT!- Resolving Financial Family Law Conundrums. Presented by the ISBA Family Law Section and the ISBA Alternative Dispute Resolution Committee. 8:00-5:00.

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Tuesday, 3/4/14- Webinar—Introduction to Fastcase Legal Research. Presented by the Illinois State Bar Association – Complimentary to ISBA Members Only. 2:00 Eastern.

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Over the rainbow

Continued from page 8

to which people are now using their home equity, savings and retirement funds to meet current debts and living expenses. For those under 59 ½ years of age, a double hit takes place when they start using IRAs, 401(k)s and other such funds set aside before taxes for retirement. They not only have to pay regular income taxes on those tapped funds, but a 10% penalty for the year in which those funds are taken out.

Having practiced in the bankruptcy area for almost 50 years, and presently being a Chapter 7 bankruptcy trustee since 1995, it is extremely sad seeing individuals use fully exempt retirement funds to pay unsecured debt, including credit cards, which are usually dischargeable in bankruptcy if no fraud was committed when incurring these debts. By way of caution, however, Section 523 of the Bankruptcy Code (11 U.S.C. 523) should definitely be consulted in this regard because the last thing anyone considering bankruptcy and the burdens it carries should have to experience is a debt declared non-dischargeable.

Obviously, bankruptcy as an alternative, and its affecting a credit record for seven years, if Chapter 13 is used, or for 10 years, if Chapter 7 is chosen, may not be a feasible option. Nor may it be considered by a debtor, who, like most debtors, prefers to pay the debts he/she has incurred, even if it means using certain protected retirement savings. Also, for people with outstanding student loans, it will not be of much benefit at this time, unless a Bankruptcy Judge can be convinced that a hardship is present. Judges, for the most part, are reluctant to find these hardships, except under dire circumstances.

The payment approach is admirable, and, at this time, because of the rough economy, many creditors are willing to work with debtors trying to pay their debts. Therefore, no inference should be made that bankruptcy is the best means for solving financial troubles. It is entirely up to a debtor to determine what fits his/her financial needs and plans at the time of a financial crisis. Unfortunately, however, the payment approach may not be an option due to lack of business or other income, illness, divorce and/or outright unemployment.

In June of 2011, this writer published an

article in the Senior Lawyers' Newsletter (Vol. 2, No.1) entitled "Protecting the Assets of a Retiring Attorney," which might be considered in conjunction with or supplemental to this article, because it is not now necessary to repeat the various exemption statutes and discussion in that article, both under the Bankruptcy Code, particularly Section 522, as amended in 2005, and under Illinois Law, primarily 735 ILCS 5/12-901, 902 and 906 with respect to a debtor's homestead, 735 ILCS 5/12-1001 as to personal property, and 735 ILCS 5/12-1006 concerning retirement plans, as well as 215 ILCS 5/238 with respect to life insurance and annuity cash values when the beneficiary is a spouse (including a co-debtor or spouse) and/or a dependent of the debtor.

These exemptions apply to Illinois bankruptcy debtors and judgment debtors outside of bankruptcy, all of whom are limited to only the Illinois exemption statutes, because Illinois opted out of the more liberal federal bankruptcy exemptions in the early 1980s.

In addition, since approximately 1990, tenancy by the entirety was re-established in Illinois, and it traditionally allowed a husband and wife (one man and one woman), who owned their own homestead as tenants by the entirety, to exempt that homestead from the claims of creditors, including a bankruptcy trustee, of just one of the spouses. Obviously, if both spouses were responsible for the debt, tenancy by the entirety would not protect the non-exempt equity in the homestead, which exemption presently is up to \$15,000 per owner, but no more than \$30,000 in the homestead. There can only be one homestead irrespective of the number of homes a debtor might own. The best proof of a homestead is where the debtor votes, what address shows on income tax returns, which state issued the driver's license, etc.

The Illinois Tenancy by the Entirety Law is accepted not only in Illinois courts, but in federal courts, and in bankruptcy as well.

Although Illinois adopted civil union laws in mid 2011, civil union partners are not permitted to file joint bankruptcy petitions, joint federal income tax returns or receive federal estate tax marital deductions, just to mention a few federal prohibitions for civil union partners.

While a serious attempt was made in the

2013 Illinois General Assembly to adopt a same sex marriage law, it was never enacted. There are presently 12 states and the District of Columbia allowing same sex marriages, and it is not too much a stretch of the imagination to predict that more states, including Illinois, will allow same sex marriages in the near future.

This received some encouragement from the United States Supreme Court when it finished its 2013 agenda at the end of June by striking down the 1996 Federal Defense of Marriage Act (DOMA) by a 5 to 4 decision. Also, during this same session, the Supreme Court ruled (again 5 to 4) that the supporters of the California ban on same sex marriage (Proposition 8) had no standing to appeal a lower federal court's ruling that Proposition 8 unconstitutionally discriminated against same sex marriage.

On the other hand, since civil unions are allowed in Illinois at this time, it is assumed that all Illinois state courts will allow homestead protection status to the two parties to a civil union, (and to same sex marriage couples should that become Illinois law) when reviewing a tenancy by the entirety homestead. It is also assumed that these same protections will be given to civil union partners (and same sex marriage couples) in Illinois with respect to life insurance and annuity cash values pursuant to 215 ILCS 5/238.

However, until Illinois, or any state for that matter, enacts laws that recognize same sex marriages, civil union partners will not be able to file joint federal income tax returns, receive marital deductions for federal estates taxes, file joint bankruptcy petitions, or receive tenancy by the entirety protection in federal or bankruptcy courts.

Of course it is beyond the scope of this article, and the skills of this author, to predict with any legal certainty the future impact the Supreme Court's striking down of DOMA will have on future bankruptcy and other federal cases, as well as tax returns by various federal courts.

However, before making any transfers to insulate and protect assets and retirement funds, it is suggested that Sections 735 ILCS 5/12-112, 740 ILCS 160/1 through 160/12 be studied and complied with so as to avoid fraudulent conveyance accusations.

In this regard, there is a four year look back with respect to conveyances alleged to be fraudulent pursuant to Illinois law. In addition, Section 548 (11 U.S.C. 548) of the Bankruptcy Code has a look back of two years as to transfers made within two years prior to a bankruptcy filing which are determined to be either fraudulent or without adequate consideration.

With reference to the above statutory outline of exemptions allowed individual debtors in Illinois, either in or outside of bankruptcy, the following is suggested for immediate action to protect assets under present economic times, and to start the running of the look back clocks:

- A. Place a marital or civil union homestead into a tenancy by the entirety, and should same sex marriages be allowed in Illinois, redeed to the parties, with correct grantee wording, hopefully pursuant to the creating statute or to opinions of experienced real estate attorneys and/or title companies;
- B. If any personal property assets protected

pursuant to 735 ILCS 5/12-1001 are solely in an individual debtor's name, transfer title(s) and ownership to the joint names of the debtor and spouse/civil union or legal same sex marriage partner;

- C. Review all life insurance policies, endowments and annuity contracts to make sure a spouse, civil union partner, legal same sex marriage partner and/or dependent is the named beneficiary; if not, change the beneficiary(ies);
- D. Make and continue to make timely and maximum 401(k) and IRA contributions; and
- E. If a homestead is sold, but a new home has not been purchased after the sale, segregate the net sale proceeds until a final decision has been made concerning the purchase of a new homestead, because 735 ILCS 5/12-906 allows up to \$15,000 per owner to remain exempt for one year after the sale proceeds are received. Therefore, if that \$15,000 per owner (up to \$30,000) is reinvested in a new homestead during that one year, exemptions will carry forward into the new

homestead.

By way of caution with these transfers, and as any attorney who has ever represented parties in a divorce will verify, be very aware that transfers cannot easily be undone should there be an estrangement, a divorce, or a death that might be excluding children of the decedent. Consequently, there could be an extreme trade off of these assets, including non-marital assets, in attempting to insulate them from creditors.

By no means is this discussion meant to advocate the taking away from creditors what is owed to them. It is simply being presented to raise awareness of various alternatives for legally protecting assets in times of economic stress such as what has been experienced by attorneys as well as the general public since 2008. And, it certainly is not meant to find or give a free pot of gold at the end of a rainbow; however, it is an attempt to avoid chasing rainbows when it comes to handling and protecting one's assets during economic hardships. ■

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Over the rainbow

By Gary T. Rafool, Peoria, Illinois

1 939 was the year when this country could finally see the light after approximately 10 years of the "Great Depression."

It was also the year that the movie "The Wizard of Oz" made its mass debut with the introduction of an award winning song called "Somewhere Over the Rainbow" (a/k/a "Over the Rainbow"), with lyrics by E.Y. Harburg and music by Harold Arlen. It was sung by Judy Garland, and it talked of a place where your troubles, presumably including financial ones, would smell like lemon drops. Idealistic, yes; however, it did generate hope of a better place and time for the thousands of economically depressed people seeing this movie in 1939.

This particular song seems to get revived periodically when our economy takes a hit, including a version sung by the late Israel Kamakawiwo'ole (IZ), which blended into the song "What a Wonderful World" by Bob Thiele (as George Douglas) and George David Weiss. IZ's version gained popularity in

the movie "Finding Forrester," starring Sean Connery in 2000, which was about the time the "Dot Com" bubble was starting its free fall, and another short recession was beginning.

Since October of 2008, it has been extremely difficult for our economy, and, among other professions, our legal community, to leave our financial problems behind us.

This appears to be true not only for younger attorneys with student loan burdens, under-employment and a frozen job market, but also for "senior" attorneys who have been in practice for 25 or more years, and who are seeing, perhaps for the first time in their careers, high competition and more demands from clients, compounded by very slow fee collections, as well as a slow down in legal business.

Not only has legal business and profits been at all-time lows, but investments dwindled considerably during what we are now calling the "Great Recession," which seems

to be hanging over us with periodic ups and downs since late 2008. The idea of comfortably retiring at a preplanned age seems to be an elusive dream at this time. In addition, foreclosures, bankruptcies and creditor pursuits are becoming more common against professional people, which were rare and almost unheard of in our legal community until 2009. The financial future for all of us is becoming more and more out of our hands and control, because what takes place in Washington, the Middle East, China and, for the most part, the rest of the world impacts not only Wall Street, but all of us here on Main Street.

While we may be losing control over what our future professional and personal lives are presently experiencing, we can still take legal steps to protect our remaining assets from further economic decline, and the accompanying burdens of carrying too much debt.

What is particularly troubling is the extent

Continued on page 6