

Managing "Older Lawyers"

BY JOHN HISKI RIDGE AND SUZAN KOBASHIGAWA

fter 30 years of working together, John Hiski Ridge and Suzan Kobashigawa have finally reached an important professional milestone: they are now officially "older employees," a category they did not apply for but that seems to have found them anyway. In the dialogue that follows, they confront this designation the only way a tax lawyer and a college professor can—by scrutinizing the phrase itself. From there, they identify some of the benefits of being an older lawyer, extract a few lessons for managers in the legal field, and challenge the idea that experience is somehow a liability.

Tackling an Age-Old Problem: The Game Plan

John: We've been working together for something like 30 years, haven't we?

Suzan: Since 1995, if I remember correctly. That was the year you graduated law school and I finished up my master's in teaching English language. We've been friends for a long time.

John: We've also had some wonderful collaborations on different articles and projects over the last 30 years.

Suzan: And many great conversations. How about a new topic today? One that we've never discussed before.

John: What do you have in mind?

Suzan: We've finally reached that stage of our careers where we're considered "older employees."

John: Geez, I dislike that phrase.

Suzan: Why do you say that?

John: It's a categorical statement, which I generally dislike, and it's intended to minimize everyone over 50.

Suzan: How so? Can you give me an example?

John: Stating that someone is an "older employee" is simply a way to hide biases against such employees. Embedded in the phrase is the suggestion that they're moving toward the end of their relevance, that their skill sets are diminishing and potentially outdated, and that they're no longer aggressively learning and growing as employees.

Suzan: I agree—it is rather pejorative. But it's the term that's often used. And it's applicable to our discussion today. So, let's use the phrase, but keep in mind that all categorical statements, while useful for some purposes, are usually incorrect when applied to a specific individual.

We're also going to use the correlative phrase "younger lawyers." We'll be applying that to all lawyers who are less than 50 years old. It's also a less than perfect term, so the same caveats apply to this term. Okay?

John: Okay, we can use both terms. And I like your qualification that categories are just that-categories. No single individual can be defined by a category.

Suzan: Agreed.

John: So, what's the topic?

Suzan: I want to consider what it's like to be an older employee in various professions. For these discussions, we'll be assuming that "older employee" means experienced employee, someone who has been in their chosen profession in one way or another at least 25 years. And I want to start with the legal profession.

Having an open discussion about this topic may help start further conversations that would benefit managers in the legal field, and especially younger managers. They may learn something that could help them develop better leadership skills.

John: That's a great idea, Suzan. Where do you want to start?

Suzan: What I want to do is interview you about your experiences as an older lawyer, especially since you have been in both the private sector at a large firm and the public sector, and in both leadership and line-lawyer

Let's start with the positive aspects of being older in our professions. Then we can turn to some of the challenges.

John: I like that plan, as long as I can then interview you about what it's like to be a senior professor in the field of education.

Suzan: Fair enough.

Just off the top of your head, what's the number one benefit of being an older lawyer?

John: Answering just for myself?

Suzan: Of course, that's the best we can do, but with the understanding that your answer likely applies to others.

1. Older lawyers generally have a developed knowledge base and a defined set of skills.

John: The practice of law is hard, and sometimes it's very hard. Lawyers first have to learn the content of the law in their chosen area, which can be challenging in fields such as tax. But we also have to develop various skill sets like trial practice skills, client management skills, and research skills. After all these years, I finally feel confident about my knowledge base and the development of my skill sets.

Suzan: Do you think you're at the top of your game now?

John: I wouldn't use those words. Let's put it this way: I don't worry about my knowledge base and skill sets anymore. I continue to work on improving these two things, of course. I have a dedicated study hour each morning, for example, where I read and work on my knowledge base and skill sets. But I don't worry about them like I used to.

It's actually nice, because I finally feel comfortable being a lawyer. In fact, I thoroughly enjoy being a lawyer at this stage in my career. This wasn't always the case, especially when I was an associate learning the craft. It was stressful as hell sometimes. But not now. Now it's good.

Suzan: That's great, John.

John: Are there any lessons for managers that you can derive from this response. In other words, is this answer useful to our project?

Suzan: Yes, I think there's an important lesson here:

Lesson #1. When working with older lawyers, managers need to get out of the way. Let the lawyers do their work. They don't need the same oversight as younger lawyers, and trying to micromanage them will simply impede client representation.

John: I like the way you worded that, Suzan!

2. The practice of law is about solving problems, not just winning in court.

Suzan: Has your understanding of the practice of law changed over the years?

John: Oh, yes, significantly. When I was younger, I focused on winning. Prevailing in court—whether at trial or on appeal—was the key to being a good tax-controversy lawyer, or so I thought, which is probably how most younger trial lawyers still feel today. For example, in my current office, we almost exclusively celebrate victories won through court proceedings. Don't get me wrong, there is nothing wrong with winning in court and celebrating those victories. But I now consider this thinking a bit misguided.

It took me a long time to learn this, but being a successful lawyer is not about winning; it's about solving problems. Ending up in court is a result of failure to resolve the problems before they escalate into expensive and time-consuming judicial proceedings. Compromise and settlements preserve relationships, save clients time and money, and save the court systems unnecessary burdens. That is where the real victories take place. But again, it took me a long time to learn this.

Suzan: I think there's a good lesson here also: *Lesson #2.* Managers need to promote solution-oriented results and equally celebrate with lawyers who settle cases, finalize contracts, and draft legislation. In these instances, clients also win.

John: Nice. I think the practice of law would be a much better profession if we all learned this lesson earlier.

3. Older lawyers feel less pressure to make noise and perform.

Suzan: Tell me about a key aspect of your day-to-day work that has changed over the years?

John: Good question! Let me think about that for a minute.

Suzan: Whenever you're ready.

John: Okay, I think I have it.

One of the benefits of being an older lawyer is that I no longer feel the need to hear the sound of my own voice.

When I was younger, I felt the need to play the political game: Speak up to show your knowledge. Speak up to show your leadership skills. Speak up

to be recognized. Speak up to show clients how indispensable you are. Speak and talk, because that is the only way to prove your value to the team or unit or firm or managing partner.

That game is still afoot, if I can steal a line from Sherlock Holmes. But I no longer feel the need to speak up to prove my importance. To be clear, I am always happy to discuss anything with anyone, but I don't feel the need to perform for clients and colleagues and bosses anymore.

Suzan: I feel the same way. There is so much less pressure when an employee finally realizes and accepts their true value and grows out of the political game.

John: Is there a management lesson here? **Suzan:** I think so:

Lesson #3. Some lawyers are silent because they no longer feel the need to listen to the sound of their own voices. Older lawyers often grow out of the political game, and managers should not interpret their silence as ignorance or a lack of commitment to the team.

John: I like that. I've always found the political side of law practice exhausting. It's nice to be out from under that pressure.

4. Older lawyers are no longer afraid to be wrong.

Suzan: Do you think you have matured in your approach to legal issues and the representation of clients?

John: I'm not sure what you're asking.

Suzan: For example, when I was an assistant professor, I thought I had to have the answer to every student question. Now, if I don't know something, I just let them know I don't know. It doesn't bother me to not know something at this stage of my career.

John: Oh, I see what you're asking. Let me respond with an illustration.

Not too long ago, I was in a day-long settlement meeting. The opposing party was represented by a large firm, and we were meeting in their office space. During my opening, I mentioned that the other side was wrong on one point: both factually and legally. They just didn't have the correct information, which I provided to them at the meeting. Even though it was a relatively minor point, one of the associates on the other side of the table

instantly became aggressive. And he spent the rest of the day acting in an angry manner. It was obvious to everyone in the room that he had done the analysis on this issue and was now attempting to cover up his mistakes with aggression and bravado.

But here is my point: I understand this behavior. When I was younger, I was also afraid to be wrong, even on minor points. I didn't want the partners to think I made mistakes. And I didn't know how to behave when I did, just like this young lawyer. One of the joys of being older is that I'm no longer afraid to be wrong. When people point out an error, I thank them for helping me understand the issues better. Every lawyer, and I mean every lawyer, gets something wrong on occasion. The correct response is to recognize this, correct the errors, and move on. It's refreshing when one finally accepts this.

Suzan: That is true in every profession, I think. Perfectionism makes the workplace difficult, and working for a perfectionistic manager is impossible.

John: So what is the lesson?

Suzan: What do you think of this:

Lesson #4. Managers need to recognize that every lawyer makes mistakes and encourage lawyers to accept this reality. They should not penalize lawyers for something that happens to every lawyer. When mistakes are made, everyone should learn from the mistakes, grow as lawyers, and move on. It might even be helpful to have older lawyers share their mistakes at a team meeting, and discuss how they handled the situations.

John: I think this lesson is important to long-term happiness as a lawyer. And I really like the idea of talking about our errors more. Doing so would help lawyers accept their mistakes and not be so hard on themselves.

What's next?

5. Older lawyers no longer want to play political games.

Suzan: You mentioned office politics above. Those still exist, everywhere. Can you talk a little bit more about how you deal with this?

John: Oh, good question. If I'm honest with myself, I played the political game when I was

younger, which most of us did. And I see lawyers still playing the game today:

- Pandering to upper-floor management.
- Asking to be placed on so-called "important cases" and leaving the day-to-day lawyering to others.
- Ignoring lawyers and staff members deemed less important.
- Showing up at social events just to be seen.
- Agreeing with a manager's decision, even when it's wrong or unethical.

Sy cophancy is everywhere, in law practice and every other profession. $% \label{eq:condition}$

Suzan: Do you still play the game?

John: Not so much, if at all. I think things changed when I finally realized I am where I want to be as a lawyer. I no longer need politics to improve my position, get better cases, or have more power, because I no longer want those things.

Suzan: What do you want from your profession now?

John: Oh, that's easy. A good paying job, interesting work, and nice colleagues.

Suzan: No administrative power or management authority?

John: (Laughing.) In the long run, those things are not worth chasing. Well, in my opinion.

Suzan: What do you think is worth chasing, after all these years?

John: I spent a lot of my early career working, including nights, weekends, and holidays. I rarely took vacations and missed a lot of time with my family. And now, I regret every minute of every family event that I ever missed. You asked what is worth chasing? That's another easy answer: family, children, friends, and a good job that allows me to provide for these people while also spending time with them.

Suzan: Has ignoring workplace politics hurt your career in any way?

John: Maybe. Yes, I think so. Possibly in the long run it has.

But one of the joys of being older is the realization that all people in my office are important, not just office managing partners, group heads, unit supervisors, and attorneys general. And those aren't just words: at this stage of career development, most of us also act on them.

Suzan: Can you give me a practical example to illustrate how you do so?

John: Sure. As you know, I'm a bit germophobic.

Suzan: (Laughing.) I'm well aware.

John: One of the people I'm grateful for is the custodian who cleans the bathroom on my floor. He shows up every day, in the middle of the day, to make sure it is pristine. He works hard and I appreciate him. Especially at my age.

Suzan: (Laughing.) Don't go too far with that thought.

John: One of my pet peeves is when lawyers leave the restroom a mess. Neither the custodian, nor anyone else, should have to clean up after them. But a few of us do so, so the custodian knows we respect him as much as we respect our frontline leaders.

It's nice to be at a stage in my career where wiping down the bathroom counters and picking up trash off the floor is as important as having lunch with the upper-floor managing lawyers. I like being at that stage of my career.

Suzan: That is such an important point to make. How we treat people who have no leverage over our careers says something about our character. Here is the lesson:

Lesson #5. Managers need to recognize that just because older lawyers do not engage in sycophancy does not mean they are not loyal and committed employees. They just don't play the political games anymore. These same managers also need to teach their lawyers that all employees are valuable to the success of the office, including staff members and the maintenance teams. Everyone should be treated with respect!

John: I like this lesson. It's interesting, because almost everyone would agree with it. But acting on it is a rarity.

6. Older lawyers often learn to be more gracious with colleagues.

Suzan: Criticizing and insulting lawyers seems to be a national pastime. But I rarely hear you do so. Why is that?

John: I've had a long career that has included both private practice and public service. So I've been around a lot of different lawyers. Over the years, I've seen the different pressures and

stresses lawyers are under: different types of clients and client demands; different billing types and restrictions; different monetary stresses; different employer stresses; different family stresses; and the list goes on. One of the things I've learned over the years is that every lawyer is different and every lawyer has different pressure points. Including me. We need to extend grace to our fellow bar members, and try to understand them.

Suzan: Can you give us another illustration to explain what you are trying to say?

John: I'll try, but tell me if this doesn't work well.

It's become common practice to criticize opposing counsel. Critiques are ubiquitous. I can't tell you how many times a week I hear statements like:

- Their writing is so bad! Did you see the misplaced modifier?
- Their oral argument was terrible! They should take a public speaking course.
- How did they get to be a partner? They were terrible at trial.
- They didn't understand their audience!
 If they had, they wouldn't have made that argument.

And these are the polite critiques.

Each of these comments are just various forms of "You should recognize how great I am because that other person is such a bad lawyer." To be fair, we all do this on occasion. This job is hard, and we often need the mask of arrogance to hide our insecurities about our own performances.

Other than when I am just being a total jerk (and sometimes I am, mea culpa, porcus sum porcissimus), I no longer feel the need to prove my own importance by criticizing others. Kindness is a virtue I want to further develop and extend to my colleagues. I like being at an age where I'm comfortable putting that into action.

Suzan: I don't think we need to be older to be kind. But I get your point: sometimes it's easier to do so when you have been around the block a bit and realize that we are all under pressures of different kinds.

I have such a great lesson from this:

Lesson #6. Managers need to learn to discuss cases and compliment their employees in a

manner that does not criticize or demean other lawyers. Doing so trains others to be critics, which results in the future breakdown of cooperation and civility.

John: Great way to bring in civility, which is really what this whole question was about.

Older lawyers suffer from age bias, which is alive in the legal community.

Suzan: You've spoken about several things that are better as an older lawyer. I don't want to take too negative of a turn here, but what about some of the things that have gotten worse?

If anyone is technologically adaptable, it's older lawyers. But the luddite jokes continue to come, I think in part due to the color of our hair and the added wrinkles around our eyes.

John: Oh, wow. This will be challenging to answer because complaining is not our style. Never has been.

Suzan: I know, I know. We both grew up with some form of SISU. But it's important to address some of the challenges that older lawyers face.

John: Let me think about this.

Suzan: Again, anytime you're ready.

John: I think age bias is the tallest hurdle. It's real and it's the last (or one of the last) form of discrimination that is openly accepted in the United States today.

Suzan: Can you give some examples?

John: Hmm. I don't want to run too negative here, so let me give you a funny example.

Younger lawyers are incredibly competent at office technology. Seriously, they're incredible. They are also quite open about asking questions about technology. When they do, they are seen

as wanting to learn, seeking to improve their skills, and asking questions that will help the entire unit.

On the other hand, when older lawyers ask the same questions, they are seen as "antiquated luddites." I can tell you this from personal experience because that exact phrase was directed toward me when I asked about the functioning of a new document management program.

I admit, though, that I laughed when I heard this phrase.

Suzan: Why would you laugh at that?

John: Because it's redundant. I am apparently both antiquated (so I don't know about the current technology) and a luddite (so I don't know about the current technology). It's a double-insult. That's clever, and funny.

Suzan: I like that you can laugh about these things. It's a good perspective to have.

John: What is even more funny is that the opinion about older lawyers' use of technology is so misinformed. Most of us came of age in the infancy of the technology era when we had to first learn DOS and then Windows, when we first used floppy disks and then purchased hard drives, when thumb drives were the rage and then we had to learn to use cloud space. We had cell phones that weighed five pounds, then Blackberries, then iPhones. We used Excel for document management, then had to learn full-blown document management systems. We learned WANG, then WordPerfect, then Word. The technological changes were frequent and many. If anyone is technologically adaptable, it's older lawyers. But the luddite jokes continue to come, I think in part due to the color of our hair and the added wrinkles around our eyes.

Suzan: I agree. If we are anything, we are adaptable. I think we have a basic lesson here that we already know, but it is worth repeating:

Lesson #7. Managers need to recognize that no form of discrimination is acceptable. Every individual, regardless of age or other classification, protected or not, is entitled to fair and equitable treatment. Jokes about age, aging, feeling old, acting old, older bodies, and older minds are not acceptable in the workplace. They are hurtful and discriminatory, and they need to stop.

John: I think we all need to learn this, even older lawyers. I, myself, am guilty of making fun of myself at times, and that doesn't help the problem.

8. Older lawyers are often socially carved out.

Suzan: Do you have other examples of drawbacks of getting older? I understand that these may be the result of age bias, but they are worth bringing up.

John: It's easy to spin down into pettiness here, and I don't want to do that. But let me give you an idea of one of the complaints I've frequently heard over the past five years.

On several occasions, I've heard concerns about how lonely it is to be an older lawyer. Older lawyers are frequently carved out of social gatherings and social networking. They are rarely invited to lunch or drinks or coffee, unless they are a manager who has career influence. And with retirements occurring all the time, there are fewer and fewer older lawyers to befriend.

Suzan: Yes, it's the same in my profession. It can get lonely.

John: It's an interesting problem because most of us thoroughly enjoy hanging out with our younger colleagues. I find them interesting and enjoyable. They are excited about things I know nothing about but want to learn.

Suzan: Like what?

John: They listen to music and read books I know nothing about but want to experience. I love it when they recommend bands or authors to me.

Suzan: I think I have a good lesson here:

Lesson #8. Managers need to include all employees, including older lawyers, in social invites, coffee times, and lunches. And they need to make sure that there is cross-generational mixing. One way to do this is discussed in more detail below.

9. Older lawyers are often subject to decreased work opportunities.

Suzan: Do you have one last example?

John: In government work, at least, there is a lessening of differentiated work opportunities. Older lawyers get pigeon-holed into certain types of work and they rarely get opportunities otherwise. These are generally given to younger

lawyers under the notion that managers need to help younger lawyers develop their careers.

This belief assumes that older lawyers can't learn new areas of law or simply don't want to. But I haven't met a single lawyer who doesn't want to continue to learn and grow and develop as a lawyer, even past the age of 50. It's wrong to assume we are all simply coasting until we retire.

Suzan: I also know very few people who actually want to coast through to the end of their careers. That would be so boring.

John: I don't want to take opportunities away from younger lawyers, and I don't know any older lawyer who does. But we also want interesting work. Sometimes that requires differentiated work.

Suzan: I agree. Older lawyers should promote younger lawyers and help with their career development. But it's also important to maintain a flow of interesting work.

John: Any lessons here?

Suzan: I think so:

Lesson #9. Managers need to share opportunities among all lawyers, regardless of age. Doing otherwise is, again, just another form of age discrimination.

John: (Laughing again.) Okay, I think I've had enough with the "woe is me, it's hard to be old" discussion.

Suzan: Me too! Let's move on.

10. Ethics matter. Behavior matters.

Suzan: I know you well enough to know that you rarely, if ever, give career advice. Or any advice for that matter. But you need to get over that for a minute. If you had to give a few pieces of advice as someone who has been around for more than a couple decades, what would that be?

John: Suzan! You know that's a bad question for me.

Suzan: I know, I know. You hate giving advice to others. But just do it.

John: Okay, but don't take my words as anything other than advice I would give to myself.

Suzan: That's acceptable. What's the first piece of advice?

John: I recently heard an older attorney bemoan the fact that the more lawyers talk about ethics, the less ethical we have become. I agree with that sentiment.

We need to re-remember that we are all members of the same bar. And being a member of a bar means something more than just a license to earn money.

If you will allow me to quote from my daughter's favorite movie—High School Musical—"We are all in this together." As members of the bar, we should act professionally toward each other, not tear each other apart. When we speak poorly of each other, as discussed above, we denigrate our entire profession. When we do it in front of clients or the public, we add fuel to the publicly accepted notion that lawyers are less than ethical.

Suzan: Again, civility should be the norm. We shouldn't be surprised when people are civil to each other.

John: Agreed! Zealous representation of our clients does not, and should not, give us license to bully one another. It also should not mean ignoring compromise in favor of fullscale litigation. Of course, trials are sometimes necessary, but alternative resolutions are almost always better. As members of the bar, we should cooperate with each other to solve our clients' problems.

Suzan: Can I summarize this point?

Iohn: Please.

Suzan: You don't have to be a jerk to be a good lawyer.

John: I love it!

It's possible to be professional, kind, considerate, and friendly, and still be a strong, zealous advocate.

Suzan: The best part of this answer is that you quoted High School Musical!

Let me put a lesson to this:

Lesson #10. Managers need to realize that being a zealous advocate does not mean being overly aggressive or ignoring alternative forms of dispute resolution. In fact, settlement is often better for both clients. Managers may, at times, need to promote zealous representation through kindness and cooperation.

11. Older lawyers, like all lawyers, have plenty of room for improvement, and most of them want to improve.

John: In addition to being kind and cooperative, there are plenty of other things older lawyers can do to improve as colleagues, employees, partners, and friends.

Suzan: Like what?

John: We, or at least I—but I don't think I'm alone—need to do a better job of understanding the cultural differences between ourselves and other generations. It's easy to get stuck in our own age-related understandings and our own way of doing things. But this impedes workplace relationships.

Suzan: I agree. Sometimes older generations miss the boat in this area, and we need to change.

John: I think it's important to point out that most of us really do want to understand our colleagues and friends, and change. I wish they could see how much we want to do so. But 30 years of sameness is difficult to modify at times.

Suzan: What else?

John: Hmm. What do you think of this? Because most of us are no longer climbing the ladder and no longer playing the political game, we are in a unique position to sound our barbaric "yawps" from the rooftops of our workplaces: no more glass ceilings; no more disability discrimination; no more 50-hour workweeks for new parents. We should stand up for others when a manager is engaged in bullying; push back against archaic work standards and false loyalty; and demand equitable treatment for all.

Suzan: One of the benefits of accepting our current positions in the workforce is the freedom to do better at doing better. We can now speak up without hurting advancement chances, and I agree we should.

John: But let's not kid ourselves. Unprofessional managers will still be unprofessional and make things difficult.

Suzan: Agreed. But we have been there before and can weather that storm better than others.

John: I agree.

Suzan: How about old person monologuing? You occasionally talk about that. Can you address it here?

John: Oh, sure. I call it old-guy storytelling or old-guy advising. It's when older lawyers engage in long diatribes, giving unsolicited advice or telling stories. I used to work for a senior lawyer who would go on for half an hour at a time with endless stories and bad advice. No

one wanted to hear it, and it was such a waste of time. But he continued with this practice. We need to be aware when we start to do this, because almost all of us do it, and just shut up. Silence is sometimes warranted!

Suzan: If you think lawyers are bad, you should hear the academics talk. Ugh.

John: Can I mention one last thing? Suzan: Sure.

John: I think we can do better at letting our younger colleagues, including the managers, know how much we appreciate them. Law is hard, and managing lawyers is hard. And most of our younger colleagues do a great job. It's important that they know that. So we should tell them.

Suzan: I think this is the best point you've made so far. Here's the lesson:

Lesson #11. Older lawyers are often aware of the areas that they need to improve. But managers can also help them with this awareness. Small encouragements to be grateful, supportive, and sometimes silent are helpful. Managers should also encourage and support older lawyers when they seek to promote equity and fairness in the workplace. Older lawyers can be a manager's best ally in this respect.

John: You have a great way of summing things up.

12. Lawyers should engage in crossgenerational mentoring.

Suzan: Any final thoughts?

John: I have this idea I have been thinking about for a few years now. It isn't really advice, but just a suggestion.

I'm a big believer in cross-generational mentoring. Pairing older lawyers and younger lawyers allows each mentoring-partner to

share and gain valuable insights about the law, legal practice, cultural nuances, traditional and emerging trends, technological practices, and digital skills, among other things. This practice promotes workplace unity, inclusivity, balanced decision-making, and generational learning. It drives out cultural biases, including age-related biases that run in both directions. It promotes cross-generational friendship, reduces loneliness, and makes the workplace a better place to be.

It may be awkward at first, and a bit humbling for both partners, but it is beneficial to the participants and the legal office. So we should consider it.

Suzan: I love that. Here's the lesson:

Lesson #12. Cross-generational mentoring improves the knowledge and skills of both the older and younger lawyer-partners. And it promotes workplace unity, inclusiveness, and balanced decision-making while driving out age-related biases. Every office should encourage this.

Conclusion

Suzan: Anything else you want to talk about?

John: No, I'm good. Tired of talking, and especially tired of talking about myself. I am looking forward to hearing from you, however, in our next discussion.

Suzan: Talk later. 4



The SideBar is an informal space where members can share their experiences, offer practical advice, share law-related stories, and take a lighter look at the law. Send your SideBar submissions to Susie Klein at sklein@ cobar.org.





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