A Memory Tonic for the Aging Brain — How’s Your Dentate Gyrus?
By Edward J. Walters, Jr.

Well, that headline should make you go, “Hmmm. . . .”

As we all know, as we grow older, we sometimes forget things, like where we parked the car, and not just in airport parking garages. We all rationalize and say it’s from the pressure of our law practice and that we always were pretty scatterbrained when it came to non-law-related insignificia.

But the question du jour is, could exercise sharpen our recall? A group of researchers at Johns Hopkins University and the Center for the Neurobiology of Learning and Memory at the University of California, Irvine, recently conducted some studies during which young and older volunteers watch pictures flash onto a screen, while the scientists watch their brains.

As published in a May 25, 2011, New York Times article by Gretchen Reynolds, “The researchers found that, using brain scans, neuroscientists already have established that quite a bit of the electrical activity and blood flow associated with memory processing occurs in the dentate gyrus, a part of the brain within the hippocampus, a larger portion of the brain known to be involved with learning and thinking.”

Reynolds continues in the article:

“For their latest study, published this month in Proceedings of the National Academy of Sciences, the researchers used advanced magnetic resonance imaging machines to scan the dentate gyrus and other areas within the brains of people at the very moment that they were in the process of trying to create and store certain new memories. Specifically, the volunteers, wearing head sensors, were shown a series of pictures of everyday objects, like computers, telephones, pineapples, pianos and tractors, and asked to press a button indicating whether each object typically was found indoors or outside. They were not asked to remember the images. But later they were shown another set of images and asked whether they remembered seeing that specific photo before or a similar photo, or whether the picture was completely new to them. The researchers tracked brain activity throughout both tasks.

“It turned out that young adults were quite good at differentiating the images into those that were brand-new, already seen or similar to but not exactly the same as earlier pictures (a baby grand piano instead of a full grand, for instance). The brain activity in each young person’s dentate gyrus responded accordingly. ‘There would be a lot of activity when young people saw either new or similar objects,’ said Michael A. Yassa, an assistant professor of psychological and brain sciences at Johns Hopkins and lead author of the study. The young people’s brains were, this activity indicates, learning and storing the new images as new images, even when they were quite similar to the images they had seen before.

“The brains of the older volunteers, ages 60 to 80, though, did not seem to work as well. Their dentate gyri typically showed far less activity when they were shown a similar but not identical image. Their brains apparently did not create a completely new memory to correspond to the slightly different picture, so that the photo of the baby grand registered as no different than the one of the full grand. In turn, they usually referred to pictures that were similar but not identical to ones they’d seen earlier as ‘old’ photos.
"None of these lapses were severe. But they do indicate, Dr. Yassa said, that the older adults were less successful at pattern separation, or the ability to differentiate between things that are quite similar."

Dr. Yassa found that the dentate gyrus in many of the older volunteers was not connected as robustly to the rest of the brain as in young people. Messages did not flow as easily from elsewhere in the brain to the dentate gyrus memory center, and vice versa.

But there is hope, Dr. Yassa said. "Exercise is one of the things that might directly change this process. In other experiments, exercise has been found to jump-start neurogenesis, or the creation of new brain cells, especially in the dentate gyrus, potentially improving that area’s health and functioning. The process has worked in rodents. A heartening study from last year conducted at the National Institute on Aging found that mice that voluntarily scampered on running wheels displayed an ‘enhanced’ ability to separate closely spaced squares on a display screen, the animal equivalent of pattern recognition, compared with sedentary animals. The runners also had far more new neurons in their dentate gyri than the mice that didn’t run.”

The article continues that the extent to which exercise improves pattern recognition processing in people is still unknown. But Dr. Yassa is including measures of physical fitness and exercise history as part of his continuing research. The results so far look encouraging, he said. “What I’d say for now is that you can’t go wrong by exercising,” he said. “We don’t know if it can reverse any damage if you already have memory slips. But there are indications that it might slow or possibly prevent memory deterioration, if you begin exercising early enough — meaning that, among the many benefits of a health club membership, your workout may help you to recall where in the gym parking lot you left your car.”

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So, You Want to Be a Mediator
By Michael J. Moran

I was lucky to have embarked upon my career as a mediator at the “dawn” of the mediation era, circa 1989. In those days, I was often referenced as a “mediator.” Now, I am dubbed by other names people often employ, usually one-word adjectives or nouns.

I have attended hundreds of hours of mediation — negotiation training workshops and seminars over the years. All of them (some excellent and some average) attempt to assure the trainee that he or she will gain “unique insight” into the mediation process that will provide the skills to succeed. In fact, however, very few trainees reach any degree of success.

So, what does it take to become a successful mediator? I am asked this question almost daily by other “mature” lawyers who want to “switch gears” from the practice of law to become a mediator of some import.

Here is my view of the fundamental characteristics needed to develop a meaningful venture into becoming a desired mediator.

TENACITY: The tenacious pursuit of case settlement during and, if necessary, after the session has been identified in surveys as the hallmark of an exceptional mediator. Refusing to take “no” for an answer, or accept the prospect of failure short of full resolution of the dispute, is the foremost trait of an exceptional third-party neutral.

CONFIDENCE: A mediator who has been appropriately trained and brings a developed skill set to the mediation will exhibit assuredness to the participants that he or she has the ability to resolve the dispute. This confidence must be tangible and evident to the disputants.

HUMOR: Coupled with confidence comes the ability to inject levity into what is sometimes a heated and awkward dispute. Some successful mediators have a ready inventory of jokes and others have been known to employ comic strips to disarm and relax the participants.

LIKEABLE: Google says synonyms for the adjective “likeable” are “pleasant, nice, friendly, agreeable, affable, genial, personable, charming, popular, good-natured, engaging, appealing, endearing, convivial, congenial, simpatico, winning, delightful, enchanting, lovable, adorable and sweet.” I would add that if “mature” lawyers seeking to become mediators can say they have conducted their careers in a professional, ethical and likeable manner, they can possibly check this box as a prospect of success.

STORYTELLER: A large part of a successful mediator’s “toolbox” is taken up by stories that can be weaved into the fabric of the mediation. The mediator can use these “stories” along with appropriate analogies and metaphors to distill and diffuse some of the substance of the dispute. From this, the mediator oftentimes will be able to create options for resolution that never occurred to the participants before the mediation session.

GOOD LISTENER: Academics who study human communication will tell you that a large part of effective personal communication between and among human beings is based upon a participant’s ability to “actively listen.” This involves being quiet (difficult for lawyers) and making appropriate eye contact, together with a display of body language, to “prove” to the person talking that his message is being heard. Expert “active listeners” will often “mirror” the speaker’s message to exhibit and confirm to the speaker their full understanding of the actual words spoken.
These are the core predictors of a practitioner becoming a successful mediator. There are certainly others. A complete discussion would render this article far too lengthy.

If you feel comfortable with these basics, then prepare for rigorous training that will leverage off your considerable real-world legal experience and knowledge.

Finally, prepare to “focus” on your development of reputation as a mediator — not as a legal practitioner. A litmus test to evaluate your level of focus will be whether you peddle your lawyer card or your mediator card at your next cocktail party.

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Minimum Required Distributions: When Am I Required to Make Withdrawals from My Retirement Funds and How Much?
By Edward J. Walters, Jr.

April 15. We all know what that means. But that’s not the only April date that has significance to those of us who turned 70½ in 2014 and have an IRA or other tax-deferred account, such as a 401(k). You had until April 1 to make your “minimum required distribution.”

What Is That?
At age 70½, you are required to start taking funds out of your retirement plan so that the IRS can finally collect its taxes on the retirement funds you’ve been stockpiling tax-free all these years. The IRS requires you to make that withdrawal or you will be hit with a huge penalty—you will owe a tax equal to half the amount you failed to withdraw. So if you were required to withdraw $4,000, and didn’t, you would be hit with a $2,000 penalty, AND you’d still have to make the “minimum required distribution.”

Confused? Just Wait.
The April 1 deadline applies only to the first required withdrawal. After that withdrawal, the deadline for the rest of the mandatory withdrawals is Dec. 31 of each year.

Many people miss the deadline. Perhaps it is difficult for many to make the change from putting money into their retirement accounts to taking it out of their account, and, of course, then paying taxes on it.

Some financial advisors recommend that since the required amount doesn’t have to be taken in a lump sum, you may want to set up partial automatic withdrawal when you become eligible, so you receive smaller amounts periodically throughout the year.

How Much Do I Have to Withdraw Each Year?
The minimum distribution is based on your account value and your life expectancy. The IRS publishes life expectancy tables at the end of I.R.S. Publication 590, available online. If your funds are invested with an investment company, they also have calculators available to you.

Or you can look at Publication 590:

Figuring the Beneficiary’s Required Minimum Distribution
Beneficiary as individual. If the beneficiary is an individual, to figure the required minimum distribution for 2015, divide the account balance at the end of 2014 by the appropriate life expectancy from Table I (Single Life Expectancy) in Appendix B. Determine the appropriate life expectancy as follows.

Spouse as sole designated beneficiary. Use the life expectancy listed in the table next to the spouse’s age (as of the spouse’s birthday in 2015). Use this life expectancy even if the spouse died in 2015. If the spouse died in 2014 or a prior year, use the life expectancy listed in the table next to the spouse’s age as of his or her birthday in the year he or she died. Reduce the life expectancy by one for each year since the year following the spouse’s death.
That clears things up, doesn’t it?

A More Simple Example
If you have an IRA worth $1,000,000, and your life expectancy according to the table is 17.0 years, you divide $1,000,000 by 17.0 years to get $58,823.53 as your mandatory withdrawal amount that year. The next mandatory withdrawal will be less, because your life expectancy will be less. Next year’s withdrawal may be more like 16.3, but you have to consult the table to be sure.

What is the Tax Rate?
Distributions from a traditional IRA are taxed as ordinary income, but if you made nondeductible contributions to your IRA, not all of the distribution is taxable.

Can I Take More?
Yes and you will pay taxes on it. You just can’t take less.

Are There Exceptions?
There is no withdrawal requirement on a Roth IRA, and you generally do not need to take minimum withdrawals from a workplace 401(k) plan if you are still working.

What Can I Do if I Miss Taking the Required Withdrawal?
If you have a reasonable explanation, you can ask the IRS to waive the penalty. You must submit your grounds and a Form 5329. You should have some sort of reasonable explanation and also explain what action you are taking to remedy the problem.

Advice
Like it says on TV, “Don’t try this at home.” Get the advice of a trained professional.

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If you don’t know where you’re going, any road will take you there.
—Tom Magliozzi, NPR’s Car Talk

Like my favorite public-radio mechanics, the Magliozzi brothers, my auto body shop man on Magazine Street, Alex Vargas, and I talk about everything — from human behavior to love, money and politics.

About 15 years ago, I saw a “For Sale” sign in the rear window of a light blue 1983 Mercedes Benz and bought it on the spot for $2,500. All I needed was an honest body shop that wouldn’t charge an arm and a leg to fix it up. That’s how I found Alex Vargas.

A short, sturdy man with a sunny smile and easy-going disposition, Alex grew up on a cattle ranch in Peru and immigrated to the United States when he was 28 years old. His first job, working at an auto body repair shop in Florida, paid $40 a week. Ten years later, he purchased a vacant lot on Magazine Street in New Orleans and opened a body shop that is now a thriving business. Working side by side with his son, Alex can make any car look as good as new, often coming up with ingenious solutions and working with tools and equipment that he put together himself.

Fixing damage inflicted on my own cars over the years, Alex has become a trusted friend. His superlative workmanship is exceeded only by his infectious sense of humor and folk wisdom. I often drop by his shop just to say hello, pet his prized Pomeranian and drink a cup of coffee. On one recent visit, a man drove up in a white panel truck, wearing a work shirt, sunglasses and a baseball cap. As he stepped out of the cab, I asked, “Aren’t you Deacon John?” “Yes,” he laughingly replied, “I’m traveling inconnegro!” I never know who I will meet at Alex’s shop — a rhythm and blues musician, a young woman in distress, an uptown banker — but he or she is bound to be interesting and friendly, relieved to know that Alex will take care of everything and it won’t be necessary to raid the retirement account to pay for the car repairs.

Alex and I come from very different backgrounds so we don’t always agree on politics. I play the 17th-century Spanish literary character Don Quixote, the protagonist of the novel by Miguel de Cervantes, who hopes to bring a sense of beauty and purpose to the world but who often fails because he is unable to see the world as it truly is. Alex is my loyal friend. Sancho Panza, a wise and simple man who learns from the world around him and lives happily with things as they are, rather than as they should be. He says, “America is the best country in the world! If you work, you can have anything you want.” His point is well taken and I can only wish there were more people like him. Alex is the quintessential self-made man who lifted himself from a low-paid worker to a successful entrepreneur and a credit to our country and work ethic.

“Where else,” I ask myself, “can I have such interesting car talk?” Luckily for me, Alex has no plans to retire and our friendship will endure even after my driving days are over. Instead of turning on the radio and listening to the Magliozzi brothers, I need only visit Vargas Body Shop on Magazine Street.

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How to Practice Law While Traveling Abroad
By John Waters, Jr.

My wife Jaime and I celebrated our 35th wedding anniversary in Italy in 2011. Our only hotel reservation was in Rome. I took my cell phone and, over my wife's objection, my laptop. Roaming charges were expensive but hooking up to a hotel Wi-Fi was very inexpensive. The laptop came in handy for making reservations, renting cars and picking restaurants, and both were essential to find our way around, especially to navigate the alleys in Venice.

Aside from a judge calling me on a personal matter while we were in Florence and an anxious lawyer demanding a response to his settlement demand while we were in Venice, we were footloose and fancy-free to enjoy our holiday abroad.

Two years later, our youngest son graduated from college in Taiwan and we decided to take the opportunity to visit mainland China. Although Google has been battling with China over internet censorship, every hotel we stayed at from Beijing to Xian had Wi-Fi and cell phone service was available everywhere. I had easy access to my office files on the internet and the ability to conduct business with people in the United States whenever necessary, including my associate regarding a difficult deposition.

My brother-in-law called when his construction company needed help. Not a problem. I dashed off a letter to him in the hotel lobby. A petition had to be filed before our return. I drafted it during the heat of the day in Beijing and it was filed by my office in New Orleans while Jaime and I climbed the Great Wall of China.

Ping Yao is a 14th century walled city about 450 miles west of Beijing. It is like a Chinese version of the Vieux Carré but bigger and older. While there, a client in New Jersey decided it wanted me to make a settlement offer in a case that was pending in Pineville, Louisiana. No one in my office was familiar with the case, so at 2 a.m. Ping Yao time I sat on the front steps of our hotel and called plaintiff's counsel in Shreveport, a lawyer I had never spoken with before.
decided to break the ice by telling him, “I’m calling you from Ping Yao, China. It’s 2 a.m. here, so you have to know I’m serious. Let’s settle this case!” Never having received a call from a lawyer in Shanxi province, he didn’t quite know what to say. But the cell phone connection was clear as a bell: he could even hear the putt putt sounds of Asian motor scooters, the dogs barking in the street, and the men drinking beer and throwing dice in the alleyway. We were talking settlement even though we were located worlds apart and separated by many time zones.

I was able to practice Louisiana law from China without any problem when circumstances back home required it. I could travel with my family and see faraway places because technology allowed me to be work far away from my office for several weeks. I could practice law from wherever I was as if sitting at my desk in New Orleans, and there was not a lot of catch-up work to do when I got back home.

Embrace technology. It does not have to complicate your life. Use it for the good it does you and feel free to see the world. Next stop – Japan.

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Law in China is evidently quite different:

Sign at the police station in Ping Yan (July 2013)

Interrogation and examination is governed by the gods:

The gods of the Interrogation and Examination Department (Beijing 2013). The sign reads, "Its function is to interrogate criminals to get to the truth. It is a primary court in the nether world."
Thoughts from American Poet Shel Silverstein

There are no happy endings.  
Endings are the saddest part,  
So just give me a happy middle  
And a very happy start.  
—From *Every Thing On It*

All The Woulda-Coulda-Shouldas  
Layin’ In The Sun,  
Talkin’ ‘Bout The Things  
They Woulda-Coulda-Shoulda Done . . .  
But All Those Woulda-Coulda-Shouldas  
All Ran Away And Hid  
From One Little Did.  
—From *Falling Up*

I’ll take the dream I had last night  
And put it in my freezer,  
So someday long and far away  
When I’m an old grey geezer,  
I’ll take it out and thaw it out,  
This lovely dream I’ve frozen,  
And boil it up and sit me down  
And dip my old cold toes in.  
—From *A Light in the Attic*

*Shel Silverstein was an American poet, singer-songwriter, cartoonist and author of children’s books.*