

The Sage

What I Learned in Law School and Cannot Apply in Practice

By Jon Kingsepp

How my legalistic juices flowed when in law school we discussed *Marberry v Madison*; Queen Caroline's case; *Pennoyer v Neff*; *Palsgraf v Long Island RR and Erie v Thompkins*, just to name a few cases. Armed with scathing logic from these decisions, the innovative arguments, the spice in the repartee of opposing counsel, I graduated from law school ready to make my mark in the professional world of law.

So starting with the preeminent firm of Tigerclaws and Wolfdog, a modest 55-lawyer firm in the midwest, I began my quest to conquer the courtroom. But wait?

How do I do the motion to compel? What? I'm to do a memo on the statute of frauds, particularly concentrating on subclauses (a) and (c) and present that to a senior attorney in four hours? What are the facts? I am to prepare a deposition outline in a file that I know nothing about? And, what the heck is a deposition summary? I am to call a client to seek confirmation of the facts in a case I know nothing about, and I am to prepare that witness for a deposition?

Excuse me, did I learn this in law school?

Did I know how to deal with abrasive or impatient judges, the rantings of an opposing counsel seeking to intimidate me because of my age and inexperience, and court clerks who are impatient on a motion day when I seek the answer to a simple question? How also did I know how to deal with the lack of information provided to me by a senior lawyer on a motion I am told to argue when he knows I will lose? This is the practice of law?

Well it need not be, at least to some extent. Unfortunately, our profession, a pressure cooker, to say the least, is sometimes delinquent in our mentoring efforts to the young lawyer who is just starting out. In a large firm you can be ignored. In a small firm, it can be assumed that you know it all. But, we all started out on that same track. Some had a slightly more advantageous situation such as I who clerked for a fantastic trial judge. From that experience, I learned what not to do in a courtroom. I learned the deportment that is important



and effective and I knew the procedure and the rules of evidence.

If you did not have my advantages, you can still learn the same way by going to court on a motion day. Just observe. Sit in different courtrooms in different counties and notice the varying demeanor of the judge. See the effective approach of advocacy in one lawyer and the lack of persuasiveness and talent in another. Try to find a lawyer close in age but more experienced and ask questions. Get involved in YLS and trade stories at social functions. This profession, in some regard, is still characteristic of law learned in the 19th Century. Observation is critical and learning by being with a skilled lawyer and "reading the law" is still part of the practice.

It is very easy to get ahead in this profession. The difficulty lies in making the time to find out how to do so.

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Market As Though Your Very Life Depends Upon It

By Tim Batdorf

As a young lawyer, you already have enough on your plate. The last thing you want to do is market yourself. Unfortunately, being a good marketer is critically important for young attorneys. If you are an associate or a new partner in a firm, you already know that "rainmakers" receive special status; if you are a solo practitioner, you absolutely have to get clients to put bread on the table; and if you are unhappy with your current job, marketing (and having a client base) may hold the key for you to leave your job or negotiate something better.

Here are five tips to help get you started:

1. Identify the Need. Where are you stuck? Do you have trouble making contact with potential clients? Do you follow-up with potential clients? Do you know what to say when you meet a potential client? Do you turn potential clients into actual clients? Focus on the area that needs the most attention. If you haven't done any marketing, focus on making contact with potential clients.

2. Set a Goal. Take a realistic look at where you are now. How many clients do you generate each month? How many clients do you *really* want to generate? Set a

realistic goal. The goal could be the number of clients you want to generate or "dollars in the door." Set a reasonable time limit for achieving your goal.

3. Define Your Strategy. There are literally hundreds of marketing strategies. Your particular strategy will depend upon your identified need and goal. *The most important aspect of selecting a strategy is to find one that will be enjoyable for you to pursue. That way, you'll naturally want to market yourself.* Examples of marketing strategies include networking, referral building, public speaking, writing, publicity, promo-

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H.R. 2505 . . . Loan Debt

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tion of their children. Additionally, since approximately 70% of students borrow money to pay for higher education, there is a negative impact on our economy as a whole. Furthermore, profits made on the higher interest rates are benefiting private companies, not taxpayers, when the lender is a private entity like Sallie Mae. Finally, the burden of the refinancing prohibition is imposed largely on those least able to afford it: students from low-income and working-class families whose parents could not as easily save money for college.

But there is light at the end of the tunnel regarding the one-time consolidation rule. Congresswoman Rosa DeLauro (D-Connecticut) introduced a bill on June 18, 2003, known as the College Loan Assistance Act of 2003, or H.R. 2505. Currently, H.R. 2505 has 38 co-sponsors, none of whom are Michigan congressional leaders. There was also a similar bill, H.R. 2504, introduced on June 18, 2003, but H.R. 2505 has more public and congressional support. You might also visit www.collegeloanassistanceact.org, which includes an electronic petition, sample letters to legislators, background on the legislation, and links to contact information for congressional leaders. If nothing else, visit the site for its fun link to Schoolhouse Rock. There is also a link to Thomas legislative information, where you can read the full text of H.R. 2505.

ABA Hosts

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ter system until a dedicated child lawyer took on his case. It was naturally apparent that Brandon is an extremely bright and thoughtful young man. He told the gathering of young lawyers of how his attorney's positive legal approach translated into benefits of which he once only dreamed. His lawyer found a legal way to bring about a living environment that permitted him to earn a high school diploma, enroll in college, get a job, and begin living on his own with the goal of bringing his younger sister back into his life. He and his attorney made a strong case for at least attempting to accept one of these cases.

If you are concerned about this issue, you should contact your congressional representatives and urge them to support and pass this bill. Involvement of individuals is critical for this issue to be at the legislative forefront: the private student loan industry is a powerful lobbying entity and special interest group.² It spends millions in campaign contributions, and Sallie Mae, according to U.S. News, ranks third within the credit industry on lobbying expenditures.³ H.R. 2505 is important to restoring fairness in higher education financing, promoting competition in the student loan industry, and ending the practice of penalizing persons who have self-financed their educations.

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Please note that this article was chosen because of its potential relevance to YLS members. The State Bar of Michigan and the Young Lawyers Section are not responsible for the views expressed in this article.

Endnotes

- ¹ See 20 U.S.C. 1078-3(a)(3).
- ² "Big Money on Campus," *U.S. News & World Report*, October 27, 2003.
- ³ *Id.*

To bring the ideas of the summit into reality, the ABA is sponsoring a public service project entitled, "One Child, One Lawyer." The program seeks to encourage young attorneys to serve as guardians ad litem, increase the number of attorneys who will accept pro bono adoptions and guardianships, and also encourage the creation of school-based legal clinics for high school and junior high students. There is a solid commitment of support for these programs reinforced by personal assistance from ABA attorneys for any young lawyers attempting to get involved, or through grants provided to affiliate local bar associations that provide financial support. Success stories in handling

Market

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tional events and advertising. Brainstorm additional strategies. Pick one to three that feel right to you.

4. Fill the Void. More than likely, you will be missing some key ingredients that will limit your ability to pursue your strategy. For example, if public speaking is your strategy, you'll need to prepare your presentation, find a forum, invite guests, etc. Make a list of your missing ingredients. Determine when you will finish each ingredient to pursue your overall strategy. Your timetable should be in keeping with the overall marketing goal you have set.

5. Hire a Legal Consultant/Coach. If you have a marketing budget or account, use it to hire a legal consultant/coach rather than spending it on meals with friends or other "marketing" activities that lead nowhere. A legal coach will help you acquire skills, define goals, brainstorm ideas and develop strategies while holding you accountable to the things you say you are going to do. Most importantly, a legal coach will continually hold the "Big Picture" for you.

Your legal career depends upon how effectively you market. If you market well, you will be able to do whatever you want in the law—the way *you* want to do it. Otherwise, you'll forever be subject to the whims and caprices of attorneys who do market well.

Now get out there and market!

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cases through the "One Child, One Lawyer" program will be the focus of the ABA mid-year conference taking place in San Antonio in February of 2004.

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