

CHAPTER 1

The Divide Between Law School and Lawyering

There is very little in common between law school and lawyering. Law schools are great at teaching case law and theory, but generally poor in how to apply either to real-world situations, as almost all law school situations involve a courtroom. Courtroom situations are by far the least common situation for most lawyers. Also, law schools teach nothing about how to work with clients outside of a narrowly tailored ethics class, which, while vital, is only a small part of the picture. Mock trials are just that: mock. And for those of us who made the switch from mock to real, we realized very quickly that life outside the four walls of law school is a completely different beast.

Why aren't people skills, psychology, and negotiations mandatory subjects? This isn't computer science. Remember this: lawyers are called "counselors" for a reason. Any good attorney is as much an armchair support system as they are a statute-application machine. Lawyering is a people business. It's about listening, empathizing, synthesizing information, and problem solving. None of these things are taught in law schools to the extent needed once you are a bar-carrying legal eagle.

This isn't to say law schools are useless or bad. In fact, a good law school can teach you a skill set that is incredibly valuable for both legal and nonlegal careers. We assume that this skill set is also highly valuable in illegal professions, but none of us have particular experience there. If you are struggling with the definitions of "legal,"

“nonlegal,” and “illegal” then you either haven’t gotten to law school yet or you did poorly on the logic games part of the LSAT.

We believe that most law schools hold a unique distinction of teaching three years of valuable academic knowledge with almost zero practical knowledge. We can’t think of another professional graduate school that leaves one so practically ill prepared. Think about your friends who go to medical school, obtain a master’s in social work, or get an M.B.A. Okay, just kidding about the M.B.A. But otherwise, these friends walk right out of their graduate program into the world and work. Sure, it takes some time to get up to speed. But lawyers? Even in the best-case scenario, partners at law firms claim that it takes two to three years before an associate is truly ready to practice (and in many cases even longer before they’re allowed to speak directly with clients). Note, however, that these same partners have no issue charging their clients for your multi-year apprenticeship.

Why is this the case? Simply put, professional graduate schools other than law schools employ teachers and professors who have actual and bona fide real-world experience. Whereas other professional graduate schools celebrate individuals who have succeeded in their real-life professions, most law schools have a bit of underlying loathing to those professors who have street cred. In fact, most of the professors who have real lawyering experience are relegated to lecturers, adjunct, or secondary professorship roles.

This problem will never go away. Innovation in law schools is about as likely as innovation in government, prison systems, and healthcare administration. These are caste systems with generations of built-in bureaucracy and rules, and in the case of academia, tenure. When one considers the real overlord of law schools in the United States, then innovation prospects dim considerably. Who is the overlord, you may ask? Simple—it’s the *U.S. News & World Report* rankings. And how much innovation do you think they foster when they are still counting physical library space and volumes in their rankings? Hello, the Internet is calling. It’s real, not a fad, and we think it’ll catch on. Perhaps that physical library space could be better used.

So, we now come to the “divide,” which is the reason we wrote this book. The gap, if you will, is created between law school and the point at which you actually begin serving a client one day. When we use the word “divide” in this book we are actually talking about

two divides. The first is the gap you need to fill when working with clients. The second is the divide existing between you and your superiors at whatever job you take. You can disregard this second divide if you graduate law school and hang up your own shingle, but solo practice is not an option for most right away. (As an aside, one of the guest chapters later is from two people who went straight from law school to starting their own firm.)

Let's start with an example pertaining to something that all lawyers and clients are acutely aware of: money. We'll use an example at one end of the spectrum, but it applies to the majority of lawyers starting their practice.

Imagine that Janice is the CEO of a new startup in Chicago, Illinois. She is 30-something, just raised \$750,000 from friends and family, and has a great new idea in the natural foods space. She is experienced and has had two previously successful companies. She's also smart so she hires a well-known and reputable law firm to represent her and the company. You are a first-year associate at the firm and have been there for two months.

Janice and her co-founder Jimi each make \$100,000 a year. Your starting salary is \$185,000 fresh out of school. You went straight from undergrad to law school, so this is your first real job. Your billing rate is \$525 an hour. Note that this salary and billing rate isn't even top of market as of 2022 when this book was published. The partner you work for bills out at \$1,500 an hour and the result is that Janice prefers to call you over the partner.

Janice calls you wondering if you could advise her on whether she should issue options or restricted stock units to her first couple of employees. Being so green, you have absolutely no clue what she is talking about. You scribble something down and tell her you'll get back to her shortly. She's mildly frustrated that it will take another call to resolve her question, as she's busy running the company, but asks you to call her as soon as possible.

You do a Google search to figure out what the terms mean, and you set off to the partner's office to ask them their advice on how to answer Janice's question. Ten to 15 minutes later you are back at your office, call Janice and give her the advice.

(Shameless plug: if you are thinking about going into startup counseling, consider buying Jason's book *Venture Deals: Be Smarter Than Your Lawyer and Venture Capitalist, Fourth Edition*, available wherever fine books are sold.)

One month later, Janice gets the bill for her questions. You billed 30 minutes for \$225 and the partner tacked on 12 minutes for \$300 for a grand total of \$525. Janice is not pleased. She calls her friend Carlos, who is also a CEO and uses the same firm. Carlos says that he coincidentally had the exact same question, but when he called his associate at the firm (who is a third-year associate) he got an immediate answer and it didn't even show up on a bill. Now Janice is several less degrees of pleased and starts cursing the legal profession as her nice but "know-nothing" first-year associate makes almost double what she makes and billed her for something her friend didn't get billed for. You don't hear from her for a while, as she begins to use "self-help" from the Internet.

No one can blame you for not knowing the answer right away. You just started your job. But this is one example of the divide and it happens over and over. You are charging rates as a professional, but no one has taught you how to work with a client. You could have handled the situation much better. Over the course of this book, we'll give you tips and strategies that most likely would lead to a better outcome in this scenario.

And the partner? They are asking themselves whether it will take you two or three years to really get up to speed. Divide number two is in the books.

One thing that few readers of this book will realize is how much larger the divide has become as lawyer salaries have outpaced inflation and salaries in other fields. And not by just a little bit. When Jason started as a first-year attorney in September 1998, his salary at a big law firm was \$71,000. By February of the next year, it was \$125,000 as the first of many "salary wars" occurred in the legal field. And what happened to junior folks' take-home pay bumped up all the way to the senior lawyers as well. In the past, a senior law firm partner might make twice what a CEO client would make. Now that ratio has increased to over ten times. Think about this—first-year associates are making more than most executives of the clients they service. With this regime, the expectations as to your knowledge, service level, and the attention to your billing statements has exponentially increased. As a first-year lawyer, you effectively have a target painted on your back.

And while you might not go to a large law firm and instead perhaps into government, nonprofit, criminal defense, or a variety of other legal professions, many lawyers have seen their salaries

increase in a way that other professions have not. Wherever you end up, the expectations will be higher than they were thirty years ago simply because of the amount of money you are being paid. You may go work for the Michigan Department of Labor after law school and your client may be the state, but the divide between your supervisors will be just as real as in our example above.

In short, expectations have increased while the law school experience has remained the same. So, the big question is, how do we collapse the divide, especially when you are still in a steep learning curve mode?

Our belief is that there are four core concepts to focus on immediately when transitioning out of law school. Even better, consider these concepts to be a lens when you take any law school class. In the next chapter, we'll discuss these four core concepts: empathy, listening first, asking questions, and always usually giving advice.

