

A GUIDE TO TRANSITIONING FROM LAW STUDENT TO LAWYER



Introduction

The NITA community is made up of extremely talented and effective litigators, judges, authors, and professors from around the world who lend their voices to a wide array of important topics in the legal community.

In this whitepaper, learn from NITA faculty members: Michael Dale, Judith Ritter, and Rhani Lott, as they walk readers through the transition from experiences in law school to beginning your career in law. Mike, Judy, and Rhani are all professors of law and have many years of experience. We hope you will find this whitepaper helpful as you journey into your next chapter.



Advice 101: Take Trial Advocacy in Law School

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Every law student should take a course in trial advocacy.

It does not matter whether the student intends ever to go to court. It does not matter if the student has not decided in what area of the law he or she wishes to practice nor even geographically where he or she will practice. It does matter that every lawyer understands what goes on in the courtroom at trial. Here are some reasons why.

First, having an understanding of how disputes are resolved in the courtroom impacts everything else a lawyer does. Contracts should be written anticipating disputes. More specifically this is true of wills, marital settlement agreements, leases, mortgages and any other type of agreement. While many lawyers never set foot in a courtroom and more specifically never try a case,



understanding the effect of a problem in drafting is important when a student is studying in these courses in law school as well as starting out in practice.

Second, when one takes a course in trial advocacy, the law student will be obligated to learn or relearn the law of evidence and professional responsibility in addition to whatever substantive subjects form the basis of the lawsuit used to teach trial skills.

Third, courses in trial advocacy teach oral advocacy skills. For example, the NITA trial skills methodology, which is used in many trial advocacy courses in American law schools, involves

“learning by doing.” This means that in the course in trial advocacy, a law student will practice opening statements, closing arguments and direct and cross-examination using a hypothetical fact pattern. This means that the student will stand on his or her feet in the law school courtroom and talk. This training in a very structured oral advocacy scheme, is transferable to any other area of legal practice such as making presentations to clients, at public meetings, and in corporate settings.

Fourth, given the dramatic expansion in the use of technology in the courtroom, if they are not already familiar with modern technology, the students will learn how to use it as court rooms are now “wired” with laptop and tabletop computers and screens located around the courtroom and even where jurors sit.

Fifth, trial advocacy courses require students to use their analytic skills in hypothetical but otherwise real-life settings. The law student has to decide on strategy in terms of how to conduct direct and cross-examination in terms of the legal theory, factual theory, and theme of the case. Law student has to develop timelines, evaluate the order of analysis, consider opposing arguments, and in general practice the art of legal analysis.

Sixth, taking a course in trial advocacy will tell the law student whether or not he or she wishes to go to court some students, thinking they wish to be trial lawyers, find out through the trial average the course the trial work is not for him or her. Some students who never thought he or she would try a case fall in love with the field. Others take the course and learn that their initial judgment as to whether or not they wish to be a trial lawyer was correct.

And finally, to the extent that a law student enjoys the adversarial process as part of the American legal system there is no better place to argue and persuade than in the courtroom.

Litigating With Grown-ups: What's Wrong With Being Confident?¹

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The transition from law student to lawyer presents many challenges. There are some very concrete issues: Will I have a job? Will I like my job? Will they like me? Am I ready? However, as the long-time director of a law school clinic, I also see graduates face a difficult psychological challenge when the new lawyer's subconscious has doubts about whether they belong at the grown-ups table. Due to age, lack of experience and other factors, a new lawyer may have a tendency to be overly deferential, to hold back and not speak up when they need to. This can be a large problem in the world of litigation where both inside and outside of the courtroom an attorney must be assertive and present a position forcefully and persuasively.





Feeling Like the Little Kid in the Room²

Researchers now believe that adulthood may not begin until age 25 or even 30.³ Today's law school graduates contend with the consequences of lacking an adult self-image in ways that their pre-millennial counter-parts did not. Many of today's law graduates were raised by helicopter parents who, even when the child is a graduate student, stay closely involved in all aspects of the child's life. This does little to foster the necessary feelings of independence and being self-reliant that should be developed by the end of law school.

In addition, the stress of law school may actually interfere with the maturation process. The authors of one study concluded

that the ordeal of law school may impede the development of psychological well-being.⁴ These factors help to explain why as a clinical legal educator I work with smart, well-prepared and well-rehearsed student legal interns who silence themselves when dealing with adversaries and in the courtroom because they see themselves as a kid rather than a professional who has something important to say and who, for their client's sake, must be heard.

Fighting the "Kid" Self-image

There are several things that a new lawyer can do to stave off the internal voice of self-doubt. Go out of your way to participate in a clinical or externship course while in school. There are numerous opportunities for first rate trial advocacy training both in and after

law school. Students are well aware of the many benefits and resume value of experiential legal education. Less obvious, is the opportunity it creates to foster a comfortable professional identity.

The benefits of comprehensive preparation cannot be overstated. Often, a new lawyer's level of preparation gives that lawyer an edge over a veteran lawyer on the other side. I have seen experienced prosecutors intimidated by how much a student attorney knew about the law and facts of a case. For litigators, preparation must include immersing oneself in the relevant legal principles and rehearsing or mooted negotiations, all aspects of trial practice and oral argument. Having a trusted mentor brings huge benefits. If your mentor gives the thumbs up, that should supply needed confidence.

Lack of familiarity with the "scene" breeds uncertainty. Go to court and observe as often as possible. While observing, try to picture yourself as an effective participant in the proceedings. Try to internalize the truth that you belong in this scene. You have been well trained, admitted to the bar and have earned a seat at this table. Do not allow yourself to act as if you do not belong.

In truth, if you represent a party in litigation—the state, a criminal defendant, one side in a civil case—you are a necessary

participant. Even as a novice lawyer, you are not going into someone else's house as an uninvited guest who must be deferential and subservient. Developing an adult professional self-image is a process. Experience in the role will accelerate the process. In the meantime, the newer litigator should remember that they have a job to do on behalf of another who is relying on them. It is crucial to develop strategies to talk over the voice that says "I'm the kid in the room" with the voice that says "I'm a prepared, smart lawyer who has something important to say."

NOTES

- ¹ DEMI LOVATO, *Confident*, on CONFIDENT (Hollywood and Island Records 2015).
- ² Many of the ideas expressed in this paper are adapted from the author's law review article, *Growin' Up: An Assessment of Adult Self-Image in Clinical Law Students*, 44 AKRON L. REV. 137 (2011).
- ³ Jeffrey Jensen Arnett, *The Psychology of Emerging Adulthood: What is Known and What Remains to Be Known?*, in EMERGING ADULTS IN AMERICA, COMING OF AGE IN THE 21ST CENTURY (Jeffrey Jensen Arnett & Jennifer Lynn Tanner eds., 2006).
- ⁴ G. Andrew Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 1986 AM. B. FOUND. RES. J. 225.

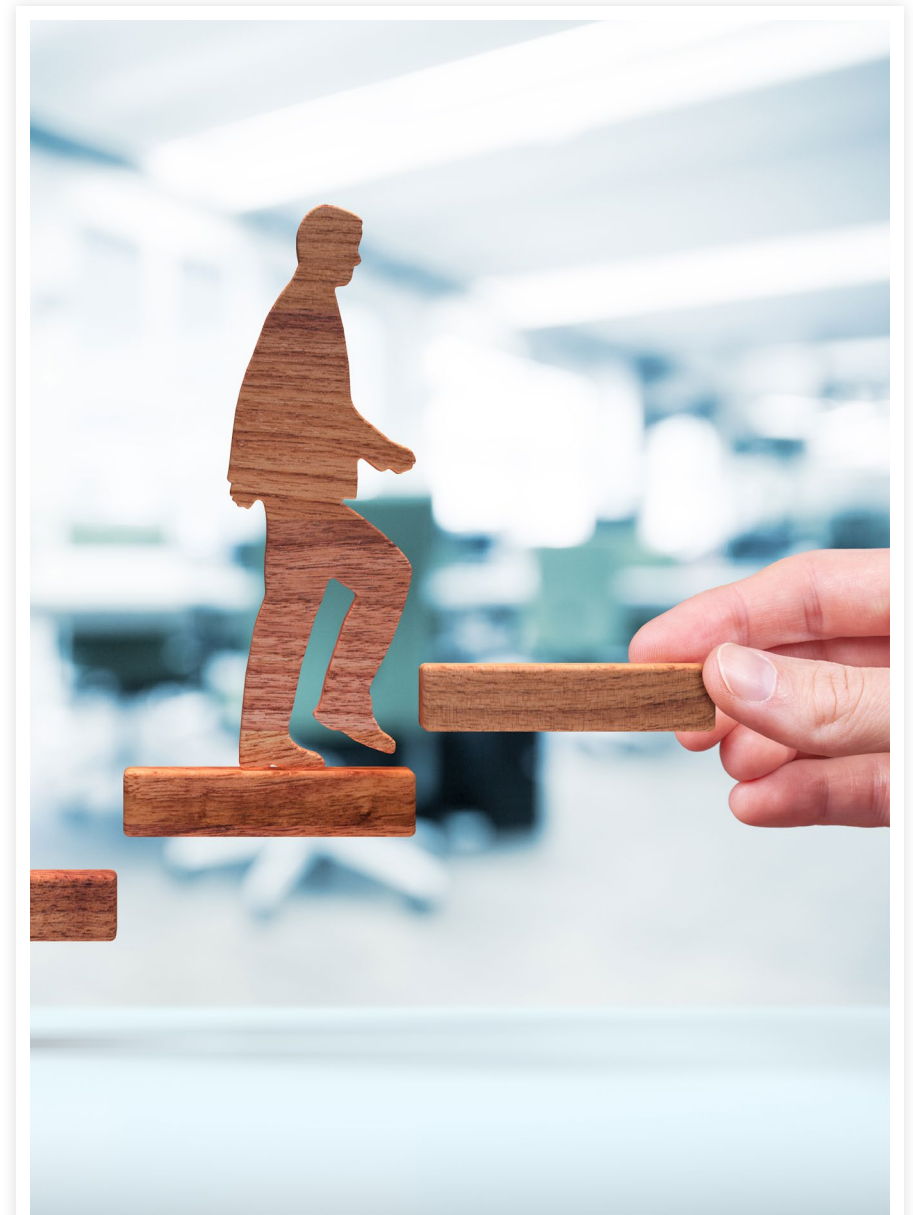
Tips on Finding a Professional Mentor

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When faced with work problems, I often ask myself, “what would Mike do?” or “how would Matt approach this case?” I ask those questions because Matt and Mike are two of my legal mentors. They are folks who helped me become the higher education professional and lawyer I am. As you begin your career, it’s important to cultivate relationships with your own Mikes and Matts—individuals who can help you develop your talents and address areas of weakness. There are lots of articles about the benefits of mentors, but it can sometimes be difficult to know exactly what you’re looking for.

Here, I offer three tips for finding a professional mentor.



1 Look for someone willing to invest in making you a better lawyer.

When you first start practicing, you are likely to work for multiple partners, senior associates, or supervisors. You are not going to get the same type of feedback from all of them. For example, if you submit a draft motion, some folks might simply say “thanks” or “good job” and take it from there. Other folks will take a red pen to your draft and return it looking like a crime scene. You may be tempted to gravitate towards people who just offer praise and do not ask for revisions. Why not? It feels good to get praise and going through multiple drafts takes time and can be frustrating. However, the partner who made all the edits is showing you how to get better. They are taking the time to teach you what they are looking for. Instead of getting frustrated, take the time to sit down with the partner and make an effort to understand their thought process. If someone is willing to take the time to do that, it means they are willing to invest in you. When you find someone like this, make an effort to work on as many of his or her projects as possible.

2 You’re not looking for a BFF. You’re looking for someone you can learn from and respect.

One of the partners I worked for early in my career would occasionally dress casually when we needed to work on Saturdays. Winter casual meant a sweater over a button up shirt and corduroy pants. Summer casual meant seersucker. Casual for me means jeans and a free 5k t-shirt. I love a good novel. He loves books about military history. We never grabbed drinks or caught a show together. If I had dismissed him as a potential mentor because he did not have the qualities I look for in my close friends, then I would have missed some fantastic mentoring. I don’t think he gets “casual Friday,” but he sure does know how to draft an interrogatory, and he’s the most ethical attorney I’ve ever worked with. I’ve got lots of friends to grab drinks with and a book group to talk about “A Gentleman in Moscow” with. What I needed was someone who treated me with dignity and respect and could teach me how to absolutely kill a deposition. Seek out people with the skills you need and work for them as much as possible. You don’t have to “click” with them; you just have to have mutual respect.

3 It takes village. Find your village.

I have had the good fortune to work with several great attorneys who I consider mentors. However, those women and men are just part of my professional village. It is important that you also seek out other professional relationships. You need to have a deep bench of folks who you can look to for guidance and support. It is also important to develop these relationships outside of your current job. Jobs change and it can be difficult to maintain connections with folks once you don't work together, so it's important you have people in your corner who you have more in common with than your place of employment. If you are a woman, a person of color, or a member of the LGBT community, you might also find it valuable to connect with people who can relate to that experience. You can build these relationships by getting involved in bar associations, Inns of Court, professional organizations, and attending CLEs. For me, the women and men of NITA have become a vital part of my working life. I rely on them for support, guidance, and inspiration.

