



THINGS YOU DIDN'T LEARN IN LAW SCHOOL

LESSONS LEARNED IN MY FIRST YEAR OF PRACTICE

BY C. ASHLEY SAFERIGHT

I recently celebrated my first anniversary of being sworn in as a licensed attorney. I spent my first year working with brilliant attorneys, at an incredible firm, doing challenging, interesting work. My legal education from Cleveland-Marshall was top-notch, and I felt well-prepared to transition from law school to practice. Even still, one thing was very clear in my first year: there are just some things you don't learn in law school. I learned many lessons as a new attorney – sometimes the hard way. This article is a guide for new attorneys when given a new case or assignment, working in a new jurisdiction, or working for a new partner or assigning attorney, and what questions to ask, things to consider, and possible resources to consult.

1. If you don't know the rules (of procedure), you can't play the game.

While your law school taught courses in civil and criminal procedure, they likely focused on the federal rules, with an occasional foray into state rules. The reality is, the rules that actually apply to any given case are jurisdiction-specific, and there are at least three sets of rules that will govern basic requirements like deadlines, motion practice, discovery, experts, page limits, required notice to other parties, and even how to properly file with the court.

You should first consult the Federal Rules of Procedure or the state's Rules of Procedure, depending on where your case is filed. You probably learned this in law school. While these rules are generally straight-forward, be sure to look out for one thing that can trip up even the most experienced lawyers: recent amendments. For example, the Ohio Rules of Civil Procedure were amended July 1, 2020, which resulted in updated language and some renumbering of subparts. When dealing with

amended rules, be sure to: 1) know which version of a rule applies to your issue; and 2) pull up the appropriate version to confirm its language and correct numbering.

Second, consult the jurisdiction's local rules that supplement (but do not contradict) the federal/state rules, and often include additional restrictions on page numbers, filing and notice requirements, etc. These rules vary widely from jurisdiction to jurisdiction. There may be a few pages of easy to understand rules, or there may be hundreds of pages of confusing, complicated, unclear rules. Before even beginning a new project or case, review the local rules to determine if any may impact your assignment. When in doubt, ask for clarification from a more experienced attorney, or call the clerk's office.

I learned this lesson in a very small, rural state court, when I drafted a seven-page motion, only to discover that the local rules limited me to five. The local rules also included complicated and unclear notice requirements. Due to a misunderstanding about whether a motion could be mailed (which was impacted by COVID) and the related notice requirements, I had to tell my assigning attorney that we needed an extension from opposing counsel so that we wouldn't miss our filing deadline. Luckily, counsel agreed and the crisis was averted, but I have not forgotten to consult local rules again.

Finally, check to see if your assigned judge has standing orders or policies/procedures. Recently, while preparing a 12(b) motion to dismiss in federal court, I discovered that my judge had an unusual requirement for Rule 12 motions: prior to filing, we had to meet and confer with opposing counsel to determine if the complaint could be amended to resolve the issue. Fortunately, I caught it in time to meet the judge's requirement, and this time did not have to ask for an extension (or forgiveness).

2. You break it, you bought it.

Everybody makes mistakes, and you will too. In fact, the number of mistakes that you'll see from seasoned attorneys will be surprising. The good news is that the vast majority of mistakes are not fatal and can be resolved fairly easily. The most important thing is to own it. Do not try to hide it, hoping others won't notice; take responsibility. Once you realize that you made a mistake, identify the issue and what problem(s) the mistake could cause for your client. Talk with your assigning attorney and provide them with all necessary information, including possible solutions, and your recommendation. When a mistake happens (even if you aren't at fault), the most important consideration must be how to lessen any negative impact on the client.

Learn from your mistakes, and avoid making the same ones in the future. Owning your mistakes and then fixing them will help you position yourself as a trusted advisor to your assigning attorneys and clients.

3. Give the people what they want.

When working with a new partner or assigning attorney, it can be hard to figure out the preferences and pet peeves of particular attorneys. One partner I work with wants research memos organized in a specific way. Another always wants hard copies of written work product in addition to emails. Over time, you learn these quirks. But what do you do the first time you work with a new attorney? Ask.

Get as much information as possible from the assigning attorney about their expectations. Talk with other associates who regularly work for the assigning attorney about their experiences, and the attorney's assistant or secretary can be an often unexplored treasure trove of information.

Very early, I was given an assignment with a brilliant partner with a reputation for having very particular preferences for written work. I got detailed instructions from the partner, and I spoke with two other associates who regularly worked with him. But the real magic happened when I spoke with his assistant. She explained his preferences, walked me through edits he regularly makes to written work, and gave me helpful insight about how best to approach questions or issues. This information was invaluable, and I was able to deliver a written work product that met the partner's expectations.

4. Don't sweat it. You're not actually incompetent, you just feel that way.

You are going to get an assignment (or, you know, lots of them) that will leave you feeling entirely incompetent, wondering whose brilliant idea it was to license you as an attorney, and considering your next career in animal husbandry.

There is not a single attorney who came out of law school knowing how to fully practice any area of law. You are not incompetent. You just don't know what you're doing.

So, you're staring at your computer screen freaking out. First, breathe. There are lots of resources available, but you won't be able to use them until you can get your brain back in the game. Take a break. Do something that you know how to do. And then come back to it.

Second, lock back in and start building your toolbox. Can you talk with the assigning attorney? Do you know someone else who has experience with this area of law or this kind of assignment? Internet searches for how-to guides may also be useful - like "how to draft a deposition outline." Many bar associations, law firms, and law schools have good resources and examples designed for people who don't yet know what they are doing.

Having trouble finding the answer to a research question? The real experts for all things legal research are legal librarians. Use them. If your firm does not have one of these amazing folks, consider using the reference attorneys with your preferred legal research software. They can help you develop search terms, and can make suggestions to help focus your research.

You weren't hired because you know everything. You were hired because you know how to find what you need.

5. There is no substitute for effective mentorship.

This profession can be overwhelming and brutal, but finding the right mentors can ease the transition and help you find opportunities

for success. There are various types of mentors, but in my first year, I found the following types to be the most helpful.

The "Stupid Question Mentor" is priceless. This is someone that you are comfortable around and not constantly worried about trying to impress. This person has more experience, and has some legal, organizational, or institutional knowledge that you do not yet have. This is the person that you will seek out to ask what a particular legal term means in context, whether an email or a phone call is more appropriate in a situation, or the best way to write a time entry. These aren't actually stupid questions, but they are questions that most people aren't comfortable asking just anyone.

The "Teacher Mentor" is extremely knowledgeable in the law, and is willing to take time to explain her reasoning and process. This person can dramatically shorten your learning curve. As your skills progress, this person can become a sounding board for your ideas.

The "Opportunity-Maker Mentor" is someone with whom you have worked closely. This person knows and respects you and your

work, and speaks positively about you to others. She offers you opportunities, and helps connect you with others who can give you opportunity.

Ultimately, the early years of legal practice can be a wild ride as you figure out how to navigate your new career. While you can expect a few bumps and bruises as a result, if you can anticipate the challenges and are ready to utilize the resources available to you, you may find the ride to be just a little smoother.



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