

# GLOBAL LAWYERING SKILLS

Second Edition



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## CHAPTER 4

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# PROFESSIONALISM AND PROFESSIONAL IDENTITY



*By Lindsey D. Blanchard, Daniel J. Croxall,  
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Law school does a great job of teaching law students what the substantive law is and how to apply it to everyday human affairs. However, lawyers need to have more than a deep understanding of the law to be successful. When you become a lawyer, you become a member of a profession with obligations to the court (as a member sworn to support the Constitution and to discharge your duties to the best of your abilities), to clients (as their trusted counselor and advisor), and to the community (as a leader). Therefore, in addition to mastery of substantive areas of law, your ability to practice law effectively depends on a number of factors: emotional intelligence, discipline, perspective, self-directedness, interpersonal skills, and most importantly, a sense of purpose in the leadership role lawyers play in the administration of justice and the rule of law.

Your cultivation of these skills and concepts will not only affect your effectiveness as a lawyer, it will also affect your professional identity—i.e., the kind of lawyer you become and the kind of lawyer that others perceive you to be. Some lawyers have developed a reputation for being trustworthy, dedicated, reliable, and hard-working. Others have not. But, those identities do not begin to take shape on the day you graduate from law school, on the day you are sworn into the bar, or on your first day of work. Rather, your professional identity begins to take shape on your first day of law school, during your first interactions with your professors (from whom you will seek professional references during your job search) and classmates (who are your future colleagues). And, it continues to take shape throughout your law school career through the choices you make about which courses to take, which clubs to join, and which networking events to attend. This chapter discusses the Top Ten practices you should begin to develop, as well as other considerations you should begin to contemplate, now, as you start the process of developing your own professional identity.



## A. DEVELOPING AND NURTURING YOUR PROFESSIONAL REPUTATION

Lawyers, like other licensed professionals, have a special role in society in as much as they are trained to become advocates for others as well as being officers of the court, sworn to uphold the law. In keeping with this role, the law recognizes that each individual lawyer is entitled to certain privileges: the attorney-client privilege, which protects communications between the lawyer and her client from being used against the client's interests; and the attorney work product doctrine, which permits a lawyer to shield her thought processes and written work related to a client's representation from disclosure. Because the measure of responsibility accorded to each individual lawyer in our society is so high, lawyers are individually licensed by bar associations, which are responsible for ensuring that their member lawyers conduct their work in accordance with the highest ethical principles. Thus, a lawyer is individually responsible to ensure that her conduct comports with the highest ethical standards.

While many lawyers work as employees of law firms, non-profit organizations, government agencies, or corporations, they are still individually responsible for ensuring that the work they do, irrespective of the organization for which they work, comports with the highest standards of the profession. Accordingly, a lawyer must seek to develop a reputation as a person who clients, colleagues, courts, and the community can rely upon for honesty, competence, and diligence.

Understanding this framework for your professional identity as a lawyer is fundamental to developing and nurturing your reputation as a lawyer. Your reputation hangs on your ability to conduct yourself with honor and integrity in your work, and on your reputation among your colleagues for honesty and integrity in your dealings with them. This framework extends to every area of life, including your personal life, your social media presence, and your correspondence with others in every format, from Twitter to e-mail, to texts, to the briefs you submit to a court.

While the process of building a reputation as a lawyer may be mysterious to first-year law students, there are several ways to go about doing so, even in the first year of law school. First, consider joining one or more student organizations at your law school. Every law school has a host of student groups, some focused on specific areas of law, others on community service, and still others on student governance or purely social purposes. Joining student organizations is a great way to meet your peers and to start building your reputation among them. Second, consider joining national and local bar associations. Many bar associations, like the American Bar Association, offer free or reduced membership rates for law students. Joining bar associations is a time-honored way for law students



and newly-minted lawyers to become part of the larger legal community. Bar associations also provide numerous opportunities for their members to participate in continuing legal education to assist them in keeping up with emerging changes in the law. Third, joining service organizations engaged in community outreach programs can be a marvelous way to get a foothold in the community, and to start developing a reputation as a community-spirited person. In most cities, there are many organizations dedicated to assisting people in need, such as the elderly, immigrants, artists, and people experiencing homelessness. Finally, developing a professional presence on social media by creating profiles on various platforms such as LinkedIn, Facebook, and Twitter, can give you access to a massive global network of professionals, and can help you make yourself known to the world at large.

Keeping a keen eye on your reputation will serve you in the profession for a lifetime. Clients, courts, and the community will regard you as a reliable, competent, and honest counselor. Failing to keep a keen eye on your reputation can achieve the opposite result.

## B. FINDING MENTORS

The practice of law is complex, and it involves a steep learning curve to master the various skills involved in doing it well, from financial management, to effective client counseling, to the strategic dimensions of client problem solving that accompany any area of practice. While it is certainly possible to develop these skills through trial and error, a better approach is to learn from those who have trod the path before you so you do not have to make otherwise avoidable mistakes. Finding mentors in the profession is critical to mastering these skills, and the first year of law school is a good time to start.

Many law students find the prospect of approaching lawyers and judges intimidating. They do not want to bother busy professionals with their questions. However, many of these lawyers and judges welcome the opportunity to engage with law students and young lawyers, and to offer them guidance and mentorship. Every law school has a network of alumni whose careers span the spectrum of practice areas and who would willingly take the time to discuss the profession with you. Your law school's alumni association and career development office should be a prime source for you to seek out mentors in the profession.

The best way to overcome any intimidation you might feel about reaching out to a lawyer for mentorship is to simply call or write to them to express interest in their career. Most lawyers are gratified to learn that a law student has an interest in the work they have devoted their career to, and will happily make time to meet with them. One effective way to make a connection with a potential mentor is to ask them for an



informational interview where you speak with the lawyer about how she came to the role she plays in the profession, and seek advice about steps you can take to follow a similar path. In addition to obtaining the benefit of your mentor's insights and guidance, you may also learn a great deal about what it is like to practice in the mentor's field, which will help you learn if that area of practice would be a fit for you.

Every lawyer was once in your shoes, and many lawyers with long experience in the profession look for ways to mentor new members of the profession. Let yourself benefit from mentoring opportunities when they present themselves. By engaging with mentors, you learn from their experience, you expand your circle of wise advisors, and you develop lifelong friendships.

### C. BECOMING AN EMPATHETIC PROBLEM SOLVER

When we consider the qualities of great lawyers in history, we often celebrate traits such as integrity, courage, discipline, and tenacity. These are each important qualities of effective lawyers. However, the best lawyers are first and foremost counselors who train themselves to understand as richly as possible every dimension of a client's experience and the problem the client has come to them to have solved.<sup>1</sup>

Clients seek the assistance of lawyers often in the most challenging times of their lives, and they come to lawyers with a limited understanding of the legal context of their problems. Often, their understanding of the work lawyers do comes from popular media sources that do not present the full array of tools at a lawyer's disposal to resolve a problem. Therefore, it is incumbent upon lawyers to develop the skills that permit them to discover all of the dimensions of the client's problem in order to craft a strategy for solving the problem in a way that addresses all of the elements of the client's needs.

The key to being an effective counselor is empathy. The Oxford English Dictionary defines empathy as the "power of mentally identifying oneself with (and so fully comprehending) a person."<sup>2</sup> Employing an empathetic approach with clients invites them to open up and share more fully. A lawyer's office can be a very intimidating place for a client, and any steps you can take to minimize the client's anxiety about the counseling experience will help you learn as much as possible about their situation so you can craft an effective solution. For example, a client who has suffered a financial and emotional loss might conclude that the only resolution available would be through litigation and a judgment for money damages. However, money damages may not address the emotional loss the client

<sup>1</sup> See Chapter 3 on Intercultural Competence.

<sup>2</sup> THE NEW SHORTER OXFORD ENGLISH DICTIONARY (1993).



has suffered. A more complete and effective resolution of this client's problem would certainly address not only the financial loss, but also the emotional loss. A lawyer who employs the tools of an empathetic problem solver can craft a resolution for the client that delivers not only a financial recovery, but also some measure of redress for the emotional loss. Developing the skill of being an empathetic lawyer takes time and practice, but it is essential to becoming an effective lawyer.

#### D. BEING DILIGENT AND CAREFUL

Being a lawyer is a lot of work. You will have to balance dozens of files at once, likely for different clients with different needs—all of whom will expect your best performance. And the work will not be easy. It will involve researching complex issues and critically analyzing the law and, depending on your practice area, clearly and concisely conveying your legal analyses and arguments in writing, drafting complicated contracts, or writing nuanced policies. All of these tasks will need to be performed in compliance with statutes of limitations, court rules and deadlines, and contract requirements—or the work could be for naught. If you do not file a claim on behalf of your client within the statute of limitations, the claim will be barred. If you submit a document to court that does not comply with the word limit or is submitted late, it could be rejected. And, if you attempt to renew a contract on behalf of your client by email rather than the prescribed certified mail, the contract could lapse.

Meeting these demands requires a lawyer to be diligent and careful. A lawyer must constantly ask herself: Have I canvassed the law relevant to my client's issue, carefully read and understood it, and thoughtfully applied it to my client's situation? Have I complied with all court rules regarding formatting and submission requirements? Have I failed to address any important considerations in this contract negotiation? Have I carefully reviewed this contract to ensure that a misplaced comma has not changed the intended meaning of a particular clause? Have I calendared all relevant deadlines so that all of this work is completed on time? Without hard work and attention to detail, the answer to some of these questions will be "no," and at a significant cost to your client.

Law school provides you with a glimpse into this world. Completing the reading and writing assignments for your various classes on time and to the best of your ability will be difficult. It will require you to be diligent and careful. You must ask yourself: Have I carefully read and understood the assigned materials for today's classes? Have I thought about how the concepts I learned would apply to different hypotheticals that my professor might pose in class? Have I conveyed the results of my research and analysis in writing in a clear, concise, and grammatically-correct manner? Have I reviewed the instructions for formatting and submitting my



assignment? Have I calendared all relevant deadlines so that all of this work is completed on time?

If your answer to any of these questions is “no,” it will reflect solely on you. As discussed above, however, the stakes are raised in practice when you are acting on behalf of a client. Therefore, you need to develop the strong work ethic and attention to detail required to answer each of these questions with a “yes” so you will be prepared for the even greater demands—and consequences—you will face as a practicing attorney.

### E. TIMELINESS

In a recent national survey of over 24,000 lawyers from various practice areas and work settings, timeliness—i.e., “[a]rriv[ing] on time for meetings, appointments, and hearings”—was ranked as the second-most necessary competency for new lawyers to possess, just behind the ability to keep information confidential.<sup>3</sup> This makes sense, given the signal of disrespect a late arrival sends to clients, colleagues, and the court, and the potentially devastating consequences of such behavior. Arriving late to an appointment with a client says that you are either disorganized or have better things to do, neither of which engenders trust and either of which may cause the client to find a lawyer who will take the matter more seriously. Arriving late to meetings with your colleagues says that your time is more important than theirs and is likely to strain the working environment. And, arriving late to a court hearing tells the court that you are unable to follow court orders, and could result in your matter being struck from the calendar or in you being held in contempt of court.

How can you avoid these pitfalls in your career? Make timeliness a habit, and start now. The bottom line is that there really is no excuse for being the person who is always running late and wasting other people’s time, so don’t be that person. Treat your get-togethers with friends like they are appointments with clients, treat your study group sessions like they are meetings with colleagues, and treat your classes like they are hearings with the court. In each of those scenarios, abide by the maxim that to be early is to be on time, to be on time is to be late, and to be late is just not acceptable. And, on the (what should be) rare occasion that you are running late, find a way to get a message to whomever is waiting for you, and apologize when you arrive.

### F. ADHERING TO THE GOLDEN RULE

You know the Golden Rule: treat others as you would like to be treated. Do not make the mistake of thinking this rule does not apply to you now that you are in law school or once you become a lawyer. And, if you have

<sup>3</sup> INSTITUTE FOR THE ADVANCEMENT OF THE AMERICAN LEGAL SYSTEM, FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT 26 (July 2016).



forgotten about this rule somewhere along the way, now is a good time to start holding yourself accountable. Your success as a lawyer—in both the short and long term—will depend on your ability to build and maintain relationships, and the fastest way to burn a bridge with someone is to treat that person in a discourteous or disrespectful manner.

So, treat *everyone* with the courtesy and respect that you expect in return; today: your classmates and professors, law school staff and administrative personnel, mentors and alumni, judicial and law firm personnel who assist you in setting up externships and interviews, and everyone else with whom you interact; tomorrow: your colleagues, superiors, subordinates, assistants, opponents, judicial personnel . . . the list is endless. But, you get the idea: no person's role is too insignificant to deserve your respect.

You will not always find it easy to follow the Golden Rule as a practicing attorney. For example, you may encounter an opposing counsel who seems to be intentionally delaying resolution of a dispute, refuses a reasonable request for an extension of a deadline, or treats you with condescension. It can be difficult not to respond in kind to this sort of disrespectful behavior. But, try to avoid hitting "send" on that anger-induced reply email or raising your voice in frustration. Take a deep breath, remind yourself of your end-goal of reaching the best result for your client, and re-evaluate your response. Responding in kind will only exacerbate the situation, but adhering to your own standards of conduct will allow you to remain in control.

## G. OWNING UP TO MISTAKES

Many junior attorneys have experienced the dread of turning an assignment in to a supervising attorney and then discovering a mistake. It happens. The goal, of course, is to not submit assignments containing mistakes, but that is not always possible. What should a junior attorney do once he discovers a mistake in work product he has created? The answer is much harder than it sounds: you must immediately inform the supervising attorney. If you do not, it puts the case and your employer at risk. Be up front. Be candid.

One of the main reasons to be forthcoming when you have made a mistake (other than general ethical behavior) is that junior associates typically do not have the experience or frame of reference to adequately determine if a mistake requires corrective action. Typical mistakes that junior associates tend to make include substantive errors in memoranda and motions, billing mistakes, failure to read local rules and procedures, inadvertently disclosing confidential information, and failing to ask questions when something is unclear. Of course, this list is by no means exhaustive. So, which of these mistakes is most important? Least



important? It depends. And as a junior attorney, your supervising attorney is the only person with the perspective and authority to make that determination.

The key to reporting an error is timeliness. It feels awful to go to the person or persons you work for and say, "I screwed up." It is easy to put it off until tomorrow or even next week. Do not fall into that trap. Some errors can be fixed if caught quickly. Some more weighty errors require significant thought and discussion to figure out how to best remedy the situation. Either way, you should report the error as soon as possible so that it can be cured as soon as possible if necessary. One last thing: it helps to have a suggested "fix" for the error when you speak to your supervising attorney about the error. Try to include your suggested remedy immediately after reporting the error. Self-reporting takes guts, but it is absolutely essential to maintain credibility with your bosses and to appropriately represent your clients.

## H. SELF-DIRECTEDNESS

The flip side of the owning-your-mistakes coin is self-directedness. It can be irritating and inefficient when a supervising attorney has to constantly provide direction to junior attorneys, even for menial tasks. While it is definitely important to ask questions of more experienced attorneys, like clarifying directions on assignments, doing so can also become a distraction and make a junior attorney appear needy or incompetent. Junior attorneys should refrain from asking supervising attorneys questions that the junior attorney could have quickly and easily found with a little effort. How can junior attorneys determine what kinds of questions are appropriate?

The general rule has to be that if you do not know, ask. That is the baseline. But there are certainly times where questions are not important enough to ask a supervising attorney or the answer can be found elsewhere instead of interrupting a supervising attorney. They are busy people. Questions pertaining to office procedures, supplies, printing instructions, and the like can easily be handled by someone other than a supervising attorney. On the other hand, junior attorneys are better off asking a question than to spend hours researching an issue that the supervising attorney did not have in mind when assigning the task. So, the more substantive a question is, the more appropriate it is to seek guidance from a supervising attorney. Law or legal-based questions, of course, should be asked of senior attorneys. But a junior attorney should always consider whether the question can be handled by someone other than a supervising attorney before going to that attorney, such as another attorney of similar seniority, paralegals, legal secretaries, and the like. If the answer can be found easily, take the initiative and show that you are a self-directed employee. If it cannot or you are not sure, ask the supervising attorney.



## I. SOCIAL MEDIA BEHAVIOR

Some of the following is common sense. Most readers understand the importance of online behavior and how it can impact a career. There are at least two important considerations that budding lawyers must confront: past social media content and formulating a professional identity going forward. These concerns are equally important for your job search and interviewing process, as well as after you land a job.

Do not think for a second that modern legal employers will not look at, and actively search for, your online presence. And, no matter how well you think you have hidden spring break photos from six years ago, they can still be found. What can you do? If you have social media content that you are not comfortable with a potential legal employer viewing, you should delete the post at the very least. There are also programs and services beginning to pop up that claim to be able to “scrub” your online history. The best scenario is that all of your past online content is benign. If that is the case, then you have nothing to worry about. If it is not the case, consider how you can delete, remove, or modify content that might be objectionable to a future employer.

Going forward, there are steps you can take to make your social media presence appealing to a potential legal employer. Consider creating and posting content that is relevant to a particular area of the law that might appeal to legal employers you have identified. Stories abound of law students who blogged or otherwise commented on a legal topic and landed jobs out of law school in that same area. In fact, with modern blog platforms, it is not particularly challenging to set up a blog to create content that an employer might find intriguing. Even if you decide to keep legal content out of your online presence going forward, consider social media a marketing tool. Use it to show who you are, what you enjoy, and what your legal interests are. Someone will notice, and that person just might be your future employer.

## J. FINDING YOUR PASSION

Law students are often encouraged to follow their passion in choosing an area of study and a career path in law school. Some law students enter law school with a highly developed interest in a specific area of law, and that passion will guide them through law school and into their professional lives. Others have a passion for social justice, or for certain types of legal practice, such as trial advocacy or transactional work. However, most law students do not have such clearly-defined passions when they start law school. Rather, most law students enter law school knowing only what they have learned from film and television about the work lawyers do, and they often feel they need to aspire to similar missions in their career path.



The reality of the profession is that there is a vast array of pathways for lawyers, most of which are never depicted on television and in the movies. It is important to approach the process of your legal education as an opportunity to explore the spectrum of career paths that others in the profession have taken before you, and to discover your highest and best use in the profession. Law school presents opportunities to discover interests and passions that you may not have been aware of before. The work you do in law school in learning the principles of law, the process of legal analysis, and the skills of oral advocacy and client counseling may spark insights into strengths and interests you did not know you had. Making yourself open to personal and professional growth in law school can lead you, sometimes unexpectedly, on a career path you would never have imagined before.

It is also important to approach your professional development with patience. Passion for a pursuit can come in many forms: passion for writing a well-reasoned, flawless brief; for concluding a well-crafted transaction; or for achieving an effective outcome for a client in a negotiation. It can propel you on a path for a lifetime, or for much briefer periods of time. Careers in the law are a lifetime in the making, and few lawyers end up in the same job in which they started when they graduated from law school. While passion can be a useful guide, it is equally important to focus on other motivators as well. Finding purposefulness in the work you do from day to day is key to success. If you feel the work you are doing on a day-to-day basis serves a larger purpose, then that is a legacy worthy of your effort.

### *PRACTICE EXERCISE*

Choose two of the Top Ten practices discussed above that you believe you most need to work on. For each, write a paragraph that explains why you think you need to work on that skill or quality. Then, state a concrete, manageable goal for yourself that is related to development of that skill or quality, and develop a specific plan for achieving that goal. In other words, what steps will you take to reach your goal? Finally, pick a date midway through the semester at which you will evaluate your progress toward goal attainment.

For example, are you the person who is always running behind, and you know you need to work on timeliness? If so, one goal might be to not be late to your study group meetings anymore. And, to achieve that goal, you might take the following steps: (1) calendar all study group meetings; (2) set a reminder on your phone to alert you of upcoming meetings; (3) schedule your time so that you arrive five minutes early for each meeting; and (4) keep track of whether you were on time to each meeting. When it comes time for your self-evaluation, you will be able to determine whether you have achieved your goal. If you have not, you should think about why you did not achieve it and how you can adjust your plan going forward. Then, keep trying!