

HOW TO BE A GOOD LAWYER

What makes a good lawyer? How do you get to be one? It depends on who you ask, but here are a few things to consider as you chart your own course for your career.

Be Prepared

Preparation is the methodical, sometimes grueling process of mastering what you need to know so that you can control the case and capitalize on opportunities. There is no substitute for preparation. If you improve your preparation, you will instantly become a better advocate.

Good lawyers prepare for everything they do. When they meet with the client, they have an agenda, and run a smooth, organized meeting. They think through their cases and projects, and tell their clients what the plan is, what to expect down the road, and what the possible results are. When they go into a deposition, they have already thought through what to ask, what not to address, and they have the documents they need, with copies for the witness. If they are handling a transaction, all forms and documents have already been studied, problems anticipated, solutions considered. If they go on an inspection, they have the camera or video technician they need, they already have decided what they need to record, and they know how they will use the images in the case.

Preparation is unglamorous. Lawyer movies do not show it – who wants to watch a lawyer holed up in a conference room for hours pouring over documents and other evidence? Nonetheless, it is the preparation that is the most important part of the whole enterprise. Shuffling through the file before (or during) the next event in the case does not count. Preparation means knowing every word in the key documents, every detail about the allegedly defective product, and every aspect of the surgery that is claimed to be below the standard of care.

Preparation is a multi-step process. With complicated subject matter, the lawyer must master the basics before he or she can truly understand the more advanced or nuanced issues. To really be prepared, the lawyer must constantly refine and expand his or her understanding. This requires concentration. It requires time. Simply learning about what happened is not enough. Preparation requires *thinking* constantly about the facts and issues, including thinking about what the opponent is thinking and planning. It means being creative, rather than recycling worn-out pleadings, theories and strategies. It also means taking the initiative, instead of just reacting to what the other side does.

To prepare, you must learn the subject matter of the case or transaction. If you spend time with good lawyers, you will see for yourself one of the ways they learn. They do not try to impress others with what they know. To the contrary, they constantly reveal what, for the moment, they don't know. They ask questions, and seek explanations, so that they can figure things out. They figure *everything* out.

A lawyer who has done his or her homework will beat an unprepared opponent, regardless of the opponent's hourly rate or web page bio. Preparation, not innate talent or pedigree, is the secret to success.

Worry a Lot

Something else good lawyers have in common is that they are conscientious. They obsess about their cases and their clients. Laziness and complacency are the ball and chain that keep young lawyers from developing. If you never worry, you are not taking your job seriously. Good lawyers sometimes have trouble sleeping. They wake up in the middle of the night as they second guess themselves, think through problems, and work on solutions. Worry is good. Worry produces inspiration. Good lawyers have epiphanies about their work in the shower, in the car, and at the grocery store. There is a difference, however, between healthy, constructive worrying and counter-productive and destructive self-flagellation. If you are devoting some of your worry energy to solutions for the problems you face, you are on the right track.

Keep Clients Informed

You should serve on your local grievance committee at least once. Those who have served know that perhaps the number one issue that gets lawyers into trouble is failure to keep clients informed. No one likes to be ignored. It is especially galling if you are paying the person who is keeping you in the dark. A client who is up to speed is much more likely to be satisfied than a client who constantly is wondering what is going on.

A regular flow of short reports to your client usually is more appreciated than sporadic lengthy and comprehensive letters. A multi-page, single-spaced letter takes time to read, and that much information can be hard for your client to digest. If you are not providing timely reports, much of what you say in a mega-report is already stale. Often your contact has someone he or she has to report to on the case. If you are not supplying timely information, neither is he or she, and you could get your contact into trouble.

Improving this aspect of your performance is easy. Get in the habit of dictating a quick note to your client every time a significant pleading is filed, when you have an idea, when you review a reported decision that might make a difference, when you have a meaningful conversation with another lawyer in the case, and so on. By all means, send your client copies of everything you file that is substantive, with an explanation. These simple measures keep your client current, show your client you are working, explain where the client's money is going, provide context for your conversations with the client, and track your progress in achieving the goal.

If something develops that could create a problem for the client – an expert sends an unexpectedly large bill, or the case or project takes a sudden turn for the worse – call the client before you send a letter. Receiving the news cold, without fore-warning, will upset the client

more than if the two of you can talk it through on the phone and you can answer questions directly. Phone conversations also establish a rapport that exchanges of letters or e-mails cannot match.

Make Mistakes

All lawyers make mistakes. If you are not making mistakes, you are not doing anything. In some ways, the “experience” of veteran lawyers really is just the accumulation of their mistakes, and what they learned from them. It is how we handle our mistakes that largely determines our growth and improvement as lawyers.

While making mistakes is inevitable, we can limit the number and type of mistakes we make. If you get prepared (see above), you will not botch something because you were not prepared. When you face a difficult new situation, and ask others how best to handle it, you decrease your odds of messing it up. You also can take care not to be a repeat offender. While making some mistakes is expected, repeating a significant mistake can be unforgivable. Fortunately, the more a mistake upsets you, the less likely it is that you will do it again. Finally, if you work hard and care, you will not make perhaps the worst kind of errors – those caused by laziness or indifference.

You also can learn from the tribulations of others. Pay close attention when colleagues talk about their problems. If your buddy tells you the trouble he got into because he did not have a witness to authenticate key records at trial, burn that miscue into your memory. Poach freely on lessons learned by others.

Do not let mistakes make you timid or paranoid. If you are conscientious and dedicated, mistakes will eat away at you. That’s alright. That’s because you care. Just do not come apart at the seams if you screw up. Instead, feel terrible about it, figure out how to prevent it from happening again, and move on.

Use Good Judgment

Judgment is the trait that, above all others, makes a lawyer. The better your judgment, the better lawyer you will be, the more success you will have, the more confidence your clients will have in you, and the more you will be sought out by others for advice. Judgment is the product of common sense, reasonable intelligence, a little intuition or insight, and lots and lots of experience. The only suggestion on how to acquire it is to think before you act and learn from mistakes you – and others – make. Not much to go on, but if there was an easy and quick way to develop superior judgment, we would all have it.

Struggle with Balance

Lawyers are not machines. We are human beings with families who depend on us, financially and emotionally. We struggle to find the right balance between the demands of work

and the responsibilities of home. The extreme difficulty of giving both our careers and our families what each needs is a source of great stress and consternation in our lives. How to balance your duties and ambitions is personal; there is no formula or roadmap to follow. The answer is not in this or any other article. You have to figure it out for yourself.

The truth is, hardly anyone ever achieves the ideal balance, at least not for very long. It is just beyond most of us. Not all good lawyers are good parents and spouses. Some would even argue that it is impossible to excel at both. Do not accept that. We all should try very, very hard to be a better parent and/or spouse along with being a successful lawyer. No matter how imperfect the result, striving to succeed at home as well as at work is our obligation to our families, our clients, our colleagues, and ourselves.

Communicate Well

Good lawyers are effective communicators. Some excel as speakers, some as writers. Communication is an acquired skill. Few young lawyers have it. Most have trouble expressing themselves coherently. Young lawyers get excited, lose focus and lack mental discipline. They are often in a hurry to start talking or writing and there is little structure to their communications. As a result, much of what they say is mush. A busy reader or listener who cannot figure out what you are saying is likely to become frustrated. If you are garbling the message, your listener probably will give you a hint. Rolling the eyes, grimacing or turning red in the face are giveaways. So is telling you to start over, *“in English this time.”*

Judges, juries, clients, witnesses, partners and potential in-laws will judge you on how well or poorly you express yourself. You will never reach your potential if you cannot explain and persuade. To improve your communication skills, do three things.

First, slow down. Slower. Let your brain settle in before you unhinge your mouth or pull out the keyboard. Now that you have hit the pause button, you can put your thoughts together. What is your point? Do not begin until you have decided. If you are reporting on a deposition, start with the most important testimony. (*“The expert only had one criticism of Dr. Williams – that he used too much sedation.”*)

Slowing down also gives you room to provide context. (*“There were eight men in the crew. Mr. Smith testified that after the accident, he talked to two members of the crew. Neither one knew the scaffold rail was missing when the plaintiff was told to bring up the pipe.”*)

Slowing down also will enable you to be specific when you need to be. Use names or titles rather than “he” or “she.” (*“Mr. Jones testified that Ms. Smith told him that only Ms. Williams was aware of the missing lock-out tag”* vs. *“He said that Ms. Smith and Ms. Williams talked and she [who is “she”?] was the only one who was aware . . .”*).

Second, organize your thoughts before unleashing them. Usually a linear approach works best. Start at the beginning, and finish at the end. If you are describing an assembly line, for

example, begin with an overview: “*Production of the widget is a three phase process.*” Then identify what is going to be most important: “*The problem was in phase two.*” Then take it step by step. “*In phase one In phase two In phase three*”

Third, avoid sloppy language. This is a recurring problem in oral communications. You are not hanging out with friends. You are in the hectic, tightly wound adult world now, and you must conform your way of talking to your audience. Focus on being direct and clear. Use meaningful words, not “ums” or “you knows.”

Picture yourself at the entrance to your boss’s office. Here are examples of the wrong and right way to deliver a simple piece of information:

Bad: “*The client. She called and it was not there. The file. And, you know, she’s calling back. And, um, the other file, like, she will check.*”

Good: “*The client called this morning. The blueprint of the factory is not in the building file. She will look for the blueprint in the project file this afternoon and call us.*”

As you deliver more and more speaking reports to your bosses, the clarity of your communications should improve. When your communication is written, you might not receive feedback unless you ask. Have someone in your firm who writes well review your briefs and motions, and pay attention to the edits. That will help you become a better writer.

Keep Bosses Informed

This is a corollary of keeping clients informed. As a young lawyer, you probably are working under the supervision of a senior lawyer, or at least are reporting to one. Bosses rarely have to ask good young lawyers what is happening in a case. If you are being prompted to give status reports, you should be doing a better job of keeping your boss informed.

After you handle a deposition, hearing, transaction, inspection, etc., the first thing your busy and possibly impatient boss wants to know is how it went. Start with that. (“*It went well.*” or “*There was a problem.*”) Then succinctly tell what happened, in clear, direct language.

Some lawyers you work for will want to know every little thing that happens. Others would prefer not to be bothered unless the wheels come off or you achieve victory. As a general matter, you should conform to these preferences. Regardless of the proclivities of your boss, however, make sure you advise whomever you are working for of all significant developments. E-mail is useful in keeping your boss in the loop, because you do not have to interrupt him or her to report, or wait until both of you are in the office together.

If problems develop, report them *immediately*. Older lawyers tend to dislike surprises, at least unpleasant ones. Many an associate has learned the hard way that the only thing that upsets

the boss more than bad news is the same bad news delivered late. If what you have to tell him or her is serious, however, deliver the news in person. If it is really bad, do not let your boss brush you off because he or she is busy or not in the mood. You are expected to insist on being heard when the situation warrants.

Do Not Be an Agent of Misunderstanding or Confusion

Good lawyers are reliable. Like a rock. Clients, judges, and colleagues have total confidence in the accuracy of what they say. Inspiring this in others requires self-discipline and attention to detail.

You must be especially careful in settlement negotiations not to send signals that could be misinterpreted, or to think out loud. If the mediator asks if your client will pay a certain amount in settlement, do not say or even imply yes unless you know for a fact the money is there and you have authority to offer it. Do not tell the mediator or other lawyers what you think your client *should* pay, or *might* pay based on how you see things. Sometimes our clients do not take our advice. Your loose talk will be treated as fact, even though you did not mean it that way. The same is true if you are involved in commercial negotiations. Assume that your counter-part will be looking for signals and hints in everything you say. There is no “off the record.”

If you are reporting to a client on what a deponent said, be exactly, 100% correct. If the deponent admitted that the signature was hers, that is what you report. If, however, she testified that the signature “*looks like*” hers, you quote that instead. A forgery might “look like” it is authentic. (Of course, if you attended the deposition, you would have cleared up this ambiguity.)

If the expert you are consulting says that he “*thinks*” he can support your position, but wants to review everything one more time, do not tell the client or your supervising partner that the expert is on board. That expert is not on board; he is almost on board, and might change his mind.

If another lawyer asks what your client is going to say in a deposition on a certain point, be careful how you respond. Do not give a prediction unless you are sure what the testimony will be. If you represent that your client will say one thing, and she testifies to something else, you look unreliable, or at worst, deceitful. It is better to decline to answer than to be wrong.

Do not get sloppy or be in such a hurry that you use paraphrasing that is not quite accurate. If the key witness testified that the plaintiff’s car was moving “*kinda fast*,” do not put in your report that the witness said was “speeding.” What your client thinks she knows from you is that this pivotal witness has testified under oath and will tell the jury that the plaintiff was speeding. That will nail down the contributory negligence defense. The belief that the witness said “speeding” gives your client the confidence to take a hard line on settlement. What if, in the courtroom, this witness explained that by saying “*kinda fast*” in her deposition, she meant “*maybe a little fast*,” not speeding? You would have some explaining to do.

It also is possible to think that you are being entirely accurate, but be mistaken. If you let it, the passage of time and your memory will play tricks on you, and you will report something that you believe to be correct but is not quite right. You might remember an adverse expert testifying in deposition that he got the case through an expert witness referral service. He really said that he got some other case from a service, not this case. At trial, when you go to his deposition to impeach the witness on this point, you and the jury would see together that the expert's trial testimony you are challenging actually is not in conflict with his deposition, it matches it. Avoid trouble by quoting testimony word for word in deposition summaries to be used at trial, and citing directly to documents as much as possible. Re-read transcripts before you reference testimony. Always double-check.

If you are told to communicate something important to someone else (judge, client, opponent), make sure you know precisely what you are supposed to say. Do not rely on your incomplete or hazy impression of what you are tasked to convey. Make sure you get it right. Ask for more specific instructions. Write it down if you have to. It is your responsibility to be clear and accurate.

You will notice how careful successful older lawyers are about what they say to clients, in court, at meetings and even at social events. They know that ambiguities, inaccurate information and mistaken recollections can lead to serious problems, even disaster. (They have learned from their mistakes.) Copy their circumspection. Good lawyers do not cause misunderstandings.

Develop Relationships

You have heard the adage, "It's not what you know, it's who you know." Good lawyers know people. Lots of people. They know other lawyers, leaders in the community, judges and court staff. They have an ever expanding network of contacts, and themselves are contacts for many others. It takes effort and time to accumulate friends and acquaintances. Most good lawyers who have this talent were not born with it. They have made it a habit, and reap the benefits over the course of their careers.

It is not difficult to enlarge your circle of contacts. Go to lunch with colleagues at other firms. Make it a point now to learn names. Develop and project a sincere interest in the people you deal with. At seminars, sit with lawyers you do not know yet, rather than with your pals. Chat-up everyone who works at the courthouse, from the security guard to the court administrator. Let people get to know you. Being at least a little gregarious is a sure way to increase job enjoyment, and from time to time it will pay off in other ways.

Use Water, Not Gasoline to Put Out Fires

All lawyers occasionally encounter flash fires in their relations with their opponents, and sometimes also with clients, witnesses, judges, partners, secretaries, and so on. Good lawyers tend to be better at containing and extinguishing these ignitions. Over the course of your career, you will want as few enemies as possible, as many favors as you can stockpile, and as much

goodwill as you can nurture. How we get along early with new acquaintances can make all the difference. Sometimes, an icy beginning can thaw into a warm and mutually beneficial long-term relationship, if we handle it right. The key is to start positively, and overcome early conflicts that arise before we get to know and trust each other. Regardless of how well acquainted you are with the other person, resist the temptation to respond in kind to bad behavior. Of course, this is easier to say than to do.

Here is an example. If you have not already, at some point you will get a nasty, vitriolic letter from an adversary attacking your ethics, intelligence or upbringing. There is a strong urge to fire back a response with even more venom in it. Even good lawyers get mad. The best, however, do not lose control. They use humor, patience, understanding, insight, and tolerance to defuse volatile situations, even when harsh action would be justified. Written counterfire will make a tense situation even more explosive. Picking up the telephone and talking calmly to the author of the nasty letter will likely ratchet down the tension. Taking the hostile person to lunch is better yet. Sometimes the best course of action is to ignore the hateful letter altogether. It is the lesson in the old saying that you should never wrestle with a pig. You get dirty, and worse, the pig likes it.

This is not turning the other cheek. You are not submitting; you are defeating rudeness or worse with calmness, restraint and, if possible, empathy. This is a strategy to convert someone who otherwise might become an enemy into a friend, or at least a neutral acquaintance. And it even can work with combustible lawyers. They are looking for someone to fight with, and need to be mad or indignant to get motivated. Sometimes it is necessary to confront abusive lawyers head-on. Often, the worst thing you can do to them, though, is not react to their antics and threats.

Don't Make Threats, Pronouncements, or Dance in the End Zone

Good lawyers win many, but they also lose some. When good lawyers win, they win with class. They do not show up the other side. They compliment their opponent and take care not to say anything publically that would embarrass anyone. They know that they might be on the losing end the next time.

When good lawyers do lose, they do not make excuses. They do not blame their paralegal, their client, or the judge, or claim that the other side cheated. They take the defeat with as much dignity and grace as they can muster under those difficult circumstances. They shake hands and congratulate their opponent even when they are devastated and would rather bolt out of the courtroom.

Good lawyers also do not make threats. They do not say they are going to ruin or destroy the opponent, or seek sanctions, or report him or her to the General Counsel. Good lawyers never try to physically intimidate people, and do not ridicule or demean witnesses, parties or other lawyers. There are too many lawyers who apparently believe that the only way to represent a client effectively is to abuse or humiliate their adversary. Wrong. Good lawyers establish

credibility and gain respect by doing their job with skill, poise and courtesy, not by being loudmouths or bullies.

Ask for Feedback

Good lawyers have gotten that way because they are hungry for constructive criticism. They have made the effort to learn what they need to improve on, because they want desperately to get better. Most judges, clients, opponents, and even colleagues in your own firm are too busy, or are otherwise disinclined to volunteer a critical review. You have to ask for it. It is astounding how much you can learn from those you work with (and against) when you ask what you could have done better. (*“Well, since you asked, you slouch at the lectern/You look sloppy sometimes/I didn’t appreciate your jokes/Your deposition questions are too long and convoluted/You should have followed up this answer with this question/Your letters to the client need more analysis/You kept turning your back on the jury/You constantly tug at your collar.”*)

Too often, we are not even aware of our own defects. If we are not aware of our faults and weaknesses, it is awfully hard to fix them. Invite positive criticism and your progress will accelerate.

Return Phone Calls, Be on Time, Be Nice

Here are a few ways to improve that might seem minor. Perhaps they are, but over the course of a career they have a cumulative weight and become part of what defines you as a person and as a professional, for better or worse.

If someone calls you, return the call the same day, unless you get run over by a bus. Do the same with e-mails, although for some reason the courtesy factor is a little less with electronic messages than phone calls.

Always be on time. Everyone hates to wait on others. If you are a chronic offender, the resentment can build.

Dress appropriately. If you are sloppy or have purple streaks in your hair or wear clothes considered inappropriate by clients and other audiences, it creates a distraction. It will cause people to question your competence. It does not matter if you think that this is superficial or unfair or unenlightened. If you want to express yourself, do it with the quality of your work, not by looking peculiar.

Be courteous, even when you are stressed. We all like nice people, and try a little harder to accommodate them. Why not enjoy this advantage? Don’t be a jerk, even when you can get away with it. People don’t mind when bad things happen to jerks, and won’t go out of their way to help a jerk avoid or survive trouble.

At hearings or other proceedings before the judge, or even in depositions or meetings, do not make accusations or try to look good by making the other lawyer look bad. If you go out of

your way to avoid slings and arrows, you will become known for being reasonable and cooperative. As a practical matter, it is an advantage to hold the high ground. We all could use the benefit of the doubt, and this is one way to earn it.

Look for opportunities to do favors for everyone – from the clerk to your colleague at the firm to the plaintiff’s lawyer. You will need favors yourself. Help lawyers in trouble get out of it. Ask “What can I do?” and mean it. They will never forget it.

Compliment your opponent to his or her spouse or children, if you encounter them. You will learn how good that feels if someone does it for you.

Apologize when you mess up. It is a sign of strength, not weakness. People respect a sincere apology, and it is good for the soul.

Participate in your Local Bar Association and Community

Most good lawyers are active in their bar associations and/or their communities. Few good lawyers participate in neither. The best do both. The time to start is when you are young. Get involved in your local and state bar committees. As mentioned, serve on the grievance committee if you can. Try to be appointed the chair of a committee. Talk to your incoming bar president, and ask for a position of responsibility. Do the grunt work for the bar that will establish your credentials as someone who can be counted on to come through. Plan seminars and do a good job. Help put on a bar function or party and, again, do a good job. Take up the slack when someone else is not doing his part. Have ideas, express them, and then carry through. Choose a volunteer organization you have an interest in, and try to get on the board. Contribute to publications, both local and state. Get involved in ADLA, DRI, and any other organizations you can. Do not be satisfied with being a member. That is worth little. Be an active, contributing, and somewhat ambitious member. Work your way up. Plan on being president one day. Set aside time to devote to these activities. You will develop relationships, friendships, and valuable sources of referrals that way.

Be Diligent about Ethics

Some lawyers take the position that they are ethical, and therefore they do not need to learn the Rules of Professional Conduct; they know them intuitively. All of us need to worry about ethics, however, no matter how naturally virtuous we think we are. Client demands, pressures at work, ambition, greed, distraction, or fatigue all can create the temptation to ignore or gloss over or manipulate ethical issues. There are ethical booby traps all over the place.

Ethical mistakes can be avoided if we are alert and know what to look for. Reading the Rules of Professional Conduct will force you to confront the specific language you must adhere to. Familiarizing yourself with the Rules also will enable you to spot ethical traps before you wander into one. Be particularly sensitive to conflicts of interest. Read the reports of discipline in the *Alabama Lawyer* magazine. Talk to other lawyers about hypothetical or actual ethical

dilemmas.

Most important, ask for an opinion of the Office of the General Counsel if you have any question about the propriety of a course of action. If you are disinclined to ask for the opinion because you are afraid you will get the “wrong” answer, it is doubly important to ask.

If you lose business or an advantage or glory because an ethical rule got in your way, so be it. A year from now, that will only be an irksome memory. If you succumb to your darker angels, and step over the line, you risk ruining your reputation and professional standing forever.

Good lawyers believe in the rules. They might struggle with an ethical issue from time to time. They might lose business, clients, and sometimes even friends because they follow the rules. They do not, however, lose their moral compass.

Work Hard

Our clients hire us to work relentlessly to protect them. They trust us to put their interests above our own. We represent to our clients that we will devote ourselves to their cause. There is no wiggle room. We owe them everything we’ve got. Good lawyers therefore must be – must be – hard workers. Some young lawyers are overly protective of their “personal time.” Personal time is what is left over, if anything, after core family obligations and work demands. It is nice, but not an entitlement. Don’t fool yourself. There are no shortcuts. It is, well, hard to work hard. It requires missed parties, cancelled vacations, late nights at the office, and weekends without relaxation.

Lawyers who are on cruise control are not striving for excellence. They are complacent and mediocre. If you do not recognize that the job takes priority over your recreation and sometimes ruins your personal plans, you need to recalibrate. We cannot become good lawyers without making sacrifices. We must devote many extra hours and a huge amount of our energy to our work. This means that we will be laboring at the office when many of our less motivated colleagues in the law, and our friends outside it, are at the beach or hunting camp. It is just part of the job.

The End

Law is a profession that gifts us the opportunity to continue to learn and get better, from the first week on the job to the last. It is unique in this way. There is no ceiling or maximum. It is a mountain we can never get to the top of. That’s okay. As we climb, the view gets better.