

## Common Pitfalls that Young Lawyers Should Avoid

“Lawyers spend a great deal of their time shoveling smoke.”

– *Oliver Wendell Holmes*

As young lawyers—or perhaps, as lawyers in general—we often find ourselves in tough predicaments that, in hindsight, we could have handled differently or altogether avoided. No matter how many times I am advised by older and wiser people *not* to do something, I insist on trying things myself. This often puts me in the unenviable position of having to learn things the hard way. Do not be like me. Heed the caution of others who know better. Here are a few lessons that I have learned so far in the early stages of my legal career:

***Do Not Take a Case Solely because the Injury is Substantial.*** In personal injury work, the more significant the injury, the more difficult it is to turn the case down. The sympathy for the client’s plight and the potential for a sizeable recovery will lead a plaintiff’s lawyer take a case, even if the odds are stacked heavily against you from a legal standpoint. This is often a mistake. And it is a mistake that young lawyers are more prone to make. Perhaps there is a key piece of evidence that is missing and you just assume that it will come out of the woodwork during discovery. Or maybe the law is not so favorable, but you have found that one outlier case and you believe that you can make a winning argument with your fine legal acumen—even if that has to happen on appeal. This line of thought is inspiring and can lead to successful results. But be careful. When you take a case like this, it becomes your problem. You will inevitably find yourself swamped with time-consuming depositions, discovery requests, and motion practice. This is not to say that difficult cases are not worth pursuing, even if the chances of winning are small. It is just to say that you should think long and hard about how many of these cases you want to become entangled in and whether you can make the time commitment.

***Procrastination Does Not Pay Dividends.*** In the days of undergrad and law school, it was commonplace for me to wait until the last minute to get my work done. That strategy kind of worked for me then. But it does not translate well into the actual practice of law. Despite our best intentions, we all have tasks that are brushed aside and put off for another day. For me, these “to-do lists” get written down on a legal pad and shuffled around my desk for days, weeks, or even months on end. My repeat offenders include: 1) researching an area of law to see if I have a case, 2) returning calls to angry/difficult clients, and 3) calling clients to give them bad news. In all of these situations, I have learned that delay is not the solution. When you get a client with a questionable case, set aside the time to research the law. You will be surprised at how often one simple search will quickly and definitively reveal whether you have a case. Equipped with the knowledge of the law, you can then get rid of the case or move forward with it—and either way, the research is off your list. The same applies to calling clients. Even if you are not sure how to address their concerns, putting off calling them back will only increase the tension in the relationship. By returning their calls, you will either realize that their demands are

unfeasible and that you need to cut them loose, or you will establish better rapport and begin working to solve whatever problems they might have. If you are calling to give a client bad news—whether it be a low offer, an unfavorable court ruling, or telling them that they do not have a case—then do it without hesitation. It will not get any easier with the passage of time. Rather, it will continue to occupy precious space in your mind that could be more productively used elsewhere.

***Do Not Try to Re-Invent the Wheel.*** My boss says this phrase to me on a weekly basis. This issue most often arises when I am drafting complex complaints and/or discovery requests. Naturally, I want to draft the most perfectly worded and thorough complaint in the history of whatever type of case I am filing. I want to come up with the cleverest and most piercing interrogatories the defense attorney has ever seen! While my ambitions are noble, this is often a huge waste of time. This is because an abundant amount of material is readily available on listervs, legal search engines, and, yes, even Google. You can also simply ask other lawyers for sample complaints and discovery requests—most are happy to help. Do not repeat the work that others have done before you. Use their labor as your framework. Someone else has likely drafted that complaint you are trying so hard to make perfect. They have also given thought to those pointed interrogatories that you are so desperately trying to assemble. And most attorneys have more experience than you do so their questions are probably more relevant than any that you could come up with on your own. By not starting from scratch, you will save yourself loads of time in the long run.

***Keep Your Emotions in Check During Depositions.*** Defense attorneys can be very condescending towards young lawyers. This should be expected. Do not give them the pleasure of riling your emotions and causing you to lose your temper—you will regret it later. Your best weapon in the deposition is the Rules. Know the Rules of Evidence & Civil Procedure extremely well if you want to put your best foot forward during a contentious deposition.

Hopefully, with these tips, you will be practicing in a more efficient manner—and shoveling less smoke!