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"You don’t need experience to run."

"There are ample opportunities to get involved."

“Service changes the way you see the world.”

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This year’s ABA Young Lawyers Division theme is “Driving innovation, defining our future.” The YLD is committed to providing its members robust content, superior networking opportunities, and an enhanced member experience.

This commitment is being pursued throughout the association, starting with the launch of a new website that delivers members with an easy-to-navigate, mobile-accessible online experience. More changes are on the way, including a simplified dues structure and a higher return on your membership dollar in terms of access to high-quality content.

For our part, the YLD is committed to providing you with the tools, resources, and experiences to enhance your professional life, along with opportunities to pursue your passion and meet your fullest potential. We are focusing on several new projects to elevate young attorneys: a focus on the legal innovations needed in an ever-changing profession; “No Limits” is designed to create a national dialogue on the challenges women attorneys face, share strategies, and find solutions; “A Seat at the Table” will bring a new generation of energetic young lawyers into civic engagement and public office; and the “Men of Color Project” will provide an interactive web space and programming for men of color during law school and in the pivotal first years of practice.

Thank you for your membership in the ABA.

TOMMY D. PRESTON, JR
2018–2019 YLD CHAIR
These powerful words still ring true more than two centuries after they were written. To borrow a phrase from another former US President, Abraham Lincoln, the US government was founded as a “government of the people, by the people, for the people.” It is the people who make our nation’s government strong, and to maintain and increase that strength, it is the duty of all our nation’s people to take an active interest in the affairs of our government. When most people think of civic duties and becoming more active in their government and community, they tend to think of engaging in politics or running for office. As the articles in this latest issue of TYL demonstrate, civic engagement includes a broad spectrum of activities.

Whether it’s exercising our ever-important right to vote, volunteering for a cause or campaign in any capacity (and no capacity is too small), joining a nonprofit board, or even running for office, there is no end to the series of opportunities for every person to make a difference in their community.

**Endorsements vs. Influences vs. Social Justice**

We live in a celebrity-obsessed culture that I admittedly love and enjoy watching with amusement and occasional annoyance. Who doesn’t like a binge weekend of *Keeping Up with the Kardashians?* I proudly follow NBA’s Steph Curry and LeBron “King” James on Instagram and Facebook. As Americans continue to consume social media at exorbitant rates, global advertisers, elite brands, and national media companies are actively looking for ways to feed our appetite for more celebrity-endorsed products. This hunger has created a unique climate that has produced some of the most lucrative endorsement deals on the planet.

For instance, LeBron James has endorsement deals—Coca-Cola, Beats by Dre, Kia Motors, Intel, Verizon, and Nike—that earn him more than $55 million annually. (I clearly should have played more sports as a kid!) But the most interesting endorsement deal this year is for an athlete who hasn’t played in a professional sport in nearly two years—former NFL quarterback Colin Kaepernick.

For the last two years, Kaepernick has made global headlines for his peaceful protests at NFL games against repeated incidents of police brutality against unarmed African Americans across the country. His silent protests have endeared him to many fans, but the backlash has also prevented him from playing in the NFL since 2016, making his recent Nike endorsement deal unique.

Kaepernick became the official face of Nike’s “Just Do It” 30th anniversary campaign. The campaign is just the first step in Nike’s new partnership with Kaepernick, an extension of a deal he’s had with the company since he entered the NFL in 2011. In less than 24 hours after Kaepernick first revealed the ad on Twitter, Nike received more than $43 million worth of media exposure. The ad depicts Kaepernick’s face with the phrase “Believe in something. Even if it means sacrificing everything.”

While some details of the partnership have been unveiled—an apparel line for Kaepernick and a contribution to his charity, Know Your Rights—I’m still left wondering what else could be in his Nike endorsement agreement. According to Jaia Thomas, a Los Angeles–based sports and entertainment lawyer, the whole idea behind endorsement agreements is to grant a company the right to use the athlete’s name, image, or likeness in relation to advertising the company’s products or services.

Overall, these agreements have the typical sections, such as duties and obligations, compensation, marketing, and breach of the agreement. The breach section typically includes language about unbecoming conduct, which essentially allows sponsors to terminate an agreement if they are not pleased with an athlete’s behavior on or off the field. Obviously, this language is very subjective, and it is a powerful clause to be used by a sponsor. And, I would guess in most cases, national sponsors could use a clause such as this to terminate Kaepernick’s sponsorship deals because of the negative press and backlash his protests have received. But Nike must view his social activism as a virtue, and they must see his image and actions as socially acceptable and highly profitable. “It will be interesting to see not only how Kaepernick’s deal unfolds but also if any other companies or brands follow suit in the coming months,” says Thomas.
The Ethical Pitfalls of Nonprofit Board Service

LUCRECIA P. JOHNSON

You have always wanted to join a nonprofit board of directors, and now, here you are, at your first meeting. This is an organization with a mission you are passionate about, and you are eager to use your analytical skills to help the organization reach its goals. You have fundraising ideas and cannot wait to volunteer your time.

The meeting starts, you are welcomed, and the first agenda item is for the new board member to review lease agreements and vendor contracts. How should you respond? The advocate in you may want to begin to advise your fellow directors immediately on the legal ramifications, terms, and clauses of the agreement. You are not here as legal counsel, however. You are here as a director. Providing legal advice to your new board will create an attorney-client relationship.

Can you serve as the board’s attorney and be a director? The simple answer is yes. The ethical and more complicated answer is you likely should not. You have a duty to explain to your fellow directors when you are acting as counsel and when you are acting as a director. This can cause confusion in the boardroom, and you may even be confused as to when you are acting in which capacity. The best practice is to clarify, before joining, that you will serve as a volunteer, not an attorney, and cannot provide legal advice.

What if your firm already represents a client with an interest directly adverse to the organization? This is where your ethical duties as an attorney can hinder your ability to serve on the board. As a board director, you owe a duty of loyalty to the nonprofit. To uphold that duty to the organization, you must act in the organization’s best interests. While no rule exists requiring a higher fiduciary duty for attorneys who serve on nonprofit boards, rules of professional responsibility impose a heightened requirement. To minimize your chances of a conflict, check with your firm before accepting a board position. Once initial conflicts are cleared, the onus is on you to be aware of any potential conflicts, and to alert your firm and the board should any arise.

If you carry out all your director duties and still end up named in a lawsuit against the organization, your malpractice insurance likely will not cover you. Therefore, you should ensure the organization has adequate directors and officers liability insurance.

Is serving on a nonprofit board worth it given considerations of time, the ongoing duty to avoid conflicts, potential liabilities, and, most importantly, ensuring your fellow directors understand your role? Absolutely! It is an opportunity to use your analytical abilities in service to the greater community, learn from fellow board members, and make professional connections. Before accepting a position, follow your instincts and research, research, research!

LUCRECIA P. JOHNSON is the managing attorney and founder of LPJ Legal in Washington, D.C. She may be reached at lucrecia@lpjlegal.com.

WOMEN

WHY YOU SHOULD RUN FOR OFFICE AND HOW TO GET STARTED

MELISSA RICHMOND AND CATHARINE RICHMOND

Only one in four officials at all levels of elected leadership are women. What might surprise you, however, is that women win at the same rates as men. Although a record number of women are running for Congress, there still aren’t enough women running to fill even half of the more than 500,000 elected positions in the United States.

You don’t need experience to run—if you care about your community, have identified issues that affect the people around you, are willing to share your unique experiences, and want to help create solutions, then you should run for office.

Contrary to popular belief, there is not a special set of prerequisites to run. Just remember to think local. The more local the issue, the more likely diverse groups will unite to solve it. Carrying about community issues—and not necessarily the most hot-button, controversial, divisive issues—matters. That’s what makes America great.

Running Start is a nonprofit that trains women to run for political office on a nonpartisan basis. A key feature of each training is when each woman identifies an issue and stands up to deliver a one-minute elevator speech on why she cares, how it affects her, why others should care, and what she is asking for from the audience. All great lawyers know that they are most successful when they synthesize vast amounts of information into a few key points and draw in their audiences through personal storytelling. Candidates who can...
Embracing Civic Engagement 101

M. CABELL CLAY

Many are drawn to the legal profession by a desire to help people and better society. For some lawyers, civic engagement is a full-time calling answered by a public sector or nonprofit job. For others, civic engagement must fit into a new practice, which can seem daunting. Given the many demands on their time and energy, how do new attorneys find time to be civically engaged?

W. Taylor Reveley III, former president of the College of William & Mary and advocate for attorney civic engagement, wrote, “Being a citizen lawyer is not hard, it just takes doing.” (The Citizen Lawyer, 50 Wm. & Mary L. Rev. 1309 (2009).) One little task contributes. Many small tasks combine into something greater.

Here are five tips for incorporating civic engagement into your practice:

1) Start small. Civic engagement does not have to mean running for political office or taking on an extensive pro bono case. Civic engagement can be volunteering one hour a week at a homeless shelter or spending one Saturday morning a month registering people to vote. Small actions can have an impact on your community and are a great way to start making civic engagement part of your practice.

2) Follow your passion. Seek causes you are excited to support, whether it is assisting domestic violence victims secure protective orders or volunteering at an animal rescue. By consciously choosing civic engagement activities that you believe in, you will find the tasks more satisfying and, ultimately, do a better job.

3) Develop skills. Civic engagement is the perfect opportunity to build skills that you may not otherwise have the opportunity to develop early in your career. Need practice comfortably talking to strangers? Canvas for a candidate. Want to develop better organizational skills? Head a bar association committee or assist a nonprofit with event logistics.

4) Cultivate relationships. While you may not be expected to bring in clients now, a senior associate does not wake up in her sixth year of practice and suddenly “have clients.” Client development requires building relationships over time. Civic engagement opportunities allow you to start that process.

5) Build your brand. If you pursue civic opportunities, you will inevitably build a reputation in your community. Be thoughtful about how you present yourself. Ensure the reputation that you build complements your practice. Are you seen as someone who is dependable and gets results? Or are you are perceived as difficult to work with or unlikely to follow through? Use your civic engagement to improve your community and demonstrate your abilities.

Thoughtfully consider which civic engagement opportunities excite you, fit your schedule, and promote your skills, relationship, and brand development. Let the opportunities that fit your practice become a vital component of your success. It just takes doing.

M. CABELL CLAY IS A PARTNER AT MOORE & VAN ALLEN PLLC IN CHARLOTTE, NORTH CAROLINA, WHERE SHE PRACTICES A MIX OF COMMERCIAL AND EMPLOYMENT LITIGATION. SHE MAY BE REACHED AT CABELLCLAY@MVALAW.COM.

Speak compellingly about issues to many voters on a one-to-one basis are the candidates who win. Surprisingly, among women state legislators, community involvement is the number one reason that prompted them to run. Running Start is in the middle of surveying more than 1,800 women state legislators about why they ran and what prepared them to do so. Here’s what women say prompted them to run:

★ INVOLVEMENT IN COMMUNITY
★ SUPPORT FROM FAMILY AND FRIENDS
★ BEING ASKED
★ HAVING A SUPPORTIVE PARTNER
★ INTEREST IN A SPECIFIC ISSUE

You’ve been trained to think analytically and to speak and write persuasively, which dovetails perfectly with a desire to create change in your community. You can—and should—consider running for office. While there are training programs you can attend and other resources you can access, you don’t need any of those things. You’re ready. Pick an issue, speak about it based on your personal experience, convince others why it matters, and you can—and will—win!

MELISSA RICHMOND IS VICE PRESIDENT OF RUNNING START, A NONPARTISAN NONPROFIT BASED IN WASHINGTON, DC, THAT TRAINS YOUNG WOMEN TO RUN FOR POLITICAL OFFICE. SHE MAY BE REACHED AT MELISSA@RUNNINGSTART.ORG.

CATHARINE RICHMOND IS AN ASSISTANT U.S. ATTORNEY PROSECUTING DRUG, GUN, GANG, AND FRAUD CRIMES IN THE CENTRAL DISTRICT OF CALIFORNIA.
As the regulatory state continues to expand, compliance counseling is growing fast. It is also largely ignored in the law school curriculum as a systematic course of learning. There is no mock compliance competition, or compliance drafting class. Even Richard Susskind’s Tomorrow’s Lawyers—the book I assign in my Law Practice 2050 class at Vanderbilt Law School—leaves compliance counseling out of the picture in its insightful discussion of litigation practice and transactions practice “decomposed.” Yet, compliance counseling is a discipline every bit as much as litigation and transactions.

What Do You Want to Do? Litigation, Transactions, or Compliance?

Clients need compliance counseling in a vast array of contexts. Any start-up company, for example, needs help understanding how to comply with employment, securities, corporate, and other regulatory programs. Even an established company will need compliance assistance for developing a new product or proposed new industrial facility, and ongoing operations may seek compliance check-ups to reduce enforcement and litigation exposure. Then there is the myriad of permits, licenses, and other authorizations needed to do anything from building a deck in your backyard to opening a new nuclear power plant. And sometimes companies miss the compliance mark, leading to questions regarding correction and disclosure.

Systematic Approach to Help Clients Navigate Compliance Challenges

1. Build domain knowledge. To provide compliance advice, a lawyer must become an expert in the relevant legal domain. But, it is also essential to build expertise in the business domains and other spaces the law is regulating—to understand how the two interact.

2. Develop a compliance analysis flowchart. OK, I am a flowchart freak, but virtually any compliance problem can be reduced to a flowchart. True enough, they can be complex, but this is where the expertise comes into play—in developing a flowchart that works. It must embed all the relevant legal questions and sort compliance from noncompliance.

3. Assemble the relevant facts. Just as litigators plug facts into the elements of a claim, the compliance lawyer must find the client’s facts relevant to the compliance flowchart.

4. Apply the facts to the flowchart. The skill here is in identifying where more facts are needed to reduce ambiguity. Running through the flowchart is an iterative process.

5. Identify instances of compliance, noncompliance, and ambiguity. Once all the facts are in and as much ambiguity as possible is squeezed out of the analysis, it’s time to pin down instances of compliance, noncompliance, and lingering ambiguity.

6. Advise regarding noncompliance and ambiguity. Although instances of compliance are important to identify for assessment and learning, the priority at this point is to determine how to handle instances of noncompliance and ambiguity. If the compliance counseling is for a planned activity, there may be ways to redesign the action to avoid noncompliance (e.g., relocate planned buildings out of protected habitat). If it is for an ongoing or past activity, reporting obligations and potential enforcement consequences must be assessed. As for ambiguities, risk assessments for different courses of action can be developed.

7. Assist in long-term compliance strategies. Although compliance counseling often involves one-off assessments or proposed or ongoing actions, developing long-term compliance strategies that learn from those one-off assessments is increasingly important in highly regulated industries.

With new regulatory fronts opening almost continuously, young lawyers can develop compliance counseling expertise for an emerging regulatory program as fast as anyone else. When you spot such an opportunity, build the knowledge, craft the flowchart, write about it, and talk about it—become the compliance counseling expert.

J.B. Ruhl

Is the David Daniels Allen Distinguished Chair of Law and Director of the Program on Law & Innovation at Vanderbilt University.

Word!

“If you think compliance is expensive, try non-compliance.”

—Former US Deputy Attorney General Paul McNulty
A Case of Abrupt Onset Sexual Predatory Behavior with Minors

In legal cases involving the apparent abrupt onset of illegal sexual behavior with minors, prosecutors and defense attorneys should be alert to the possibility of behavior-variant frontotemporal dementia (bvFTLD) as a causation factor in young adults where there is no prior history. While the signs and symptoms of this brain dysfunction are generally seen in individuals age 50 and older, they can occasionally appear as early as age 20. The relevant signs of bvFTLD are disinhibition, impulsiveness, poor judgment, loss of empathy and sympathy, and compulsive sexually inappropriate behavior. Not all signs may be exhibited in all individuals, and other signs and symptoms can be present in variations of the disorder. The cause is unknown, and at autopsy, the disorder is associated with three types of abnormal protein buildups in brain cells.

An example of a case of suspected FTLD is a recent court martial in which this writer was retained as an expert. It involved a 25-year-old male enlistee who began to exhibit sexually inappropriate behavior with underage girls in his extended family and their friends two years earlier. He denied any prior sexually inappropriate behavior and no witnesses came forward prior to or during the trial to testify that he had molested them. This is relevant because sexually predatory behavior is typically exhibited in the teens or earlier.

A clinical examination for bvFTLD should include a structural MRI scan that may reveal frontal lobe or anterior temporal lobe bilateral or asymmetric atrophy, however, in the early stages a scan may appear normal, which was the finding in this case. Even so, if bvFTLD is a rule out diagnosis a baseline MRI is important because it can be compared with later imaging and may reveal evidence of atrophy that might otherwise be interpreted as normal in later MRIs viewed without benefit of comparison. In addition, a battery of neuropsychological tests may be considered but would probably not be definitive in making the diagnosis in the early stages without corroborating evidence from imaging studies. A diagnosis of bvFTLD would no doubt have been of value in mitigating the charges in this case and may yet be a factor in an appeal if evidence surfaces later to support the diagnosis. However, this man would probably choose his prison sentence rather than being diagnosed with bvFTLD because it is a progressive, untreatable, fatal disease, or, in other words, a death sentence.

Further Reading

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Oath to Others
Remembering Who and Why We Serve

ALLISON DALEY

... I WILL USE MY KNOWLEDGE OF THE LAW FOR THE BETTERMENT OF SOCIETY AND THE IMPROVEMENT OF THE LEGAL SYSTEM; I WILL NEVER REJECT, FROM ANY CONSIDERATION PERSONAL TO MYSELF, THE CAUSE OF THE DEFENSELESS OR OPPRESSED ...

These are the words that began my practice of law in Colorado. Many other states’ oaths of admission to practice law contain similar sentiments. Many of us dreamed of going to law school to ensure equal access and opportunity for others. However, amidst the deadlines and the busyness, we can easily forget the people behind the paperwork. Following are four examples of how attorneys or legal organizations serve people with disabilities, veterans, transgendered people, and immigrant communities.

ADVOCATING FOR INDIVIDUALS WITH DISABILITIES
More than 50 million Americans live with a disability. The law has evolved significantly to assist those individuals and provide remedies for unequal treatment. The Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities in housing, employment, transportation, public accommodations, and other programs and services. The ADA by itself, however, does not ensure equal access for all.

According to Blake Reid, an associate clinical professor at the University of Colorado School of Law, policy includes thinking about robust enforcement mechanisms, like empowering a grassroots network of individuals who know the law and demand enforcement of its provisions. In his first job after law school as a staff attorney and graduate fellow in First Amendment and media law at the Institute for Public Representation at Georgetown Law, Reid worked on Internet protocol closed captioning. Years later, Reid saw how his work enforcing closed captioning provisions of the ADA not only benefited one individual but also changed the distribution of online video on a greater scale. Companies have started taking accessibility more seriously, forming better relationships with the community, becoming more responsive to complaints, and thinking about how to be more proactive and progressive. While videos without closed captions still exist, those videos are fewer and farther between.

This year, advocates in Colorado successfully secured state funding to provide closed captioning for the live stream of the state’s legislature, providing better access for individuals who are deaf or hard-of-hearing. Despite this victory, the State Capitol continues to lack reliable, independently operable platform lifts for individuals with physical disabilities (a requirement under the ADA). This forces individuals like Chris Hinds, a volunteer advocate who lives with a physical disability, to rely on others to send notes to legislators and hope those legislators will walk down the stairs to meet him. “The ADA requires enforcement to be effective, and that favors those who have the education and resources to enforce it,” explains Hinds.

Lawyers have a significant opportunity to use their resources to support individuals who live with a disability. At minimum, lawyers should be aware of how laws like the ADA may impact their area of law and their physical workspace.

RESOURCES DEDICATED TO BENEFIT VETERANS AND THEIR FAMILIES

Lawyers dedicate resources to benefit veterans and their families. Dan Caldwell, executive director for Concerned Veterans for America (CVA), emphasizes that veterans face challenges like all Americans, including barriers to entry when starting new careers. CVA’s advocacy focuses on empowering veterans to succeed in civilian life and achieve economic empowerment rather than rely on military benefits.

In a previous project called Get Out the Vets, CVA placed thousands of phone calls and knocked on the doors of thousands of veterans across America to educate them on important issues and encourage them to call their representatives and vote.

Lawyers can help veterans by volunteering at or hosting legal clinics to help veterans navigate service benefits, financial trouble, or predatory lending issues. Lawyers can assist veterans...
by acting as legal representation for a veteran before the Board of Veterans’ Appeals, which makes decisions about benefits for veterans and their families. The social contract we make with individuals who put their life on the line in service to our country, like any contract, should be enforced. Lawyers play an important role in enforcing it.

CHALLENGES FOR TRANSGENDER PEOPLE

Lawyers play a vital part in supporting transgender people. Accessing military benefits can be especially challenging for transgendered service members. After years of effort, dozens of phone calls, and numerous paperwork submissions, Jordan Blisk, a recent graduate from the University of Colorado Law School, a military servicemember, and a man with trans experience, was finally able to get the US Department of Veterans Affairs (VA) to recognize his name change. During the wait, Jordan stopped going to the VA for medical care because staff never got his name right. While sitting in a waiting room with other veterans, a doctor would come out and read his former name in front of everyone. When Blisk stood up in response, he felt tremendous pain for being constantly misgendered in a place where he was supposed to trust doctors and staff to provide him with medical care.

Lawyers can help trans people in their efforts to ensure their identification matches their presentation. At Colorado Law, Blisk helped organize a name change clinic where volunteer attorneys sat with individuals to explain and fill out the documents necessary to request name and gender changes from the court. In one afternoon, the clinic helped 36 individuals. Blisk remembers one woman who left in tears because the clinic was one of the first places during her transition where she did not feel afraid. She had been living in a prison of fear and anxiety while being confined to an identity that didn’t suit her. The clinic helped rectify that.

Lawyers can support trans people by understanding pronoun preferences and the importance of respecting a person’s name in your interactions or in the motions you file, even if that name is not a person’s legal name. According to a 2015 survey from the National Center for Transgender Equality, 13 percent of trans people who visited a court house within the past year were denied equal treatment or service, verbally harassed, or physically attacked. Lawyers can accompany trans people to court hearings, advocate for them, and advocate for legislation that makes the gender and name change process less difficult. Finally, lawyers can financially support individuals in transition who have to pay up to $750 in some states to complete their transition.

NAVIGATING THE IMMIGRATION PROCESS

Lawyers can dedicate resources and time to help immigrants navigate the complicated immigration process. For example, Communications Manager Cristiano Solano-Córdova of the Colorado Immigrant Rights Coalition has held workshops across the state regarding Deferred Action for Childhood Arrivals (DACA). At one event, volunteers helped 34 DACA recipients and covered each recipient’s $495 fee for renewal. As a result of DACA renewal, one recipient, Ruth, who came from Chihuahua, Mexico, when she was four years old, can now continue with college, get a job on campus, drive, and work toward a counseling job in the mental health field.

Lawyers can support immigrants by recognizing when an issue arises in their practice that may impact someone’s immigration status. This is particularly relevant to undocumented clients in matters involving criminal law, family law, employment law, and tax law, according to Brett Stokes, law clerk at the Meyer Law Office in Denver, Colorado. Stokes’s law office works closely with public defenders and bar associations to train attorneys to spot immigration issues. Prosecutors who understand how certain convictions can impact immigrants may be able to offer different pleas that will not cause immigration consequences. Similarly, defense attorneys may need to advocate for specific deals to ensure a client is not impacted.

Bar associations across the country are offering immigration-related continuing legal education classes for many practices of law. Simply recognizing your client’s immigration status can really help them.

WE ARE ALSO BENEFICIARIES OF OUR ADVOCACY

While the recipients of our advocacy can be found in any area of practice, one of the biggest beneficiaries of our work can be ourselves. As Reid reflected on his disability advocacy:

Getting engaged over time has led to other projects that I never thought I would end up doing, and it’s given back to the rest of my career in a way I never would have guessed. You meet interesting and brilliant people that are doing interesting work that you can learn from. Service is its own reward. It changes the way you see the world.

No matter what you are passionate about, there are people who need your help and are waiting for you to get involved.

ALLISON DALEY is a legislative and policy advocate for Colorado Counties, Inc., the statewide association representing county commissioners in Colorado.
Volunteer with a Campaign or Get Out the Vote (GOTV) Organization

While campaigns need money to get onto the airwaves, they can live or die based on volunteers. As Alexandria Ocasio-Cortez showed by winning the Democratic primary for the New York Fourteenth Congressional District in June 2018, a dedicated group of volunteers can help a candidate bring her message to doorsteps across a district.

It is OK if you have never volunteered for a campaign. I was unsure how things would go when I knocked on my first door, but you soon get the hang of it. It’s also OK if you are not a policy expert. Complicated or tricky questions can be referred to campaign staff or the candidate’s website. Canvassing is a great way to spend a fall afternoon outdoors. There are opportunities for those who cannot walk door-to-door as many campaigns hold phone-banking events to remind people to get out to vote and ensure they have a voting plan for Election Day.

The first step is going to a campaign’s website and signing up to volunteer. Many local parties also have a Young Democrats or Young Republicans chapter and will help coordinate volunteer opportunities.

For those who prefer a nonpartisan approach but want to help protect the right to vote, organizations committed to election protection always look for Election Day volunteers. In 2016, I volunteered with the Lawyer’s Collective for Civil Rights. They trained volunteer law students and paired us with attorneys to assist voters around the country. We helped voters understand their rights and reported problems or issues by maintaining contact to a central hotline. Rock the Vote is another organization where you can help encourage your community and Get Out the Vote.

Work in a Legislative Office

I went to law school thinking my eventual career path would be policy- or legislation-oriented. I was always interested in politics and had varied interests, so it seemed the best way to effect the most change. At Northeastern School of Law, I completed two co-ops in the Massachusetts State House, the first for the Executive Office of Administration and Finance (EOANF) and the second for a state senator. The first co-op led to my first job out of school as the assistant deputy counsel for EOANF. The connections I made through EOANF led to my next two positions in the legislature.

I was excited to work at EOANF, even knowing it would only last eight months until the next election. While there, I was surrounded by extremely smart, dedicated public servants. I was proud to be one of them. It felt like The West Wing in real life. It solidified my belief that, in the hands of the right people, government was a tool to improve lives.

After EOANF, I worked as staff counsel in the state Senate and learned how to navigate the opaque legislative process as I researched, edited, and drafted bills, and met advocates regarding a range of local and statewide issues. I liked thinking about solar energy one minute and affordable housing or charter school fund-
ing the next. However, I was occasionally frustrated that the work felt a mile wide and an inch thick. Luckily, I heard about a counsel position in the Committee on Revenue staff and soon moved from senate staffer to house committee staffer to focus on tax policy.

This may surprise you, but tax policy is fascinating. Tax credits and deductions are frequently used to incentivize corporate and individual behavior. Property taxes and local property tax abatements have ripple effects on housing and zoning policy. Excise taxes on cigarettes reduce smoking. The earned income tax credit is one of the best tools we have against poverty and income inequality. Through the Revenue Committee, I have touched on many issues through the singular lens of taxes, allowing me to get in the weeds without limiting my generalist tendencies.

Constitutional law, property law, corporations, and contracts have been the most relevant law school classes to my work but it often surprises me what legal issues might arise when discussing a bill’s merits with colleagues. I’ve worked for the state executive branch, the Senate, and the House. At each turn, I have found the work exciting and interesting, with the added bonus of feeling like I might be making a small difference in my community. I highly recommend that new lawyers consider the public sector after law school. It is an excellent way to make connections, hone your skills, build your resume, and do good.

Serve as a Legal Observer

“It was the best of times, it was the worst of times. . . .” The opening line from A Tale of Two Cities, the novel on the years leading to the French Revolution, is as true today as then. Today’s government is pushing to roll back civil and human rights gains. There is no need for law students or young lawyers to feel depressed about this. A movement has sprung to stop that rollback and put society back on the track of justice and improving people’s lives. History shows that each time people’s rights were threatened, protests filled the streets and courts. They not only won back the rights they were losing, but also won new rights (see chart below).

Lawyers and law students played key roles in each movement, not only in court, but also as legal advisers and movement members. That’s where the National Lawyers Guild (NLG or Guild) fits in. NLG is one of the country’s oldest progressive bar associations. Since 1937, NLG has used law to advance social justice and support social movements. Since 1968, the Guild’s Mass Defense Committee has supported protesters by:

- holding “know your rights” trainings and workshops;
- advising organizers about protest actions and legal consequences;
- serving as legal observers at protests and other actions;
- creating and running jail and bail support programs;
- providing legal representation for protest arrestees;

A legal observer is present at a protest or free speech action but is not a protester. They wear NLG green hats and armbands to mark their role as legal observers. Legal observers support the activist’s safe exercise of rights of speech and protest, and their presence may deter police misconduct. They are responsible for documenting any dangerous or illegal activity that occurs, such as unlawful arrest, use of force, and denial of access to public spaces like parks and sidewalks. Legal observers also assist in connecting people who are arrested to the larger mass defense efforts (e.g., jail support).

Being part of the NLG can be very rewarding and beneficial to lawyers and law students. Witnessing a movement provides balance to the academic side of law school or a day job sitting behind a desk. Legal observer volunteers describe the satisfaction of “doing something” greater than yourself. Legal observing is a way to support movements without directly being part of the movement and risking arrest. Additionally, joining NLG helps build contacts, connections, and “second chair” opportunities for those interested in public interest law.

Young lawyers and law students have ample civic engagement opportunities that fit your time and interests. Go find them!


JULIE BUTNER IS AN ASSISTANT SOLICITOR WITH THE SPECIAL VICTIMS UNIT IN THE FOURTEENTH CIRCUIT SOLICITOR’S OFFICE IN BEAUFORT, SOUTH CAROLINA.

KING DOWNING IS NATIONAL LAWYERS GUILD DIRECTOR OF MASS DEFENSE AND FOUNDER OF THE HUMAN RIGHTS-RACIAL JUSTICE CENTER. HE MAY BE REACHED AT KING@NLG.ORG.

ALICIA SCAHILL IS CHIEF COUNSEL FOR THE MASSACHUSETTS JOINT COMMITTEE ON REVENUE.

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Why Stand for Something When You Can Run?

Emily Klatt and Victoria Walker

We are in the middle of a wave that is overtaking American politics—a wave of young people who have set out to be the change they seek. The following collection of experiences and insights is from nine young lawyers who have answered the call to public service.

Jennifer Carroll Foy was elected to the Virginia House of Delegates in 2017. A graduate of Thomas Jefferson School of Law, she serves as a public defender in Arlington County, Virginia, when the House is not in session. She may be reached at deljcarrollfoy@house.virginia.gov.

Jay Jones was elected to the Virginia House of Delegates in 2017. A graduate of the University of Virginia School of Law, he is also a partner at Bischoff Martingayle P.C. He may be reached at deljjones@house.virginia.gov.

Spencer Merriweather III has served as the Mecklenburg County, North Carolina, district attorney since 2017. He is a career prosecutor who attended the University of North Carolina School of Law. He may be reached at spencer.merriweather@nccourts.org.
1. When did you decide to run for office? Was it a long-standing aspiration, or did it develop during (or after) law school?

**Jones:** Although I grew up around politics (I hold the same seat my father once held), I had no designs on holding office. I was enjoying life as a labor and employment associate with a large firm when the incumbent announced she would not seek reelection. I was only 27 at the time, but my community urged me to pursue the nomination.

**Pendarvis:** In 2015, after Charleston suffered two great tragedies in the Walter Scott and Emanuel Nine shootings, I became involved in grassroots efforts. I announced I was going to run at an activist meeting to plan for city council elections. I did not put much thought into that decision beforehand, but knew that I had a larger obligation to my community. I ultimately lost that election, but I was 25 and lost to a 20-year incumbent. That race taught me a lot and put me in the position to become more involved. I eventually ran again and won with 80 percent of the vote.

**Thibodeau:** I made the decision to run for office in the middle of a blizzard. I was walking to work in the middle of the street because the sidewalks were not plowed, and I decided to do something about it. I didn’t know who my city councilor was, but I felt like my city wasn’t doing very basic things that we rightfully expect. Things came full circle when I pushed through amendments to Portland’s snow clearing ordinance at the end of my first term.

**Wu:** As the daughter of immigrant parents, I never expected to be involved in politics. Life took an unexpected turn when my mother’s sudden onset of mental illness left me raising my two younger sisters and running a family business. I quickly realized the impact of government on people’s daily lives and applied for law school to understand the legal frameworks that shape opportunities and barriers for families. My 1L contracts law professor—Elizabeth Warren—announced she was running for US Senate, and I became her constituency director. One year later, I was elected to the city council.
2. How has your legal training and experience prepared you for your elected role?

Merriweather: There’s no question that my years as a trial prosecutor have served me well in my elected role. As someone now responsible for setting policy, every consideration in my work is tethered to my experience standing before a judge and jury, empathizing with individual victims and survivors, and explaining the limits and possibilities of the law to families and communities.

Roversi: I have served as deputy county attorney for the County of Kauai for more than four years. I have handled civil litigation on behalf of the county and advised various county departments, boards, and commissions. I am intimately acquainted with how our county government operates, and sometimes fails to operate. I think my background has been the perfect preparation to serve on the county council and get things done.

Wu: I see my legal training as the foundation for bold and effective advocacy. From dissecting contracts and legislation, to serving clients with integrity and ethics, my legal skill set has made me a stronger lawmaker and a more vigorous advocate.

Young: My legal training helps me better frame my platform and advocate clearly and succinctly. It also helped with my public-speaking skills.

3. How do you connect with constituents with whom you may have deep disagreement on policy issues?

Merriweather: I have a responsibility to hear from people, even if they may disagree with me. As a lawyer, I’m always better served by asking questions than by answering them. If I engage with those whom I disagree, I may be able to fashion a policy that ameliorates some of their concerns and extends the life of the policy. I think that is both good politics and good manners.

Pendarvis: My approach is reflected by a quote from former President Obama: “We worship an awesome God in the Blue States, and we don’t like federal agents poking around our libraries in the Red States.” We coach Little League in the Blue States and, yes, we’ve got some gay friends in the Red States.” We must start with what unites us. We often want the same things but have different ways of getting there.

4. During your tenure, what has been your proudest or most successful moment?

Foy: The moment I was sworn in. I was standing on the floor of the general assembly while holding my twins. I know that one day they will understand what I did, and that I did it to build a better future for them. It was the culmination of everything: the thousands of doors knocked on, the hundreds of phone calls, and doing it all with swollen ankles, sleepless nights, and morning sickness. I was able to share the moment with family, friends, and volunteers who believed in our shared values and goal.

Jones: When my legislation created the Critically Missing Adult Alert Program. The bill was introduced in honor of an 18-year-old girl abducted in Virginia Beach. She was missing for several days before law enforcement became involved, despite strong suspicion she had been abducted. Tragically, she was found murdered two weeks later. The legislation I introduced created an “Amber Alert” for Virginians between the ages of 18 and 60. Previously, no framework existed.

Roberts: A mother brought a concern to me about her nine-year-old son with epilepsy. They had managed to control his seizures with non-THC cannabis oil, but it required three doses a day, with one at lunchtime. Colorado law prohibited school staff from administering that dose because it constituted medical marijuana, and it was not possible for his parents to make it to school every day. My bill allowed school staff to administer his medicine just like any other. This was state government at its best: making people’s lives better.

Thibodeau: I carried out my goal of creating the first fully separated bike infrastructure in Portland, Maine. This program will allow Portland to make huge infrastructure investments in the near future.

5. What has surprised you most in your journey to office?

Foy: The moment I was sworn in. I was standing on the floor of the general assembly while holding my twins. I know that one day they will understand what I did, and that I did it to build a better future for them. It was the culmination of everything: the thousands of doors knocked on, the hundreds of phone calls, and doing it all with swollen ankles, sleepless nights, and morning sickness. I was able to share the moment with family, friends, and volunteers who believed in our shared values and goal.

Jones: I was surprised by voters’ appetites for young leadership. I initially thought that being 27 years old would deter voters from placing their trust in me. However, my age was an asset and was constantly identified as a reason that voters supported me throughout the campaign.
Pendarvis: I was pleasantly surprised by how collegial and helpful everyone is. As a young member in years and age, people have gone out of their way to make me comfortable.

Roberts: The good: almost every legislator is truly genuine about serving the public, no matter their party. A lot of good legislation is bipartisan, but nobody hears about that as much as the partisan squabbles. The bad: campaigning, even for local office, is a lot about fundraising. You cannot get your message to voters without adequate funds. The amount of time a candidate has to dedicate to fundraising is much more significant than I had imagined.

6. What would you have done differently in your journey to office?

Merriweather: As a career prosecutor before taking office, it was important to me to stay away from politics to avoid any perceptions of bias. I still think that was the right idea. Yet, I may have paid more attention to the political structures around me. The learning curve for a first-time candidate is steep. Paying closer attention to the ins and outs of electioneering and campaigning may have lightened my load a bit.

Roversi: I would have filed for office sooner and would have begun preparing much earlier. The amount of work required to mount an effective campaign (including fundraising) is daunting, and I did not have an appreciation for what I was in for before I jumped in.

Thibodeau: Nothing. And, I would advise anyone thinking about running for office to do it. There is never a perfect or ideal time, and serving requires a lot of effort to be successful. However, to be a part of building my community is an experience that I would never change.

7. Many who run for office have a history of civic engagement. How else have you worked in your community, and what has your favorite experience been?

Foy: When I was in my mid-twenties, I decided to become a foster mother. I was raised by my grandmother and knew that it was important to give back to children. I eventually decided to create a nonprofit—the Foundation for Foster and Orphan Children—with the mission to improve the lives of foster and orphan children.

8. What is some practical advice you can give to young lawyers contemplating a foray into politics?

Foy: The best advice that I received when I was contemplating running for office was to put my head down and run. Don’t listen to the noise and don’t listen to the naysayers because they will always be there. You have to keep your eye on the ball, know you’re in it for the right reasons, and stay true to yourself.

Merriweather: I’m not sure how well I would have done in my first campaign—or in elected office—if I hadn’t put myself in a line of work that taught me how to relate authentically to all types of people. My best advice is to engage with as many people as you can in ways that are personal and real.

Roberts: If you see an area where you think changing public policy would help someone, find an organization that champions that cause. Go to their meetings, sign up to volunteer, or go to your state capitol to lobby legislators on that issue.

Wu: Focus not on the position, but the difference you’d like to make. It can be daunting to think about going through such a public job interview as a political campaign, but the reality is that the most effective candidates channel their constituents’ struggles and hopes.

Young: There’s a balance between listening to constituents and articulating your platform positions. You must master doing both to win the vote while moving policy forward.
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We’ve Made Voting Easy for You Because It Matters More Than You Think

WAYNE W. WILLIAMS

Every vote counts” is the message I regularly deliver when talking to folks in Colorado. I really mean it—recent elections provide ample evidence. Take Colorado’s November 2017 election for example. That year, 14 contests across the state were so close they were subject to mandatory recounts under Colorado law. After the recounts, the winner’s margin of victory in most of these contests was a handful of votes. Amazingly though, three different contests ended in a tie! Of those, two were candidate races, and election officials chose the eventual winner by drawing names from a hat. The third was a local ballot measure, which failed because the vote remained tied.

The 2018 primary election again showed the importance of every vote. In Elbert County, Colorado, a Republican contest for county commissioner came down to a single vote. After the recount, election officials found one additional vote, doubling the winner’s margin from one to two.

The contests I mention may not be for president or Congress, but they are extremely important. They decide who will make decisions about roads, taxes, and your kids’ schools. These local elections often have the most effect on people’s daily lives. They are also the elections with the lowest rate of participation. In Colorado, a state with some of the highest voter turnout in the nation, only about 38 percent of active voters participated in the 2017 election, compared with almost 86 percent in the 2016 presidential election.

We want more folks voting in every election—that is why we are continually working to make it easier to register, and to vote. We are leveraging technology to make it easy and convenient to register to vote or update your registration. Colorado was an early adopter of online voter registration, and many states have followed suit. We are also implementing automated voter registration processes to ensure that when you make changes at other government agencies (e.g., the DMV or the US Postal Service), we capture those changes and automatically update your voter information without any extra work on your part.

Colorado is also one of three states with mail-ballot voting. We automatically mail a ballot to every active voter about 20 days before the election. This means you have plenty of time to study the content of your ballot from home, make your choices, and either mail your ballot or drop it off. Alternatively, if you prefer the in-person voting experience, we have that too during our early voting period and on Election Day.

As I said, we have made it easy. Voting is one of the most important ways to be civically engaged, and there is no excuse not to vote. So, make sure you vote—in the even years and the odd—because every vote counts.

WAYNE W. WILLIAMS IS THE SECRETARY OF STATE AND CHIEF ELECTION OFFICIAL IN COLORADO.
The Upcoming Election Is Going to Be BIG—What’s Your Role?

JILL MULLEN

Elections are important. Regardless of how you feel about the current direction of the country, November could create a dramatic shift—whether it’s a shift in the party controlling Congress or a new governor in your state. The current political landscape is unpredictable and exciting, and there are ample opportunities for you to get involved in both election and non-election years.

Election Years

Meet Your Local Politician or Candidate. Meeting candidates in person can be a lot different from reading about them on paper. Depending on the office they are running for, many candidates will be hosting events all around your area. It is worth attending a candidate-hosted fundraiser, town hall, or meet and greet, and asking them in person to address your questions.

Volunteer. Candidates need a lot of help in the months leading up to Election Day—offer to help make calls, write postcards, do some data entry, write a letter to the editor or, if you want the extra exercise, knock on doors. Campaigns will not send you to random neighborhoods and houses but will send you to targeted areas where they are trying to turn out the vote.

Vote. During the last election, only 56 percent of registered voters voted. Shockingly, the United States does not even rank in the top 20 countries with high voter turnout. Your vote especially matters at the local level. In 2014, a state senator in Colorado won her district by about 400 votes. Her win helped the Democrats keep their one seat majority in the Senate. Also, help encourage other people to vote by offering to assist with a voter drive—it is important to get people registered and motivated to vote.

Non-Election Years

Find a Cause. Join the board of a local organization you support or offer to volunteer. Many nonprofit organizations fundraise year-round and are always hosting events or seeking volunteers to advocate for their cause. Additionally, organizations might appreciate a volunteer who can help with legal research.

Get Involved in Local Politics. Follow your local state legislator, city councilman, or school board member on Facebook or Twitter. Legislators will use social media to advertise town halls or seek input on important bills. So, engage! Working in the legislature, I attended many local town halls and there were not enough young people in the room. Local politicians can be very approachable and are usually eager to meet with young constituents about issues important to them. Also, if you see a bill in the legislature that interests you, offer to testify in support or opposition.

Inspire the Younger Generation. States have started to focus more on the importance of civics education in high school. In fact, several states now require students to pass the same immigration test we use to grant citizenship. Offer to judge a high school debate class or volunteer with an organization that teaches high school students about their legal rights. Civics can be a lot more interesting than an immigration test.

JILL MULLEN was the Civic Engagement Director for the Senate Democrats in Colorado. She now works for the Education Commission of the States, a nonprofit that provides information to state legislatures on education policy. She may be reached at mullen.jill@gmail.com.
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Do Typos Matter?

KEVIN UNDERHILL

Yes. I need to pad out the rest of this column, though, so let me offer some examples of why typographical errors matter.

Most typos aren’t this catastrophic, of course. Like the one that will inevitably end up in this column, they’re usually just embarrassing. But typos in court documents raise another problem: they can make the court question your credibility. In short, typos are to a court what brown M&Ms were to Van Halen. I guess I need to explain.

Van Halen was a musical group popular in the 1980s (which I realize is probably before most TYL readers were born). The band had a contract rider demanding, among other things, a bowl of M&Ms from which all the brown ones had been removed. This was usually interpreted as evidence that fame had gone to their heads and they wanted to make people do ridiculous things just because they could. But David Lee Roth later wrote in his autobiography (and who are we to question David Lee Roth?) that the rider had a practical purpose: it was a simple way of testing local promoters’ attention to detail:

We’d pull up with nine eighteen-wheeler trucks full of gear . . . [a]nd there were [often] many, many technical errors. . . . So just as a little test, in the technical aspect of the rider, it would say . . . “There will be no brown M&Ms in the backstage area, upon pain of forfeiture of the show, with full compensation.”

So when I would walk backstage, if I saw a brown M&M in that bowl . . . well, [we’d] line-check the entire production. Guaranteed you’re going to [find] a technical error. They didn’t read the contract.

Typos are likely to have the same effect. If they missed these, a judge is likely to think, what else did they get wrong? That’s a problem you can easily avoid, and should.

You don’t want to be facing a judge who just trashed his dressing room because you left brown M&Ms in the bowl. Take it from David Lee Roth.

KEVIN UNDERHILL PRACTICES IN THE SAN FRANCISCO OFFICE OF SHOOK, HARDY & BACON LLP. HE IS, IN FACT, A PARTNER. HE ALSO WRITE THE LEGAL-HUMOR BLOG LOWERING THE BAR (WWW.LOWERINGTHEBAR.NET).
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