

How to Use ADR to Further Your Career

By Jay Welsh

As alternative dispute resolution becomes more mainstream and accessible to lawyers and clients, it is imperative that young lawyers understand how ADR works and how they can use it to benefit their careers. Although you may not be able to become a mediator or arbitrator right after law school, there are still many ways you can use ADR early in your practice to advance your career.

tors in your jurisdiction, the more valued of a resource you will be to your employer.

Know your options

Become knowledgeable about the ins and outs of drafting ADR clauses. By becoming proficient in ADR processes, you will position yourself as an invaluable advisor to senior lawyers. You and your clients likely know that the vast majority of cases settle. By suggesting mediation, your law office can demonstrate your commitment to managing the client's litigation in the most cost-effective and efficient ways. When proposing different options, walk your client through each of the processes and explain how they work. By involving the client at the outset, you're demonstrating your preparation and advocacy skills.

Anticipate your clients' needs

If you are a business lawyer, when drafting a business agreement consider including a dispute resolution clause. While the parties may not want to talk about disputes as they enter into their new agreement, point out that the goodwill and cooperation that led them into the agreement should likewise guide them into a resolution of any disagreements that may arise at a later time. As a young attorney participating in dispute resolution activities, you'll soon understand how dispute resolution works and how to use your creativity to create a process that best suits your client.

Develop a reputation

Other internal opportunities to develop ADR skills include train-

ing partners and associates on mediation advocacy techniques, conducting training on negotiations, and providing presentations to other attorneys on ADR topics and trends. You can learn these skills at a number of local and national programs.

Make it your job to become an asset to your firm or organization by becoming an expert in ADR. Not only will it set you apart from your peers, it also can help retain clients when you keep their costs down and even bring in future business.

Lawyers who are interested in learning more about ADR can join the ABA Dispute Resolution Section and their local or state bar associations for ideas and programs. Many law schools offer summer ADR programs, including the Straus Institute at Pepperdine University School of Law in Malibu, California (<http://law.pepperdine.edu/straus>) and the Program on Negotiation (PON) at Harvard University (www.pon.harvard.edu).

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NEXT STEPS

- *Alternative Dispute Resolution, Alternatives to Litigation* (Downloadable PDF). 2009. PC # 3460008PDF. Judicial Division.
- *The Client's Guide to Mediation and Arbitration: The Strategy for Winning*. 2008. PC # 1620388. ABA Book Publishing. Order online at www.ababooks.org.

Skills Learned in Law School That Actually Translate into an Effective Legal Practice

By Desiree Moore

Law schools do not, nor do they claim to, teach students how to practice law. A law school education is a necessary but insufficient foundation for a legal career. A law student or recent law school graduate may equate success in the law with the ability to recite the elements of an intentional infliction of emotional distress claim or to identify when a contract is subject to the Statute of Frauds. While such skills are important, success in a legal career certainly does not turn on these skills.

With this said, there are a number of skills acquired in the course of law school that are invaluable. With the proper direction, these skills can convert into a successful—if not remarkable—legal practice. This article catalogues five such skills acquired in law school that, if implemented properly, lend themselves to a flourishing law practice.

1. Commitment

Attending law school is no small commitment: at a minimum, it is three years of (mostly) intensive academics, six semesters of final exams or papers, and the bar exam. Many law students also take on a law journal, mock trial team, moot court team or clinic. And those are only the academic aspects. Law school is also a tremendous financial commitment and the start of a profound lifestyle commitment. Clearly, successful law students are capable of making meaningful commitments.

When law school graduates

first enter private practice, however, they often fail to make an express commitment to their practice. This is for varying reasons, but in all instances it is a mistake. Whether you have accepted a position as an associate in a top-tiered law firm solely to pay off your student loans, or joined a small firm as a clerk hoping a more lucrative position will present itself, it is imperative to make a decided mental commitment to your practice. A committed practitioner gains the respect of his or her colleagues, develops career-long connections, and is assigned to more desirable projects. If you are of the mindset that your job is a temporary one, you are not being the best practitioner you can be.

2. Preparation

Law students are nothing if not prepared. First-year law students, in particular, are taught to compulsively "brief" cases in preparation for class, pore over thousands of legal principles in preparation for exams, and compose draft after draft of internal office memoranda for a two-credit legal writing course. This tradition of preparedness continues with second- and third-year law students as they prepare for interviews, law journal write-on competitions, trial and appellate advocacy presentations, and ultimately the bar exam. The good news is this intensive preparation is not an inconsequential exercise; rather, the art of preparation is

■ continued on page 2



Participate in ADR

If your law office engages in ADR processes, ask to attend or shadow hearings, as well pre-hearing conferences between the attorneys and client. No two mediators will have the same approach to resolving a dispute and typically arbitrators do not follow the same rules of evidence as courts. The more a young attorney can learn about ADR, and the proclivities of the various mediators and arbitra-

Young Lawyers' Guide to Becoming a Successful Leader in the ABA

By David D. Postolski and Matthew D. Asbell

If you're reading this, you must have realized that your success as an attorney requires more than a keen understanding of the law and your ability to apply that law to the facts of the cases you are assigned. While your work product and billable hours are always important, they alone will probably not be enough when you are looking for your next job, trying to develop clients, or otherwise building your career.

Your diligent analysis of the legal issues won't help you find guidance about areas of the law in which you eventually want to practice, nor will it help you select appropriate local counsel, specialized services, or technologies to aid your practice. A firm understanding of the law won't help you market your employer or business more efficiently either.

Rather, your success as a lawyer depends on your repeated long-term exposure to and involvement in the larger legal community. This has never been truer than in a difficult economy, where you must consistently distinguish yourself through your expertise, leadership, and commitment.

Many attorneys establish themselves as leaders and experts through their active *involvement* in bar associations, including the ABA. But how does one actually do that? It may not be enough to merely pay your dues and become a member. In fact, for new members, the complex structures of bar associations may be difficult to decode. Outlined below are key steps to navigating the organizational structure of the ABA so that you can make the most of your membership, something that will benefit you, your firm, the

legal community, and eventually your clients.

Step 1: Join an ABA Section

The ABA is divided inter alia into substantive Sections and demographic Divisions. One such Division is the Young Lawyers Division (YLD), which is geared toward helping new attorneys navigate the various aspects of practice. New bar admittees who join the ABA are automatically enrolled in the YLD at no added cost for one year and can join a variety of the Division's committees, which focus on different areas of law.

Contemporaneously, or at least before they no longer qualify as "young lawyers" according to the YLD (after the latter of the fifth year of practice or 36th year of age), prospective ABA leaders join one or more substantive Sections that interest them. For example,



the authors of this article, are members of the Section of Intellectual Property Law (IPL Section), among others. Belonging to more than one Section or Division can maximize the opportunities and benefits of being an ABA member, as described below.

Step 2: Join one or more committees

ABA Sections and Divisions are organized into committees, which address specific issues or demographics. For instance, Committee 201 of the ABA-IPL Section covers federal trademark legislation. The lifeblood of the ABA, these committees address issues of legal substance by drafting resolutions

as positions to be taken by the ABA Section/Division on a legal issue, preparing amicus briefs on pending cases, reporting on or presenting recent decisions, or drafting or commenting on potential legislation. Successful ABA leaders usually join substantive committees within their chosen Sections or Division.

Step 3: Obtain a project assignment from a committee chair or vice-chair

After joining a committee, distinguish yourself from others who may have joined only to passively receive information by getting involved. Reach out directly to the

■ continued on page 4

Law School Skills

■ continued from page 1

an invaluable skill and should be carried into your practice.

For example, if a senior attorney in your firm assigns research and asks you to present the findings orally, prepare as you would for any formal presentation. Even if you have an informal relationship with the attorney, do not construe this as permission not to do your best work. If you are asked to participate in a client meeting,

prepare assiduously: know key facts that concern the client and review and annotate any relevant documents in advance. In your career, as in school, you will never be chastised for your steadfast preparation. Indeed, the best attorneys in private practice are not necessarily smarter, nor are they naturally versed in the law. Rather, the best attorneys have simply out-prepared their opponents.

3. Collaboration

Though individual academic

achievement is emphasized in law school, the law school experience, in general, is largely collaborative. By week two of law school, if not sooner, students are sizing up classmates to assess who will make the best study partners. No law journal is issued without the collaborative (and often colossal) effort of a cast of editors and senior and junior journal members. In a moot court competition, team wins are most significant. This is true of trial advocacy competitions, as well.

Collaboration is equally important in private practice. In order to be successful, you must work well with others. Show enthusiasm at the prospect of working with lawyers you have not worked with before. Demonstrate that you work easily with any group of attorneys and staff that happen to be assembled to work on a case or deal. Treat everyone as an equal and with respect. Without a doubt, you will be a better practitioner for it—senior attorneys will want to

work with you, fellow associates will regard you as a mentor, your secretary will care about the quality of your practice, and the mailroom will pull postal-strings when you are in a bind!

4. Command of spoken word

Law school markedly improves a law student's oratory skills. Whether speaking in class when called upon, explaining complex legal principles to a study group after class, or rehearsing mock arguments and other advocacy skills, little by little, law students develop their vocabulary, diction, and oral presentation skills. And this is something of which lawyers should be proud.

This command of the spoken word is the foundation for a successful legal practice and should be readily demonstrated in your daily work. In discussions with more senior attorneys in your office, speak clearly and with assuredness. In dealings with opposing counsel, speak authoritatively and decisively. In client presentations, use

discretion. Contribute sparingly, but make meaningful contributions. In any appearance before a judge, be mindful of sentence structure, tone, and diction. In all instances, hone and develop this skill.

5. Social skills

Admittedly, not all law students have enviable social skills. This is a function of youth and the level of focus required to be a successful law student. However, a successful attorney is both excellent at his or her craft and polished and sociable. A competitive attorney who wins and loses graciously is an exceptional one. Above all, an attorney with good judgment is sure to have a long, successful career.

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How Do You Become an Assistant U.S. Attorney?

By Craig S. Denney

So you want to become a federal prosecutor? You want to represent the United States in federal court? You want to do justice, protect the public, and enforce federal laws? How exactly do you do it? Many young attorneys are interested in becoming an Assistant United States Attorney (also known as AUSA). This article offers some practical advice.

The United States Attorney is the top federal law enforcement official for the federal district in which he or she resides. States may have one or more federal districts. Each district is managed by its respective U.S. Attorney. Typically, a U.S. Attorney's office will have a criminal, civil, asset forfeiture, and appellate division.

Assistant U.S. Attorneys (i.e., those attorneys managed by the U.S. Attorney for that district) are experienced trial attorneys who come from a variety of backgrounds, including both the public and private sectors, as well as the military. Generally, the attorneys have five to seven years of litigation experience before joining the U.S. Attorney's Office. While many aspects of a particular applicant are considered, trial experience is the most significant requirement. A strong working knowledge of the Federal Rules of Evidence and Federal Rules of Criminal Procedure is important. An ability to master the Federal Sentencing Guidelines is a must. If your current practice area does not allow you much time in

court, seeking out criminal pro bono appointments is a great way to supplement your skill set.

In addition to trial work, being well versed at the appellate level is also an asset. Many AUSAs handle their own appeals to the various U.S. Courts of Appeals. This requires experience with both written and oral advocacy, which is often very different from trial work.

To evaluate which districts are hiring, log on to the U.S. Department of Justice's (DOJ's) website, www.justice.gov. It lists AUSA openings around the country. While some positions are for a specified term (e.g., one to two years), others may allow for the opportunity to extend your term indefinitely. If selected for an interview, most applicants will be interviewed by a panel of three or more AUSAs, and, depending on how far the applicant makes it in the interview process, the U.S. Attorney for that district may also participate.

Once the interview process is complete and you are moved on to the next stage of recruitment, you must complete a detailed application with your complete education, employment, and personal background. Candidates must fully disclose any prior criminal conduct, as well as sign releases for information relating to, among other things, credit and tax history. DOJ conducts a background investigation based on this information, which may include a visit by an FBI agent to your law school professor or college roommate to find out about your past!

If the preliminary background check is completed without incident, it is time to start working. Most new AUSAs begin by serving as a probationary employee with DOJ for approximately twelve to fourteen months. In the meantime, DOJ conducts a full background investigation on your past. Although this can be an intimidating process, be sure to provide accurate and truthful information. Any false state-

ments or inaccurate information during the employment application process may result in revocation of the position, as well as collateral consequences. See 18 U.S.C. § 1001. If the probationary period is completed successfully, you receive your AUSA credentials and a certificate from the United States Attorney General with your official date of service as an AUSA.

If selected as an AUSA, I am confident that you will find the position exciting, challenging, and rewarding.

Craig S. Denney is an attorney with Downey Brand. He previously served as an Assistant U.S. Attorney in Nevada for seven years and as a Special Assistant U.S. Attorney in the Western District of Washington for two years. He can be contacted at cdenney@downeybrand.com.

NEXTSTEPS

■ *Landing a Federal Legal Job: Finding Success in the U.S. Government Job Market.* 2011. PC # 1620465. ABA Book Publishing. Order online at www.ababooks.org.

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JUNE 7	 RUSSIA, CHINA AND INDIA: DESIGNING COMPLIANCE PROGRAMS FOR DEVELOPING ANTITRUST ENFORCEMENT REGIMES
JUNE 15	 OVERVIEW AND CURRENT TRENDS IN MEDIATION AND ARBITRATION: WHAT'S HOT, WHAT'S NOT
JUNE 16	 FUNDAMENTALS OF MEDICAL STAFF & PEER REVIEW ISSUES
JULY 21	 HEALTHCARE ANTITRUST FUNDAMENTALS
AUG. 4-6	2011 ANNUAL MEETING TORONTO, CANADA
AUG. 18	 FDA PUBLIC HEALTH CLINICAL TRIALS FUNDAMENTALS
AUG. 31	NATIONAL OUTSTANDING YOUNG LAWYER AWARD DEADLINE
OCT. 13-15	YLD FALL CONFERENCE SEATTLE, WA

Visit www.americanbar.org/groups/young_lawyers/events_cle.html for additional information.

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Successful Leader

■ continued from page 2

committee chairperson or vice-chairpersons and check in with them regularly. Typically, committees are also in need of volunteers for their many projects. You may be asked to help draft proposed resolutions and publications or organize a presentation or social event. Showing interest in a project or topic often leads to the formation of a subcommittee, in which you can further demonstrate your leadership skills and have a chance to collaborate with members who share your interests.

Step 4: Meet your colleagues at ABA meetings

Section and committee members can connect with their colleagues without ever leaving their desks, but nothing quite compares to meeting in person. Resourceful young attorneys can often find ways to subsidize their trips to live ABA meetings through the many positions, fellowships,

scholarships, and sponsorships offered by the ABA or other organizations. Live ABA meetings provide opportunities to network with Section committee leaders and colleagues, get educated and obtain CLE credits, and socialize during meals, receptions, and local events.

Despite all the benefits of live meetings, not all young lawyers will be able to attend. These lawyers often supplement their ABA membership by becoming active in more local or targeted organizations at the city, county, state, national, and even international levels. Active membership in multiple organizations, provided one avoids becoming overcommitted, can have a synergistic effect on developing your leadership skills and reputation within the legal community.

Step 5: Become active locally

One way of achieving such synergies is by serving as a delegate to the ABA Young Lawyers Division on behalf of your state or local bar association.

Delegates serve as the voice of their affiliate organizations at the Young Lawyers Division Assembly, where the delegates vote on a variety of resolutions and issues affecting young lawyers and the profession. The majority position is treated as

the Young Lawyers Division's official stance at the ABA House of Delegates and influences the position and lobbying efforts of the organization as a whole. Recent Assemblies have addressed such important social issues as legalization of gay marriage, the constitutionality and propriety of certain immigration law-enforcement policies, and misleading advice to law students about

the cost of education and the compensation one should expect to earn after school. Sometimes serving as a state or local delegate subsidizes the costs of attending live ABA meetings across the country.

In addition or as an alterna-

Becoming an active participant in the ABA provides a sense of satisfaction that you are at the forefront of your practice area and in control of your legal career path.

tive to serving as a delegate, some ABA members have initiated more local opportunities so they can meet with their colleagues in person more than a few times a year. For example, the Young Lawyers Action Group of the ABA-IPL has created a group for its New York area intellectual property practitioners and is setting up similar groups in other areas. While the New York group has an

electronic component, the leaders have organized regular breakfasts, where they informally share information about their projects and how they can help each other achieve their project goals.

Becoming an active participant in the ABA provides a sense of satisfaction that you are at the forefront of your practice area and in control of your legal career path. It also is sure to lead to professional contacts and friendships. In fact, this article was co-written by colleagues who met at an ABA Conference in April 2010.

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