

JASON MENDELSON

ALEX PAUL

HOW TO BE A LAWYER

THE PATH FROM
LAW SCHOOL
TO SUCCESS



WILEY

Table of Contents

[Cover](#)

[Title Page](#)

[Copyright](#)

[Dedication](#)

[About the Authors](#)

[Acknowledgments](#)

[Why We Wrote This Book](#)

[CHAPTER 1: The Divide Between Law School and Lawyering](#)

[CHAPTER 2: The Core Concepts of Lawyering](#)

[Empathy](#)

[Listen First, Talk Second](#)

[Ask Questions](#)

[Always \(Usually\) Give Advice](#)

[CHAPTER 3: Understanding the Importance of Law School Rankings on Your Future](#)

[CHAPTER 4: Classic Coursework \(What Is It Good For?\)](#)

[Torts](#)

[Contracts](#)

[Civil Procedure](#)

[Property](#)

[Criminal Law](#)

[Constitutional Law](#)

[Legal Methods/Writing/Research](#)

[Evidence](#)

[Ethics and Professional Responsibility](#)

[CHAPTER 5: Choosing Proper Electives](#)

[CHAPTER 6: What Should You Get Out of Law School?](#)

[CHAPTER 7: Be a Fiduciary](#)

[Principle 1: Know If You're Acting as a Fiduciary and on Whose Behalf](#)

[Principle 2: Slow Down](#)

[Principle 3: Seek Advice and Help](#)

[Principle 4: Always Put Your Clients' Interests Ahead of Your Own](#)

[CHAPTER 8: A Short Primer on Negotiations](#)

[Negotiation Tactics](#)

[What Really Matters?](#)

[Preparing for the Negotiation](#)

[A Brief Introduction to Game Theory](#)

[Negotiating Win-Win Agreements](#)

[Negotiating Other Games](#)

[Negotiating Styles and Approaches](#)

[Collaborative Negotiation Versus Walk-Away Threats](#)

[Building Leverage and Getting to Yes](#)

[Notes](#)

[CHAPTER 9: Preparing for the Job Hunt](#)

[You on Paper](#)

[Social Media](#)

[Telling the Story](#)

[Networking into Employers](#)

[Mindset](#)

[Career Placement Services](#)

[CHAPTER 10: The Bar Exam](#)

CHAPTER 11: You Got the Job—There Is No Time for Rest

CHAPTER 12: The Fourteen Commandments for New Lawyers (Okay, How about “Strong Suggestions”?).

1: Have a Learning Mindset

2: Rely On but Mistrust Forms

3: Beware of the Foggy Project Trap

4: Never Consider Anything That Goes to a Senior Colleague or Client to Be a “Draft”

5: Be More Organized Than Others

6: Take Ownership Without Request

7: Invest in Your Management Skills

8: Have a Three- to Five-Year Horizon

9: Plan to Develop Near-Term and Long-Term Advantages

10: Understand How to Best Use and Foster Mentor Relationships

11: Flatten Hierarchies

12: Own Your Mistakes

13: Know What a Junior Lawyer's Value Is

14: Keep Your Own List

Bonus Commandment for Those Working with Contracts!

CHAPTER 13: Common Mistakes New Lawyers Make That Limit Careers and Anger Clients

Forgetting You Are in the Services Industry

Getting Frustrated and Thinking People Are Idiots

Having Loose Lips

Assuming Each State Has the Same Laws

Treating Administrative Staff Poorly

[Having a Sexual Relationship at Work](#)
[Being Inconsiderate of Others' Calendars](#)

[Forgetting You Are the Leverage](#)

[Forgetting Who the Client Is](#)

[Assuming Other Lawyers Are Good People](#)

[Shortchanging Research](#)

[Failing to Understand Basic Intellectual Property Law](#)

[Talking to Another Attorney's Client Without the Attorney](#)

[Screwing Up Billing \(If You Bill Clients by the Hour\)](#)

[CHAPTER 14: Relationships, Difficult Personalities, and Being the Calmest Person in the Room](#)

[Challenging Personalities](#)

[The Lawyer's Job When It Comes to Challenging Personalities](#)

[General Approaches to Managing Challenging Personalities](#)

[Sampling of Challenging Personalities and Tips for Dealing with Them](#)

[Parting Thoughts](#)

[Note](#)

[CHAPTER 15: Understanding Current Technology](#)

[CHAPTER 16: Words from the Wise](#)

[Guest Chapter 1](#)

[Guest Chapter 2](#)

[Guest Chapter 3](#)

[Guest Chapter 4](#)

[Guest Chapter 5](#)

[Guest Chapter 6](#)

[Guest Chapter 7](#)
[Guest Chapter 8](#)
[Guest Chapter 9](#)
[Guest Chapter 10](#)
[Guest Chapter 11](#)
[Guest Chapter 12](#)
[Guest Chapter 13](#)
[Guest Chapter 14](#)
[Guest Chapter 15](#)
[Guest Chapter 16](#)
[Guest Chapter 17](#)
[Guest Chapter 18](#)
[Guest Chapter 19](#)
[Guest Chapter 20](#)
[Guest Chapter 21](#)
[Guest Chapter 22](#)
[Guest Chapter 23](#)
[Guest Chapter 24](#)

[Notes](#)

[CHAPTER 17: What Clients Want](#)

[What Clients Liked](#)

[What Clients Didn't Like](#)

[CHAPTER 18: Law School as a "Second Career"](#)

[Entrance into Law School](#)

[Getting a Job](#)

[CHAPTER 19: How to Be a Happy Lawyer](#)

[Have an Identity Outside of Being a Lawyer](#)

[Take Pride in Your Work and the Impact It Has on Others](#)

[Keep a Continually Learning Mindset](#)

[Don't Get Too Wrapped Up in Your Work](#)

[Manage Your Stress](#)

[Watch Your Drug Consumption](#)

[Never Compromise Your Value System](#)

[Don't Forget to Laugh and Celebrate the Wins](#)

[Internalize the Losses, But Don't Dwell on Them](#)

[Work with Clients You Really Like](#)

[Have a Great Surrounding Team](#)

[Set Boundaries for Your Personal Life](#)

[What to Do When You Are Not Happy](#)

[CHAPTER 20: What If You Don't Want to Be a Lawyer Anymore?](#)

[CHAPTER 21: Let's Sum Up](#)

[Index](#)

[End User License Agreement](#)

List of Illustrations

Chapter 14

[FIGURE 14.1 Challenging Personality Traits Belonging to Each Challenging Per...](#)

How to Be a Lawyer

THE PATH FROM LAW SCHOOL TO SUCCESS

**Jason Mendelson
Alex Paul**

WILEY

Copyright © 2022 by Jason Mendelson and Alex Paul. All rights reserved.

Published by John Wiley & Sons, Inc., Hoboken, New Jersey.

Published simultaneously in Canada.

No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, scanning, or otherwise, except as permitted under Section 107 or 108 of the 1976 United States Copyright Act, without either the prior written permission of the Publisher, or authorization through payment of the appropriate per-copy fee to the Copyright Clearance Center, Inc., 222 Rosewood Drive, Danvers, MA 01923, (978) 750-8400, fax (978) 750-4470, or on the web at www.copyright.com. Requests to the Publisher for permission should be addressed to the Permissions Department, John Wiley & Sons, Inc., 111 River Street, Hoboken, NJ 07030, (201) 748-6011, fax (201) 748-6008, or online at <http://www.wiley.com/go/permission>.

Limit of Liability/Disclaimer of Warranty: While the publisher and author have used their best efforts in preparing this book, they make no representations or warranties with respect to the accuracy or completeness of the contents of this book and specifically disclaim any implied warranties of merchantability or fitness for a particular purpose. No warranty may be created or extended by sales representatives or written sales materials. The advice and strategies contained herein may not be suitable for your situation. You should consult with a professional where appropriate. Further, readers should be aware that websites listed in this work may have changed or disappeared between when this work was written and when it is read. Neither the publisher nor authors shall be liable for any loss of profit or any other commercial damages, including but not limited to special, incidental, consequential, or other damages.

For general information on our other products and services or for technical support, please contact our Customer Care Department within the United States at (800) 762-2974, outside the United States at (317) 572-3993 or fax (317) 572-4002.

Wiley also publishes its books in a variety of electronic formats. Some content that appears in print may not be available in electronic formats. For more information about Wiley products, visit our website at www.wiley.com.

Library of Congress Cataloging-in-Publication Data is Available:

ISBN: 9781119835813 (Hardback)

ISBN: 9781119835837 (ePDF)

ISBN: 9781119835820 (epub)

COVER DESIGN: PAUL McCARTHY

COVER PHOTOS: COURTESY OF THE AUTHORS/CONTRIBUTORS

Jason would like to dedicate this book to his wife and best friend, Jenn. Her love, support, and encouragement are the best gifts a guy could get.

Alex would like to dedicate this book to his wife, Carolyn, who supported him in law school and has been by his side through good times and bad, always a loving partner and best friend.

About the Authors

Jason Mendelson (jasonmendelson@gmail.com, @jasonmendelson) is a former venture capitalist, co-founder of a technology company, lawyer, and a software engineer.

Jason is a founding partner of Foundry Group, a Boulder, Colorado-based venture capital firm that focuses on making technology investments and identifying and supporting the next generation of venture fund managers.

In addition, Jason is a co-founder of the startup SRS Acquiom and was a managing director and general counsel for Mobius Venture Capital. Prior to this, Jason was an attorney with Cooley LLP. Early in his career, Jason was a software engineer at Accenture.

Now Jason spends his time as an up-and-coming musician (under his stage name Jace Allen) and author. Jason also is involved in several criminal justice reform initiatives.

Jason is a co-founder of Breakthrough and is on the board of the Leeds Business School at University of Colorado. Jason holds a B.A. in Economics and a J.D., both from the University of Michigan.

Alex Paul (alex@wealthgatetrust.com) is a lawyer-entrepreneur reimagining wealth management and philanthropy for himself and others.

Alex founded Wealthgate Trust Company (a Nevada-registered trust company) and Wealthgate Family Office (a SEC-registered investment advisor in Boulder, Colorado) to provide bespoke trust administration and independent investment management solutions for ultra-high-net-worth families seeking to protect and sustain generational wealth.

so they may achieve their financial and philanthropic goals over decades and generations.

Inspired to redefine how philanthropy is implemented in family offices, Alex co-founded Giving Place, a technological solution that navigates the challenges of large-scale family philanthropy. Giving Place harnesses technology to generate transparency, efficiency, and measurable impact for philanthropic families.

Alex is also treasurer/director of LENA, an operating nonprofit that seeks to close the gap between haves and have nots by using technology to improve early childhood language development.

Having managed the Boulder, Colorado, office of Harrison & Held, he is now of counsel. His practice focused on estate planning, charitable giving, technology, and other business matters. He previously served as outside corporate counsel for Renaissance Learning, a public K-12 educational software company. Alex holds a B.A. from Lawrence University and a J.D. from Northwestern University School of Law, and has served on the NU Law Board since 2004. After graduating from NU Law, he served as Judicial Clerk to Justice Jon P. Wilcox of the Wisconsin Supreme Court and entered private practice in Wisconsin before moving to Colorado in 2003.

Acknowledgments

We wouldn't have been able to write this book without the able assistance of many people.

First, to all our guest authors: you made this book. We learned more from your chapters than even we could have imagined, and many of your stories gave us the opportunity to get to know you better. Thank you, friends.

A special shoutout to Dave Beran, who spearheaded the chapter on being the calmest person in the room. Dave, you've always been that person to us and we thank you for your time and wisdom. And thanks for the proofreading and editing. You are good stuff.

Jason would individually like to thank the University of Colorado Law School, and especially Brad Bernthal, for letting Jason teach all these years. Those interactions with students were the inspiration for this book. Also, Jason would be remiss if he didn't thank his former firm, Cooley LLP, and all of the friends and colleagues he has met along the way during his legal career.

Alex would like to specifically thank his parents, Terry and Judi, who inspired him to go to law school and become an entrepreneur, while providing incredible opportunities. He'd like to thank his children, who keep him excited about building for the future. He'd also like to thank Lou Harrison, co-founder of Harrison & Held, who taught him how to practice law with integrity and humor. Finally, he would like to thank Northwestern School of Law and its leadership team for a great legal education combined with amazing opportunities for practical experience.

This book wouldn't be possible without the risk-taking nature of our publisher Bill Falloon over at Wiley. He gave

Jason a shot with his first book *Venture Deals: How to Be Smarter Than Your Lawyer and Venture Capitalist* and for some reason decided to double down there. Thanks Bill.

We've met a lot of lawyers and clients during our professional journeys. Some great, some decent, some terrible, but all important in educating us along our winding paths. You all taught us (whether you knew it or not!) in ways we could have never learned on our own. Thank you. Yes, even to some of you jerks out there.

Why We Wrote This Book

This book was written by 28 people who went to law school. We are of different ages, sexes, races, and went to law schools that rank in the hundreds to the top five. We have had jobs ranging from general counsels of billion-dollar companies to hanging out our own shingles right after law school. Collectively, we practice in almost every area of the law.

Despite our diversity, we share the strong opinion that most law schools fail to prepare students for the real world of actual lawyering. Law schools are great at graduating students and terrible at graduating lawyers. We were all frustrated in our progression from students to practitioners and relived those frustrations when we hired, worked with, mentored, and interacted with others coming out of law school.

Jason Mendelson, one of the lead authors of this book, has been a lawyer, software engineer, startup co-founder, venture capitalist, and worked with and hired hundreds of lawyers in all shapes and sizes. He has had good experiences, bad experiences, and, like many in the legal profession, a long memory. Maybe most importantly, Jason taught as an adjunct professor for a decade at the University of Colorado Law School. In that decade he spent as much time mentoring law students on how to best transition to the real world as he did imparting legal and business knowledge. Ironically (or maybe not so), most of the professional academics in the law school did little to nothing to aid in student transition. Even worse, some openly were not fans of Jason's pragmatic approach.

Alex Paul, the other lead author, has worked in law and business for over 20 years, covering a range of legal specialties from litigation, intellectual property, corporate and securities law, nonprofit law, tax, and estate planning. In business, both as corporate counsel and an entrepreneur, Alex has supervised leading attorneys in all those specialties as well as others such as water law, real estate, and banking law. Alex has seen a trap that too many smart and sophisticated lawyers fall into: myopia. That is, attorneys suffer personally and professionally by being siloed early on because they specialize in one area of the law and one type of client shortly after law school. Because of that, they unfortunately view every problem through the lens of their specialty and become limited in their ability to do broader yet necessary things like serve as a true fiduciary, run their law firm successfully, or simply be happy and thoughtful people. Given that law schools don't teach the subject "after law school," this book is an attempt to solve this problem. Alex doesn't want to see the next generation of lawyers make the same mistakes as others in the past.

To be clear—this book is not intended to be a book about law school bashing. Law schools aren't bad. Rather, they are archaic institutions still believing that a student goes to law school, takes the classic curriculum, and a job magically appears at the end of the scholastic journey. Or maybe if your circumstances are a bit more challenging, you can use the school's career placement center's assistance. Perhaps this was truer 30 years ago, but these days only a small handful of law students win this lottery.

Given the changing nature of job discovery for law students, it is even more important they "hit the ground running" when they do find that right opportunity. Yes, there will be a plethora of statutes, regulations, tactics, strategies, client management, and other important

concepts to learn, but stepping into a new career completely blind is a recipe to, at best, frustrate your employer and clients and to, at worst, be shown the door quickly.

To add to the problem, the stakes for post-graduation success have never been higher. Every year, about 35,000 people graduate from U.S. law schools. On average, these individuals have racked up close to \$150,000 in debt for this privilege. Across the country, only about 80% of these people find a job within six months and nearly 10% never find a job as a lawyer. Some estimates say that average yearly turnover is between 15% and 30% and interviews with hiring partners at major law firms say it now takes two to three years on average to properly train people coming out of law school so that they may actually be additive to their firms. More than half of the junior lawyers do not keep their jobs. This attrition and turnover collectively costs firms about \$9 billion each year. These statistics are unlike any other professional degree where graduates transition much more easily from school to the real world.

In our research, we found no class, book, webinar, website, or other source of material that specifically or effectively explains how to be successful with a law school degree. And yet, the problem of transition from classroom to practice is huge. This book aims to fix this problem.

We wrote this book with three audiences in mind.

Obviously, the largest target audience is people currently in law school. We recommend reading this book as early in your law school career as possible and refreshing your recollection as you narrow down what your intended career path may look like. We also wrote this book, however, with the pre-law student in mind as well. The practice of law has changed greatly over the past few decades. The type of person who succeeds has changed, as well. No longer are

grades, knowledge, and tactics enough to get by. We'll say this many times in the book: great lawyers must be people persons. Being a lawyer is service business. To all of you thinking about law school out there: this book will give you great insight into what the practice of law is really about. Lastly, there will be folks who've graduated and stumble upon this book, as well. We've made this book relevant to you, too.

We worked to write this book as simply and efficiently as possible, as well. We are all still scarred from the amount of text we unnecessarily read while in law school. We empathize firsthand and don't want to add to that burden. If we don't have something important to say, we won't make you read it.

The first part of this book lays out our theories of the case. The second part is the pragmatic section where we'll go out on a limb and give you concrete advice in what to do and what not to do. The last part of the book will wrap up and apply what we've discussed to the real world. Along the way we hope to make you more thoughtful and a bit uncomfortable. We believe that what we've put on these pages can start you on the path to becoming a great (and hopefully happy) lawyer.

CHAPTER 1

The Divide Between Law School and Lawyering

There is very little in common between law school and lawyering. Law schools are great at teaching case law and theory, but generally poor in how to apply either to real-world situations, as almost all law school situations involve a courtroom. Courtroom situations are by far the least common situation for most lawyers. Also, law schools teach nothing about how to work with clients outside of a narrowly tailored ethics class, which, while vital, is only a small part of the picture. Mock trials are just that: mock. And for those of us who made the switch from mock to real, we realized very quickly that life outside the four walls of law school is a completely different beast.

Why aren't people skills, psychology, and negotiations mandatory subjects? This isn't computer science. Remember this: lawyers are called “counselors” for a reason. Any good attorney is as much an armchair support system as they are a statute-application machine. Lawyering is a people business. It's about listening, empathizing, synthesizing information, and problem solving. None of these things are taught in law schools to the extent needed once you are a bar-carrying legal eagle.

This isn't to say law schools are useless or bad. In fact, a good law school can teach you a skill set that is incredibly valuable for both legal and nonlegal careers. We assume that this skill set is also highly valuable in illegal professions, but none of us have particular experience there. If you are struggling with the definitions of “legal,” “nonlegal,” and “illegal” then you either haven't gotten to

law school yet or you did poorly on the logic games part of the LSAT.

We believe that most law schools hold a unique distinction of teaching three years of valuable academic knowledge with almost zero practical knowledge. We can't think of another professional graduate school that leaves one so practically ill prepared. Think about your friends who go to medical school, obtain a master's in social work, or get an M.B.A. Okay, just kidding about the M.B.A. But otherwise, these friends walk right out of their graduate program into the world and work. Sure, it takes some time to get up to speed. But lawyers? Even in the best-case scenario, partners at law firms claim that it takes two to three years before an associate is truly ready to practice (and in many cases even longer before they're allowed to speak directly with clients). Note, however, that these same partners have no issue charging their clients for your multi-year apprenticeship.

Why is this the case? Simply put, professional graduate schools other than law schools employ teachers and professors who have actual and bona fide real-world experience. Whereas other professional graduate schools celebrate individuals who have succeeded in their real-life professions, most law schools have a bit of underlying loathing to those professors who have street cred. In fact, most of the professors who have real lawyering experience are relegated to lecturers, adjunct, or secondary professorship roles.

This problem will never go away. Innovation in law schools is about as likely as innovation in government, prison systems, and healthcare administration. These are caste systems with generations of built-in bureaucracy and rules, and in the case of academia, tenure. When one considers the real overlord of law schools in the United States, then

innovation prospects dim considerably. Who is the overlord, you may ask? Simple—it's the *U.S. News & World Report* rankings. And how much innovation do you think they foster when they are still counting physical library space and volumes in their rankings? Hello, the Internet is calling. It's real, not a fad, and we think it'll catch on. Perhaps that physical library space could be better used.

So, we now come to the “divide,” which is the reason we wrote this book. The gap, if you will, is created between law school and the point at which you actually begin serving a client one day. When we use the word “divide” in this book we are actually talking about two divides. The first is the gap you need to fill when working with clients. The second is the divide existing between you and your superiors at whatever job you take. You can disregard this second divide if you graduate law school and hang up your own shingle, but solo practice is not an option for most right away. (As an aside, one of the guest chapters later is from two people who went straight from law school to starting their own firm.)

Let's start with an example pertaining to something that all lawyers and clients are acutely aware of: money. We'll use an example at one end of the spectrum, but it applies to the majority of lawyers starting their practice.

Imagine that Janice is the CEO of a new startup in Chicago, Illinois. She is 30-something, just raised \$750,000 from friends and family, and has a great new idea in the natural foods space. She is experienced and has had two previously successful companies. She's also smart so she hires a well-known and reputable law firm to represent her and the company. You are a first-year associate at the firm and have been there for two months.

Janice and her co-founder Jimi each make \$100,000 a year. Your starting salary is \$185,000 fresh out of school. You

went straight from undergrad to law school, so this is your first real job. Your billing rate is \$525 an hour. Note that this salary and billing rate isn't even top of market as of 2022 when this book was published. The partner you work for bills out at \$1,500 an hour and the result is that Janice prefers to call you over the partner.

Janice calls you wondering if you could advise her on whether she should issue options or restricted stock units to her first couple of employees. Being so green, you have absolutely no clue what she is talking about. You scribble something down and tell her you'll get back to her shortly. She's mildly frustrated that it will take another call to resolve her question, as she's busy running the company, but asks you to call her as soon as possible.

You do a Google search to figure out what the terms mean, and you set off to the partner's office to ask them their advice on how to answer Janice's question. Ten to 15 minutes later you are back at your office, call Janice and give her the advice.

(Shameless plug: if you are thinking about going into startup counseling, consider buying Jason's book *Venture Deals: Be Smarter Than Your Lawyer and Venture Capitalist, Fourth Edition*, available wherever fine books are sold.)

One month later, Janice gets the bill for her questions. You billed 30 minutes for \$225 and the partner tacked on 12 minutes for \$300 for a grand total of \$525. Janice is not pleased. She calls her friend Carlos, who is also a CEO and uses the same firm. Carlos says that he coincidentally had the exact same question, but when he called his associate at the firm (who is a third-year associate) he got an immediate answer and it didn't even show up on a bill. Now Janice is several less degrees of pleased and starts cursing the legal profession as her nice but “know-nothing” first-

year associate makes almost double what she makes and billed her for something her friend didn't get billed for. You don't hear from her for a while, as she begins to use “self-help” from the Internet.

No one can blame you for not knowing the answer right away. You just started your job. But this is one example of the divide and it happens over and over. You are charging rates as a professional, but no one has taught you how to work with a client. You could have handled the situation much better. Over the course of this book, we'll give you tips and strategies that most likely would lead to a better outcome in this scenario.

And the partner? They are asking themselves whether it will take you two or three years to really get up to speed. Divide number two is in the books.

One thing that few readers of this book will realize is how much larger the divide has become as lawyer salaries have outpaced inflation and salaries in other fields. And not by just a little bit. When Jason started as a first-year attorney in September 1998, his salary at a big law firm was \$71,000. By February of the next year, it was \$125,000 as the first of many “salary wars” occurred in the legal field. And what happened to junior folks' take-home pay bumped up all the way to the senior lawyers as well. In the past, a senior law firm partner might make twice what a CEO client would make. Now that ratio has increased to over ten times. Think about this—first-year associates are making more than most executives of the clients they service. With this regime, the expectations as to your knowledge, service level, and the attention to your billing statements has exponentially increased. As a first-year lawyer, you effectively have a target painted on your back.

And while you might not go to a large law firm and instead perhaps into government, nonprofit, criminal defense, or a

variety of other legal professions, many lawyers have seen their salaries increase in a way that other professions have not. Wherever you end up, the expectations will be higher than they were thirty years ago simply because of the amount of money you are being paid. You may go work for the Michigan Department of Labor after law school and your client may be the state, but the divide between your supervisors will be just as real as in our example above.

In short, expectations have increased while the law school experience has remained the same. So, the big question is, how do we collapse the divide, especially when you are still in a steep learning curve mode?

Our belief is that there are four core concepts to focus on immediately when transitioning out of law school. Even better, consider these concepts to be a lens when you take any law school class. In the next chapter, we'll discuss these four core concepts: empathy, listening first, asking questions, and always usually giving advice.

CHAPTER 2

The Core Concepts of Lawyering

What does a good lawyer do? Depending on who you ask, people may be quick to point out that lawyers should vigorously defend and represent their clients as fiduciaries to the extent that the law and legal ethics provide. Generally, law schools are in business to teach these broad principles and while they certainly aren't wrong, they miss the point of what day-to-day lawyering looks like. Also, clients don't think about their legal relationship this way. Most clients (at least most we know) want their issues handled quickly, financially efficiently, and without unnecessary drama. Unfortunately, sometimes these expectations are at direct odds with one another.

When we set out to write this book, we asked ourselves, "What really are the core concepts of being a lawyer?" What was interesting to us is that few people we spoke with focused on legal knowledge, intelligence, or even experience. Successful lawyers and clients alike kept focusing on the soft skills. What soft skills does every great lawyer need to succeed? After many discussions with lawyers and clients, and thinking about our own careers, we came up with four key concepts:

1. Empathy.
2. Listen first, talk second.
3. Ask questions, especially when you don't know the answer.
4. Always (usually) give advice.

Note that these concepts are in a particular order. We would suggest that you approach clients, colleagues, and bosses with these in mind.

Empathy

When we talk about the divide, the single biggest gap is a lack of empathy from the lawyer to their client and junior lawyers to senior lawyers. You'll note that we are not focusing on anyone's empathy toward you. It's not that it isn't important, but rather you already know what type of empathy you need to feel your best and we don't know you. But also, let's face it, in many situations as a junior lawyer, people don't want to think about your needs. If you haven't heard this before, then get used to it.

We are trying to show you the other side so that you aren't surprised. And with all our collective years in the legal business, we feel qualified to talk about clients and senior lawyers.

Okay, so what is empathy? According to the dictionary, the definition of empathy is “the ability to understand and share the feelings of another.” There are also three kinds of empathy, which we'll explore now.

The first type of empathy is called *cognitive empathy*. This is simply understanding how another person feels and what they might be thinking. This is the ability to take the perspective of another or walking in someone else's shoes, so to speak.

The second type of empathy is called *emotional empathy*. This is when someone feels physically along with another person as if their emotions are shared. A good example of this is what some people might feel (e.g., cringing or wincing) when they see a wreck in a car race, someone being thrown from a bull, or perhaps even tripping and

falling while walking down a sidewalk. There was a joke in here about how Jason dances, but he kept taking it out of the drafts.

The third type of empathy is called *compassionate empathy*. This is when not only does a person understand and feel for someone's situation, but also is moved to then act and help that person.

At this point, it's appropriate to take a deep breath, relax, and think about how you've previously experienced (or not) these three types of empathy. It's also a probably a good idea to ask yourself how emotionally comfortable you are with each of these concepts (one, two, three...). Okay. Break's over.

We believe that the vast majority of new lawyers lack empathy toward their clients and bosses. Some of this is due to the mental, physical, and emotional strain of being a new lawyer. Some of this is due to working too hard, being too tired, and worrying about paying off student loans. Some of this due to people entering the profession who are not naturally empathic humans. Some of this is because law school beats it out of you over three years.

Whatever the case is, this lack of empathy is perhaps the biggest wedge between lawyer-client relationships. And it doesn't help you get ahead when your boss doesn't feel like she is getting this acknowledgment as well.

When Jason was a venture capitalist, he was amazed by how many times he would hear a junior lawyer complain about how “stupid” the client was. Most of the time this was a junior lawyer disparaging a CEO who had just laid everything on the line in founding a startup, a proposition that more than 50% of the time ends in complete failure. In return, Jason would hear from the startup CEO that their lawyer “frustrated them” or “didn't listen well.” Because of

this, the CEO was reticent to call the lawyer and thus didn't seek legal help when they probably should have, leading the junior lawyer to have clean-up work, which reaffirmed their belief that the CEO was stupid.

This is a relatively small example of the issue, but let's take an empathetic lens to the CEO's reality. An empathetic person, who had even a small clue about what startup CEOs deal with on a regular basis, would know:

1. Being a CEO is a very lonely job. You can't really talk to anyone at the company about your fears, as you don't want to freak anyone out. The result is the CEO has few, if any, open and honest relationships.
2. Being a CEO means you are, literally, responsible for every employee's (and their families') paycheck and medical benefits, among other things.
3. No one really ever wants to call their lawyer. It's costly and means there is an issue they can't handle themselves.
4. Startups are notoriously under resourced. They don't have enough money, time, and people. Every good CEO Jason ever met along the way carries this burden with them.
5. CEOs are focused manically on the business, as they should, and not the detailed legal stuff the young lawyer is focused on.
6. The CEO probably spends a ton of time as unofficial counselor to other executives of the company.

Now these factors don't even account for any current situation the CEO is dealing with. Perhaps the product isn't working correctly, their largest customer just left to go with a competitor, they are running low on cash, or they just got

a terrible review online. If you think for a moment about the systemic issues, coupled with any acute problem, it's no wonder that startup CEOs suffer so frequently from mental burnout and health issues. We haven't even begun to talk about how these take tolls on their personal and family lives.

And here the young lawyer thinks the CEO is an idiot, because they aren't focusing enough on the things the lawyer thinks they should. Like the legal stuff is what the CEO wants to keep front of mind when every day is a tightrope walk across lava? Hmmmm. Maybe the lawyer should try to become a person who helps the CEO feel less lonely. Maybe the lawyer should start with empathy and not intellectual criticism, and maybe then the lawyer might start to understand what the CEO is going through. And maybe then the divide between the client and lawyer will lessen. Maybe the lawyer will build a real and trusting relationship with the CEO.

What about your boss? They've got it easier than you, right? They make more money, have more experience, and have more job security. They might even be making money off of you, depending on what your job is. But perhaps their elevated status comes with extra pressures you can't imagine. Maybe the law firm partner has been told that without a certain number of new clients this year, they will be shown the door, or worse yet, the firm isn't doing as well as you think it is and without those additional clients, there will be layoffs that will include your position.

Maybe the government lawyer you work with is constantly on the treadmill to be reappointed despite changing administrations, or maybe they even have to be elected to their office every few years. Maybe the immigration partner is terrified their whole practice is going to be upended by new federal policy. The scenarios are endless,

but one thing we know: as you mature in your profession, life gets more, not less, complicated. The issues become bigger, the stakes larger, and your personal life more interesting.

If you are thinking, “I didn't go to law school to become a psychologist,” then we have bad news: you have no choice. Seriously, if you think you can “Hollywood lawyer” your way to success by being tough, argumentative, dismissive, and smart, you are wrong. Only a few nonempathetic lawyers we know have become successful, and they are all on Wall Street.

You can think of empathy as “bedside manner.” Doctors learned long ago that the best way to avoid malpractice lawsuits was to improve their (apparent) empathy with their patients. Customers like to feel special. People paying you want to believe you aren't just competent, but that you actually care about them and their issues.

While we've seen very few law students come out of school as empathetic lawyers, we've seen a few who are naturally programmed this way. As you start your career, try to practice empathy by thinking deeply about what motivations people have that you can't see on the surface. Do research on your colleagues and clients and construct a narrative of what might be driving their behavior instead of simply writing them off. As you get good at this, you'll have much better relationships and feel much about your decisions when you actually do decide to deem someone an idiot, because let's face it—they are out there too. And always remember, clients and partners are like icebergs; what you can see is only a fraction of what they have going on below the surface.

One last word on empathy. Remember the three types that we discussed above? Cognitive, emotional and compassionate? Realize which one you are using and