

JASON MENDELSON

ALEX PAUL

HOW TO BE A LAWYER

THE PATH FROM
LAW SCHOOL
TO SUCCESS



WILEY

How to Be a Lawyer

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THE PATH FROM LAW SCHOOL TO SUCCESS

**Jason Mendelson
Alex Paul**

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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.

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About the Authors

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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.

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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