

ONE RECENT GRADUATE'S PERSPECTIVE: HOW LAW SCHOOL PREPARED ME FOR THE UNITED STATES DEPARTMENT OF JUSTICE*

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I remember reading *Maximizing the Law School Experience*¹ the summer before starting law school. As the first in my family to go to law school, I anxiously sought insight into how best to “handle” this new challenge from whatever source I could find. Although I cannot today recall the specifics of that book, I do recall its overarching theme: students should strive to make the most of those three (relatively) short years.

Okay, so maybe that theme is evident from the book's title. Nevertheless, it rings true. In my experience, law school serves as the foundation upon which your future career will be based. Practicing attorneys cannot afford the time or expense to relearn the fundamentals of law school. Taking the necessary time during law school to understand and apply the fundamentals of law is, in my view, absolutely essential.

Of course, making the most of law school is easier said than done. My goal in this Essay is to not to dwell on the abstract, but to relay practical, specific advice from the perspective of a litigating attorney with the United States Department of Justice. I have been out of law school less than four years, so the experiences upon which I am drawing still seem like only yesterday.

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This Essay is written solely in Mr. Doyle's individual capacity and does not necessarily represent the views of the United States Department of Justice.

1. 12 STETSON L. REV. 551 (1983).

In Part I, I relay some insight on classes. In Part II, I discuss worthwhile out-of-classroom experiences. Next, I advance my three overarching “golden rules” of law school in Part III. In Part IV, I explain what I would have done differently if I had to do it all over again. Finally, Part V contains concluding remarks.

I. CLASS ATTACK

Certain “plans of attack” served me well inside the classroom. If you remember nothing else from this Essay, remember this: Treat every class as if it were your only one. Accept the fact that law school's varied curriculum exists for a reason. Trust me, you will be able to use at least one concept from every area of law (directly or analogously) at some point in your legal career. Not a day goes by that I do not draw upon some first-year law concept even though I currently practice federal statutory environmental law, a subject matter that is quite different from those offered during the first year of law school. This was especially true during my judicial clerkships; any and all areas of the law were fair game.

To better understand the application of the law, find a way to connect with and enjoy the subject matter, even in courses that at first seem the most dry to you. Put yourself in the position of the plaintiff or defendant in the cases you are studying. Create and solve hypothetical cases. See if your professor agrees with you, and why or why not.

Having said that “all classes are created equal,” I have come to appreciate the lasting importance of specific classes while working for the Department of Justice. First, research and writing are critical. Federal courts, especially in civil cases, decide the vast majority of cases on the papers.² The local rules of every federal district court in which I have litigated require a memorandum of law for practically every type of motion.³ Not surprisingly, legal employers, including the Department of Justice,⁴ typically require and scrutinize

2. See, e.g., William C. Smith, *Advocates for a Mute Court*, A.B.A. J., Oct. 1999, at 20. In fact, my first two favorable federal district court cases, *Kelly v. EPA*, No. 98-C-655-S (W.D. Wis. Apr. 9, 1999), *aff'd*, No. 99-2496, 2000 WL 144276, at *5 (7th Cir. 2000), and *Armco v. EPA*, No. 1:98-CV-2499 (N.D. Ohio Mar. 30, 1999), were decided solely on the briefs without my ever setting foot in a courtroom.

3. See, e.g., MASS. R. CIV. P. 7.1(b)(1); E.D. MICH. LOC. R. 7.1(c).

4. This is evident in the Department's selected attorney vacancies advertisements, which can be viewed at <http://www.usdoj.gov/06employment/06_1.html>.

writing samples. Make no mistake about it, it was, and is, much easier for me to get excited about oral advocacy than writing briefs. Although I would not trade my oral advocacy experiences in law school for anything, students cannot lose sight of the reality that few cases actually go to trial.⁵

I thus cannot emphasize enough how important it is to learn to write effectively. To me, writing effectively means applying the law to facts in a clear and concise manner, and telling the court exactly what it is you want it to do. Surprisingly, I have found that many lawyers, even more “experienced” ones, apply law to facts in a summary, confusing, or “boilerplate” fashion. If it is okay with your professor, try to present your writings to a lay person (e.g., a family member, friend, or significant other). The best briefs are generally those understood by the untrained.

Any legal career in government, whether federal, state, or local, will undoubtedly involve issues of constitutional law. That has certainly been my experience with the Department of Justice. Listen and take notes carefully in your Constitutional Law class. Read the assigned Supreme Court cases with a critical eye. Consult hornbooks or other aides only after you attempt to figure out the facts, issue, holding, and reasoning on your own. And, after the end of the semester, resist the temptation to put this course “on the shelf” until the bar exam. I became a Constitutional Law tutor in my third year to keep the material fresh in my mind.

Civil Procedure is another prime example of a course with lasting utility for me. Students are generally “hit” with this course very early in law school. At first blush, it may appear that having to learn procedural law at the same time you are first being exposed to substantive law is like putting the cart before the horse. At some point, though, the diligent student will “get it” and the subject matter will prove very useful during and after law school. Therefore, take careful notes, even if you (like me) do not at first fully understand what they mean. After all, courts cannot render judgments unless and until the lawyers have followed the procedural rules in bringing cases before them.

The third class that has assisted me greatly is Evidence. If you

5. Even if they get to trial, it typically takes a lot of research and writing to get to that point. *See, e.g.*, *Ware v. United States*, 971 F. Supp. 1442, 1447–49 (M.D. Fla. 1997).

want to litigate, learning and applying the rules of evidence in law school is well worth your time and effort. When you finally get to court it should be second nature to you. I can think of no other area of law that requires lawyers to act more quickly on their toes. You have to be ready to object immediately upon hearing a question from a lawyer or an answer from a witness. Obtaining a true understanding of the rules of evidence is also vital to preparing a case on paper. Lawyers are constantly assessing the (in)admissibility of evidence upon which they are relying, especially in supporting or opposing a motion for summary judgment.⁶

Trial and appellate advocacy courses were, without a doubt, my favorite in law school. Let's face it; appearing in court is, for many lawyers, the most exciting aspect of the practice of law. I have found that taking oral advocacy classes also provided intangible benefits. The classes instilled confidence in students that they can handle a case from start to finish. And, having experience in the end result of a case keeps lawyers focused during the often-lengthy pretrial stages.

Elective courses may very well inspire your choice of a specialty, even though it seems that many students go to law school with a specialty in mind. I encourage all students to keep an open mind throughout all three years. I came to law school with an eye toward corporate law. After taking the standard first-year courses and some electives, however, I found that I liked environmental and criminal law the best. However, if you follow the advice I relayed earlier, that is, treating each class as if it were your only one, you may find picking a specialty to be frustrating. That was certainly the case for me, and I was very glad for the exposure to all facets of criminal and civil law that judicial clerkships provided to me. Among their numerous other benefits, judicial clerkships are a great way to stall the

6. I was fortunate to be instructed by Professor Roberta Flowers of Stetson University College of Law. On more difficult evidentiary subjects like hearsay, she took time to flesh out their meaning and application to courtroom settings. Additionally, she had a rule that although students could bring into the final exam only our rules of evidence book, we could write as many notes in them as possible. This exercise provided to students not only the incentive to review and condense their notes prior to the exam but also a handy and concise courtroom manual. I still regularly use my self-annotated evidence book.

I also recommend that students take a supplementary evidence course. I benefited greatly from Stetson Professor William Eleazer's "Trial Evidence" class, which took place in a courtroom setting using vignettes.

inevitable call to specialize!⁷

II. OUT-OF-CLASSROOM EXPERIENCES

Many of my out-of-classroom experiences during law school have proven invaluable to me at the Department of Justice. First, clinical experience has been key. If I had to pick a single out-of-classroom experience that best prepared me for the “real” world, it would have to be the public defender clinic.⁸ Clinics, at least the one I took, provide students with the unique opportunity to apply the law where the stakes are fairly high, but without the pressure of billing a client.

Next, I recommend interning with a court. Obtaining a judicial clerkship can be a rare coup, and many debt-ridden students cannot afford the somewhat lower pay offered. But during law school, if your school offers it, interning with a federal or state court will allow you to get an early and rare glimpse into the judicial decisionmaking process.⁹ It was during a federal judicial internship that I truly realized that few, if any, areas of the law are black and white. Without a doubt, the internship allowed me to see “[t]he good, the bad, and the ugly” of the practice of law.¹⁰ One word of caution, however: do not participate in a judicial internship until at least the latter part of your second year. You simply will not be of much assistance to a judge without, for instance, a firm grasp of Civil Procedure, Constitutional Law, and Evidence.

I also recommend that students write and make every effort to publish a law review or journal article. It has been a credential that has served me well.¹¹ It is probably the only vehicle by which a law

7. For a discussion of the benefits of judicial clerkships, see Susan Harp, *Clerking — Something Every First Year Law Student Should Know*, 29 STETSON L. REV. 1291 (2000).

8. Indeed, in just over three months, a student partner and I tried three cases and developed three others for trial. I have discussed my clinical experience in virtually every interview I have ever had.

9. If your school does not offer an intern program, consider starting one on your own. In fact, Stetson's federal judicial internship program had its origin in a student's initiative. See Hon. Elizabeth A. Kovachevich, *Federal Judicial Internship Programs: A Commitment to the Future of the Legal Profession*, 41 FED. B. NEWS & J. 680 (1994).

10. *Id.* at 683.

11. See Andrew J. Doyle, Note, *Sharing Home Sweet Home with Federally Protected Wildlife*, 25 STETSON L. REV. 889 (1996). As the title implies, my article focused on an issue of federal environmental law. Ironically enough, I had not even *heard* of the De-

student's views can be considered and cited by courts or lawmakers.¹² This is especially true now that law review articles are easily researchable through Westlaw and LEXIS, which are online legal databases.

If, however, you do not succeed in getting a Note or Comment published in the school's law review, try other publications like a state bar journal or newsletter. Or, try co-authoring an article with an attorney. Many attorneys would probably like to publish something but lack the time to do so solely on their own. In any event, be deliberate and careful when choosing a topic and taking a position; for better or for worse, it may follow you.¹³

III. THREE "GOLDEN RULES"

Whether inside or outside the classroom, I have three overarching pieces of advice to offer law students. First, do your best at all times. It may be elementary (and jaded) advice, but I have found it to be so very true. If for no other reason, you never know who might be watching. Fortunately, in my case, it was a prominent federal judge.¹⁴

My second piece of advice is to do your own work. Namely, make your own outlines. I have never seen the value in relying solely on someone else's work product. A large part of law school is learning how to compartmentalize a lot of detailed information, a skill that you simply cannot gain through reading a hornbook or another stu-

partment of Justice's Environment and Natural Resources Division at the time I chose this topic, let alone dreamed that I would be working there.

12. My Note was recently cited in the case of *Loggerhead Turtle v. County Council of Volusia County*, 148 F.3d 1231, 1246, 1251 n.23 (11th Cir. 1998), *cert. denied*, 119 S. Ct. 1488 (1999).

13. See, e.g., Michael Isikoff, *Confirmation Battle Looms over Guiner; Critics Target "Extreme" Views in Law Review Articles by Justice Dept. Civil Rights Nominee*, WASH. POST, May 21, 1993, at A23.

14. My "best efforts" during a judicial internship program with Chief United States District Judge Elizabeth Kovachevich led to an offer to serve as one of her law clerks. This, in turn, led to her recommending me to serve as law clerk to then-Chief United States Circuit Judge Joseph Hatchett of the Eleventh Circuit. Words cannot express how grateful I am to have worked for two such esteemed and gracious judges. They are not only legal "giants" in the State of Florida (and, for that matter, the nation) but also my heroes. Finally, no less fortunately for me, my "best efforts" in law school were noticed by a classmate, Scott Justice (now of Holland & Knight), who recommended me to "Judge K" — a selfless act that I will never forget.

dent's outline.¹⁵

Last, but not least, resist the temptation to “fade out” during the latter part of law school, even if you have already landed a killer job. My third-year experiences (e.g., public defender clinic, judicial internship, intramural moot court, and law review board) are among my most vivid ones.

IV. IF I KNEW THEN WHAT I KNOW NOW

With law school, like with everything else, I would do some things differently if I had to go through it again. First, do not go through your three years in a vacuum. Get to know the relevant legal community, whether it is the community where the law school is located or the community in which you intend to practice. I realize that time is a precious commodity in law school, but keeping apprised of the legal scene is not difficult. A simple but habitual peruse of the local newspaper and state bar news should do the trick.¹⁶ You never know, a case of national significance may very well be in your own backyard. Find out who the judicial and other high-ranking officers of the local courts are (the phone book's blue government page is an easy but excellent source).¹⁷ Follow the latest trends in the law; you can see where the subjects you are currently studying fit in the scheme of things.¹⁸ Also, take advantage of local bar associations; they often welcome student participation.¹⁹

15. This is not to say that I do not recommend studying in groups. On the contrary, studying in a group provided me with an excellent opportunity to articulate and discuss the law with others. It was also more fun than studying alone!

16. For example, the bi-monthly *Florida Bar News* should be available at most law libraries in Florida and is at least partially available online at <<http://www.flabar.org/newflabar/publicmediainfo/TFBNews/>>.

17. For example, the Honorable Charles R. Wilson, then-United States Attorney for the Middle District of Florida, spoke at one of our law review dinners. See Charles R. Wilson, *Remarks to the 1994-95 Review*, 24 STETSON L. REV. 619 (1995). Unfortunately for me at the time, I did not appreciate or really understand what a United States Attorney was. Recently, Judge Wilson was appointed to sit on the United States Court of Appeals for the Eleventh Circuit. A student who follows local events might be the beneficiary of the adage “timing is everything” by applying promptly to a recent appointee who may very well need a law clerk.

18. I find the *National Law Journal* to be a good source in this regard. Also, I now have the habit of checking Supreme Court activity regularly through Emory University's website, <<http://www.law.emory.edu/FEDCTS/>>, which also has links to the webpages of the federal courts of appeals. Incidentally, keeping up with trends in the law will also assist you in choosing a “hot” topic for a law review article.

19. Locally, Inns of Court frequently seek out student representatives. On a more

Second, do not take classes simply because you think they will help you on the bar exam. A good bar preparation course like BAR/BRI will take care of that. Rather, sign up for elective courses that interest or will assist you in your area of speciality. For me, I regret not taking a course on pretrial practice. I would have benefitted from more discovery experience (for example, how to take and defend a deposition, how to frame interrogatories, and how to promulgate a privilege log). Anyone who saw *A Civil Action*²⁰ can appreciate that many cases turn on discovery.

Finally, avoid the "shotgun" approach to finding a job, including a summer associate position. With Westlaw, LEXIS, and the Internet, it is easy to research law firms (e.g., the clients they represent and the positions they tend to advocate) to find one that fits your vision. Think long and hard about working for a "sweat shop" firm.²¹

Nor should students limit themselves to what the school's career services office has to offer. I fell into this trap; perhaps, with more creative thinking, I could have done something more creative with my summers than attend school and clerk by-the-hour. Indeed, every summer, law clerks flood non-profit and government organizations in Washington, D.C., including the Department of Justice. In hindsight, I would have benefitted greatly from working with an environmental non-profit organization or obtaining a "sneak peak" into government practice.

V. CONCLUSION

In sum, law school is a dynamic and condensed experience of three years that you do only once. Do it right. Do not think of it as simply a way to extend your college days. Treat it as a job. In today's competitive legal arena, you will need any edge you can get. If you want to work for the Department of Justice or any other litigating federal agency, know that the expectations of competence and professionalism are high.²² And, in the words of Chief United States

national level, both the American Bar Association (<<http://www.abanet.org>>) and the Federal Bar Association (<<http://www.fedbar.org>>) offer student memberships.

20. *A Civil Action* (Touchstone 1999) (motion picture).

21. See Debra Baker, *Cash-and-Carry Associates*, A.B.A. J., May 1999, at 40.

22. See Hon. Patricia M. Wald, "For the United States": *Government Lawyers in Court*, 61 LAW & CONTEMP. PROBS. 107 (1998).

District Judge Elizabeth Kovachevich of the Middle District of Florida, do not be afraid to “Think Big!”²³

23. See Robert C. Mueller, *Remembering Our Oaths*, 45 FED. LAW., Feb. 1998, at 2, 2 (acknowledging Chief Judge Kovachevich's “can-do/will-do view of life, her dogged refusal ever to acknowledge the word ‘no,’ and her dynamic leadership”).