



SOLO, SMALL FIRM AND GENERAL PRACTICE AMERICAN BAR ASSOCIATION YOUNG LAWYERS DIVISION

Committee Newsletter | Spring 2016

TABLE OF CONTENTS

ARTICLES >>

15 Tips for a Successful Law Practice

By: Ashley Hollan Couch, the Principal at The Hollan Entertainment Law Group, LLC

NEWS AND ANNOUNCEMENTS >>

ABA YLD 2016 Spring Conference: The 2016 Spring Conference will be held May 5-7, 2016 in St. Louis, MO.

Hit The Ground Running: Tackling the First Year, Whether as an Associate or Hanging Your Own Shingle.
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ABA YLD Scholars Program: Details below.

ARTICLES

15 Tips for a Successful Law Practice

By: *Ashley Hollan Couch, the Principal at The Hollan Entertainment Law Group, LLC*

No matter what type of law practice you find yourself immersed in, whether it be in the private sector, government, BigLaw, the nonprofit sector or as a solo practitioner, there are some tenets that ring true for all legal professionals. When I graduated law school in 2008, the legal market was dismal, so many of us found ourselves seeking alternative opportunities to continue building our resumes. My personal experience as a licensed lawyer was first working with an arts law nonprofit, then I joined a BigLaw firm, then I was in-house counsel for a group of privately held dealerships, and finally in 2012 I started my own law practice where I also served as a contract litigator for government entities for years. Throughout my various practice areas, I've noticed certain rules that hold true for all lawyers to ensure a successful legal practice.

1. Consider your core values. When seeking legal employment, or any job, I would highly encourage you to really consider your “true north.” For me, the most important values are freedom, creativity, helping others, considering nature and the world around us, spirituality, energy and adventure. I felt stifled in BigLaw where I was at the bottom of the totem pole and had little autonomy. It was not until 4 years after I graduated law school that I finally gained the freedom I desired as a solo practitioner. But that said, life as a solo is not for the weak—you must be willing to ride the roller coaster and take huge (hopefully well calculated) risks. This life is

not for every lawyer. Knowing what you value as compared with what you can accomplish in a given legal role, understanding the quality of life associated with the position and having an idea of what opportunities may present themselves as a result of your choice to practice in that arena will serve you well in the long term. Knowing and living your destiny will help you stay motivated, overcome obstacles and help you avoid the burnout that is so prevalent in attorneys. There are many tools to help you determine your core values and thus direct your destiny. I highly recommend the Creative Insight Journey course, created from a Stanford Business School Master's class as one of many great means to begin asking yourself some of these questions.

2. Conduct planning and set measurable goals. I cannot overemphasize this enough. In my view, it is not sufficient to simply know in your mind what you might like to accomplish one day. I create a complete business plan for all of my business endeavors. I create goals on a daily, weekly, monthly and annual basis that include the basic “what,” “how” and “by when” components to ensure that I have actionable goals where I can track my progress and results. Sometimes I have to tweak my goals and even my deadlines, but being able to see where I started, have a roadmap for where I am going, and then look back at my success from the finish line makes the difference between dreams and reality.

3. Find mentors. I strategically positioned myself to develop relationships with mentors before law school, during law school, and after graduation. In law school, I even took a non-legal concert promotions internship to develop a relationship with the regional CEO of AEG Live in an effort to build my music industry network, which subsequently led to him giving me a list of the top entertainment lawyers in Nashville, all of whom agreed to meet with me when I moved to Tennessee, and one who offered to let me shadow him as his mentee and Intellectual Property Law Teaching Assistant. That attorney represented Johnny Cash, Carrie Underwood and Madonna, among others. In every practice area I've attacked, I've always ensured that I have at least one solid mentor who doesn't mind answering my questions. Not only will mentors help you extend your network, they can help you avoid malpractice and bolster your confidence starting out or addressing a new legal issue.

4. Engage in meditation and mindfulness. This one is a biggie—and unfortunately something I did not really learn or take seriously until relatively recently. Meditation can come in many forms. As I have a constantly running mind, worrying, planning, analyzing, I tend to enjoy guided meditations to keep me on track. No matter what you choose, be it guided or only silent, I suggest meditating for at least 15 minutes every day to ensure your mind has time to rest. According to a recent Harvard School of Medicine study:

“Although the practice of meditation is associated with a sense of peacefulness and physical relaxation, practitioners have long claimed that meditation also provides cognitive and psychological benefits that persist throughout the day.”¹

I also make a point to spend a few minutes (ideally your first five minutes upon waking) to release stress, record my current state of mind and allow time for one of my many creative outlets.

5. Remain positive and open-minded. If you don't have an open mind, you will likely miss what could be amazing opportunities for growth as an attorney and as a human. We, as lawyers, tend to quickly form judgments and prepare our arguments, but I encourage you to slow down and be open to opportunities out of your comfort zone, or perhaps those you're not even aware of yet. While planning is critical, so is allowing yourself and the Universe to throw even better opportunities at you than you had planned. Remaining positive,

¹ Walia, Arjun. “Harvard Study Unveils What Meditation Literally Does To The Brain.” CollectiveEvolution RSS. December 11, 2014. Accessed April 8, 2016. <http://www.collective-evolution.com/2014/12/11/harvard-study-unveils-what-meditation-literally-does-to-the-brain/>

even in the face of adversity, is also imperative. I learned this quickly, first facing a tough legal market as a new lawyer, but then with my work as a public defender. When you have to sit face to face with another person and explain to them they are facing a trial where if they lose they will receive life without parole, you learn that it is possible to deliver the facts to your clients while still remaining as positive as possible about the circumstances. I by no means am implying you should give false hope, but maintaining a positive outlook will generally help you achieve the best results for any given situation. Similarly, treating others positively will bring more positive interactions back to you, and thus benefit your clients. In fact, according to the Harvard Business Review:

“Research shows that when people work with a positive mind-set, performance on nearly every level—productivity, creativity, engagement—improves. Yet happiness is perhaps the most misunderstood driver of performance. For one, most people believe that success precedes happiness. “Once I get a promotion, I’ll be happy,” they think. Or “Once I hit my sales target, I’ll feel great.” But because success is a moving target—as soon as you hit your target, you raise it again—the happiness that results from success is fleeting...In fact, it works the other way around: People who cultivate a positive mind-set perform better in the face of challenge. I call this the “happiness advantage”—every business outcome shows improvement when the brain is positive.”²

6. Document as if you were facing an audit, malpractice claim or bar complaint. Once of my favorite law school professors once asked of us what we considered the most dangerous thing for our legal practice—and I was shocked to hear his answer was our clients. I’ve always heard wiser, older attorneys say that the worst situations often happen when trying to help a friend or other contact in an informal representation, often as favors. Even though I have always known best practices, it is easy when running your own business of any kind to slip on details if you don’t have structures in place to keep the business running smoothly. I was often horrified working as a public defender to see empty files with no notes on the clients or backgrounds, and as an avid note-taker, I’ve always attempted to keep notes in all of my files. I cannot overemphasize the importance of keeping detailed, accurate and timely records on your clients, your accounting and all else that happens in your business. The best advice I can give is treat every matter like it will become a bar complaint or malpractice claim, and then at least if that dreaded day arrives, you will be best positioned to defend yourself using your records kept in the normal course of business rather than getting into a “he said, she said” situation.

7. Remember that organization is key. This goes hand in hand with #6. When you’ve got the phone ringing off the hook, rushing to courtrooms all over town, actually trying to find the time to sit down to do the actual work of lawyering, not to mention marketing, advertising, learning from continuing education classes, networking...you can easily find yourself in what feels like the middle of a tornado. I won’t go so far as to say you need to hire a Feng Shui expert (although I could name a few great ones whose assistance might make a huge difference in your workspace and life), but I would encourage you to rid yourself both figuratively and physically of all unnecessary clutter, get organized and stay organized. You should be able to locate any file, record or resource with ease, and of course all of your business records and equipment should always be stored in safe places and backed up frequently in the case of digital records. State bar regulations differ on how long you must retain records and whether or not they consider “the cloud” secure, but regardless of the specifics, organization is an essential key for success.

² Achor, Shawn. “Positive Intelligence.” Harvard Business Review. January/February, 2012. Accessed April 8, 2016. <https://hbr.org/2012/01/positive-intelligence>

8. Continuously grow and maintain your network and your resume. Of course it is ideal to procure gainful, paid legal employment as soon as you've graduated law school, but in reality, that scenario is not always the case for everyone. Perhaps, like me, you've chosen a particularly competitive area of law like entertainment practice. Perhaps, like me, you graduated law school during a massive recession. Perhaps you just want to figure out what practice area best suits you. No matter what your background and reasoning, I would encourage you to continue building your resume in any way possible. I recently spoke to a law student who was scoffing at the idea of an unpaid internship and asking for my ideas to land her high paying employment in a flooded market with massive, experienced competition. I can honestly say that all of the 10 (yes, count them TEN) unpaid internships I was LUCKY enough to have literally created the foundation for my practice. They taught me what to do in real-world legal situations, they created opportunities for me to network (later paying off as I was offered paid positions years later as a result of the relationships I forged) and they gave me essential confidence to take the leap as a solo. I would not be the same lawyer I am today had I not ensured that my resume was growing every day, even when perhaps my bank account was not. If you're in the right profession, it won't feel like "work" anyway, so I would encourage you to choose your opportunities not based on money alone, but also keep the bigger picture in mind. If you're doing things for the right reasons and positively contributing to the world, the money will follow. I can also tell you that I've got plenty of licensed lawyers begging me for work on a daily basis, so those students demanding paid internships without any experience would always be on the bottom of my list in a field where people literally fight for years to glean their place in the business. Never allow gaps in your learning and professional development, and never be too arrogant to keep learning.

9. Give back. This one is a biggie for me. Every day, I try to ensure I've completed at least one "good deed for the day." I serve as a Volunteer Lawyer with organizations in multiple states. I teach frequently at seminars. I mentor law students, young lawyers, artists and entrepreneurs all over the world. I choose to devote precious time from my schedule on a daily basis to give back. If we aren't contributing to the world, what is the point? We, as lawyers, are well positioned to really make a difference, be it on a macro scale changing laws that affect millions, or on a micro scale, making a small difference just brightening someone's day. I think most of us would agree we haven't done it all alone, and without generous souls giving back, what will be the fate of our already strained and stressed profession? I've heard some argue that they are too busy to give back—which I find to be utter nonsense. Some of the busiest, most famous, most well respected attorneys I know happen to also be the ones with the biggest hearts who are seemingly always willing to help others. Be one of those attorneys—it will help your business and soothe your soul.

10. Find your outlets. What are the activities that make you smile and keep you grounded? Speaking personally, when I don't have enough exercise, proper nutrition, balance and time for artwork and spirituality in my life, I become a stress cadet and someone not so fun to be around. I used to think that if I just worked harder and longer than everyone else, I would be better and I would "win." Then I watched my mother nearly work herself to death and began taking a serious look at my life and behaviors, and how they were contributing to my stress. It's amazing, but when you find proper balance in your life, the rest seems to fall into place. For decades I pulled all-nighters on a regular basis. Now I sleep. I used to get in ruts where I felt like I didn't have time to get outside, jog and be grateful for nature. Now I incorporate that time into my schedule just as I would any business meeting. I create art every day because it helps me unwind and also helps my creativity flourish in business. Whatever your outlets, find them and don't neglect them. Balance in practice is critical—and too many lawyers I see excel at work but find the other areas of their life lacking. I am fond of using "wheel of life" diagrams where you can rate the areas of your life and see what parts may need more attention. Nurturing your outlets and finding balance will bring you peace and allow you to perform at your highest levels.

11. Allow yourself to change course. As lawyers, we are taught early on that we have to have all of the answers. We are told to choose schools based on what we want to do and where we want to live—and the

honest truth is that we may not all know at age 18 exactly what the roadmap for the rest of our lives will look like. Despite what you've heard before, I want to tell you THAT IS OKAY. Life is an exploration, not a destination. There is no shame in changing course, exploring new options, deciding something isn't working for you. The only thing that is constant is change, so embrace that, and allow yourself to grow when you feel drawn to something new or different. I've heard a few of my mentors say that even falling on your face is progress because at least you're falling forward, and that is the truth. Whatever you do, don't just stand still.

12. Listen before you speak. This one is really hard for me personally, and I think many lawyers also struggle with this issue, both in their personal and professional lives. As litigators, we are expected to be quick on our toes, often even interrupting opposing counsel (hopefully when appropriate as in the context of an objection). As attorneys, our clients expect us to have all of the answers on the fly. But what I often see both in myself and others is that we fail to fully listen before we speak. We assume we know what the other person is going to say, or we assume we know the right answer. But how can you know the right answer when you never really heard the actual question? I challenge you all to slow down, really listen (like not while scrolling through email on your smart-phone or worrying about tomorrow's tasks) and then, watch in awe as your communication with others and relationships flourish. One technique that is extremely helpful for attorneys is to repeat back what the other person said to you to ensure you really heard and understood. I take notes in every client meeting and call and then I recap at the end to ensure we are all on the same page and there are no lingering questions—or if there are, then I follow up with the answers. Not only will this ensure the people talking feel valued and respected, but it will help ensure you don't miss critical details in our world of multitasking.

13. Always consider the ethical implications. Know your ethical rules. Follow your ethical rules. Don't blur the lines. It really is that simple. In a profession full of bright lawyers, I am always astounded when I see properly educated lawyers behaving badly in the ethics realm (and there are way too many of them out there!). I wonder if blurring the lines is really worth them losing their jobs, their ability to practice law, their reputations. Integrity is really all we have, so I would encourage you to always do the right thing even if nobody is watching. (And I assure you, in this context there are ALWAYS people watching). If your State says no referral fees, don't accept or give referral fees. If you know a case could later present a serious conflict of interest, take that seriously. I once walked up on a public defender talking smack about me in a courtroom hallway, mocking me for protecting my bar card because I refused to participate in what I considered to be a highly unethical and disallowed criminal plea where the other lawyers involved were clearly not protecting their clients and potentially subjecting themselves to serious sanctions. Don't be afraid to be the voice of reason and stand up for the right thing, even if nobody else will and even if it isn't easy. If you have a question, call the bar hotline and ask. It is better to ask than to violate the rules and risk receiving a sanction, hurting a client or getting disbarred. Really consider what is best for your clients and be their voice of reason and source of protection. Abraham Lincoln said, "*As a peacemaker, the lawyer has superior opportunity of being a good man. There will still be business enough.*"

14. Understand and embrace that being a lawyer is really being in sales. Janet Reno said, "*The good lawyer is the great salesman.*" Having grown up in a family of advertisers, marketers and salespeople, I was shocked to hear my mentor who represented Johnny Cash tell me when I moved to Nashville that his job was mostly sales. But the longer I practice law, the more that statement rings true. We are all in sales, be it selling a client on a course of action, selling a judge or jury on your client's position, selling your legal services to generate leads for your business. As soon as I quit running from the idea that I am in sales, and instead embraced it and learned how to wrangle it, I became the master of my business and a confident advocate in many contexts. Don't fear the unknown, embrace it and learn as much about ethical sales techniques as you can, especially if you find yourself in solo practice.

YLD Solo, Small Firm and General Practice Committee Spring 2016

15. Never give up on your dreams. It is never too late to go after your dreams if you don't give up. Even if you don't land your dream job right out of school, don't let that hold you back. Continue getting relevant experience and keep an eye out for opportunities that will advance your end goals. If you don't ever give up, you'll be amazed at what you can accomplish with hard work, sheer courage, diligence and hope.

Ashley Hollan Couch, the Principal at The Hollan Entertainment Law Group, LLC and the "Couch Artist", focuses her entertainment law practice on entertainment, music and art clients in Georgia and Tennessee. She attended Duke University, the University of Denver and has completed Music Business MBA coursework at Berklee College of Music/SNHU. Ashley is active in many professional organizations, including the American Bar Association where she serves as Co-Chair and Content Editor for the Young Lawyers Division Committee on the Entertainment and Sports Industry.

NEWS AND ANNOUNCEMENTS

ABA YLD 2016 Spring Conference: The 2016 Spring Conference will be held May 5-7, 2016 in St. Louis, MO. Don't miss out on this chance to network with other young lawyers, earn CLE credits, and hear from well-known speakers. It's important that we have a wide range of voices, experiences, and opinions at the meeting where young lawyers come to share ideas. We hope you can be part of that discussion.

Hit The Ground Running: Tackling the First Year, Whether as an Associate or Hanging Your Own Shingle.

The ABA YLD, Solo, Small Firm, and General Practice Committee Presentation at YLD Conference on Friday, May 6, 2016, 9:00 – 10:00 a.m. CST. Panelists include: Ashley Hollan Couch, The Hollan Entertainment Law Group, LLC; Perry MacLennan, Haynsworth Sinkler Boyd, P.A; Adam Ansari, Ansari & Shapiro, LLC; Jeremy Evans, California Sports Lawyer; Tae Phillips, Ogletree Deakins, P.C; and Lori Frio-Walker, Petrelli Law, P.C. Please contact Lori Frio-Walker: lfriowalker@petrellilaw.com for registration details.

2016 Affiliate Leadership Training: Each Spring, the ABA YLD hosts a collaborative training session for current and incoming bar leaders. This year's will be held from 12:00 p.m. to 2:00 p.m. on Thursday, May 5, 2016, as part of the 2016 Spring Conference in St. Louis. The program will include speakers, round-table discussion, and topics of interest to young lawyer leaders, including encouraging accountability, getting the most out of finances and sponsorship, and succession planning. Please contact Jenna Overmann jovermann@dofamilylaw.com and Alia Graham alia.graham@americanbar.org if you plan to attend.

2016 Spring Affiliate Showcase: The 2016 Spring Affiliate Showcase will take place at the Spring Conference on Saturday May 7, 2016, from 8:30 a.m. to 9:30 a.m. (breakfast included). This is a great opportunity to showcase your affiliate and preview programs from other affiliates that you can apply back home. Our format in the Fall was really well received, so we're going to do it again: A TEDx format where each affiliate is given 90 seconds to present on any topic they like (the affiliate, a particular project, a series of projects, etc.) using 1-3 slides. If you or your affiliate is interested in participating, please contact logan.murphy@hwhlaw.com no later than 7 days before the Conference.

Awards of Achievement: The ABA YLD Awards of Achievement program is up and running! Applications are available now and information can be found here. This program is an opportunity for young lawyer organizations to submit their best projects for evaluation and recognition by a jury of their peers. Categories for awards include (1) Public Service Projects; (2) Bar Service Projects; (3) Diversity Projects; (4) Comprehensive Programming; and (5) Outstanding Newsletter. Information about the winners will be disseminated widely and the winners will be recognized during the YLD Assembly at the ABA Annual Meeting in San Francisco! The deadline to submit your application is Wednesday, June 15, 2016. Please send any questions to logan.murphy@hwhlaw.com and tara.blasingame@hwhlaw.com.

ABA YLD Scholars Program: The YLD Scholarship Program is designed to encourage the participation of minority, solo/small firm, government, public sector, and military service attorneys in the ABA Young Lawyers Division. The program consists of funding to attend the ABA YLD Fall Conference, the ABA Midyear Meeting, and the ABA YLD Spring Conference, as well as appointment to and active participation in one of the YLD Boards or Teams. Information is here,

YLD Solo, Small Firm and General Practice Committee Spring 2016

and the application is here. Please contact the ABA YLD Diversity Director, Collin Cooper l.collincooper@gmail.com with any questions.