Messy Cleanup: The Looming Legal Battle for Oil Spill Liability

The Gulf of Mexico oil spill has captured the attention of the world as one of the largest disasters in recent history. As the difficulties have unfolded over the past few months to cap the leak and to cleanup the oil, another long and grueling battle looms: the legal battle for liability. BP, Halliburton, Transocean, Anadarko, and Lloyd's have already begun jostling to establish their legal position on the spill. However, as oil continues to contaminate the Gulf and spread across the United States coastline, the consequences continue to mount.

The resulting lawsuits from the spill will likely include the manufacturers of the rig and the well drillers, in addition to a host of other parties. In this legal battle, there are no winners. BP and their associates on the Deepwater Horizon rig hope to mitigate their liability just as the towns and fishermen of the coastal shores hope to minimize the negative environmental and economic impact of millions of gallons of oil coating and destroying the sources of their livelihood.

Each day the oil spill affects new industries, from fishing to tourism. Given the slow process of cleanup, affected industries will likely continue to pop up over the next few years. The long-term implications of such a massive disaster are almost impossible to speculate at this time. Setting aside the intricacies of the lawsuits that will arise, the question remains as to how courts should accurately assess the liability to the oil companies.

BP has preemptively set up a $20 billion escrow fund for the victims of the spill in an attempt to take some responsibility and simultaneously salvage what is left of their public image. It is unlikely that this... Continued on next page

19,000 to 1: Closing the Gap with the (Free) Assistance of Pro Bono Externs

Their stories will stay with me forever: The woman who became homeless for the first time at age seventy-five when she was evicted from the house she had lived in for the past 30 years; the lady who's been disabled for more than 20 years but could no longer get a property tax exemption for disability when she relocated across Wake County; the 22-year-old mother of two who lived in an apartment so heavily infested with bedbugs that she lost everything — except a mattress. Team up with Everett, Gaskins, Hancock & Stevens, LLP, and Legal Aid of North Carolina, these are just of a few of the lives we impacted over the past year through Campbell's pro bono externship program.

Pro bono clients aren't just cases with hours to bill — they are the people who, without free legal assistance, would not otherwise have access to legal resources. “There is a tremendous unmet need for legal assistance that Legal Aid of North Carolina cannot adequately meet,” explains Victor Boone, Senior Managing Attorney for Legal Aid of North Carolina. According to the NC Bar Association, Legal Aid can only provide one staff attorney to serve approximately 19,000 eligible clients. The general population of North Carolina (around 8 million), on the other hand, has available approximately one attorney for every 465 potential clients.

Through externships, private firms and law students can work together to close the gap for the many... Continued on page 3
Messy Cleanup, cont’d.

The fund is an addition to a fund created by the Oil Pollution Act of 1990, which will pay victims for past losses but not for their future losses. Victims that accept the payout from the BP fund waive their right to hold BP liable for any future losses. The fund will marginally limit BP’s legal liability as there will inevitably be victims—from fishermen to big business industries—that will not accept a settlement. So far, the legality of this waiver has not been challenged. BP’s earlier attempt to limit liability to $5,000 per individual fisherman by a standard form waiver, however, has been enjoined by an Alabama district court; BP has since removed the offending provisions and will not enforce those waivers already signed.

Some lawmakers in Washington are making demands for up to $20 billion dollars in fines to BP. As the government probes deeper into the cause of and responsibility for the spill, the liability may flow back to the United States government. BP claims that it has received federal approval for its activities, which is supported at least on the surface by the Outer Continental Shelf Lands Act of 1953, among other federal laws and Environmental Protection Agency regulations allowing offshore drilling. The claim muddies the waters of the legal battles, as the BP fund was designed to be a settlement for the victims as they receive a dollar amount for their projected future losses that could, and that compensation will likely be inadequately low.

The obvious areas of concern due to the spill, and those already affected, are the fishing and boating industries, the coastal ecosystem, tourism, the oil industry itself, and many inflated markets—such as the natural gas industry—that have benefited from the spill. However, aside from the costs associated with these industries, the costs may continue to increase due to the upcoming hurricane season. Already, those working for nearly a week because of the Gulf waters have had to delay working for nearly a week because of storms in the Gulf.

Many in the media have begun talking of a possible “Oilmageddon” scenario, where a hurricane hits the coast and sprays oil contaminated water throughout the mainland. Then, in the post hurricane turmoil of downed-power lines, fire breaks out that ignites the entire oil covered coast. Although a worst-case scenario, the possibility brings to light the question of how much damage is reasonably foreseeable and how much can we expect the oil companies to pay? Luckily, for the United States government in particular, litigation is a lengthy process—long enough to give clean-up crews time to lessen the probability of such a catastrophe or at least to see what actually plays out.

Hopefully an additional catastrophe will not occur, and the crisis will be limited to stopping the leak, skimming the Gulf waters, and processing the oil-polluted water. Pondering the multitude of possibilities for liability from this spill, one cannot help but wonder what will happen to the oil industry. The oil companies on the hook for this disaster are certainly not the only companies affected. With the U.S. government pushing to ban offshore drilling and efforts to hold companies more accountable, the costs of doing business will certainly increase. As the world economy relies so heavily on oil, the cost of oil per barrel may increase; consequently stifling world economies.

Steering away from speaking of hellfire and brimstone, the difficulties facing the Gulf and its residents illustrate the vast environmental, economic and legal impact that this unfortunate event will have. It is unlikely that the parties responsible for the spill will be held fully liable for the costs. The world economy will have to bear some of the brunt of the spill; the goal of the courts will be to determine how much. Although there is no guarantee that a court will hold the oil companies fully liable, someone must answer for these costs. BP has already taken steps to assume responsibility for the disaster and should be commended for that. It remains to be seen what the final tally on damage and liability will be, but one thing is certain; there will be no shortage of litigation.

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Pro Bono Externships, cont’d.

At the end of my seven month externship, I walked away knowing that I will be a better lawyer and a better person. Through that experience, I learned that being an attorney means a lot more than being a super Googler, a LexisNexis whiz, or a WestLaw scholar. It takes more than being smart and knowing big words. It takes a heart, patience, and kindness. Thanks to the attorneys who dedicated many hours to mentoring me, I’ve learned that being a quality attorney also means being a quality person. These are skills that can’t be extracted from a textbook. The black letter law finds its meaning in the people – the attorneys, the clients, and the community.

“With student externships, everybody benefits – the community, lawyers, and law students,” states Boone. For those firms that aspire to perform pro bono services but may not have the time to do all of the work themselves, the externship program provides the opportunity to fulfill that commitment to the public. Without pro bono services, eligible clients may be without housing, without benefits, and without help. It’s imperative that the private bar commits resources to providing equal access to the legal system. “We need to make available the legal system to those who otherwise would not have access,” states Gaskins; “Externships require minimal involvement and provide a significant benefit to the community, to the students, and to the law firm.”

After more than 180 hours of pro bono legal service, the woman who became homeless for the first time at age seventy-five now is armed with the knowledge and resources she needs to settle back into a home; the lady who’d been disabled for more than 20 years now receives a property tax exemption for disability; and the 22-year-old mother of two who lived in the apartment heavily infested with bedbugs now resides in a new (bedbug free) apartment - with more than a mattress. Teaming coordinators across the state have an overwhelming number of cases that can readily be assigned. “Cases are assigned on a weekly basis to volunteer lawyers based on their expressed areas of competence and interest in addition to their availability to handle the case at the time a referral is attempted,” explains Boone.

Externships are a practical way for law firms to discharge their pro bono duty and mentor a law student at little to no cost. Reflected on his firm’s experience, Ed Gaskins, now managing partner of Everett, Gaskins & Hancock, LLP, explains that working with a student extern allowed his firm “to take on more substantial matters and spend more hours on pro bono work than we otherwise would have done. We did not really have the resources to dedicate more hours to pro bono service but the law student gave us an extra resource – and it didn’t cost anything. We spent the same amount of hours and resources from the law firm’s standpoint, but instead of working directly with the client, we were able to provide mentoring to the student who then provided services to the client – and did so more extensively than we likely would have done otherwise. So it’s a winner all around.”

Questions Remain in the Wake of McDonald v. City of Chicago

On June 28, 2010 the United States Supreme Court reversed and remanded a United States Seventh Circuit decision that held the City of Chicago’s ban on handgun ownership unconstitutional. The case is the latest in a trio of recent Supreme Court decisions which have added some clarity to a murky area of constitutional law—the scope of the Second Amendment and its balance between federal and state power. The Court’s refusal, however, to implement any mechanism to fine tune the scope of the Second Amendment will likely soon lead the battle for gun rights back into the highest court of the land.

McDonald v. City of Chicago rode the coattails of two recent Second Amendment cases into the Supreme Court. In 2008, the United States Supreme Court in District of Columbia v. Heller ruled that the District of Columbia’s restrictions on handgun possession in the home, which essentially amounted to an outright ban, violated the Second Amendment and was therefore unconstitutional. Written by Justice Scalia, the majority in Heller held that the Second Amendment is grounded upon the idea of self-defense. Furthermore, the Court found that self-defense is a fundamental right and a central component of the Second Amendment right to keep and bear arms.

After the Heller decision, several suits were filed against the City of Chicago declaring its ban on handgun possession unconstitutional. In the now overruled Seventh Circuit decision, the court in National Rifle Association of America, Inc. v. City of Chicago rejected National Rifle’s claim that the city’s ban on handgun possession was unconstitutional. The majority, handcuffed by earlier Supreme Court precedent, followed United States v. Cruikshank (1894), Presser v. Illinois (1886) and Miller v. Texas (1984) which all rejected the
Gun Rights, cont’d.

As noted, the Second Amendment is incorporated into the Fourteenth Amendment. The majority opinion, written by Justice Alito, explained how the Due Process Clause has been relied on in the past to do the heavy lifting when the Court has made applicable portions of the Bill of Rights, such as the First and Fourth Amendments, to the states. In doing so, the majority followed the test laid out in De Jonge v. Oregon (1937), which explains that an individual’s “fundamental rights” are safeguarded by the Due Process Clause of the Fourteenth Amendment and cannot be denied by state government.

Reverting to the holding in Heller, which concluded that the right to handgun ownership in the home is a basic and fundamental right, the Supreme Court held that the City of Chicago’s ban on handgun ownership in the home violated an individual’s fundamental right and was therefore unconstitutional under the Fourteenth Amendment’s Due Process Clause. As in Heller, however, the Court made a point to explain that although neither the federal nor any state government can enforce legislation which prohibits handgun ownership in ones home for self-defense, like other amendments, the holding in McDonald does not mean that the Second Amendment grants an individual an absolute right to gun ownership.

Although the recent Supreme Court holding has added much needed clarity to the right to keep and bear arms, questions still remain about the boundaries between absolute restriction and an absolute right. This is primarily due to the Supreme Court’s failure to establish any reliable mechanism for fine-tuning the liberty.

In Heller, National Rifle and McDonald, the Court focused narrowly on the issue of handgun ownership, in the home, for self-defense. Justice Scalia, in McDonald, reiterated Justice Breyer’s proposed judicial “interest-balancing inquiry” stating that like the First Amendment, the interest-balancing inquiry should be left to the people and not to the courts. Justice Alito, in McDonald, reiterated Justice Scalia’s assertion that the Second Amendment should not be subject to an interest-balancing inquiry.

What is clear from Heller and McDonald is that like the First Amendment, there will continue to be categorical limitations on the Second Amendment such as bans on bringing guns into government buildings or allowing convicted felons to lawfully carry firearms. This, however, does little to predict where the fine line between regulation and outright restriction will fall. Although McDonald is a major victory for gun right advocates, the narrow focus of the Court leaves much ground to be decided by the legislative branch.

Not surprisingly, advocates of gun restriction are eager to test the new boundaries of Heller and McDonald. Already, Chicago Mayor Richard Daley has vowed to implement new gun control legislation to avoid the recent Supreme Court ruling. Likely, other politicians in favor of firearm restriction will follow Mayor Daley’s lead in attempting to test the boundaries or maneuver around the recent Supreme Court decisions.

Those who long for a more definite opinion concerning the exact constitutional boundaries of the Second Amendment will likely have a short wait. The Supreme Court’s failure to establish any reliable mechanism for governing the recent Second Amendment holdings, along with the vow of gun restriction advocates to implement gun control legislation to avoid the recent holdings will soon lead the Second Amendment back into the Supreme Court.

By George Norris, Jr.
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The Obama Administration Submits the Joint Strategic Plan on Intellectual Property

Creativity, innovation, ingenuity – intellectual property law seeks to incentivize the fruits of these qualities, whether in the form of cutting-edge inventions, memorable art pieces, or popular songs that stream across the nation. The law incentivizes this creation in part by granting authors and inventors exclusive rights to their works. With the goal of better enforcing these exclusive rights through policing infringing and/or illegal activity, such as counterfeiting, Congress passed the Prioritizing Resources and Organization for Intellectual Property Act of 2008. The Act created a new position, the Intellectual Property Enforcement Coordinator, whose job is to enforce laws against intellectual property theft. Appointed in 2009 by President Obama, Victoria Espinel, is the first to fill the new position.


If there is a central theme of the document, it is the IPEC’s belief in an unrealized benefit in cooperation (1) among U.S. Government agencies, (2) between the government and the private sector, and (3) between the U.S. government and foreign governments. Indeed, the first 24 pages of the report include numerous occurrences of the following words:

- coordinate (coordination, etc.) = 44 times
- cooperate (cooperative, etc.) = 23 times
- share (sharing, etc.) = 22 times
- efficient (efficiency, etc.) = 13 times
While talk about coordination is cheap, and coordination is a popular buzz word in the wake of embarrassing intelligence failings of late, an emphasis on coordination is not misplaced. Intellectual Property enforcement of both civil and criminal laws involve a myriad of agencies, in addition to the Patent & Trademark Office and the Copyright Office, and include the Department of Agriculture, the Department of Commerce, the Food and Drug Administration, the Department of Homeland Security, the Department of Justice, and the Department of State. Thus, the IPEC is correct to focus on coordination and efficiency.

The Plan seeks to tackle far-ranging concerns, from counterfeit prescription drugs (which may cause serious health hazards), to pirated software, music and movies, and counterfeit merchandise. As to be expected from a document of this type, specifics are hard to come by, but some specifics warrant highlight.

First, the Plan requires a “comprehensive review of existing [criminal and civil] intellectual property laws to determine needed legislative changes,” with the initial review to conclude 120 days after release of the Plan (The Plan, pg. 19). Readers may recall that one of the last government comprehensive reviews of IP laws culminated in the anti-circumvention provisions of the Digital Millennium Copyright Act (“DMCA”) (Pub. L. 105-304) (among other things, making it a crime to circumvent anti-piracy measures built into digital content).

The review is not focused in any particular area; thus, the review may lead to any number of changes. But anti-copyright enthusiasts need not despair, as the Plan contains language that may signal the IPEC is sensitive to the balance needed in enforcement of IP rights. For example, the Plan states, “fair use of intellectual property can support innovation and artistry. Strong intellectual property enforcement efforts should be focused on stopping those stealing the work of others, not those who are appropriately building upon it” (The Plan, pg. 4).

Second, the government will seek to require manufacturers and importers "to notify the FDA in the event of a known counterfeit of any pharmaceutical [or] other medical product” and suggest modifications to the Food, Drug and Tobacco Act “to require that manufacturers, wholesalers and dispensers implement a track-and-trace system, which allows for authentication of the product and creation of an electronic pedigree for medical products using unique identifiers for products” (The Plan, pg. 16). These recommendations appear to be sensible attempts for specific improvements in the system of enforcement.

Third, the government requests data to help it “measure the economic contributions of intellectual property-intensive industries across all U.S. business sectors” (The Plan, pg. 18). The Plan’s recognition of the dearth of reliable data and the desire to collect it should help not only the government, but also other interested researchers, in analyzing the effects of IP laws.

In all, the Plan is more of a beginning, a tone-setter, than a concrete plan of specifics. Given the breadth of the topic as presented, the Plan could have far-reaching effects. More than likely, however, the IPEC will oversee modest changes and coordination improvements over the next few years. Stay tuned though – everything is on the table!

By: Lucas S. Osborn
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The Plan’s Six Categories of Emphasis and its 33 “Enforcement Action Items” are presented below:

1. LEADING BY EXAMPLE
- Work to ensure that the Federal government does not purchase or use infringing products
- Government will review its practices and policies to promote the use of only legal software by contractors

2. INCREASING TRANSPARENCY
- Increased Information Sharing with Rightsholders
- Communication with Victims/Rightsholders
- Reporting on Best Practices of Our Trading Partners
- Identify Foreign Pirate Websites as Part of the Special 301 Process
- Tracking and Reporting of Enforcement Activities
- Sharing of Exclusion Order Enforcement Data
- Enhanced Communications to Strengthen Section 337 Enforcement

3. ENSURING EFFICIENCY AND COORDINATION
- Coordination of National Law Enforcement Efforts to Avoid Duplication and Waste
- Coordination of Federal, State and Local Law Enforcement
- Coordination of Training for State and Local Law Enforcement and Prosecutors
- Improve the Effectiveness of Personnel Stationed Overseas to Combat Intellectual Property Infringement
- Coordination of International Capacity Building and Training
- Establishment of a Counterfeit Pharmaceutical Interagency Committee

4. ENFORCING OUR RIGHTS INTERNATIONALLY
- Combat Foreign-Based and Foreign-Controlled Websites that Infringe American Intellectual Property Rights
- Enhance Foreign Law Enforcement Cooperation
- Promote Enforcement of U.S. Intellectual Property Rights through Trade Policy Tools
- Special 301 “Action Plans”
- Strengthen Intellectual Property Enforcement through International Organizations

5. SECURING OUR SUPPLY CHAIN
- FDA Notification Requirement for Counterfeit Pharmaceuticals and Other Medical Products
- Mandated Use of Electronic Track and Trace for Pharmaceuticals and Medical Products
- Increased Enforcement Efforts to Guard Against the Proliferation of Counterfeit Pharmaceuticals and Medical Devices
- Penalty Relief for Voluntary Disclosure
- Penalize Exporters of Infringing Goods
- Streamline Bonding Requirements for Circumvention Devices
- Facilitating Cooperation to Reduce Intellectual Property Infringement Occurring Over the Internet
- Establish and Implement Voluntary Protocols to Help Reduce Illegal Internet Pharmacies

6. BUILDING A DATA-DRIVEN GOVERNMENT
- U.S. Government Resources Spent on Intellectual Property Enforcement
- Assessing the Economic Impact of Intellectual Property-Intensive Industries
- Comprehensive Review of Existing Intellectual Property Laws to Determine Needed Legislative Changes
- Supporting U.S. Businesses in Overseas Markets
Unbranded: Why the Raleigh Amphitheater Will Not Be Named After Anheuser-Busch

On June 18, 2010, the North Carolina Alcohol Beverage Control ("ABC") Commission denied a petition from the City of Raleigh to exercise the Commission's exemption power, which would grant Anheuser-Busch the naming rights for the Raleigh Amphitheater. The Commission's decision, had it granted the City's petition, would have set statewide precedent for the naming of public facilities across the state.

At an ABC Commission meeting in May, John Glover, president of Harris Wholesale, submitted a petition for exemption to approve payment to the City of Raleigh for sign and naming rights for the purpose of advertising. Anheuser-Busch and Harris Wholesale proposed that the venue be named the Bud Light Amphitheatre. If granted, the petition would have brought in $1.5 million over a period of five years for the City of Raleigh.

The decision whether to name the amphitheatre after an alcoholic beverage was not taken lightly and generated a great deal of feedback from the public. While the decision was pending, the City of Raleigh facilitated an open survey on their website to give the public an opportunity to voice their opinion. People from all over North Carolina commented on the topic; one side voiced concerns about the perception of a alcohol-related name while the opposing side put forth the argument that individuals are responsible for their own actions and building names do not correlate with encouraging or inducing actions. There was even a third group that argued for the focus to be on the potential monetary gain for the City of Raleigh.

While the three groups had the opportunity to voice their opinions, the North Carolina ABC Commission had the final word. In 1937, only a few years after prohibition ended, the North Carolina General Assembly enacted the Alcoholic Beer Control bill. According to the ABC Commission's website, North Carolina is one of nineteen states subject to the control and regulation of a state liquor agency. The N.C. ABC Commission does not run on state funds, but rather through fees from warehouse management termed bailment. North Carolina houses a 200,000 square foot central warehouse where all liquor sold in the state is received and stored until it is shipped and purchased by local ABC stores. The ABC Commission collected $14 million dollars from permit application fees and renewals alone, for the General Fund in 2009.

The objective of the ABC Commission, an agency under the Department of Commerce, is to provide uniform control over the sale, purchase, manufacture, transportation, consumption and possession of alcoholic beverages in the state. The Commission is governed by the North Carolina General Statutes. North Carolina General Statute § 18B-1116(a)(3), states that an industry member cannot give to any alcoholic beverage retailer, employee, or to the owner of the premises anything of value.

According to a representative from the ABC Commission, "[t]he City of Raleigh is the retail permit holder of the new Raleigh Amphitheater and Harris Wholesale, an industry member, wanted to pay the city for the naming and advertising rights." Thus, the Commission had to grant the city an exemption under §18B-1116(b) to allow Harris Wholesale to acquire the naming and advertising rights. In addition to North Carolina statute, the North Carolina Administrative Code also impacted the decision; "pursuant to 04 N.C.A.C. 02T .0714(a)(3), the Commission has specific authority to allow transactions between cities (that hold retail permits) and industry members, where industry members may provide payment for permanent advertising, or signs, or scoreboards when the industry member has submitted a request for and received an exemption pursuant § 18B-1116(a)(3)."

The ABC Commission derives its authority from North Carolina General Statute § 18B-105(11), which allows it to adopt rules to prohibit or regulate any advertising that is contrary to public interest. Currently, there are no “branded outlets” in North Carolina and the impact a branded outlet could have is unknown. Therefore, "pursuant to §18B-1116(b), the Commission shall consider the welfare and established trade customs not contrary to public interest. Before granting an exemption to Harris Wholesale for the amphitheater, the Commission was bound by statute to consider whatever ramifications that will follow," a representative of the Commission explained. After considering the potential ramifications of allowing Harris to acquire the naming rights, the Commission denied the City's petition.

Even though the Downtown Amphitheater will not bear the Anheuser-Busch name, alcoholic beverages are sold inside the Amphitheater during events. To find out more about the Raleigh Amphitheatre and purchase tickets to upcoming shows, visit: http://www.raleighconvention.com/amphitheater/

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Wayne Stephenson, Claims Counsel, Campbell University School of Law 1984

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Things I Know Now That I Wish I’d Known Then: Advice for the Legal Profession

It is an oft-quoted adage, “if only I had known then what I know now.” Many people find themselves asking, “How different would life be if I could take the knowledge I have gained and go back and try again?” This mentality encompasses all aspects of one’s life from education and dating to building a career. The legal field is no different.

Which pieces of advice do you wish someone had passed on to you?

Many challenges face a young attorney today. By seeking the advice and guidance of our contemporaries perhaps we also may avoid some of the potholes before us. Seeking the advice of learned members of the legal community who have already made this journey, several judges, attorneys, and even third year law students were asked: What piece of advice would you give to a new attorney or first year law student? What do you wish that you had known at the beginning of your career? These professionals touched on different aspects of what it means to be an attorney, from courtroom etiquette to the balance of one’s personal and professional lives.

There is much more to being an attorney than just the practice of law. It is a way of life that cannot be pigeonholed or compartmentalized. It touches both the professional and personal ambit of life requiring a delicate balance. Local and greatly respected attorney of 15 years, Beth Bowen, touched on this in the advice she offered. She recalled the importance of knowing and understanding yourself. By reflecting on the nuances of your own personality, you become more adept at reading others. This will better help you to provide sound legal advice in accordance with a client’s individual needs. It is important to create a balance. The role of an attorney is multifaceted but it should not be forgotten that we are counselors and as such we must realize this involves knowing when to speak and when it may be wiser to lend an ear. While a great temptation may exist to simply proffer legal advice, there is great wisdom and advantage in knowing when to listen.

Wake County Superior Court Judge Paul Ridgeway reminds young attorneys of the importance of balancing their professional and personal lives as well as safeguarding their personal integrity.

Judge Paul Ridgeway advises attorneys to remember:
1. The path to success in the legal profession is usually slow; you need your faith, family and health as companions for the journey.
2. There are very few things more important than watching your kid score a soccer goal, perform in a recital, or act in a school play.
3. When you make a mistake (which we all do), own up to it early and become part of the solution.
4. Some people will put their hand on the Bible, look you in the eye, and lie.
5. Take time to laugh and dine with your colleagues – friends and adversaries alike.

Judge Linda Stephens of the North Carolina Court of Appeals provided the following practical advice:
1. The three keys to success in a legal career are hard work, discipline, and preparation.
2. Learn how to write. In private practice, you are constantly advising clients, and it has to be in writing because communication must be tangible.
3. Courtroom Etiquette: Don’t interrupt a judge when he/she is talking.

When working on a case, it is also important to keep the big picture in mind. The words and actions engaged in today might have far reaching consequences in the future, particularly when seeking an appeal. Judge John M. Tyson of the North Carolina Court of Appeals recounts ten common trial and post trial mistakes to avoid. Many of these tips hearken back to the emphasis Judge Stephens placed on diligence, preparation, and strong writing skills.

Judge Tyson gives these tips of advice for trial lawyers:
1. Preserve errors at the trial court level.
2. Only appeal from orders or judgments that are appealable.
3. Comply with requirements for filing and serving the notice of appeal.
4. Comply with time requirements.
5. Carefully read the record on appeal; make sure all the required items are included in the record.
6. Correctly file the settled record on appeal; N.C. R. App. P. 12 provides that appellant has 15 days within which to file the record on appeal once it is settled. This includes but may not be limited to paying fees, filing transcripts and exhibits.
7. Carefully edit briefs, motions, and petitions.
8. Set out the standard of review on appeal.

To avoid common mistakes, Judge Tyson suggests that lawyers:
a. Prepare a tickler system to keep up with time limits
b. Prepare a checklist of the requirements on filing an appeal
c. Designate one person as appeal coordinator.

Of course, a future attorney begins his or her professional life with the very first year of law school. What should these newly minted 1Ls keep in mind? Third year law student Baxter Houston stated, “New law students should be themselves – don’t try to keep up with everyone else and make sure to still take time to go out and have fun.” Kavita Puri, also a current 3L, adds, “Don’t let yourself get overwhelmed. Take things one day at a time, and try not to procrastinate because it then becomes hard to catch up.”

Whether you’re beginning the first day of law school or have recently been admitted to the bar, some of the greatest lessons can be taught to us by our colleagues. Their hard earned knowledge should be taken to heart and kept in the forefront of our minds as we begin our journeys into the legal profession.

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