

# **Filling in the Blanks:** Practical Skills for the Working Lawyer



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Robert is an avid reader and golfer and has been involved with several literacy organizations in Bergen County, New Jersey.

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While in private practice, Bob represented debtors, lenders, creditor's committees, investors, directors, and other parties of interest in the Chapter 11 process, in- and out-of-court restructurings, and related litigation. He also has extensive experience in the representation of lenders and borrowers in financial transactions and has been trained, and has served, as a mediator and arbitrator.

Bob has served as the chair of the Connecticut Bar Association Section on Commercial Law and Bankruptcy, as a vice president of the Association of Commercial Finance Attorneys, as a member of the board of directors of the Connecticut chapter of the Turnaround Management Association, as a member of the Advisory Committee to the Connecticut Law Revision Commission regarding the adoption of Revised Article 9 of the Uniform Commercial Code, and as a member of the Merit Screening Committee for the District of Connecticut Bankruptcy Judgeship in 1998. He has published articles in many professional and other newspapers and journals, including the *American Bankruptcy Institute Journal* and the *Connecticut Bar Journal*.

He has spoken extensively throughout the country to groups such as the American Bankruptcy Institute, the Connecticut Bar Association, and the Association of Commercial Finance Attorneys on topics relating to legal ethics, bankruptcy, insolvency, commercial litigation, and the Uniform Commercial Code. Bob has also been a faculty member for TAG Academy.

Bob has been recognized in various publications as one of "The Best Lawyers in America", "The Best Lawyers in Connecticut", and "New York Area's Top Lawyers". He is a graduate of the University of Rochester and the University of Connecticut School of Law.



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Frank is a graduate of Deerfield Academy (1959), Washington & Lee University (A.B., 1963), Cumberland School of Law (JD, cum laude, 1969), and Harvard law School (LLM, Securities Law, 1970). He has lectured throughout the south-east of the United States on International Law, negotiating skills, mediation, arbitration, and is a certified mediator. He has been recognized in the *Birmingham Business Journal's* "Best of the Bar" poll in International Law and is currently recognized in "The Best Lawyers in America" in Commercial Litigation and International Trade and Finance. He is also listed in "Alabama Super Lawyers".

In addition to his legal practice, Frank has been involved in entrepreneurial business ventures and venture capital investing, and has served on the boards of directors and audit committees of public and privately held companies. He has been extensively involved in civic and community affairs for many years.

Frank resides in Birmingham, Alabama where he enjoys reading, hiking, travel, exercise, and spending time with his five grandchildren. When not in Alabama, he spends time at his home in San Miguel de Allende in Mexico.

# Introduction

*By Robert U. Sattin, president emeritus of TAGLaw® The Appleton Group Inc.*

## **The need for practical skills**

You learn a lot in law school. There are courses on torts, criminal law, and tax law; human rights law, feminism in the law, and ethics. Increasingly, clinics are being offered in many varied and ever more specialist areas, from veterans' rights to landlord-tenant disputes. What continues to be missing from most law schools' curricula, however (and this despite much written and oral lamenting), is an education that actually prepares lawyers in private practice by providing them with the practical skills they need to be effective, and to hit the ground running, when they actually begin to practice the law.

Success and personal fulfillment in the practice of law are certainly the product of deep knowledge of the law, sound judgment, and ethical conduct. Law is a business as well as a profession, however, and it requires a lawyer to have knowledge of and to prepare for those areas of a career that don't call upon substantive knowledge of the law itself.

What are these? There are judgments to be made about firm partnership and your prospective partners, about clients and prospective clients. Future business and favorable outcomes in current matters depend upon how you present yourself to others in order to be persuasive. Other tools for success include marketing techniques and comfort with financial statements.

What follows is a chapter-by-chapter roadmap prepared by those who have succeeded in private practice that will take you, the young lawyer, through the complexities of "how to practice

law”. These are lessons derived from decades of on-the-job training; few mentoring programs address the hurdles that client interaction, partner interaction, and building a career present.

Okay, you may say, I understand what you are saying, but is the need for these skills so acute? The calls for reformation of legal training are coming from far and wide, and have been heard for several years.

The ABA Task Force on the Future of Legal Education, in its 2013 draft report, said: “The principal purpose of law school is to prepare individuals to provide law-related services. This elementary fact is often minimized. The profession’s calls for *more attention to skills training* [emphasis added], experiential learning and the development of practice-related competencies have been well taken.”<sup>1</sup>

And leading law firm consulting firm, Law Vision Group, commented in a blog post: “Until law schools expand their traditional teaching methods to include more skills-based and technical programs, which is slowly happening, law firms interested in promoting a culture of efficiency will need to consider less-traditional recruiting sources.”<sup>2</sup> The reader will likely have read similar comments elsewhere in the legal press.

And lawyers themselves agree that their education does not prepare them to practice. A 2011 survey of 5,600 new partners in the top 250 law firms in North America and London, carried out by *The American Lawyer*, found that only 45 percent were satisfied with their formal training, citing a lack of guidance.<sup>3</sup>

When the clients weigh in, the story is the same. Chester Paul Beach, former associate general counsel of United Technologies Company, has been quoted in the *Amlawdaily* as saying (and stated directly as a presenter at a University of Connecticut Law School symposium – see below) that law school does not teach such “practical business management skills as financial literacy and effective executive communication”.<sup>4</sup>

Some law schools are acknowledging that they need to rethink the way they prepare aspiring lawyers for their careers. The University of Connecticut Law School presented a symposium

in 2012 entitled “Are Law Schools Passing the Bar? Examining the Demands and Limitations of the Legal Education Market”. Sessions included “Rethinking the ‘Model Law’ School: Dismay and Solutions for the Current Framework” and “Innovation in Legal Education: What Should the Future of Legal Education Look Like”.

When the *same* message is coming from law schools, practicing lawyers, clients, consultants, and the ABA, surely it is time to listen. It is time to act to address the clear need for lawyers to learn, in law school or early in their practice, the skills that will make them effective, efficient, sought after, and successful.

### **What this book is about**

The contributing authors to this book have each enjoyed a successful professional practice. They have developed, most often “on-the-job”, the skills that they write about. And they describe what they have experienced to be critically important as a lawyer, as a partner, and as a business developer.

We start with “climbing the partnership mountain”. Most lawyers at private firms start out with the intention or aspiration of becoming an equity owner in a firm. That’s a business relationship; law firms are businesses. Only recently have law schools or law firm training programs begun to address the critical need for lawyers to have some business fundamentals.

Being a partner means being an owner of a business. It means that lawyers can no longer focus solely on legal work; business development, office governance, financial analysis and planning, strategic planning, technology, and supervision enter the daily list of things partners have to think about. One of my favorite quotes appeared years ago in *Above the Law*, a blog about the business of law, where the author offered this less-than-encouraging observation: “Making partner is like a pie-eating contest where the prize is more pie.” Learn more about what it means to be a partner from Frank M. Young III of Young Law LLC in Chapter 1. In the appendix to this

chapter, Patricia K. Gillette, a partner at Orrick, Herrington and Sutcliffe, shares insight into the challenges young women face in advancing within the law, and provides tips on overcoming the barriers to career progression.

Another stage of professional development that is rarely a subject of law school teaching or firm training is how to communicate professionally. Of course, there are moot court requirements and courtroom training programs, but what about the more common interactions? This is the topic addressed in Chapter 2 by Robert E. Shapiro, commercial trial lawyer and senior litigator at Barack Ferrazzano Kirschbaum & Nagelberg. In Chapter 3, Rob also offers some insight into how lawyers can develop and hone the asset they are paid for, judgment. Genetics and experience count, certainly, but there are ways to accelerate the process of becoming a counselor and advocate.

Communication can be informative or persuasive, and you need to know how to deliver each type. Oral expression and advocacy take place in conference rooms and executive suites, on the phone, and through online communications more often than in a court. Lawyers are being evaluated in each and every one of these communications; executive presence matters, and executive communication skills matter, whether speaking in a group setting, delivering a talk to market yourself, or participating as an officer of a volunteer organization or a professional one. Learn to take your thoughts, which could be a legal concept or not, and express them in the language of your audience and you'll excel in all of these situations.

There is a lot more that we will cover in this book. Building a practice is a necessity in order to truly make a career in private practice. Business development is not a department, it is a discipline. It can be taught – and learned. Waiting for senior lawyers to retire and transition their practices is a path to being expendable. Certainly, there are some who are more adapted to and skilled at rainmaking, but no one is unable to attract clients. Ian Turvill, chief marketing officer at Freeborn & Peters LLP, offers some techniques that everyone can use in Chapters 5 and 6.

Now, professional life really gets tense. How do you evaluate potential clients? What considerations must you weigh? Is the first meeting with a client really something that demands skill and preparation? I know that I was mentored in interviewing potential clients and I know that it was critical to my development in practice – I will share with you what I’ve learned over the years in Chapter 6. While each fact pattern and each personality may differ, there are some constants that you, your partners, and your insurer will want you to know before each “first” meeting.

You are on a roll. You’ve decided on your career path, you’ve built a practice base, you’re comfortable with your communication and presentation skills, and you have responsibility in client matters. You will be, either in a conference room or a courtroom, facing decisions in the process of negotiation. Your lawyer’s judgment will help, but how do you ensure those good judgments lead to a favorable result?

There is only so much that can be done or said in a classroom. The real world is always going to be a little different, a little more intense, and a little less predictable. There are many stages to negotiation in the context of a legal matter and these are addressed by practitioners who have handled both litigation and transactional matters (Chapter 7). Where and when should a meeting take place? Who should initiate it? Who makes the opening offer? Is it ever good strategy to walk out? What’s the client’s role? What issues should you lead with? These are just some of the points discussed in that chapter.

In my fourth year of practice, I took a six-week accounting course at a local community college. It was probably the most necessary post-law school learning I ever experienced. For years, I had been handed financial statements and financial projections as part of loan transactions, commercial litigation matters, and business bankruptcies, and I struggled to develop the practiced eye that I felt I needed in order to effectively and efficiently provide good counsel. I soon discovered that I was not alone. Lawyers handling family law cases, merger and

acquisition lawyers, tax lawyers, litigators, estate planning and estate settlement lawyers, and certainly anyone involved in firm administration has to review and understand accounting concepts and what you can see and not see in financial statements. Lawyers don't need to be able to prepare balance sheets, income statements, and cash flow projections, but they need to be able to understand them. In Chapter 8, Robert Reitman, partner at Cornick, Garber & Sandler LLP, will give readers a running start on that track so your eyes won't glaze over.

The practice of law is exciting, challenging, stimulating, grueling, and varied. Experience is a necessary mentor. Just as technology has helped organize, analyze, and communicate words and data, so too can the tools we give you help streamline your path to successfully integrating your law knowledge and your experience into a successful career. I know that I was lucky to have had senior lawyers who took the time to train me in the practical aspects of client representation; it made me a much better lawyer at an earlier stage than I would have been otherwise. The authors of this book all hope that, with the experience and advice we will share in this book, we can help you to better practitioners and better partners.

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