

Stay Tuned

by Jack W. Burtch Jr.



Jack W. Burtch Jr. was admitted to the Virginia State Bar in 1973. He received his undergraduate degree in 1969 from Wesleyan University in Middletown, Connecticut, and his law degree in 1972 from Vanderbilt University, where he served as an editor of the *Vanderbilt Journal of Transnational Law*. After serving as an associate in the labor law section of Hunton & Williams from 1973 to 1980, Burtch became a principal of the firm that became McSweeney, Burtch & Crump. In January 2001, he joined the firm that became Macaulay & Burtch PC, where he represents businesses, executives, and professionals in employment law and labor relations. Burtch is an adjunct professor of law at the University of Richmond, where he teaches negotiations, interviewing, and counseling.

As a young boy of five, the only thing that made bath time tolerable was listening to the radio when I was supposed to be scrubbing myself. At 6:30 on weeknights, the familiar strains of what I now know to be the “William Tell Overture” would announce my favorite program, *The Lone Ranger*. At some point in the show — just when the Lone Ranger and his faithful sidekick Tonto were facing heart-gripping danger — the narrator would interrupt the action, telling us to “stay tuned” for the conclusion, following an important message from the show’s sponsor.

Flash forward many years. I was a young lawyer, walking down a long office hallway. My boss was filling me in on the latest news from a client who was facing a wildcat strike from newly unionized employees. I was full of questions, but as my employer turned the corner into his office, he waded me away with the admonition, “stay tuned.”

It’s been nearly sixty years since the Lone Ranger and almost forty since the wildcat strike, but I have finally come to understand the meaning of “staying tuned.” It seems to me the perfect phrase to describe the continuing challenge for a senior lawyer with an active law practice. As I see it, we senior lawyers dedicated to “staying tuned” must master more than patience.

Sharpen Skills

The fundamental task is to keep our legal skills sharp. Of course, in order to maintain our licenses, we complete our continuing legal education credits each year. All lawyers have to do this, but for senior lawyers CLEs are even more important. Several years ago, I concluded that attending the annual reviews of labor and employment law were important because they reminded me of some things I had forgotten. While that attitude may seem somewhat arrogant, it wasn’t wholly inaccurate. Of course, several years ago, I was doing more of my own legal research and had to keep totally current on the latest shifting National Labor Relations Board rulings. Now sometimes other lawyers write my first drafts, and I’m more often concerned with the big picture. But the fact

remains, I still need to know the information — whether I am recalling it or learning it for the first time.

The senior lawyer needs to avoid a couple of dangers here. First, we can easily assume we know rules and procedures that have, in fact, changed. Yes, with experience we have become better at understanding the situation in its totality, but this is no excuse for ignoring the latest law and current approaches to problems. Whether you are a generalist or you practice in a specialty area, the law changes constantly. One of the things I like about my job is that I get paid to learn things. Staying actively engaged in learning the latest legal developments is at least as important now as it ever was.

Second, experience can actually be dangerous when a new client comes to call. When I started out in practice, I had to listen very closely to understand what the problem really was and what the prospective client wanted me to do about it. Today, having heard similar stories countless times, it’s natural for me to assume I know what the problem is and what the correct legal advice should be. I can have the problem solved within the first minute I hear the client’s story. This is the curse of the experienced lawyer. Making such assumptions is always a mistake. Part of sharpening our skills means listening to a problem as if we are hearing it for the first time.

Applying what we assume to be the law to what we assume to be the problem is a formula for disaster. The antidote is staying on top of the

law and reminding ourselves that every situation is unique. When we add the wisdom of experience to newly sharpened skills, we offer our clients something truly valuable.

Learn Something New

I have been a labor and employment lawyer my entire career. To me, it's the perfect field of law. It combines the intellectual challenge of the law with the mystery of human motivation. Most employment disputes are about misunderstandings between individuals. Problems tend to arise from a divergence of values, experiences, or perspectives; there are few purely legal problems. More commonly, there are divergent desires that need to be sorted out within the context of particular legal rules. That's why a client comes to a lawyer instead of a therapist.

But being engaged in employment issues for a long time has introduced me to complementary disciplines. Several times I've been hired to observe and analyze organizational dysfunctions within a company or an agency. So I've had to learn a good bit about the theory of organizational development. Likewise, representing executives and professionals means I have to be familiar with compensation and tax rules—at least to the extent that I know the limit of my own competence. So if new disciplines can help us develop our practices by adding a broader range of knowledge, we can undertake to learn at least the basics.

The annual CLE requirement provides a ready incentive to expand the comfort zone of our practices. It's axiomatic that in a learned profession, if we're not growing in our learning, we're falling behind. Entering new legal territory expands our skills. We may gain new perspectives on familiar problems and enhance the usefulness of our advice. So the next time your mailbox fills up with those CLE announcements, it might be a good idea to actually look at some of them and see if there is an opportunity to expand the scope of the practice you ideally want to have.

Keep Up With Technology

As professionals who enjoy learning, mastering new technologies is not as scary as it sometimes seems. We watched, sometimes with bewilderment, as our children took naturally to computers, cell phones, and video games. These children have become the most technologically proficient

in history. The generation of new lawyers now entering practice has a different attitude toward technology. While we may make fun of Facebook, Twitter, and the other social networking sites young lawyers use to stay in touch with their friends, they see this networking as both normal and necessary. We may well ask, "How can young people who walk with their heads down, eyes fixated on tiny screens, and thumbs moving vigorously across a miniature keypad know where they are heading?" Well, they are heading into the future. If Facebook were a country, it would be the third largest in the world—yet it was founded by twentysomethings just a few years ago.

So maybe we don't all need Twitter accounts to stay current, but we do need to be familiar with at least three technological tools to practice law. The first and most obvious is an e-mail account, and the ability to use it. Today, documents move by e-mail; originals are sent by a courier such as Federal Express. There are, of course, stories about lawyers who have assistants to handle all this for them, including printing out important e-mails. This is an extraordinarily expensive way to practice. The truth is, today's lawyers don't want to deal with those who don't use e-mail. It's just too much of an extra burden.

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The second important technological tool is a scanner, used to turn paper documents into PDFs. Digital filing systems are faster, cheaper, and more accurate than paper. A scanner allows us to keep paper to a minimum. Obviously, some documents have to be kept in their original form, but most ordinary correspondence can be scanned and then shredded. Ultimately, e-mailing PDFs will eliminate the need for fax machines.

The third tool is a professional website. Even solos need a website. That's how people find lawyers and how lawyers tell prospective clients

what we can do for them. I can't remember the last time I looked up a lawyer's phone number in a phone book. The last time a phone book was delivered to my office, I just threw it away. Even for simple contact information, websites are so much faster and easier.

We don't have to become technological gurus, but if we add these three tools to our repertoire, we'll be more effective and more in demand. There are also other benefits. Recently, Auburn was playing Oregon. While watching the game on TV, my niece (an Auburn graduate living in Atlanta) and I texted each other. The subject was whether her mother — my sister-in-law and an Oregon graduate — was bearing up under the pressure. Miles apart, we enjoyed simple family fun, connected through our thumbs and a new, generation-spanning mode of communication.

Nurture the Self

There is something you gave up on your way to becoming a successful lawyer. It may have been a musical instrument, an artistic endeavor, a hobby, or a sport. Whatever it was, it was important at the time, but it got left behind when family and career commitments took precedence. For me, it was photography. In high school I took and devel-

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oped my own photographs, encouraged by an art teacher who taught me that the way you compose a photograph defines what you see. Although this turned out to be a useful lesson for advocacy in law practice, I neglected my artistic urge for many years. Now I'm embracing photography again, and I find that paying attention to the part of me that wants to be an artist makes me a more fulfilled person — and that, in turn, makes me a more perceptive lawyer.

No one looking at me would confuse me with a gym rat. But, needless to say, one part of staying tuned is purely physical. A dozen clichés say there is no substitute for good health. So if

staying healthy is within our control, we need to do so. We can't stay active in our professions or our lives if our bodies won't support the activity. Many of us have a long way to go. If we set realistic goals in terms of weight, strength, or endurance (as opposed to impossible goals, which always fail), we might even achieve them.

Pass It On

Many years ago, one of my law partners gave me an audiotape of a talk by Peter Drucker, the noted management theorist. All I now remember is he said that one of the keys to a successful life is setting goals that cannot be achieved in your own lifetime. I agree. The ultimate satisfaction is being a part of something that will outlast us.

Each of us will have a different goal. At this point in our careers, we should have the good sense to concentrate on those things we think are important. The cases we accept, the committees and boards on which we serve, and also our leisure activities can become the expression of who we really are and the legacy we wish to leave. Some of us want to make our mark in the law: to work on cases that make a difference, or advise clients how to build their future. Some of us now have more time to help those with real legal needs who cannot pay today's real legal fees. I love teaching law school classes and encouraging new lawyers. That's important to me. Whatever moves you, your activities can make a real difference if they reflect what you really care about.

It may be too late to thank all those important people in our lives who helped us get where we are. All we can do is pass it on.

Conclusion

The process of becoming reasonably effective senior lawyers has taken us a lot of places we didn't think we were going to go. We learned skills we never even heard about in law school. We made choices, both for the better and for the worse. Wherever our paths took us, here we are now. Those of us who are continuing on in law practice know that we will have to learn a few new tricks. But there is also the opportunity to go back and pick up those interests and skills we might have neglected while we were busy pursuing other goals.

One childhood image sticks in my head. My grandmother had an old player piano. You put in

a paper roll, pumped the pedals, and through the magic of a pneumatic system, the piano played music. I could play that piano for hours at a time, although it was horribly out of tune. Finally, my grandmother decided it could sound a lot better than it did, and she called a piano tuner. That was the first time I'd ever seen a tuning fork. It was a heavy metal fork, which, when plucked or struck, sounded a note at its exact pitch. From that one dead-on note, the rest of the strings could be tuned so the piano played beautifully. That 1920s player piano stands in my living room today, and every few years, I hire a professional piano tuner to come to our house and make the necessary adjustments so it continues to play beautifully.

I think, for the senior lawyer today, part of "staying tuned" means finding our true note, reconnecting with our professional and personal center. When we stay in touch with what we really want at this point in our careers, everything else

will play off that solid note, and our practices have a better chance of staying in tune. Sharpening our skills, learning new things, staying up on necessary technology and nurturing ourselves are good goals for any lawyer, but for the senior lawyer, they can raise the power of our hard-won experience to a new level.

When we were kids, at the end of the radio show, some authoritative voice would warn us, "Don't touch that dial!" Today the opposite is true. Like those old TV antennas, we need to make constant readjustments to keep the picture clear and stay connected with our ever-changing profession. ॐ
