

# Advice to My Younger Self

by Jack W. Burtch Jr.



*It's both presumptuous and condescending to offer unsolicited advice to other lawyers, so I'm not going to do that. Yet, in looking back over my own legal career, there are some things I wish I could tell my younger self.*

## **Develop self-confidence, tempered with caution**

When I was in law school, it was commonly believed that the top members of our class would become law professors and the bottom half would become rich. While the first part of that statement turned out to be accurate, I'm not so sure about the second. However, the prediction does raise one salient point: the best law students don't always make the best lawyers. Some people just seem to "get" school. They adapt to the process. They succeed by achieving high grades and winning awards. But law school lacks at least one essential component of law practice, and that is actual adversaries. When lawyers embark on a

transaction or enter a courtroom, they are invariably faced with dissenting voices. "You're wrong. You don't understand the pertinent law. You have no grasp of the essential facts." In courtrooms and at conference tables, half the people present are there to throw roadblocks in front of lawyers. It doesn't require a healthy ego or a strong sense of internal self-confidence to win prizes in law school, but there's no substitute for these in the actual practice of law.

Experienced lawyers realize when they have been in this same situation before and know exactly what to do. Lawyers who have practiced a long time in a particular area often see that situations tend to fall into patterns, so their experience immediately suggests a number of reasonable courses. Younger colleagues, or even clients, may be amazed at how quickly the lawyer can cut to the chase. Yet, good lawyers also realize every situation is different. Every case involves different personalities, values, resources, challenges and levels of comfort with risk. Consequently, good lawyers temper self-confidence with a healthy dose of caution, treating each problem as if it were unique.

### Solve the problem out of court

The settlement rate for civil cases now hovers somewhere above 90%. The vast majority of cases are resolved by negotiation, mediation or some dispositive motion. Today many so-called litigators are really lawyers with special proficiency in discovery and motions. When I began law practice, it was considered a mistake to be the one who first suggested settlement. But sane clients don't love litigation. They do love seeing problems disappear, so they can get on with their lives. Most clients' resources are better spent focusing on how to solve the problem than in engineering a victory in court, as emotionally satisfying as that may be in the heat of the moment. So, the lawyer's first task when a case comes into the office is to figure out the real problem. Even in disputes between corporations, it's not unusual for the real issue to be hurt feelings or offended egos rather than an alleged breach of some legal duty. The lawyer who uncovers the crux of the problem has the best chance to reach an effective and economical solution. While an out-of-court resolution may yield a smaller fee, the lawyer with a reputation for actually solving problems will always be in demand.

### Be physically present in a crisis

Every organization has a defining moment. Make sure you are on the scene. Once I was negotiating with a union to close a client's plant. Tensions were running high as evening came and the union negotiators walked out. Picketers, some armed, began to circle the plant. The management team decided to spend the night in place. The local lawyers decided this was a good time to leave, so they did. I was nervous and enviously eyed my exiting colleagues. But I decided my place was with my client, so I slept on an office floor that night. The next morning my client thanked me for my loyalty, making it clear I was now a real member of the team.

Some years later, my law partner called me at home one night and said, "I need you to be in Staunton at 6:00 a.m. tomorrow." The client was a small, closely-held technology company, and a rogue stockholder group was planning on confronting management that morning. I arrived in Staunton on time and had to show my driver's license before

the guard would let me into the office. We gathered the staff, formulated a plan and were ready to go, but by 10:00 a.m. it was clear the crisis had dissipated. Just before noon, the company's in-house general counsel wandered in. He explained he couldn't participate that morning because of some personal appointment. As a result, management never really trusted him again, and he ended up in some other job. Moral: crisis is an opportunity, one way or the other.

### Embrace an ongoing redefinition of practice

The scope of the legal profession is shrinking. Companies that used to make copies now dominate the discovery process. The former business of providing legal forms has morphed into offering online services guiding the client through drafting a will without benefit of a licensed lawyer. So, rather than longing for a return to the past, successful lawyers will find ways to welcome this constant redefinition of what constitutes law practice today.

It's going to be an especially difficult challenge for new lawyers. They are entering a profession in which disruption will be the norm. Consider that the laptop on which I'm writing this article has access to more legal research and information than all the law libraries in the U.S. in 1973 — the year I began to practice. Consider blockchain, the digital technology upon which cryptocurrencies are based. Some advocates argue blockchain technology will disrupt law practice by automating settlements in contract disputes, verifying ownership of any asset and eliminating the

*Most clients' resources are better spent focusing on how to solve the problem than in engineering a victory in court ...*

need for personal trust in business transactions. If only half of this were true, much of what we now call law practice may be performed outside of what we now understand to be our legal system. The challenge for lawyers will be how to integrate themselves into a

different kind of economy where there are no agreed-upon borders between law practice and business transactions. While the organized bar will resist this, economic pressures may ultimately prevail.

*Without a road map for what is coming next, tomorrow's lawyers will need to think creatively to define their own role in this quickly-evolving legal landscape.*

**Be yourself**

When I began law practice, I watched the lawyers I respected and learned how they approached problems and interacted with clients, adversaries and allies. Sometimes I would even try to adopt their persona. It took me a long time to figure out that the best lawyer I could be was one who used my own particular gifts, skills and even quirks. Law firms and mentors can guide and shape us, but ultimately our success comes from inhabiting our own skin. I've been suggesting here that the current template of law practice is in the process of radical transformation. I

suspect that even the concept of a legal career will become unstable. But since the rule of law in some form is fundamental to what we call justice and freedom, the culture will still need lawyers to navigate the inevitable friction among individuals, institutions, and interests. Without a road map for what is coming next, tomorrow's lawyers will need to think creatively to define their own role in this quickly-evolving legal landscape.

Clearly that's a challenge for all of us, but I plan to begin by taking my own advice.



**Jack W. Burtch Jr. ('JB')** is with Burtch Law PLLC in Richmond where he practices labor and employment law, including alternate dispute resolution and mediation. He has been an adjunct professor of law at the University of Richmond School of Law since 1994. JB is a graduate of Wesleyan University and Vanderbilt Law School. He is active in the Virginia State Bar and is past chair of the Senior Lawyers Conference and past chair of the Conference of Local Bar Associations. He is a fellow of the Virginia Law Foundation.



**LEROY ROUNTREE HASSELL SR.  
INDIGENT CRIMINAL DEFENSE**

**ADVANCED SKILLS FOR THE  
EXPERIENCED PRACTITIONER**

**MAY 3, 2018**

**WYTHEVILLE WEBCAST  
SPACE STILL AVAILABLE**

Registration information:  
[www.vsb.org/special-events/indigent-defense](http://www.vsb.org/special-events/indigent-defense).



**Virginia State Bar  
TECHSHOW**

**April 23, 2018**

**Greater Richmond Convention Center**

Total possible CLE credits = 7 hours, which includes up to 5 hours of Ethics (pending), depending on which sessions you attend.  
\*includes Ethics credit (pending)

Space is limited and first come/first served.  
Online registration is available at  
[bit.ly/VSBTECHSHOW2018](http://bit.ly/VSBTECHSHOW2018).

The \$125 registration fee will include Wi-Fi, continental breakfast, lunch, and coffee breaks, as well as CLE credit.