

THE BARRISTERS AND THE BENCH TEAM UP TO MAKE ROOM FOR NEW ATTORNEYS

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Watching in horror as the witness you've been preparing for months freezes up on the stand, having opposing counsel cite a new case that somehow never popped up in your research, or having the court pepper you with questions that focus entirely on a small issue you never realized would be so pivotal—each of these scenarios would be enough to induce cardiac arrest in a junior attorney. However, to a seasoned trial lawyer, they are simple, routine situations inherent in our adversarial system and nothing to stress about.

While new attorneys may know the law and the facts better than anyone else involved in the case, that is only the first step. Grace under pressure; the calm, cool, and collected, “I’ve got this” attitude; the ability to roll with the punches and quickly think on one’s feet; and the consistent decorum and professionalism the attorney exhibits when presented with these omnipresent hiccups are also key components of successful advocacy.

Unfortunately, those skills are not taught in law school or tested on the bar exam, nor can they be found in the Rutter guides or any other secondary source. Rather, those skills can be developed only on the front lines during a deposition or when appearing in the courtroom during a hearing or a trial.

As the new generation of lawyers, we have been blessed to enter the legal profession with a variety of tools that allow us to practice law more efficiently. Our online legal research tools allow us to find cases instantly, our smartphones allow us to communicate with clients around the clock and work remotely, and many other gadgets make our professional lives much easier than those of our predecessors.

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However, the earlier generations were blessed with one valuable tool that was more important than those technological advances: the opportunity to obtain practical skills. For various reasons, including the “vanishing jury trial phenomenon,” changes in client preferences and firm business models, the rising cost of litigation, and others, newer attorneys rarely get to serve on the front lines of the litigation process.

Unless they choose to open a solo practice or take the government route, very few junior attorneys are given the opportunity to take or defend depositions, argue a motion, prepare a witness, or even have direct client contact. Without those opportunities, new attorneys are unable to develop the practical skills necessary to serve as the prepared, confident, experienced advocates that our clients deserve.

As members of a profession dedicated to maintaining the highest standards of zealous advocacy, civility, and professionalism, we have a shared responsibility to ensure that every generation is equipped with the skills to continue to provide representation that meets those high standards.

As the new lawyers division, composed of approximately 3,300 members of The Bar Association of San Francisco (BASF) in their first ten years of practice, the Barristers Club has joined a growing movement dedicated to investing in our profession's future by solving this problem. The Barristers Club Board of Directors has organized a task force that is designed to work with key players from the bench and the bar to ensure that we are all doing our part to provide the next generation of attorneys with the practical skills they need to grow as professionals.

For the past seventeen years, Judge William Alsup of the United States District Court, Northern District of California, has actively encouraged court appearances by junior attorneys in his standing orders. Since then, many



Photo by Jim Block

Blair Walsh speaking at the Judges Reception on July 21

federal judges in the Northern District, including Judges James Donato, BASF's 2008 president and 1977 Barristers Club president; Lucy Koh; Edward Davila; Jon Tigar; Yvonne Gonzales Rogers; and former Judge Paul Grewal, now deputy general counsel at Facebook, have taken steps to support the professional development of new attorneys by issuing similar orders. Some of them have even gone a step further to incentivize firms (and clients) to allow junior attorneys to appear in court, by offering to extend the time for oral arguments, holding hearings when they would not have otherwise done so, or allowing more experienced attorneys to step in, if necessary, during a hearing argued by a junior attorney.

ChIPs, a nonprofit organization dedicated to the advancement of women at the confluence of law, technology, and regulatory policy, has created a fantastic summary of these orders and others throughout the country (www.nextgenlawyers.com), which showcases

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the numerous ways judges can assist in these efforts. The website is an excellent resource for lawyers and judges interested in joining the efforts to encourage the advancement of new attorneys.

Over the years, Judge Alsup has continued to advocate passionately for new attorneys by encouraging other judges to use their discretion to issue similar orders, given the direct correlation he has found between the quality of the lawyers and the public's confidence in the legal system, saying, "It should be completely up to judges how to run their courtrooms, so all I should do is encourage them to consider the need to encourage our leading law firms to provide court arguments to junior lawyers as well as deposition first-chair opportunities. This will help maintain public confidence in the court system."

State court judges have been equally supportive of these efforts to advance the careers of junior attorneys. Presiding Judge John Stewart of the San Francisco Superior Court is currently working with the Barristers Club's task force to implement similar orders at the state court level. And Judge Angela Bradstreet, BASF's 2002 president, has created the Barristers Practical Courtroom Tips for Associates program where she invites junior attorneys to come to the courthouse twice a year for an informal, candid conversation with judges regarding the procedures for hearings and case management conferences, etiquette, the dos and don'ts of courtroom appearances, and to answer any basic questions they might have for judges.

With the joint support of the state and federal judiciary in place, the next step is enlisting the help of the supervising attorneys to aid junior attorneys in preparing for depositions, hearings, and trial; mentoring and training them; and even advocating on their behalf, should these opportunities be met with resistance from clients, senior partners, or others. There are many ways experienced attorneys can help, such as holding mock hearings, answering questions, offering advice on how to handle tough scenarios, or simply calming jitters and building confidence with frequent reminders that nerves are natural

and assuring junior attorneys that these skills will develop with experience.

While this will require a time commitment, it is an investment in the future of the firm, as well as in the client's long-term interests. After all, the junior attorneys are the firm's "succession plan," and thus their development is key to ensuring that the firm maintains the same high level of advocacy in the future. Moreover, all attorneys have a responsibility to pay it forward and aid in the professional development of the next generation.

Finally, while support from the bench and the bar are invaluable in this process, the next generation also plays a role in its own professional development. Junior attorneys have to be their own advocates; they have to seek out and embrace these opportunities. As eloquently stated by Judge Donato, "The [judge's standing] orders set the table, but the younger lawyers need to make sure they get a seat. I tell my clerks and other younger lawyers that they are the masters of their careers. You need to push, politely of course, to make the appearance and do the argument. Don't wait for someone to ask—make it a personal priority to get the opportunity."

To ensure they are continuously seeking out those opportunities, Judge Alsup suggested that new attorneys set milestone goals (for example, "argue two motions and take two depositions by my second year in practice"). The Barristers Club's task force is developing creative ways to track the progress of this initiative. The task force is also working to join forces with ChIPs's Next Generation and other new lawyers divisions to continue to create awareness of this important issue that affects the profession as a whole. If you have other ideas for growing this initiative and tracking its progress, we would love to hear them.

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