



Dictum

The newsletter of the NJSBA Young Lawyers Division

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Chair's Column

What's the YLD Doing? A Quick Overview

by James J. Uliano

The Young Lawyer's Division (YLD) is off to another great year. Since July 2015, we have been able to co-host events around the state. We had a summer scavenger hunt in Lambertville. A special thanks to Rachel Nguyen and Hyun Lee for organizing the event.

Also in the summer, the YLD hosted a rum-tasting event organized by Dana Van Leuven.

As the weather turned cooler, the YLD continued an annual tradition of participating in the Far Hills Race with a tailgate party. A special thanks to Michael Austin and Meredith Friedman for helping with the event. A fun time was had by all who attended.

Many YLD members came out to the annual holiday Brew Ho-Ho in connection with the Middlesex County Bar Association. It was well attended, and provided members with great networking opportunities.

The YLD continues to be the New Jersey State Bar Association's (NJSBA) community service arm. For many years the YLD has been running Wills for Heroes events. The NJSBA has purchased laptop computers to facilitate our ability to perform more of these wonderful events. Joshua Cheslow continues to be instrumental in organizing these events. In September, we hosted an event in Millville, and in October we hosted a two-night event in Oceanport. We continue to need volunteers, as more events will be scheduled in the spring.

Additionally, Katie O'Malley is doing great work with the Prisoner Re-entry Program that was established last year.

If anyone wants to volunteer with either of these great programs, please contact Joshua Cheslow or Katie O'Malley directly.

Also, this spring, our annual Earth Day project will be another beach clean-up. Please look for information to come for this in the coming weeks.

In 2016, the NJSBA revamped its website. The Community Net remains similar but has a slightly new look. The listserv continues to be a valuable tool for young lawyers in helping with their practice. If you have not been participating, you should check it out; there may be a topic of law that helps you. It would take up too much space to list all of those who are regularly replying to questions, but they all deserve our thanks.

Finally, if you are interested in getting involved with the YLD, we hope you join us at one of our Executive Committee meetings, which are open to all members of the YLD. If you are interested in joining a particular YLD committee, please contact me. ■

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The opinions of the various authors contained within this issue should not be viewed as those of the Young Lawyers Division, Dictum, or the New Jersey State Bar Association.

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TRUSTEE LIAISON

James J. Uliano

Editor's Column

Attorney, Advocate, Author?!

by Corrie Sirkin

You should write for *Dictum* or another publication as soon as you can, and at every opportunity. Why? Here are the top three reasons you should write for *Dictum*.

Gain a Positive Reputation

The Young Lawyers Division has over 2,000 members who receive *Dictum*. Writing an article demonstrates your knowledge on a specific topic. It showcases your ability to write. You will get noticed. As an author of an article, you gain affirmative name recognition. Getting published positively builds your resume. Many lawyer ranking organizations consider writing for publications as a positive factor. This is a great way for peers and higher-ups to learn of your interest, ability and involvement through your articles.

Get the Job

What makes you different, as a new lawyer, from the stack of resumes potential employers receive? All lawyers write in some capacity. Writing for the YLD showcases your talent in another setting. Many firms are looking for young lawyers who will be able to promote their firm by writing blogs, articles, etc. Showcase your talent and aptitude for authorship.

Transitioning careers is difficult; writing for *Dictum* can help. Don't like what you are currently doing? How do you move? Want to change focus, but employers question your commitment to your new career? Lacking in experience? Show your commitment to your potential career by writing about it.

Share the Knowledge

Do you have advice for young lawyers? Do you understand a difficult aspect of the law? Have you recently researched a new, interesting case? Do you use a new technology in your practice? Contribute your knowledge and expertise to the greater community. *Dictum* articles do not have to be long to be interesting, noteworthy or useful for other young lawyers.

These are just a few of the reasons among many to write for the *YLD Dictum*. In my personal experience, as a new lawyer, writing and being published truly set me apart from the multitude of other young lawyers. It provided welcome conversation starters for interviewers and myself as an interviewee. As editor of the *YLD Dictum*, I welcome your contributions to this great publication. You have nothing to lose, except a little time and effort, and everything to gain. ■

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Dictum is the publication of the NJSBA Young Lawyers Division (YLD) that is a member-driven newsletter. **We welcome submissions**, including articles and news on any relevant topic, such as practice tips, work/life advice, and information regarding upcoming meetings and events. Please submit articles to ces@lmlawyers.com with the subject line YLD *Dictum*.

Do You Blog? We Want to Know!

If you blog about legal topics either on your own or for your firm we would like to hear about it! Send a link to your blog to ces@lmlawyers.com.

Four Life Hacks for Networking Your Way to a Bigger Book of Business

by Emily Kelchen

If you are a young associate or a solo practitioner, you are probably sick of hearing you need to network your way to being a successful lawyer. As if you had time to do that, or if you have time, knew where to start! It turns out the reason nobody seems to be able to explain exactly when or how to develop into a rainmaker is because the people who are good at this sort of thing think it needs no explanation. For the rest of us, here are four life hacks that will help you start to build a book of business.

1. Think Outside the Box

Is there anything more cliché than the expression ‘think outside the box’ in an article about business? Probably not. But there is also not any other quick and easy way to say that if you want results you have to do something more or different than you are doing right now.

When most attorneys think about networking, the first place their mind goes is the bar association. It’s been drilled into us that successful lawyers are active in the bar association. While that is true, it is also important to get involved with organizations that put you in contact with a lot of people who are not lawyers. Consider this example: A young lawyer joins the local historical society after attending an interesting public lecture they hosted. She gets to know several people in the society quite well by serving on a committee, and soon some of them start asking her questions about estate planning. Specifically, they want to know how to make sure family heirlooms are passed down to the right people. It turned out everyone in the group had one or more items they are concerned about passing on to the next generation, so the organization hosts a public lecture featuring the young attorney, and she gains quite a few new estate planning clients through it.

This story illustrates an important point. Networking is actually all about building meaningful relationships, not handing out as many business cards as possible.

2. Don’t Leave Success to Chance

Don’t go to events or join organizations just hoping you will meet someone interesting. When possible, make sure you know who you are going to meet before you commit your time.

Thinking about joining an organization? Ask for their yearly program book, which typically includes a list of members.

Deciding whether you have time to go to another event after work this week? Ask to see the list of registered attendees.

Asking to see a list of members or attendees allows you to plan a networking strategy. The worst thing a group or an event planner is going to say is no. However, if you are polite they will often say yes.

Once you have a list, figure out who you already know so you can ask them for introductions. If you don’t know anyone, pick out a few people who would be interesting to get to know and make it your goal to meet these people. Having a plan like this in place is much more effective than bumbling around a room full of strangers hoping to run into someone.

3. Dress to Impress

When we lawyers hear the phrase ‘dress to impress’ our default seems to be to wear all black. But that is the last thing you should do if you are trying to build your network. If you want people to remember you, you need to stand out, not blend into the crowd.

In order to do this, you must build a networking wardrobe. Work on finding a few outfits that say ‘I’m interesting’ without saying ‘I’m eccentric.’

For men, this can be as simple as switching out your white shirt for a patterned one, or adding a pocket square. (Seriously, wearing a pocket square right by your nametag is very eye-catching!)

Ladies have a lot more options than the guys. There are stylish suits and business dresses available in a much broader array of colors today than even just a few years

ago. And if you want to stick with the classic black, you can always accessorize.

Humans are very visual, so if you start putting an effort into looking memorable, it will pay off when it comes time to follow-up with someone you recently met.

4. Build, But Also Maintain

Are you still friends with the people you hung around with in high school? What about college? What about that conference you attended last month? If so, it's because you made it a priority to keep in touch. Until a relationship gets to a level where keeping in touch comes naturally, you have to be intentional about it if you want it to last. We all lead crazy-busy lives, so the best way to make this happen is to use technology to make it easier.

Put the contact info of new people you meet into your address book as soon as possible, with notes on when and where you met and what you talked about. You can do this manually, with a scanner, or by using an app. There are a ton of apps that can send the contact info on cards you scan to your phone's address book, or even directly to your practice management software.

Schedule blocks of your time to use for follow-up the day after big events and every few weeks. Don't just say you will do this, actually put it in your calendar.

But what do you say when you follow up? That's where the notes you took during or after meeting a contact come in. The next time you read an interesting article on a topic you remember talking about with someone you just met, or someone you want to circle back with, either send it over to them right away or save it and send it on during your next scheduled follow-up time. You can even set up Google Alerts for specific topics if you really want to automate the process of finding something to follow-up with.

Another great follow-up is a note of congratulations. If you see one of your contacts has received an award or won a big case, send a quick note congratulating them. People will be happy you are happy for them, and will remember that down the road.

Keep these tips in mind, and soon you will be one of those annoying people who can say you don't really know how to be good at networking, it just comes natural! ■

Emily Kelchen is the director of public affairs at the New Jersey Civil Justice Institute in Trenton.

Four Simple Rules of Jury Selection

by Jonas K. Seigel

Someone once said that jury selection is like telling a dirty joke to a stranger—you never know what reaction you'll get. And although I have some pretty good dirty jokes to tell, I thought that I would take the time to remind you that no trial attorney has ever won a trial because of the jury selected, but many trial attorneys have lost trials for selecting the wrong jury.

I have litigated personal injury cases, obtained my LL.M. in trial advocacy from Temple University's Beasley School of Law, and lectured on behalf of organizations focusing on trial work (e.g., the New Jersey State Bar Association, New Jersey Association for Justice, and National Trial Lawyers). I consider myself a true student of the law. The common theme that loops wherever I go is that trial lawyers do not dedicate nearly enough of their time or resources to jury selection.

Today, there are several theories for selecting a fair or unbiased jury, and I am going to share some of the basics that can help you obtain a better result regardless of whether you are litigating a civil or criminal matter. Below are my four simple rules of jury selection, which were compiled from my experience in the classroom and the trenches. My goal is to provide a nugget of valuable information or to simply remind you of something you forgot to do, which, in the end, will make you a stronger advocate.

Rule #1: Not Making a Great First Impression

We have heard it all before, 'you only get one chance to make a first impression' and 'first impressions are lasting impressions.' So why do trial attorneys make such lousy first impressions? Because we do not make our first impressions in the courtroom; we make our first impressions while walking into the courthouse, while eating in the courthouse cafeteria, and while chatting with a colleague in the courthouse bathroom. Be careful of the conversations you have on your cell phones and with your clients while in the courthouse, not just the courtroom, and the surrounding areas (e.g., the restaurant across from the courthouse, the parking lot, and the designated smoking area). Also, be mindful

of how you treat others while on trial—your adversary, courthouse staff, and witnesses.

However, it is not just our physical selves that makes a first impression, so does our online presence. Please take a few minutes and Google your name and website. What you see is the same as what juror number three will see when she Googles you while waiting in the jury room.

Lastly, our clients can make a lousy first impression. Be sure to tell your client what is appropriate to wear to court, as well as what behavior is appropriate while on trial. I often tell my clients to dress and behave as though they were going to a job interview or church. Nothing is worse than having to run to Walmart at the last minute to buy a belt for your client or to have to separate your client from their spouse as they argue over what's for dinner. Jurors have a short period of time to judge you and your client; demand that everyone involved put their best foot forward.

Rule #2: Not Recognizing the Different Generation Groups of Your Jury

Would your grandfather laugh at the same joke you just told your coworker at the water cooler? What about your coworker's kid? It is now 2016, and we are on the verge of litigating before five distinct groups of people: the Silent Generation (born 1925-1945), the Baby Boomer Generation (born 1946-1964), Generation X (born 1965-1980), the Millennials or Generation Y (born 1981-2000), and in a few years Generation Z (born 2001-2015). It is important to understand that jurors born in the 1930s are going to process and learn information differently than jurors born in the 1990s. Certain themes, analogies, and stories are going to work for some groups, but perhaps not all. For example, referencing a current reality TV show, the newest Apple iPhone, or the Super Bowl halftime show may not reach your older jurors, whereas referencing a current news story, political debate, or a new prescription drug may not reach your younger jurors. All jurors bring their own life experiences to jury duty. Every juror's experience is

going to be slightly different, but do your best to recognize the different generational groups that make up your jury and learn to clearly communicate to them in a way they will understand.

Rule #3: Not Being Organized During Jury Selection

In the words of Ferris Bueller, “life moves pretty fast—if you don’t stop and look around once in a while you could miss it.” Well, jury selection moves pretty fast too, and if you do not have a system of organizing juror information you may look foolish in front of the jurors or, even worse, get your jurors confused.

First, turn your legal pad on its side and place Post-Its on it to represent each juror the court will seat. Post-Its should be a tool found in every trial bag, and some basic abbreviations will help you quickly categorize important juror information. I always liked to have my Post-Its out on the counsel table at the start of jury selection, ready to go. As jurors come and go, new Post-Its are added right on top of the previous ones. No mess, no problem. The Post-Its quickly become decorated with: Md = married; Div = divorced; S = single, and a series of symbols, as well as a 1-10 ranking. The key is to be neat and organized. It doesn’t do much good if you cannot read your own handwriting or your abbreviations are hard to understand.

In addition to having a system to document each juror, try your best to not only listen but also to watch your jurors answer questions. Paying attention to who says what, how it is said, and how others react may provide for some very valuable insight. As we know, the more personal and sensitive a topic, the less likely a juror is going to share with strangers. However, a grimace, the rolling of the eyes, the crossing of arms, or a raised eyebrow may be enough to understand where a juror is coming from.

Rule #4: Not Doing Your Homework

Doing your homework involves more than knowing your case better than your adversary. It is more than anticipating your adversary’s objections and having your rebuttals prepared with cited case law or court rule. Doing your homework is what separates the ham-and-eggheads from the true advocates. My homework always includes a focus group. Focus groups provide both the rehearsal and insight that many trials require, but are often forgotten about. Focus groups can also be conducted inexpensively, requiring nothing more than an ad on craigslist, a few pizzas, and video camera functionality (*i.e.*, the technology found on our cell phones or tablets). In addition to focus groups, mock trials also allow an opportunity for trial attorneys to better understand the strengths and weaknesses of a case. However, I highly recommend that you do not have family, friends, or staff act as jurors and that you give equal weight and time to both sides for the best results. Of course, you could spend thousands of dollars and have a professional service organize and lead the focus group or mock trial, but many may not have that option.

The other homework that I do is to request the jury panel list from the court clerk before my trials. I then Google my potential jurors to find any information that will make that particular juror favorable or unfavorable for my case. Again, you could hire a service or a trial consultant, who may charge up to \$18 per person, or you could roll up your sleeves and do it yourself.

I have seen small fortunes invested and countless hours spent in preparation of a case, only to ignore what I believe is the most important, and often neglected, stage of a trial. I hope my four simple rules of jury selection provide some easy fixes, tweaks, and new thoughts on how you tackle jury selection. By focusing on making a strong first impression, recognizing the jurors’ different age groups, being organized, and doing your homework you will certainly better your chances of a successful outcome. ■

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The Impact of Joint Legal Custody on Children's Special Needs Education

by Matthew A. Stoloff

Imagine this: Mom and Dad are divorced, and have joint legal custody over their child. Mom feels her child needs special education services, but the school district disagrees. So, Mom files a petition for a due process hearing with the Office of Special Education Programs, seeking certain relief. Dad gets wind of this and challenges Mom's due process petition because he does not agree the child needs any special education services. Alternatively, if Dad is silent, the board of education moves to dismiss the petition on the basis that Dad has not 'consented' to the due process petition.

What do you think might happen next?

A real life example of shared custody in the special education litigation context occurred in *F.C. obo D.C. v. Rockaway Township Board of Education*.¹ In this case, the mother became concerned with D.C.'s reading comprehension and written expression. She requested the school evaluate D.C. After administering various tests, the school's child study team determined D.C. had a learning disability and was eligible for special education services.

When the child study team recommended D.C. be 'classified' and placed in a special education program, the mother agreed and unilaterally consented to D.C.'s classification. The father objected and filed a petition with the Office of Special Education Programs, seeking to 'declassify' D.C. from receiving special education services. The Rockaway Board of Education filed opposing papers with the Office of Administrative Law, and D.C.'s mother was granted party status as an intervener. Administrative Law Judge Ken R. Springer denied D.C.'s father's request for emergent relief. After a plenary hearing was scheduled, the Rockaway Board of Education decided not to continue with the litigation because this was a dispute "between two parents who refuse to cooperate."

Ultimately, Judge Springer ordered the school district to declassify D.C. and return him to a regular mainstream program because the divorce settlement agreement was clear that *both* parents must be in agreement with regard to D.C.'s education.

How could this scenario have been prevented? Ideally, D.C.'s mother should have had sole education

decision-making authority over D.C.'s education. But if this was not possible, there should have been some kind of contingency built in, so Judge Springer would have had an opportunity to decide on the merits whether D.C. needed special education services. As Judge Springer noted, "Unfortunately, the four corners of the document offer no guidance on what to do in the event that the parents are unable to reach agreement. *No mechanism is established to break the tie if the parents are at odds over what course of action is in the best interests of their child.*"

There is no question that in order to succeed in school, many disabled students need accommodations and special education services. The earlier these are provided to the students, the better. I have had the great honor of representing children with various disabilities. I have helped parents obtain independent expert opinions about what supports their disabled children need to succeed in school; ensure the education the children receive is appropriate; and, in some cases, succeed in securing an out-of-district placement at public expense.

These are not trivial matters, and the interests of children are not best served when they lack the supports and services necessary to succeed in school and in life after graduation. Yet, when I see divorce judgments that do not grant my clients sole education decision-making authority over their children's education or, alternatively, that both parents must be in agreement with regard to their child's education, I know we may have a long road ahead of us.

Family law attorneys are strongly encouraged to think about the implications of not having a mechanism to break a tie as discussed in the *F.C.* case. Family law attorneys are also encouraged to reach out to education attorneys to bounce off ideas about what can be done to ensure a child is not denied the educational opportunities available to him or her. ■

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Endnote

1. OAL Dkt No. EDS 11128-04, 2005 N.J. AGEN LEXIS 507 (Jan. 12, 2005).