

What I've Learned

By Dan Lawton

California Litigation sat down with a group of lawyers and a judge, and asked them what they've learned during their careers.

The interviewees had some things in common. All have been deeply involved in the profession since at least the early 1990's. All have practiced in the private bar at one time or another. All have enjoyed professional success. And all have experienced disappointment and failure.

We asked them these questions: How important is it to have fun in your career? What should young lawyers be seeking in mentors and professional relationships? How can lawyers avoid the pitfall of spending all of their time on their law practices and neglecting their families and health? What happens when you feel stale and unchallenged? How do you deal with disappointment and failure? How important, really, is civility?

This article recounts their answers.



Kelly Capen Douglas is chief executive officer of Voices for Children, a San Diego-based charity which recruits, trains, and supports court-appointed volunteers who speak up for the needs and well-being of children in foster care. Formerly, she



Dan Lawton is a shareholder of Klinedinst PC. He practices in the firm's appellate and professional liability groups.

served as general counsel of the University of San Diego. Douglas was also a partner of Luce, Forward, Hamilton & Scripps, where she began her career practicing labor and employment law after graduating from Duke University School of Law.



Dennis J. Doucette is a partner of Procopio LLP in San Diego, where he is co-leader of the firm's Capital Markets and Securities practice group. Dennis counsels buyers, sellers, and investors in mergers, stock and asset purchases, management buy-outs, and reorganizations. Dennis is a graduate of the University of San Diego School of Law and a native of Brockton, Massachusetts.



Timothy B. Taylor is a judge of the Superior Court. His chambers are in the Hall of Justice in downtown San Diego. Before his appointment to the bench by Governor Schwarzenegger in 2005, Judge Taylor was a partner of Sheppard Mullin Richter & Hampton LLP, where he practiced civil litigation for 21 years. He is an alumnus of Georgetown University Law Center.



Bryan R. Snyder is a sole practitioner who represents plaintiffs in personal injury and business cases in the California and federal courts. Snyder began his career at the San Diego-based law firm of Duke

Gerstel Shearer, where he became managing partner, before going out on his own. Snyder is an alumnus of University of San Diego School of Law. He is a retired Scoutmaster for Boy Scout Troop 713 in Del Mar, California, and is an Eagle Scout.



Jeff Chine is a partner of Allen Matkins Leck Gable & Mallory, LLP, where he counsels and represents clients in land use matters before the California Coastal Commission, the California courts, and other tribunals. Chine is a graduate of the UCLA School of Law. He is a native of Malvern, Arkansas.

On Liking What You Do

Snyder: “You gotta find a practice where you can have some fun. If you’re just a lawyer and all you’re doing is trying to bill hours or just grind things out . . . that’s just not gonna be a great way to spend your life. I’ve been fortunate I’ve been able to have some cases where you get to have some fun. You get to wear the white hat and help people in their lives. . . .

“I had a case I settled recently, not a big case, a rear-end collision, it was a \$100,000 policy, we made the policy-limit demand, and the insurance company sat on it, for whatever reason. And so there is case law that says when the insurance company doesn’t act promptly you open up the policy and they’re liable for

greater than the policy limits. Ultimately we settled the case for significantly greater than the policy limit was. And that’s just fun. . . .

“If you can get yourself in a position where you’re making a living and also having some fun that’s a great place to be.”

On Mentors and Relationships

Douglas: “I started out working with a big law firm, and I had a fantastic experience there. But I had a fantastic experience because I had the opportunity to work with amazing mentors and more senior lawyers who gave me opportunities and taught me a lot. I also had the chance to work with peers. Those relationships started when I was a young lawyer but I still have many of them today. That trust that you build over time is just critical to your evolution of your career.”

Doucette: “Malcolm Gladwell says you need 10,000 hours before you get good at something. It took me all 10,000 hours and then some. I don’t think I understood what a lawyer was until my fourth or fifth year of practicing law. I didn’t have the attention to detail. I didn’t really understand how to practice law, what was important. Law school didn’t at that time train you to be a lawyer. They trained you in analyzing case law and doing research. I had to learn on my own. Eventually I got a mentor and it all worked out. But the first three years were pretty rough. I really didn’t know much, I didn’t really know what I was doing, and I don’t think I did a very good job. . . .

“I think it’s really important to have a mentor or two. I think it’s so important to understand how to practice law, not just writing briefs or writing contracts . . . you need mentors to help you along the way, with the politics of the law firm or just how you become a better lawyer, how you network . . .

I think mentoring is the second most important thing after understanding the clients and solving their problems.”

Snyder: “I’m not the smartest guy in the room in a lot of my cases. I’ve developed a number of people I can bounce cases off of, that I can talk to to help me work through things. . . . Ben Bunn has been a tremendous resource. He’s an unbelievable lawyer, helped me out a lot. I have a number of other people like that. You have to have that, people you can rely on that can clarify things for you.”

On Reputation, Integrity, Civility

Chine: “Even when things become contentious you should always try to foster good and professional relationships with other lawyers. . . . This goes along with the idea that we’re in this for the long term. No single client is worth ever jeopardizing your reputation, your ethics That client’s going to be gone. Maybe they’ve paid your bill, maybe they haven’t, but your career is going to go on. . . .

“In San Diego, it’s a relatively small legal community. The most important thing you have is your reputation. Part of that is being professional with other lawyers. They can be a source of future referrals for you, even opposing counsel. You build up a trust and relationships with other lawyers, and it makes the practice simpler and more enjoyable. If you have credibility people know that when you say something you’re going to follow up on it and you’re always telling the truth. That’s helped me settle a lot of cases that maybe otherwise could not have been settled. . . .

“Lawyers talk. Judges talk. If you’re overly aggressive, overly cantankerous, uncooperative in a meaningless way, that story gets around town really quickly.”

Snyder: “I had a case a couple years ago with a well-known defense lawyer and she had a horrendous reputation. The plaintiffs’ bar had so much negativity about her you would not believe it. So I went into that case very wary of this lawyer. And I had a great relationship with her. We got along fine. I don’t know what she did to create so much animosity, but she did something. And that’s going to follow her her whole career. . . .

“There’s many opportunities as a litigator where you can do things that are going to hurt you down the road. So you have to make sure what you’re doing is not going to render an opinion of you that you’re not trustworthy or really a jerk because the judges hear that too.”

On Time, and How You Spend It

Chine: “For the folks that have a family life, it can be difficult. . . . You’re gonna be a healthier person, a more effective advocate, you’re going to be a better person to be around if you strive for some sort of balance. Like a lot of professions, the legal profession can suck you in and you can lose your mooring. There’s always more work to do. And so you need to get to a place where you have the ability to turn that off and pursue some other interests. I know that’s easier said than done, especially if you’re a junior associate and you’ve got more senior lawyers demanding things of you. But if you don’t keep that in mind, either you’re not going to be very happy or you’re not going to be a lawyer for very long.”

Taylor: “It’s very tempting, particularly on the defense side, to think, ‘If I string this out, something might happen. We might wear ‘em out. The plaintiff might die. Whatever.’ That seldom works out. Usually it results in bad things happening. . . .

“Most demurrers are a waste of time and money. So are most motions in limine. Please,

please concentrate on the form of special verdict and the jury instructions and quit worrying about whether someone has answered subpart (d) of form interrogatory no. 17.1. The first is important, the second, 99 cases out of 100, is not. Focus on what's important."

Doucette: "I am an early riser. I try to work out, to clear the mind. Then I look at e-mails and try to figure out what the day looks like. My parents had work-life balance. We had dinner at 5 p.m. every night. I've tried to just hire people that are a lot smarter than me. Because they can do the work that needs to be done and I can do what I do really well. I think that does give me a work-life balance. . . ."

"You help others when they go on their vacations or go on family leave. If you help them when they have a need, they'll help you when you have a need. You can take vacations. What goes around comes around. I've also tried to treat my colleagues' clients better than I treat my own clients. That's why you're part of a firm. If you do that, and people have that sense you'll do it for them, it helps you to have work-life balance. It's a real team approach."

Snyder: "I get to work early. Not infrequently by 7 a.m. It's important to me to take a break in the middle of the day. When the gym is open, I go down there. I run with a lot of people down there. We run two or three days a week."

Taylor: "When I was in practice, I arrived in my office every day at 7:15 or at 7:30. I never found a reason to change that, so I still do it. Getting in early doesn't work for everyone but it does work for me. I did it this morning. That's an hour or more of found time in the morning when a lot of work can get done before the pressures of an ex parte calendar or the pressures of a jury trial or whatever it is that's going on."

On Openness

Douglas: "Being vulnerable and talking about feelings that might be hard, that was just not something that I did. I'm an optimist. I like to look at the good. And so I probably went through a few too many years where I did not give enough voice to some of those other feelings that were not so positive all the time. When I learned how to be a bit more vulnerable with people I trusted, it opened up my world. It was a very small circle of people I felt comfortable doing that with. But I felt so much more in touch with my humanity. I felt much more emboldened to be able to take a risk and follow my heart and take the steps I needed to take to have a fulfilling rest of my career journey."

Chine: "I'm not afraid to admit when it's something that I don't know or I need to know more about. I'm glad to be the guy who's asking what's perceived as dumb questions. There's no sin or shame in doing that. To the contrary, if you're the guy who always think they know everything, that's the first signal of somebody who really doesn't. And you can learn from anyone. I learn from new lawyers, junior associates. . . . I learn from everyone around me. I think when you stop learning, that's maybe a signal it's time to move on and do something else. You can always get better. I strive to do that. That's what keeps the practice interesting."

On Changing Course

Taylor: "I've never regretted my decision to switch gears in the middle of a career. It's pretty clear that joining the bench makes your evenings and your weekends more your own. If you're not faced with the constant pressure of finding new work — all we have to do is sit there and cases are filed. Every day we get new cases assigned to us. So we don't have the client development imperatives that faced me

in private practice and still face practitioners

“In the last 10 years I have exercised and pursued more hobbies than in the ten years preceding and the ten years preceding that. Now, part of this earlier time you’re involved in child-rearing, which has all the challenges that go along with that. But I just wish that I had started that progression toward more exercise and more hobby activity earlier than I did. . . .

“I had the great good fortune of seeing my younger son play high school baseball. I never missed a game. Had I still been in practice I don’t think I would have had that joy.”

Douglas: “It’s easy for us as lawyers to keep doing the same thing over and over again and at some point to feel stuck and like you want to do a little bit more. I was not equipped when I got to that point to be able to know how to navigate through that and come out on the other side. I figured that out finally. But I think it’s OK for lawyers to recognize there could come a time when you’re ready for something different or you want to use different skill sets and to be OK with thinking about taking a risk and doing something different. . . .

“My family and I used to go to the parade in Coronado every Fourth of July. As I watched one year, I got to thinking about everybody who made up the parade. There are advance planners who get the contracts in line, plan for public safety, minimize risk. There are the people who drive the cars under the floats. Nobody sees them, but they keep the floats in the lane, so they don’t go off the course. . . .

“Then there are the people at the end, who sweep up after the horses. As I was sitting

there on the sidewalk, I thought, ‘Right now I am spending way too much time in my job as the person at the end of the parade who sweeps up after the horses.’ I felt like I had a lot more to give to the world and the community than that. I said, ‘I need to start figuring out what is next.’ It was a long journey.

“I worked with a leadership coach who helped me to articulate my wants, my needs, my strengths, my interests, and helped me think a little bit bigger, about taking a risk to make a change. I don’t think I would have done that introspection on my own. I needed someone to nudge me a bit.”

On Dealing With Failure and Disappointment

Taylor: “There are almost-unlimited opportunities for humbling as a judge. . . . I will never forget the first 170.6 [peremptory challenge]. There have been a lot since then. You get that first one and you pick it up. You look at it. Because of what you know about yourself, you think, ‘How could this lawyer, who I’ve never met, think that I cannot be fair? How could someone think that?’ It’s humbling. And it’s still humbling every time it happens. But it’s part of the job and it’s part of the law and we have to move on.”

Snyder: “If I give it my best shot and I lose, there’s nothing I can do. It’s bothersome. But what can you do if you’ve got a client that’s off the rails? All you can do is give it your best shot.”

Douglas: “When you’re in the middle of a situation when you’re stuck or not getting what you want, it may seem really frustrating, but sometimes that’s the impetus that you need to do something different. For me, when I was going through my transition from being in-house counsel at a large university to figuring out what was next and then deciding

to put my name in the hat for the CEO role where I am now, I needed the impetus of feeling I was ready for more. . . .

“Often, failure and disappointment open up doors and urges you to do something different that you might not have otherwise done if you were just comfortable in your space.”

Chine: “Try to learn something from them and move on. But you have to be able to move on, whether it takes a day or a week or whatever it takes. If you let those things stay inside you and chew you up, it can be very difficult emotionally and make you an unpleasant person. . . .

“Don’t take the disappointments too harshly. Don’t take the highs too high. Try to enjoy those moments when you do have a good outcome, because if you don’t, no one else will. It’s interesting. Clients often move on straight away. They say, ‘Of course you were going to get a good outcome there. That’s what you’re paid to do.’ Then they move on. So you need to take a moment with those around you to enjoy the good times. But you also need to be able to shake off the disappointments and the losses. If you don’t do that, it’s going to be a bumpier ride.”

Doucette: “I got off to a slow start. I think I did two deals my first year, maybe three my second year. Our new lawyers do 10, 12, 15 deals a year. That’s how you learn. You’re going to make mistakes. You can’t get too disappointed and too down. When a mistake is made or something goes wrong, you have to see it as a learning moment, that you can learn from it and get better. I need to get better every day. The market changes, deals change, clients change. You always have to get better. You have to learn.”

Taylor: “It’s a very hard thing. When you’ve put as much heart and soul into a decision as I try to do, and you get that reversed-and-remanded, it sticks with you. I read every one. I know there are judges that don’t. They get the decision and throw it in the can. I don’t do that. I try to read every one, I do read every one, and I try to learn from every one. . . .

“Of course, there are some where I still think, ‘I was right, and I think the Court of Appeal missed this.’ But I keep telling myself, ‘They have a lot more time than I had. They have three times plus the brainpower. And this is how our system works and how the law works.’ And though I keep telling myself that, it still doesn’t completely remove the sting. I think about this and I remember every one [of those reversals].”

On Staying Professionally Detached

Chine: “When you lose objectivity, or fall in love with your arguments, or you begin to think in a manner that’s not objective and critical, I think you become less effective as an advocate and a lawyer. . . .

“When they lose objectivity, some lawyers are tempted maybe to do things they shouldn’t do, whether it’s ethically or otherwise. If you so believe your client’s case or the position that you’re taking in a particular matter, it can lead to bad results in a number of different ways. I tell myself always to take a step back . . .

“You have to be a zealous advocate. But you always have to do it understanding what the weaknesses are, what the strengths are. I admire lawyers that are able to do that. It’s not as easy as it would appear.”

Miscellany

Snyder: “Your mentality has to be, ‘Not only do I have to be a great lawyer but I have

to learn how to get business.’ We all know lawyers that know how to generate business are also going to be a valuable commodity and be successful. I don’t think they teach that in law school. The ability to bring in business and to market is something I wish I had learned earlier. But it’s really critical to be successful today as a lawyer. . . .

“It takes a while. But you just have to think about it all the time. You gotta think about everybody that you talk with and take every opportunity you can. ‘Hey, I’m hungry. I’m looking for cases.’ People begin to recognize that you’re out there. They know you, they like you, they see what you do. It doesn’t happen overnight. But once you get the flow, it really kinds of feeds on itself.”

Chine: “When it comes to your career in the profession, I would tell young lawyers, ‘Take the long view.’ Especially when you’re fresh out of law school, it’s a little frightening, we tend to put a lot of weight on what you’re doing in the moment. It’s a marathon and not a sprint. . . . Think of every case or transaction as a learning experience. You’re going to get better as you go along. Don’t put too much stock in what’s happening today. Think of it in terms of what will be a long path that you’re on. That can help to make it a better journey. You’re gonna win some cases you probably shouldn’t win. You’re going to lose some cases you absolutely should not have lost. That’s part of our profession. There’s nothing you can do about that. You just have to try to stay ethical, remember what you’re doing, remember the basics, and keep moving forward. . . .

“Emulate the lawyers that you admire. Emulate the people that are effective. Listen more than you speak. I remember being a young lawyer. I was excited to argue a motion before a Judge who has long since retired. At some point, he said, ‘Look, I was going to rule for you. If you want to keep talking, I’ll let you continue.’ The whole courtroom erupted in laughter. I was rather embarrassed and said, ‘Thank you, Your Honor,’ and I sat down and shut up. That’s an important lesson, which is you’re not here to show people how smart you are. You’re here to be a good advocate for your client. Sometimes that means keeping your mouth shut. That’s a hard thing for a lawyer to do, but you have to learn to do it.”

Taylor: “Granting sanctions, particularly early in the case, can do more to foul up the case than is worth it. You have created leverage for one side or the other. You’ve gotten people’s dander up, their backs up. You’ve almost assured a reciprocal sanctions motion coming from the other side. You’ve made it harder than it already is for counsel to work cooperatively, not necessarily to settle the case, but to do the work that is necessary to do to ready the case for trial. We have the joint trial readiness report, all the other things we require of lawyers before trial. All that is made more difficult if you’ve granted sanctions unless they are clearly called for. And sometimes they are. But I try not do it, particularly early in a case, to avoid that dynamic.”