

Checking In

Practical Law Advisory Board Members Discuss Their Current Work and Key Legal Developments in Their Practice Area

Education: 1975: J.D., Yale Law School; 1972: B.A. (Government), *summa cum laude*, University of Notre Dame.

Career in Brief: 2000–present: Shook, Hardy & Bacon L.L.P., Partner; 1987–2000: Coll Davidson Carter Smith Salter & Barkett, P.A., Partner; 1976–1987: Steel Hector & Davis LLP (1982–1987: Partner); 1975–1976: US Court of Appeals for the Fifth Circuit, Law Clerk to the Honorable David W. Dyer.

What do you think are currently the biggest challenges facing attorneys during the COVID-19 pandemic?

For litigators, the biggest challenges are conducting efficient depositions and moving the case forward to trial while figuring out how to manage the health risks for everyone involved. For lawyers working from home and taking care of a family, including children or grandchildren who are attending school virtually, the biggest challenge is juggling household responsibilities and professional obligations in an often noisy (but loving) environment and also finding time to stay sane and take care of themselves. Those who are the primary caregivers to children

have borne the brunt of the downsides to the pandemic. For lawyers living alone, the biggest challenge is coping with isolation and loneliness, which can exacerbate lawyer wellness concerns that may have predated the pandemic. Additionally, regardless of their specific personal or professional situation, all lawyers have had to deal with the loss of camaraderie and the legal give and take that occurs in a problem-solving environment.

What are the biggest challenges that your clients currently face, and how do you help them overcome those challenges?

Where litigation is involved, the biggest challenge has always been avoiding the cost of winning. This means that, although lawyers must look for ways to sensibly avoid litigation, when a matter does end up in court, they should spend the time early on to determine a cost-effective exit strategy but not be afraid to proceed to trial if necessary.

Additionally, the formula for helping clients to overcome any problem has not changed much over time. Lawyers must focus their efforts on preventive



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counseling, thoughtful drafting, and taking reasonable positions. They must also understand the issues from both a case-specific and broader perspective and then provide the best judgment possible while taking into account the relevant law and facts.

What changes do you see on the horizon that will significantly affect your law practice? The COVID-19 outbreak resulted in more extensive use of technology in the legal profession, which will persist beyond the pandemic. Video platforms will continue to be utilized as a cost-savings tool, conference calls in many settings will be replaced by video-conference calls, and more lawyers will telecommute even absent a shelter-in-place order. Although in-person meetings will not

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disappear by any means, they will not be the default choice where it is not essential to meet in person.

What technology did you or your firm incorporate into your practice during the COVID-19 pandemic that you think will continue to be used post-pandemic? Our firm set up a studio for conducting trials remotely.

The studio is a state-of-the-art room with high quality monitors and cameras set up to deliver appropriate camera angles, display exhibits, and create, as best as possible, an in-person feel from a virtual location. I expect the useful life of this trial studio will extend beyond the end of the pandemic. Our firm also adopted additional cybersecurity measures to help further enhance our already robust information security efforts (which included obtaining ISO-27001 certification before the pandemic).

Additionally, our existing pre-pandemic technology infrastructure was well-suited to manage remote work by hundreds of lawyers and professional staff, and I expect that given how effective it has been, many lawyers will take advantage of technology to work remotely as a matter of routine.

What tips do you have for both junior and senior attorneys to best navigate the changes in their work environment and the practice of law because of the COVID-19 pandemic?

The detachment associated with remote work might compromise what I believe is an important role for senior lawyers to fulfill, which is to help teach, train, and mentor junior lawyers. It is essential for senior lawyers to still provide feedback to junior lawyers even though everyone is working remotely. At the same time, junior lawyers should actively ask for feedback. I would also suggest having virtual team “happy hours” or lunches to maintain camaraderie, and I advise senior lawyers to remain attuned to junior lawyers who may be having trouble adjusting to working at home, particularly if they live alone.

What do you wish attorneys knew about Practical Law? I would hope that lawyers appreciate the “practical” in Practical Law. Each Practical Law

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resource is replete with on-the-ground learning tips on a topic that lawyers will encounter at one time or another in their practice.

What career advice would you give to associates that you wish someone had given to you early in your career? I give the same career advice to everyone. Your goal is to be independent enough to be able to hang out a shingle and thrive, but happy enough to never want to leave your firm. The former means you are knowledgeable in your field of practice, have developed excellent judgment and experience, and are recognized by existing and potential clients for both.

The latter means you found a place to practice law where you enjoy the people you work with every day.

What are some of the biggest challenges you faced throughout your career, and how have you overcome them? My biggest challenge was being a good father to my children while also trying to grow my practice and maintain my responsibilities to my clients and the partners at the law firms where I practiced. I overcame the challenge by having the support of my wife, who, after 41 years, still reminds me how lucky I am to have found her. (She is right.)

What has been the most impactful *pro bono* project that you have worked on recently? I handled a *pro bono* mediation the week before Christmas. The defendant, who was an upstanding citizen with a run of hard luck, was sued

for failure to pay her student loans to the Department of Education. She found me by calling a list of federal district court-approved mediators, starting at the top of the alphabet. All of the mediators whose last names begin with “A” turned her down, and I was the first name in the list of “Bs.”

I was able to successfully mediate the matter. After sharing the story with a client of mine, he offered to pay off the settlement amount. I sent the defendant a letter, along with the settlement papers, telling her that her debt had been paid and wishing her a merry Christmas. She received the letter on Christmas Eve. I still get goosebumps when I recall her crying on the phone and thanking me, to which I had to respond that the thanks should go to my generous client and all of those “A” name mediators who turned her down.

If not an attorney, what would you wish to be? A microbiologist.

What is one of your hobbies outside of work? I am a juggler and balloon-animal maker and have been clowning for children for over 50 years. Since we have had several grandchildren visiting us for long stretches during the pandemic, I have been able to entertain them at home. 🎪