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Lawyers ARE legal pioneers: Practical guide to get reformation

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In 2025, the speakers presented a workshop which received CLE approval, titled "*Destined to change the world - Lawyers, discover your destiny to turn the world upside down by becoming legal pioneers*". Session 1 has argued on the fact that lawyers are, indeed, legal pioneers. The present workshop is a second session which goes deeper: since lawyers are legal pioneers, they should behave as such.

INTRODUCTION

What if law needs to be changed? What if well-established case law needs to be overturned?

Justice is at the heart of the stability of a nation. As lawyers and attorneys, we have the responsibility to improve law and to create new reforms. The preamble of the ABA's Model Rules of Professional Conduct states in its first paragraph:

> "*A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the* ***quality of justice***."

Even more, **paragraph 6 of the ABA's Model Rules** states:

> "*As a public citizen,* ***a lawyer should seek improvement of the law****, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. [...]*."

However, in order to bring reforms, legal professionals have to open new paths, as pioneers did. Legal pioneers take a stand and open the way for a brighter future.

Pioneers had a specific mindset, that they already had when they decided to leave their own region to come to unknown territories. They fostered this mindset while settling and making various improvements in new lands, such as buildings and farming.

They faced many challenges, including harsh weather conditions, disease, conflicts with Indigenous peoples, and economic hardships.

Their courage, determination, and spirit of adventure drove them to clear uncharted lands, overcome immense challenges, and establish communities in the wilds of North America.

They played a core role in shaping the American constitution, where their mindset is reflected. This is why freedom is particularly emphasized.

Therefore, as lawyers, we need to go beyond what we know and search for innovation and solutions if we want to create and change law. We need to adopt the pioneer mindset.

The aim of this workshop is to share with participants ideas that they can put into practice in their work as lawyers, enabling them to become legal pioneers in their field.

This practical guide provides concrete insights: it follows three aspects of pioneers and applies them in legal practice.

Lawyers with a pioneer mindset do not think for themselves but fight as a team (I). They know the Society from the inside and not from the outside (II). They are building up a legacy to transmit to young lawyers, for them to inspire bigger moves (III).

I. LEGAL PIONEERS TAKE RISKS: THEY NEED A TEAM

Pioneers were not fearful. They moved by groups of caravans because it offered protection in numbers.

To achieve major legal changes, a team will be the way to multiply skills, fight for larger causes, and provide efficient work.

By working in a group, attorneys will meet the competency requirements contained in the ABA's Model Rules of Professional Conduct even more effectively.

Rule 1.1: "Competence" of the ABA's Model Rules of Professional Conduct states:

> *"A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."*

Rule 1.3 **"Diligence"** states:

> *"A lawyer shall act with reasonable diligence and promptness in representing a client."*

Paragraph 4 of the preamble also states:

> "*In all professional functions a lawyer should be competent, prompt and diligent*."

Depending on the nature of the cases, some may require the law firm to have a dedicated team within or affiliated with the firm to ensure this competent representation.

A) The multiplication of skills

Lawyers provide better work when they have the will to enhance legal cooperation instead of working alone.

1. The addition of Legal skills

In a Law Firm, the legal skills of each attorney complement each other. Each one has his specific area of expertise, which facilitates cooperation on certain cases.

An attorney used to Business law may have a client with problems in Family law and Employment law. If he forms a team with an attorney in Family law and another in employment law, they will work together for the best interests of their common client.

They will create a strategy that may have an impact on an individual scale. They may also have an impact on a societal scale, if they succeed in bringing their case in front of the Supreme Court of their State, and even before the Supreme Court of the USA.

This synergy will bear fruit regarding the quality of briefs and of legal responses to clients' problems.

Law needs deep knowledge that is impossible to acquire in all fields without a team of several lawyers specialized in specific areas of law.

2. The diversity of social skills and characters

A team of lawyers makes it possible to take more risks because members of the team will encourage and strengthen each other.

They will form a complete team, with all the social skills necessary to respond to clients' needs and give excellent client service. Being a good lawyer needs knowledge of law as well as emotional and practical intelligence.

According to the Ohio State Bar, an attorney needs to have 5 soft skills:

- Active listening and observation
- Communication
- Civility
- Empathy and Humility
- Time management

Each lawyer, according to his character, has specific social skills.

The one who is gentle and thoughtful will be complementary to the one who is dynamic and enterprising.

The advantage of the team is that it brings together a group with a full range of soft skills.

3. The two types of lawyers: the long-term vision and the vision of details

Lawyers working in a team share ideas and find solutions quicker. They have different perspectives, which make their work qualitative.

On one hand, lawyers with long-term vision have the ability to build strategies for a specific case. They see ahead: they understand the impact that a specific case can have on the whole nation and see the opportunity to change case law. They have a global vision of law.

On the other hand, lawyers with the vision of details work with rigor and write briefs that are hand-sewn. They have a good understanding of procedures and build procedural strategies meticulously. They have good time management and a practical sense essential to a law firm.

B) A team can fight larger causes

Lawyers with a pioneer mindset have the courage to take risks together, to find solutions to complex and serious problems.

One one hand, a team can handle larger causes, because it has resources and cohesion. A team can work on cases for victims of criminal groups, and cope with the danger associated with it more easily.

Emotionally, it is easier to work on serious incidents in Criminal law to work in a group than alone.

A team can also handle complex cases, involving problems that need several lawyers given the extent of victims in numbers or the technical complexity of the facts.

Class action is a legal remedy that may include a lot of victims. In France, there is no legal provision which allows class action lawsuit.

However, this action is very used in the United States of America and need a team to be efficiently conducted.

A famous class action was led by Erin Brockovich and the Law firm where she worked. This emphasizes that ordinary people can change the world.

As a Southern California law clerk, Erin Brockovich led a successful lawsuit against a major company on behalf of hundreds of people who had unknowingly been exposed to toxic waste.

The Pacific Gas and Electric Company (PG&E) had been contaminating the groundwater supply in the small town of Hinkley for over three decades. The investigation exposed the company for leaking toxic Chromium 6 into the groundwater, which significantly affected the health of Hinkley's residents.

In 1996, as a result of the huge direct-action lawsuit led by Erin and the attorney Ed Masry, the company was compelled to pay $333 million in damages to more than 600 residents.

On the other hand, a lawyer alone cannot work as much as a team of lawyers. Time is a precious resource that is not stretchy.

While the responsibility attached to the profession of attorney is significant, a team of lawyers may avoid missed deadlines and diminished quality of service while working together.

By working in a team, lawyers learn to prioritize, delegate and streamline their work to make the most of their time.

C) A team is efficient

Pioneers settled in unknown territories, where they had to exercise their skills for the survival of the group and the success of their projects.

Concerning a law firm, a team of lawyers will be efficient when each one is at his place, and when there is unity in the group.

Each lawyer may have a specific role, according to his training, his social skills, and his experience.

A lawyer working in a group, like a pioneer, must have the courage to take his place and make the Law Firm fructify. He may propose ideas, challenge others, and bring his perspective.

In addition, a law firm with lawyers whose areas of expertise are diverse will not have to outsource and will be totally independent.

Cooperation can also be established more easily between a team of lawyers and other legal professionals, such as bailiffs, teachers, and experts. Those partnerships will be the occasion to form a team even bigger, where all the principles described above are also applicable.

II. PIONEERS ARE REAL, NOT SUPERHEROES: THEY REMAIN CONCRETE AND HUMBLE

Pioneers were able to adapt themselves and to learn new ways of doing things. They knew nothing about the land where they wanted to settle. Therefore, they had to stay humble and to be concrete. They were self-reflecting to survive and to be efficient because of the difficulties they were facing.

To be more accurate, a lawyer must have a deep knowledge of the legal and political field (A), but also of society (B). He must be approachable by his clients (C) and open to self-reflection and learning (D).

A) Knowledge of the legal and political field

A good understanding of the functioning of the Courts from the inside is useful for an lawyer. A previous internship or professional experience in Court will help to know the strengths and weaknesses of the judicial system.

Mutual understanding between judges and lawyers may improve how justice is administered and avoid useless confrontations.

The knowledge of the expectations of judges concerning pleadings and briefs is also a key for attorneys and lawyers who can adapt and take them into account.

B) Knowledge of the society

While working on cases for people, a legal pioneer must have a concrete understanding of their situations.

He must be connected to reality to plead and write in an accurate way.

More generally, meeting people in their context and understanding societal challenges help a lawyer reform the law and strengthen legal education, in accordance with paragraph 6 of the ABA's Model Rules, which states in particular:

> "[...] *As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because*

> *legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority*. [...]."

For instance, French attorney Jean-Marie Leloup influenced through his practice the protective rules currently in effect for commercial agents. Those rules are written in the articles L.134-1 to L.134-17 of the French Commercial Code.

He had a hands-on experience that made him a pioneer in his field.

To inspire logic case law and laws, having hands-on experience such as agriculture is relevant. Each plant must be planted at a certain period and must be taken care of in a proper way. The logic of farmers is inspiring for legal pioneers.

C) Availability and accessibility

Being able to speak to clients in a language that they understand helps them relate to an attorney.

By explaining complex legal issues in a simple way, the trust of the client can be earned.

Legal design is a useful tool that is used in France to explain legal terms through visual aids that are clear and educational.

D) Self-reflection and learning

Case Law and Statute law changes very quickly. This is the reason why lawyers must continue their education. When they are ready to change their mind and learn like pioneers, they stay humble and efficient.

III. PIONEERS ARE DREAMERS: THEY FORESEE WHAT IS STILL HIDDEN

The way pioneers behaved in their present time has influenced the future of their children and grandchildren.

They were focused on building houses and towns for the future. They were building up a legacy for their heirs.

In order for a real reform to take place, we must have an intergenerational perspective (A). In practical terms, that amounts to educating the young generation with the same heart (B). This way, they will accomplish even more.

A) Intergenerational perspective at the service of legal reformation

Lawyers will have victories in their personal lifetime. Some will be tangible; others will not be seen but what they accomplish now is a seed planted for the next generation and the generation after this one.

Some major changes do not occur in a moment. Preparation can take time. Sometimes, lawyers can win a small case. One small case after another can create case law and even become statute law. This is also true in civil law countries.

This is probably more natural for lawyers practicing in common law countries. That said, even in France, a civil law country, lawyers can be the creators of rules built up in a praetorian manner, thanks to reversals of case law.

One example is the recognition of the possibility of transferring a liberal clientele. Until the 2000s, case law traditionally invalidated transfers of liberal clientele. It considered that this clientele was inherent to the person of the professional and was based on trust. Its transfer would have been contrary to professional ethics, and in particular to the free choice of the client or patient. As a result, the magistrates had developed a rule -

apparently absolute - of the illegality of the object of any agreement transferring a clientele. As time went by, however, the legal doctrine began to speak out against this ruling.

Despite this perfectly established and seemingly unchanging case law, Attorney Ardoine Clauzel wanted to see this praetorian rule changed, given its iniquitous nature. She defended this cause to ensure that the ability to transfer a clientele is recognized. Lawyers or doctors for example have a certain way of working, specific values and methods, and a chosen clientele. Passing on a clientele - in the context of succession or retirement, for example - should be permitted.

Finally, Attorney Ardoine Clauzel won a case judging the contrary from the Meaux civil court *(TGI Meaux, 24 juin 1999, 1ère ch., Mme de Moraes c. Epoux Denecheau et a.)*
François Vialla, professor at the University of Montpellier, commented on this decision (*Ebauche de reconnaissance du Fonds libéral, Revue Médecine et Droit 2000 ; 41 ; 25-30*) :

> *"In this context, we consider a recent decision by the TGI de Meaux to be worthy of particular attention, since it breaks in a frank, even provocative manner, with the accepted praetorian position of, as we have said, prohibition in principle and implicit indulgence of agreements on clientele."*

Mr Vialla describes the case as "*banal*". The case itself was indeed banal, opposing the assignors of a podiatrist's clientele and their assignee over the validity of the initial agreement. Furthermore, the decision was taken by a simple provincial court. One might therefore have thought that it had no particular significance.

That said, the author, at the time, rightly and foresightedly stated:

- *"This court rendered a most innovative decision by referring to the notion of liberal assets (fonds libéral)".*
- *"It is to be hoped that, with the recognition of the fonds libéral, judges will seize the opportunity to put an end once and for all to the question of clientele".*

- *"This recognition of the concept of fonds libéral, if confirmed by other decisions, opens up new perspectives in this area."*

This is exactly what happened. In a decision handed down on November 7, 2000, the First Civil Chamber of the French Supreme Court (*Cour de cassation*) ruled that transfers of civil clientele were lawful[1].

This shows the extent to which, in any given case, lawyers can fight for what is right and have an impact that goes far beyond their clients' own interests and thus contribute to justice in a more general sense.

Another example that shows that **small steps of today will guarantee the reform of tomorrow** is the reversal of Roe v. Wade precedent.

On the 24th of June 2022, The United States Supreme Court announced one of the most significant rulings (Dobbs v. Jackson Women's Health Organization), officially voting to overturn the 1973 Roe v. Wade decision. The Supreme Court reversed nearly 50 years of precedent in one day. It did not all happen in one day. This victory required several years of fight!

A mountain fell, a Goliath died because lawyers fought for human dignity for everyone - from the womb to the tomb.

The Dobbs ruling did not end abortion in America - it simply sends the decision back to the states and, therefore, the people - but it was a great victory.

B) Passing on the younger generation

We need to educate the young ones the same way and give them this practical guide as well.

The ABA's Model Rules are clear on the education requirement. Paragraph 6 states this point as a requirement:

> "[...] *As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education.* [...]."

Then Bible is clear on this need to pass our knowledge to the next generation. Judges 3, verses 1 and 2 explains:
"1 These are the nations the Lord left to test all those Israelites who had not experienced any of the wars in Canaan ***2 he did this only to teach warfare to the descendants of the Israelites who had not had previous battle experience****"*

Lawyers must therefore transmit their heritage to the young generation, and this new generation will have to do so as well.

1. Internships in all judicial structures

In France, once admitted to the bar school, each bar student must spend 6 months at school (learning more practical law), 6 months as an intern in any firm/organization but law firm and 6 months in a law firm. These months spent in an organization are essential to give them this pioneer mindset. It will give them a down-to-earth approach. It will also give them a better understanding of how judges decide their cases (if they get internship in a court) and it will help them not fear judges but behave as servants of justice. It may finally allow them to expand their network.

As lawyers, we should welcome students in our law firms and train them. Our vision must be to help them grow and even become better than us. Lawyers should never fear to be supersede by the new generation but let them be able to do so!

Experienced lawyers should invest in young ones, lead them by example and secure them by working hand-in-hand with them. This attitude will allow the creation of a generation of legal pioneers that are not afraid to take risks and that are confident.

2. Teaching: the virtuous circle

A final point is very basic: lawyers should **teach**. At university or at school. At home. At Church with young ones who have this heart for Justice.

Teaching is not merely taking law classes. We should train lawyers to know how to resist, analyze, remain themselves and independent, innovate, etc. Being a legal pioneer is not just having a lot of legal knowledge. It is having the reform vision and the heart of a humble team player at the service of Justice.

The new generation will therefore continue the good work of legal pioneers and go further. If we implement the pioneer mindset to young ones, they will later give this education to young ones in order for them to keep up the good work!

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