

Law School's Missed Lessons: Practicing Client-Led Litigation

By **Chelsea Ireland** (December 3, 2025)

While law school teaches everything from civil procedure to stare decisis, there are some aspects of practicing law that aren't covered during the three years that lead up to the bar exam. In this Expert Analysis series, attorneys offer advice on navigating real-world aspects of legal practice that are often overlooked in law school. If there is a professional skill you would like to write about, email expertanalysis@law360.com.

Take a spin through your average law firm website and you'll find repeated reminders that litigation is a contact sport: "Powerhouse" firms advertise "aggressive" attorneys employing "bareknuckle" strategies in a "relentless" pursuit of their clients' interests.

Attorneys are paid to win, and that's why we go to law school: to learn how to win. Classes like evidence, procedure, and constitutional law, and practical skills like oral advocacy and persuasive writing, each offer another tool you can use to achieve victory.

But what does winning look like outside the classroom? The answer is not always straightforward.



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In law school, cases have clear parties with obvious interests, but real clients are complex organizations with multiple stakeholders, competing priorities and evolving business contexts. Regardless of what litigators advertise, rarely does a corporate client want to win at all costs.

Instead, defining a win for a given corporate matter requires balancing multiple factors — only one of which is the legal outcome. Each of these factors depends on the client, but understanding the balance requires the litigator to have a practical and working understanding of their client's business and business objectives.

Law school doesn't necessarily prepare us for this messy reality, and navigating the complexities requires a fundamental shift from lawyer-led to client-led thinking.

Litigation Is a Lawyer's Business — Not the Client's

One of the most important things new lawyers learn after graduation is that only lawyers love to litigate. Corporate clients do not want to be there.

Legal disputes are an attorney's bread and butter, but the client is trying to run a company, serve their customers and generate value. Litigation is a distraction from these goals, and every hour that your client spends on the litigation is an hour not spent on the business objectives they care about: revenue generation, product development or strategic growth.

This is a fundamental disconnect that shapes everything about how clients view litigation.

Assume you have a client entertaining several buyers for a potential sale of its business,

while at the same time, mired in a lawsuit with its insurance company.

The lawsuit, regardless of its merits, can very quickly become a tax on the organization's most valuable resource: leadership's attention. Board meetings now involve litigation updates, senior executives spend time preparing for depositions rather than buyer negotiations, and the general counsel's office splits its time between responding to diligence requests and discovery requests.

Lawyers should view the litigation as a priority worthy of significant organizational focus. But for business leaders, a lawsuit is simply an impediment to the execution of their business strategy.

Often, clients do not need a total legal victory — they're looking for the fastest, least disruptive resolution that allows for business continuity. To meet the client's needs, we need to view the lawsuit through the business lens and see the dispute as a business problem requiring a business-focused solution. Shifting our perspective allows us to develop strategies that serve our clients' actual needs rather than our own conception of zealous advocacy.

Understanding Clients' Business Objectives: Long Term and Short Term

When we look at legal problems from the business side, the question becomes not "how do we win this case?" but "how do we resolve this business problem most effectively?" Answering that question mandates that litigators develop a working knowledge of their client's business and an understanding of the business's strategic objectives. Unfortunately, the business side is not always a lawyer's strong suit.

In a January survey conducted by the Association of Corporate Counsel, 772 chief legal officers — including CLOs across 20 industries and 48 countries — were asked about the areas where they believed their own CEOs wanted to see them develop. In response, 34% of CLOs said business acumen and another 34% said industry knowledge.^[1] When asked what skills CLOs wanted lawyers in their own departments to develop, 59% said business acumen and 39% said industry-specific knowledge.

These are numbers that outside counsel should be paying attention to, especially considering that 38% of CLOs reported that the complexity of litigations has increased over the past year, and 43% of CLOs, up from 26% in 2024, reported that they expect to increase the amount of work sent to outside counsel.

Given the increases — or perceived increases — in litigation complexity, it is crucial that we, as litigators, take the time to understand our client's business landscape, including the following critical areas that have the potential to conflict with traditional litigation approaches.

Confidentiality

For businesses that maintain their competitive advantage through proprietary information — trade secrets, customer lists, pricing strategies, strategic plans and operational processes — discovery can be a nightmare.

Protective orders are not foolproof, and the mere possibility of accidental disclosure or future challenges to confidentiality make litigation more risky — and potentially more costly — to the business than the underlying dispute. Once a disclosure happens, neither a

clawback nor discovery sanctions will unring that bell.

There are plenty of circumstances where your client may prefer to give up some strategic advantage, or avoid litigation altogether, rather than risk the potential disclosure of sensitive information.

Regulatory and Compliance Implications

For corporate clients in heavily regulated industries — such as financial services, energy, healthcare or telecommunications — litigation has the potential to trigger significant regulatory consequences or complications.

Again, discovery presents a problem: Documents reveal corporate practices, depositions create admissions and the litigation itself may be sufficient to draw unwanted regulatory scrutiny. For the unwary, aggressive litigation tactics can quickly turn a simple commercial dispute into a compliance disaster with ripple effects that extend far beyond the immediate lawsuit.

Business Relationships

Litigation does not occur in a vacuum, and in many cases, the opposing party may be a current or future customer, industry partner, or business associate. While scorched-earth litigation tactics can maximize legal leverage, they can also permanently damage relationships or opportunities that are far more valuable than the amount in dispute.

Understanding these relationships is key to developing a successful litigation strategy that accounts for all the client's interests, not just the ones at issue in the present lawsuit.

Public Relations

For many clients, reputation is everything, and the narratives that emerge in litigation can have far-reaching consequences for customer confidence, investor relations and employee morale. A company embroiled in lengthy litigation, meritorious or otherwise, can appear unstable. The positions we take in briefs — though legally sound — can end up plastered across social media as evidence that the client is uncaring or socially irresponsible.

Litigation has the potential to create monumental problems for your client in each of the above areas, and it is the litigator's job to balance and rebalance these factors against the value of a legal win. The only way to find the right balance is to develop a concrete understanding of the client's business in context.

Practical Implementation: Client-Led Winning

We all know what a legal win looks like: a good ruling, a favorable verdict. But how do we craft a legal strategy that accounts for the client's business objectives, as well as its legal objectives? The answer requires three key steps.

1. Identifying the Potential Impact of Litigation on True Business Interests

At the early stages, client representatives often talk about a dispute in terms of principles or vindication, but these litigation goals can differ significantly from actual business interests like operational continuity and cost control. To understand the impact that litigation might have on a client, and to avoid potential landmines, we need to ask:

- Are there business objectives that could be affected by litigation timing, publicity or outcomes?
- Does the dispute relate to any proprietary information or trade secrets that could become the subject of discovery?
- Does the dispute involve sensitive business relationships that need to be preserved?
- Does the subject of the dispute touch on any regulatory concerns?
- Does the business have reputational concerns regarding the dispute?
- Are there timelines or business cycles — like product launches, regulatory deadlines and financing windows — that could be affected by the litigation?
- Beyond legal fees, what is the cost of the litigation? Will the dispute affect investor confidence, stock prices, valuations or competitive stance?

2. Crafting a Litigation Strategy that Keeps the Business Front and Center

Once we understand the client's business objectives, every major litigation decision can be evaluated through both legal and business lenses. Litigators need to consider the impact an action will have on both sides: (1) How will this advance our legal position; and (2) how will this affect the client's business objectives? This is true for every stage of the litigation.

Initial Case Assessment

Early case assessment needs to extend beyond the legal merits and should include an analysis of potential business impacts.

Developing Legal Theories

Evaluate the trade-offs between alternative legal theories and whether any particular theory is more or less likely to result in discovery of sensitive information.

Discovery Strategy

Align the scope of discovery with business objectives: Is the client better off if we serve broad, sweeping discovery to expose every weakness, or targeted discovery that could provide the leverage needed for a quick settlement?

Litigation Tactics

Modulate tactics depending on business interests. If the client's business will benefit from establishing precedent or demonstrating resolve, aggressive tactics may be appropriate to apply maximum pressure.

If the business is best served by quick resolution, confidentiality or preserving relationships, litigation tactics should be used as a tool to achieve a favorable settlement, rather than a total victory.

Parallel Settlement Tracks

While maintaining litigation pressure, discuss opportunities for settlement negotiations and develop an evidence-based settlement value for the case.

3. Defining and Redefining Success to Account for Changing Circumstances

Our clients' business circumstances are not static — they evolve. The right strategy at filing may no longer serve the client's interests six months later. For continued success, a business-focused litigation approach requires both of the following.

Two-Way Communication With Actual Decision-Makers

To ensure that their strategy accounts for the client's current business objectives, litigators need regular two-way communication with actual decision-makers, which may include persons beyond the designated legal contact.

These communications should address how the litigation is affecting the business, and whether changing external forces — business opportunities, market conditions, regulatory developments or financial pressures — could affect litigation strategy.

Strategic Flexibility

In litigation, clients look to us to implement a litigation strategy that best caters to current business objectives. Being able to course-correct early could have a huge impact down the line, and we should be on the lookout for opportunities to build flexibility into the litigation plan. This can include developing alternative legal theories, leaving the door open for settlement discussions, and identifying the decision points where strategy can be reassessed and realigned with business interests.

Conclusion

The transition from law school to practice requires many adjustments, but one of the most fundamental is the shift from lawyer-led to client-led thinking. When we start thinking about litigation as a tool for achieving business objectives, we have the opportunity to build stronger client relationships by achieving better business outcomes.

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[1] See 2025 ACC Chief Legal Officers Survey: <https://www.acc.com/resource-library/2025-acc-chief-legal-officers-survey>.