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From Client to Lawyer: My Changing Perspectives of the Justice System

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I never intended to be a lawyer. Growing up, I was always the quiet student, someone who preferred not to be noticed. I was never argumentative. I had a mental image of what lawyers were like: articulate, opinionated, and supremely intelligent. I was convinced I was none of those things. But my life took a surprising turn. My husband and I got involved in a civil lawsuit in 2004. Here I am, twenty years later, a lawyer working to improve access to justice through public legal education.

Around 2002, my husband and I decided to do a home renovation. It did not go well. We got into a dispute with the contractor, which turned into a ten-year lawsuit. The dispute culminated in a trial that spanned over a year, on and off. Going through litigation is one of the worst experiences imaginable. Even so, it was also an amazing learning experience. One of the interesting things I learned was that many of my previous assumptions about the justice system were completely wrong. In this essay, I will share some of these mistaken beliefs.

Firstly, the notion that justice prevails is not accurate. Before law school, I had a great deal of faith in the legal system. I truly believed that justice would always prevail. Indeed, when I entered law school, I was completely eager to immerse myself in learning about the legal system. I had such huge respect for it. I was so taken in by the beautiful court rooms at the Court of Appeal, the robes that the judges and lawyers wore. I was so impressed by the common law legal system, the idea of precedents, and the rule of law. It all sounded so completely noble and just. I had complete confidence in the system! Surely, if you have been wronged, our justice system will make it right!

However, during first year of law school, I was dismayed to learn that the civil justice side of the legal system's main purpose is to resolve conflicts. It is not purely about justice. It is also about finality. So that means people cannot repeatedly sue or go to court for the same dispute. Another mistaken assumption I had was about appeals. Appeals are not "do overs". Rather, they are for reviewing the lower court judge's "errors", not for appeal court to re-hear all the witnesses again.

I was also surprised to learn that not everyone gets their day in court. Litigants could have their cases dismissed for various procedural reasons. One example is deadlines. If you miss your limitation period, you cannot sue on your claim. Another example is jurisdiction. Different courts have power to hear different things. Therefore, if you accidentally filed your case in the wrong court, when the trial finally comes, the judge will refuse to hear your case altogether, because they have no authority.

Yet another reason where someone cannot get justice is that you cannot sue for anything you want. There are what is called "causes of action". That translates to the types of cases that a court can hear. For example, courts will hear your claim where someone wrote something nasty about you in a publication (libel), but courts will not care when someone insulted you privately. Courts care about damaged reputation, but not nasty private communications.

I was disappointed that the adversarial trial process was not as successful in revealing the truth as I had imagined. However, I have come to realize that there are limits to this. Witness memory fades, and when trials often take years after the incident, this is an issue. People's memory is also prone to bias. We remember things the way we want to remember them. Also, where there are experts, there is the added danger that biased or unsupported expert testimony can sway a vulnerable lay jury or judge. My Master's thesis on a case of wrongful conviction showed me the limits of our fact finding process.

Another huge assumption I had was that the legal system was based on mostly common sense. Therefore, clearly, anyone ought to be able to go to court and argue their case. While this is true to some extent, I discovered that the way the system worked is very counter-intuitive. For example, rules of procedure are convoluted and complicated. One must know what the rules are when one goes to trial. If you don't know and understand the rules, you are vulnerable to the opposing party using evidence in such a way that is unfair to you. Also, you would not be able to respond to opposing counsel objections. There is also legal reasoning, which is also complicated. Reading judge's decisions is a skill that is taught to law students right from day one. The skills required to understand and apply the law are beyond most people. This makes the legal system inaccessible without a lawyer's help. Even an affidavit, where a party "tells their story" is not as simple as it sounds!

Another mistaken belief I had was that law school would teach me everything for litigation. As it turns out, much of a lawyer's competence must be gradually learned by practice, usually by mistakes. There is a lot of "people" skill involved, such as the ability to work with a client, deal with opposing counsel, examining witnesses and presenting arguments persuasively. All these one learns on the job. And of course, client situations are usually very complex, nothing like the simple "fact patterns" you get in law school exams! I had no clue of this at all when I was in law school.

Fortunately, one positive surprise was that there is no “conspiracy theory”, so to speak. People often suspect that lawyers gang up with each other against the world, in purposefully drafting legislation and rules that are incomprehensible to the general public. After having been “inside the profession”, I do not believe this to be true. Lawyers, like myself, have to work very hard to understand the rules. The law school does not give lawyers a secret “key” or code in order for lawyers to enjoy their monopoly. The system may be slow, inefficient and costly, but this is not because the lawyers planned it that way. Along the same vein, I have gotten to know many sincere, hard-working and compassionate lawyers. I have known lawyers who are completely dedicated to their client’s cause. To me, they are some of the kindest people I know.

The outcome of all this? I am run a public legal education channel, Litigation Help, where I collaborate with mediators, law students and lawyers to educate the public. The goal of this is inform people about court procedures, as well as alternative dispute options, like mediation. At the time of this writing, there are over 200 videos on the legal process. Looking back, I am glad for all the experience, because I can now share it with others. It is my contribution to improving access to justice.

LINKS

Channel: [youtube.com/litigationhelp](https://www.youtube.com/litigationhelp)

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