The Top Fifteen Reasons Why You Should Not Be a Litigator: Most Attorneys Should Not Be Litigators

By Harrison Barnes from Los Angeles Office Managing Director

Litigation is probably one of the toughest practice areas within the legal sector. It is also one of the most thankless practice areas. Litigators are demoralized by many facets of the legal sector. Litigation is also one of the most difficult practice areas to get a good lateral legal job in.

Summary: Find out why it is so hard to be a good litigator and why there are so many unsuccessful litigators in this article.

Litigation is the riskiest, most demanding, and most thankless practice area there is. Litigation is also the practice area in which it is most difficult to get good lateral jobs. It is very hard to distinguish yourself because there are so many litigators out there. Moreover, while there are countless litigators practicing, few are any good and most get their hats handed to them more often than not.

Litigators are demoralized by courts, employers, opposing counsel, and clients. They are stressed out by deadlines and have personality traits that compel them to be conniving and to be in constant "fight" mode. Litigation is by and large unglamorous work spent outside the courtroom. Heck, many litigators do not even go to trial because most cases settle. Litigators spend the majority of working hours doing piles of mundane discovery and other busywork. For many litigators, the daily grind involves working mindlessly on matters about as interesting as watching dew form on sand overnight in the middle of the desert.

There are lots of litigation jobs out there, but few good ones. Most litigation jobs involve working in small offices and doing things like representing families suing nursing homes over bedsores. These thankless jobs may pay by the hour or they may pay low salaries. Many litigation jobs pay less than an attorney would make working as a manager for a restaurant. There are tons of bad litigation jobs out there and this is where most of the jobs are. Most of the attorneys doing these jobs do not enjoy them. Many litigators are not happy, healthy, or successful by any means.

For the most part, large law firms have no problem finding litigators, and, because there are so many litigators out there, large law firm litigators are expendable and thus experience job insecurity. Even the good ones never reach their full potential because they do not have the right mix of skills. Unlike many practice areas, it is never enough just to be a bookish nerd. The mix of skills required to be successful at litigation is astonishing. Just a few examples:

- **You need to be a good writer.** Most litigation is won or lost on the strength of motions. Some litigators may be good writers, but horrible at arguing in court.

- **You need to be able to argue well in court and be verbally persuasive on your feet.** Some litigators may be excellent in court, but have no ability to write well.

- **You need to be able to get clients.** Some litigators may be good at both writing and oral advocacy, but unable to get clients.

- **You need to be an outstanding negotiator.** Some litigators may be tough negotiators and able to intimidate the other side, but unable to write or argue before a judge. Others may be good at writing, oral argument,
and negotiation, yet still unable to get clients.

- **You need to be able to get clients to pay bills.** Some litigators can get clients, but can never get them to pay their bills because they are losing all the time or are easily intimidated by clients.

Most litigators eke out unsatisfying careers and never amount to much. The job is not pleasant. There is a lot more potential in careers like selling automobiles, running a coffee shop, being a massage therapist, or hairdresser, for example.

**See the following articles for more information:**

- Why You Should Quit Practicing Law
- Why You Should (and Should Not) Quit the Practice of Law

On the other hand, transactional attorneys with good qualifications can be placed by a legal recruiter and find a receptive job market. If they are talented, even transactional attorneys without business and with a decade or more of experience are often marketable to major law firms--somewhere. Not so with litigators.

Law firms are far less interested in litigators than in attorneys in other practice areas. Certain markets like Washington, DC are simply swamped with people wanting to be litigators. In saturated markets like that, even attorneys with Ivy League qualifications, prestigious clerkships, and major law firm pedigrees have a difficult time. I have seen countless litigators with world class qualifications in major cities not get a single interview with a major law firm after months of trying. You rarely see this lack of success for transactional attorneys.

While there are many good-to-excellent litigators, there are few who experience financial success in the practice of law. Sure, you hear stories about attorneys who practice personal injury law or do class actions and make hundreds of millions of dollars--they exist, and this is real. There are also attorneys in major law firms doing certain forms of litigation such as intellectual property litigation and financial services-related litigation who can do very well financially. Nevertheless, this sort of work ebbs and flows and is risky. Most litigators never make very much money. Many realize this later in their careers and do things like start ice cream parlors, sell life insurance, or start home repair companies. It takes that sort of career move for them to find success.

**See the following articles for more information:**

- 60 Nontraditional Jobs You Can Do with a Law Degree (and Should Strongly Consider Doing)
- Practicing Law Not the Only Option for Attorneys
- LawCrossing's Guide to Alternative Careers

For people who are suited to litigation, it is among the most exciting practice areas there is--and the only pure "natural fit" among the various practice areas out there. However, when all things are said and done, there are many reasons that litigation is not the best career choice for most attorneys and most attorneys should simply not be doing it.

**Litigation Is the Largest Practice Area, and It Is More Difficult to Get Jobs and Clients--and to Distinguish Yourself As a Litigator Than as an Attorney Working in Any Other Practice Area.**

If an attorney chooses to become a litigator, the attorney is wading into the largest pool of attorneys out there. There are more litigators than there are any other kinds of lawyers. This is due in part to the traditional law school curriculum, which emphasizes "litigation" skills--such as the case method, reading, writing, and mock
trial. To many, litigation appears to be a natural progression from law school.

Everyone is a litigator.

There are litigators coming out of the walls. If you were to go and stand in almost any random crowd of people, in virtually any neighborhood or area of the country, and take a bullhorn and announce, "I need a litigator!" the chances are that several hands would rise and attorneys would come running to you with their business cards.

That is a problem for you when it comes to being able to land good jobs and distinguish yourself in the field of large law firm litigation. There are tons of people willing to do the work and they are all competing with you. Because there are so many litigators, law firms can basically pick and choose whom they want all day long. Going to a law school like Harvard, Chicago, and so forth is no guarantee of a good litigation job in a city like New York, the Bay Area, or Washington, DC. Law firms can afford to be very discriminating in the attorneys they hire--and so can clients.

Because there are so many litigators in the marketplace, clients can choose anyone they want to handle their matters. Clients will choose the attorneys who have the best qualifications and seem the toughest, hungriest, most competitive, and most likely to get good results. They will choose the attorneys who have the best degrees and who talk about ripping the hearts out of their opponents. They will choose the attorneys who did federal clerkships, went to top law schools, and have charisma. Law firms are the same way.

Let me put it this way. If you were going on a dating show, would you want to compete against rich, magazine-quality models, or just a group of average people?

When major law firms hire transactional attorneys, they are concerned about their grades and qualifications, but not overly concerned. The emphasis is more on the sort of work the attorney has done rather than on the attorney's law school grades. Unless the attorney has very well defined litigation experience in a niche area (for example, in ERISA litigation or insurance coverage litigation), the attorney is going to be evaluated on his or her "smarts" more than anything else.

To be competitive, lateral litigation attorneys looking for new positions (as associates) at large law firms must have top credentials--order of the coif, law review, and so forth from top law schools. If an attorney attended a law school ranked below the top 15, he or she should have been ranked in the top 5 students in his or her class. Litigation is very competitive.

At its highest levels, litigators who win also tend to be the most intelligent. In commercial litigation, for example, litigators need to evaluate cases with complicated facts and laws and develop insights the other side fails to see. They also must be able to communicate complex ideas in simple, easy-to-understand ways that are persuasive to triers of fact. Thus, the best law firms tend to emphasize the intelligence of litigators more than they do the intelligence of attorneys who practice in other practice areas.

- See Choosing Between Corporate and Litigation Practice Areas: Which Is the Better Choice for Your Legal Career? for more information.

Litigators Have More Opportunities to Make Mistakes Than Do Attorneys in Most Other Practice Areas.

Litigators constantly have deadlines. While attorneys in other practice areas may have deadlines, litigators have deadlines all the time. It is not uncommon for a litigator to have several deadlines each day. Many litigators "burn the midnight oil" on a regular basis just doing what it takes to meet these deadlines. The attorney may need to scamper across town, across the state, or even across the country to attend all sorts of hearings on various motions and to ensure everything gets done on time (and in a high quality manner).
All these deadlines create many opportunities for mistakes. Deadlines in litigation can have huge consequences and a missed deadline can cost an attorney both the case and his or her career. I have seen many litigators get fired for missing deadlines--this is very common. Most litigators feel a constant sense of anxiety about deadlines and many have recurrent nightmares about missing deadlines. The stress of these deadlines can wear an attorney down and make him or her feel old, paranoid, defensive, and on constant pins and needles. The attitude of large firm litigation attorneys especially--where the stakes are highest--becomes similar to that of a high strung lap dog. They will start barking and going crazy at the slightest provocation. They become this way because they are in a world where they are running around like maniacs with one deadline after another hanging over their heads.

See the following articles for more information:
- 10 Biggest Career Mistakes Big Law Firm Attorneys Make (and 10 Ways to Survive in a Big Firm)
- Top 5 Tips for Attorneys Who Make Mistakes

Litigators Have More Bosses and People Waiting for Them to Screw Up.

In a normal job, you have just one boss. Not so in litigation. Litigators have to answer to a host of others--and many are hostile and waiting for them to screw up. This includes the litigator's law firm superiors, law firm managers, co-counsel, clients, opposing counsel, and judges. When an attorney is handling multiple cases, this means that all of this is multiplied by a factor of how many cases the attorney has. Say a litigator has 25 cases and is working for 25 different attorneys in the firm. It then looks like this.

Hostile Opponents and People Waiting for Attorney to Screw Up with 25 Cases

<table>
<thead>
<tr>
<th>Role</th>
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<tbody>
<tr>
<td>Judges</td>
<td>25+ (depending on how many judges involved in each case)</td>
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<tr>
<td>Co-Counsel/Supervisors</td>
<td>25 to 200</td>
</tr>
<tr>
<td>Clients &amp; Representatives</td>
<td>25 to 300+</td>
</tr>
<tr>
<td>Opposing Counsel</td>
<td>25 to 250+</td>
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No matter how you stack it, an attorney with 25 cases will have at least 100 to 200 people looking over everything the attorney does in anticipation of the attorney screwing up. An email, phone call, text, or anything could be news that the attorney has screwed up--or someone is out to get the attorney. Everywhere the litigator turns, there are people out to get the litigator. This understandably sends the stress levels of many litigation attorneys through the roof.

It is absolutely no surprise that so many litigators get divorced, have drug and alcohol problems, are unpleasant, are unhappy, and die premature deaths. If you had 100+ people on your ass every waking minute of the day, you would be stressed out as well.

See the following articles for more information:
- Another Big Law Attorney I Know Just Died Young
- 25 Reasons Most Attorneys Hate the Practice of Law and Go Crazy (and What to Do About it)
- Ways to Effectively Manage Stress
- Litigators Must Be Very Good at Researching and Writing.

In most practice areas, your ability to manage small details is something that is highly valued. When it comes to being a good litigator, however, the best writers and researchers have a leg up on other attorneys. Writing is central to being a litigator because you need to write for the court and distill complex ideas into easy-to-understand motions.

Most large law firms have a stable of very talented writers and researchers who enable these large firms to
prevail over the average plaintiff's attorneys who come after their clients. With the ability to research small points, find exceptions, and tear apart less-reasoned arguments, large law firms and their writers and researchers can accomplish the ends of their deep-pocketed clients quite easily.

Unless you are a very good writer and like to do research, you will never do particularly well as a litigator. Litigators who are not good writers will often do things like practice personal injury law where there is not a lot to write about because the injury is so obvious. These sorts of practice areas are not the most lucrative. To truly operate in the big leagues as a litigator, you need to love research and writing. You need to be very good at it and you need to enjoy twisting the arguments of others to your advantage. You should relish seeing your words on paper and aspire to make your briefs perfect in all respects. You should get excited about writing in an eloquent and persuasive way that builds up your client and tears down the other side. You need to love the written word.

- See Litigation, Legal Practice Area for more information.

**Being a Litigator Is Not Conducive to Having a Large Book of Business and Thus Litigators Lack Employment Stability and Often Fail to Make a Lot of Money.**

For the most part, litigators have difficulty building large books of business in law firms. The reason for this is relatively simple: Unlike transactional-related attorneys, litigators tend to represent clients only during litigation, and they lose some of the time. After each loss, the client might decide not to use them again. Also, litigators do not have the luxury of getting "spin-off" work from these same clients. You rarely see major law firms requesting recruiters find them litigators with business. For the most part, law firms have no interest in litigators with business because the law firms understand that sooner or later any business brought in by a litigator is likely to wane. Instead, law firms want transactional attorneys because the work tends to be steadier and transactional attorneys can generate "spin-off" work.

In contrast, attorneys in transactional practice areas such as real estate and corporate, for example, are continuously representing clients on one matter or another. A real estate attorney may be doing leases continuously and a patent attorney may be prosecuting patents continuously. Most transactional work is not contentious, so it is much less likely that a transactional attorney will lose a client because he or she lost a big case. Also, because transactional attorneys are working in a cooperative and long-term relationship with their clients--as opposed to litigators, who are brought in for specific cases--transactional attorneys are more apt than litigators to handle other matters that come up for their clients. A corporate attorney will learn about a client being sued and refer the matter to litigators within the firm. A real estate attorney may do the same, or learn about some corporate work the attorney needs and refer this in as well.

In fact, a good deal of the litigation work in large law firms is originally sourced by the firm's transactional lawyers as opposed to litigators. The relationship of most litigators with their clients tends to be shorter and punctuated by stress, loss, unpredictable bills, and more. The attorneys with the largest books of business generally are the transactional attorneys. There are exceptions, of course. For example, some litigators have huge books of business and continually attract large matters. As a general rule, though, corporate tends to be a much easier way for attorneys to build a book of business.

- See Top 9 Ways for Any Attorney to Generate a Ton of Business for more information.

While certain types of corporate work can come to a standstill depending on the state of the economy (such as capital markets), transactional work is ongoing. Litigation can come to a standstill when cases settle or end--and they always do. Many law firms build up huge stables of litigators and then when a huge case or two goes away, most attorneys in the stable lose their jobs. Many large law firms have gone out of business in the past when cases settled.

Another huge issue is the fact that litigators are much more desirable when they are younger. The stress and
workload required of litigators tends to favor the young and not the old. While transactional attorneys can typically lateral into other positions, older litigators often have a nearly impossible time. Law firms need and require the energy of the young in litigation.

- See Top 10 Reasons Why Older Attorneys Have a More Difficult Time Getting Law Firm Jobs for more information.

Litigators Generally Cannot Get Jobs In-House

Once an attorney starts practicing litigation, he or she is going to be surrounded by deadlines, angry judges, hostile opponents, and clients until that litigator kills him or herself, dies of a heart attack (cancer is also common), quits the practice of law entirely, or retires. Meanwhile, the litigator will pick up a myriad of child support obligations and substance abuse problems along the way.

See the following articles for more information:

- Attorneys Have Problems with Drinking
- Ways to Cope with Stress in a Legal Career

Attorneys in practice areas like employment, corporate, patent prosecution, and real estate are marketable to in-house positions throughout their careers. Litigators have a very difficult time dreaming of going in-house. The only realistic market for their skills is the law firm. If they do not like law firms they are out of luck--and because so many do not, many leave the practice of law completely and go into government or do something else entirely.

Litigators can get jobs with insurance companies and other kinds of companies from time to time, but it is rare. In-house litigation jobs are few and far between. In contrast, transactional attorneys experience a great deal of finding in-house jobs.

See the following articles for more information:

- The 'Dark Side' of Going In-house
- Why Going In-house Is Often the Worst Decision a Good Attorney Can Ever Make

Litigators Need to Have a Strong Desire to Win to Stay Successful.

You need to have a lot of energy and want to win to be a litigator. Unfortunately, this necessary bright-eyed and bushy-tailed enthusiasm rarely lasts long in the litigation profession.

As litigators age, they get more and more beaten down. A litigator could "age" anywhere between a week and a few years on the job. Why? Because litigators are surrounded by all sorts of pressures that far exceed what people in any other profession have to endure. They are expected to win most cases--yet most litigators lose cases or have unhappy clients at least half the time. Litigators are paid to fight with the other side. They are constantly fighting with the other side, and their opponents are always trying to make them look bad to the court, to their clients, and to others. Everybody they deal with is waiting for them to screw up and nobody is looking out for their well-being or best interest. They are at constant risk of losing their jobs and paychecks if a case goes away. They become undesirable to law firms because they become complete wrecks.

Without the energy and desire to win, litigators become like PTSD victims. When they meet potential employers or clients, they sit there in silence and stare blankly into space. Many are doped up on Xanax, antidepressants, and other antianxiety medicine--so much so that they talk slowly with cotton mouth and are hardly the sort of attorney anyone would want to hire. Realizing that they lack the will to win, many attorneys
start taking Adderal and other stimulants on top of whatever else they are taking and the result is them becoming even stranger and more messed up. One big firm attorney I knew was so jacked up on Adderal she told me that she was going to meet the King of Thailand and talk to him about opening a chain of Marijuana dispensaries. (I'm not even going to get into the multiple reasons this idea was more than half "baked.") She was certainly enthusiastic but broken.

• See Seven Reasons Why Practicing Law Might Be More Stressful than Spending 18 Months in a POW Camp for more information.

The Litigation Jobs with the Most Money at Stake Pay the Least and Have the Least Stability.

You can make a lot of money filing class actions and suing big companies for various perceived and real wrongs. Unfortunately, these are the exact sorts of jobs that that pay the least. Any attorney interested in working for a rich plaintiff's firm (or attorney) may be able to get a job with one of them, but it will pay about one-third to one-fourth of what a similar job in a major law firm would pay. These are also very risky jobs because the attorneys lose about half the time.

If a litigator wants to make big money, he or she needs to work in the plaintiff's field. While this sort of work can have very big financial rewards in certain situations, it also pays little on an ongoing basis and has a ton of risk associated with it. Many attorneys spend their entire careers litigating plaintiff's work and never win a major case. More senior attorneys who do this sort of work may litigate a case for years, win, and then have a difficult time collecting.

There is a ton of money doing plaintiff-related litigation--especially at its highest levels.

• Find Plaintiff Litigation Attorney Jobs on LawCrossing.

The Best Litigators Do Not Care What Others Think of Them.

The problem with most attorneys is that they are concerned with what others think of them. Many are just plain "weak" and do not have the will or gumption to fight with others. Make no mistake about it: Being a litigator is extremely contentious and not for the fainthearted. The best litigators have the ability (and desire) to intimidate the other side to get what they want. The best litigators have no interest in getting along with the other side because their allegiance and desire is to win for their clients.

If a litigator cares what others think of him or her, or is easily intimidated, the litigator will get trampled all over and lose cases. It is as simple as that. A litigator cannot be good at the job if he or she can be manipulated, made to feel guilty, frightened, or tricked. The best attorneys have the ability to stand up to others and not care what others think of them. Also, the best attorneys have the ability to frighten the other side and get them to do what they want them to do.

To be good at most forms of litigation, you need to be the "big gorilla" in the jungle that is happy yelling at others and beating his chest to get his way. You need to have the ability to fight and get others to do your will. While logic and knowledge is certainly part of being a good litigator, there is also much more to the job than this. You need to sell courts on your ideas and point of view; you need to have the power to convince the other side; you need to be a fighter out for blood.

• See Never Worry about What Others Think for more information.

The Best Litigators Need to Be Extremely Creative and Intelligent.

The very best litigators are extremely creative and have the ability to see around corners and find solutions that are far from obvious. A good litigator needs to be able to look at an issue and see multiple potential ways to solve it that are not plainly obvious to most other attorneys, and this requires a lot of intelligence.
While I hate to say this, in my opinion, things like law school grades and LSAT scores are a component of what makes a good litigator. The smartest people process information the best and come up with the best solutions. The most intelligent attorneys can look at complex fact patterns and come up with brilliant solutions that win cases. If you do not have a lot of intellectual firepower, then you are going to lose a lot when you come up against more intelligent attorneys. Being a litigator without a lot of intellectual strength is like being a heavyweight boxer with no muscles: You are going to get your ass kicked. Your confidence, likeability, interest in fighting, and so forth will have very little to do with whether or not you succeed.

If you think being a litigator is just about regurgitating the law, the odds are you will be quite average at litigation. It is not even enough to just be extremely intelligent. You need to have the ability to come up with solutions to problems that are not obvious to others. A good litigator is constantly finding solutions to issues that other attorneys failed to appreciate or defend against. I have seen some of the best attorneys out there shut down the other side very quickly with their creativity.

If you are not creative and are just looking to be milquetoast inside of a major law firm, you can do okay. The best litigators, though, need to be able to come up with extremely creative solutions to complex problems. You will not be tested in these sorts of skills immediately, but they become apparent the longer you practice.

- See Tips for Litigators for more information.

**To Generate Money, Litigators Need to Become Merchants in Fear and the ”Up Sell.”**

To stay busy, the best litigators will constantly find ways to come up with more and more work for their clients. These savvy litigators will tell their clients that they need to do lots of research, file lots of motions, and take all sorts of other expensive actions to protect them.

Successful litigators become masters at generating huge bills for their clients by constantly finding more and more work to be done--even if it is unnecessary. If there is potential work to be done, the best litigators will try and find a reason for it to be done and make convincing reasons to do the work. In short, litigators try and scare clients to get them to do more work so they can bill more money.

The idea of working on unnecessary matters and creating huge bills by taking advantage of your clients’ ignorance is understandably something that does not appeal to most attorneys. I have worked with numerous very highly qualified litigators who lost their jobs because they were unwilling to participate in this nonsense. In fact, not overbilling clients, finding quick answers to research problems where an "in-depth memo" is requested, and so forth are all big "no no's" inside of law firms. Associates who do not play these games get fired. I work with many associates who have gotten fired for questioning the necessity of a certain assignment or for not billing enough. Similarly, partners who do not play these sorts of games are not given work by other partners, or if the work is for their clients, they never end up making much money at all.

- See Four Union-Like Rules of All Law Firms You Need to Know About for more information.

**Litigation Requires Having a Love of Being Calculating and Engaging in Gamesmanship.**

Being a good litigator means having the ability and desire to play all sorts of games with the other side. Litigators are masters at playing games with the other side to give their clients every conceivable advantage possible. Attorneys may be secretive with information or purposely communicate vague information that allows them multiple ways to back out of what they ostensibly committed to. They may feign illness and make up all sorts of excuses to get every advantage they can. At its most masterful level, attorneys do this sort of thing at every turn: Virtually every statement, writing, and action they take are calculated. The best litigators are complete masters at this, and they do it instinctually and often do not even need to learn it. The best litigators also realize when people are playing games with them. They then play back and fight back with a series of calculating behaviors.
It can be fun to watch (and difficult to follow) as the best litigators engage in their calculating behavior and gamesmanship against their opponents. When a good calculating attorney comes up against a less calculating attorney, it is brutal. The less calculating attorney gets so outgunned that he or she often gives up in pure exasperation. The best litigators use every artifice and trick that they can think of to win for their clients.

Taking joy in being calculating and playing all sorts of games is something that needs to come naturally to you if you want to be a good litigator and stay one. You simply cannot survive in a major law firm as a litigator if you are not like this and do not enjoy being like this. Not only do the best litigators play these sorts of games with the other side, they also are masters in playing these games with each other. Inside of a major law firm, calculating attorneys will gang up in a Darwinian fashion against the less calculating attorneys and destroy them. Attorneys without these skills always get killed.


Litigation Requires Extreme Commitment to Clients.

You may have watched various court shows where the star litigator gets all worked up about a client's matter-if his or her client loses, the star gets extremely depressed or goes insane. In fact, the best attorneys need incredible commitment (more so than the other side) or they will end up losing most of their cases. The best litigators will "eat, breathe, and sleep" every matter that they take on. There is nothing casual about the work. If you cannot commit to your clients at a high level, the odds are pretty good you will never be a good litigator. The best litigators need extreme commitment.

Litigators often want more time with their families or to find "lifestyle firms" where they can take it easy. These are all things that most people want, and there is nothing wrong with these things. The problem is that if you are a litigator, you need to be fighting for your clients at all times and cannot control when fights escalate. Because the best litigators are so committed to their work and take it so seriously, they often have all sorts of personal problems with intimate relationships and health problems related to driving themselves so hard.

The best litigators take the matters they work on emotionally. They get extremely excited (and even arrogant) when they are winning, and they get extremely depressed (and angry) when they are losing. I once knew a litigator who had never lost a case in his 20 years of practicing law. When he finally lost an important case, he did not sleep for three days and researched every possible way he could think of to get the case back--and he did. The best litigators never give up.

Litigators are more likely to smoke, for example, because they need something to ease the constant pressure on themselves. If a litigator is good at his or her work (and most are not), the litigator becomes practically "one" with his or her client. The litigator’s life and motivation becomes all about defending the client and making sure the client wins at all costs. This is how it should be, of course. The attorney needs to care deeply about the sort of work that he or she does and want to win at all costs.

See the following articles for more information:
- The #1 Attorney Career Killer That Attorneys Are Never Taught
- Consistency and Commitment Beat Brilliance and Talent
- The Only Thing That Matters Is Commitment
- Be Committed to What You Do
You Need to Like and Be Good at Fighting.

To be good at litigation, an attorney needs to enjoy fighting with other attorneys, clients, and pretty much everyone he or she encounters. There is simply too much conflict on an ongoing basis for this not to be the case. An attorney needs to enjoy constantly fighting because this is what the job is. Being a litigator is 100% adversarial, and as a litigator, the attorney needs to be prepared and interested in fighting all of the time. There is not another option.

Most people who are faced with adversarial conflict from others back down, get upset, and certainly do not get a positive charge from it. In contrast, when a litigator fights with others, the litigator gets a "charge" from this and is excited by this. To be a successful litigator, you need to be good at fighting, arguing, and not getting along with others. If you are not good at fighting, you will find yourself constantly on the defensive, scampering away, losing fights, and failing at litigation.

When confronted by a litigator who knows how to fight effectively, a less-gifted litigator will be battered with reams of documents, threats, caught off guard, screamed at, undermined, and sent scurrying. The natural reaction that lesser attorneys have to this sort of abuse is to simply "settle" to make the case go away. These naturally "unsuited" attorneys continually lose cases when confronted by attorneys who are better at fighting than they are.

The typical talented class action attorney, personal injury attorney, and the best trial attorneys are masters at the fight. They make mincemeat out of lesser big firm attorneys who are more academic in nature. Most clients never realize how important this side of a litigator is until it is too late.

- See Winners and Losers for more information.

You Need to Get Paid.

One of the most important and crucial parts of being a good litigator is having the ability to get paid. To get paid, an attorney needs to know how to extract the most amount of money he or she possibly can from every situation.

Years ago, there was an attorney down the hall from me who I hired to do work for me now and then. One day, I went to him with some routine work. He took a look at the work, invited me into his office, and sat me down. His entire demeanor had changed and he was quite arrogant. He informed me that he had just won a $30-million verdict, was retiring, and no longer needed to do work for me. I walked out of his office feeling a bit flummoxed at the situation. Several months later, I saw him in the elevator and asked him why he was still working. He told me that his verdict was overturned on appeal and that he was "open for business" again. This sort of unpredictability in getting paid is common. Even when attorneys win verdicts for their clients, there is a difficulty in collecting--the full, or any, amount.

The worst form of collection for litigators, though, is generally from clients. Clients will find all sorts of reasons to get out of paying bills, to reduce bills, and to fight paying bills. The big issue with litigators is that clients are constantly losing and not getting good results. When a client does not get good results, the client does not want to pay and will start throwing around words like "malpractice" and "calling the state bar."

- See The Difficulties of Delinquent Accounts in Law Firms for more information.

Conclusions

There are few jobs that are as demanding, thankless, and difficult as being a litigator. Very few attorneys are good at being litigators and very few of them ever have very satisfying careers. If an attorney is naturally suited to being a litigator, the attorney will enjoy it a great deal. The issue is that very few litigators out there
have the correct mix of skills to be good at the work.