Episode 53: Acing Oral Arguments in Law School (with guest Megan Canty)

Lee Burgess: Welcome to the Law School Toolbox podcast. Today we're discussing oral arguments and their importance in law school. Your Law School Toolbox hosts are Alison Monahan and Lee Burgess. That's me. We're here to demystify the law school and early legal career experience so you can be the best law student and lawyer you can be.

We're the co creators of the Law School Toolbox, the Bar Exam Toolbox, and the Catapult Conference. Alison also runs the Girl's Guide to Law School. If you enjoy the show, please leave a review on iTunes. And if you have any questions, don't hesitate to reach out to us. You can reach us via the contact form on LawSchoolToolbox.com, and we'd love to hear from you. And with that, let's get started.

Welcome back. Today we're discussing the role of oral arguments in legal education with special guest Megan Canty. Megan is a law school tutor here with the Law School Toolbox, and she is also the Director of Academic Success and Bar Exam Preparation at Wayne State University Law School, so thanks for joining us, Megan.

Megan Canty: Great to be here, thanks for having me.

Lee Burgess: No problem. So, tell us what makes you so excited about oral arguments and their importance in the legal education field and beyond.

Megan Canty: Well, basically I've been working with students doing oral arguments for the past nine years, and I first started doing oral argument as a law student.

The first time I did one was actually in a 1L class. And I didn't realize the value of it at the time, but as I progressed in my law school career and I participated in moot court, and then as I got into my career in academics and I started running a moot court program and teaching appellate advocacy, which I've been doing now for nine years, I started really seeing the value of oral argument and how it can really teach students things that they really can't learn in traditional learning environments or the traditional means of educating students in law school and how helpful it is to really prepare them for practice and taking what they're learning in law school and using it in a way that's useful both for their exams and for legal education, but also in a way that's useful for practice, which is always that bridge that we're trying to gap in legal education is how do we get you from school to practice.

Lee Burgess: And it's what everybody watches on Court TV or all the shows that we watch.

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Megan Canty: Exactly. That's the other part of it. It's fun. That's the other thing that makes me excited about it is that, you know, we all, you know, in law school and in whatever your legal career is, there's a lot of writing and there's a lot of drudgery and oral argument just like, you know, witness examination and trial practice, it's the fun part. So it's the part where you get to get up and show your skills and talk about it and it's fun. So that makes me excited about it too because it's not one more writing assignment or reading assignment.

Lee Burgess: And one of the things I think that students have to keep in mind, especially if you are an incoming law student or a new law student, is oral arguments just like anything else are learned skill.

I mean, most people don't just show up on day one being able to rock it in the courtroom. I think some people have, you know, maybe an easier time with it than others, but you know, you can still, you know, learn about it and practice it and become better at it if it's something that you're passionate about.

Megan Canty: Exactly.

Lee Burgess: All right. So, we talk about this in our programming and it's really common in the legal field with this idea that, you know, we're all trying to be trained to think like a lawyer, but what's kind of the difference between thinking like a lawyer versus communicating like one in an oral argument or when you're standing in the courtroom?

Megan Canty: Exactly. So I think the emphasis, what we all hear from day one of law school is you need to learn to think like a lawyer. And that's very true. But thinking like a lawyer can often be confused with you, the way that you are thinking about a case and your own personal thoughts and putting those into a legal context.

The way that you really know if you're thinking like a lawyer is if you can communicate like one. It doesn't really matter if you are able to explain something to yourself. You have to be able to explain it to other people, and that's where oral argument is a useful tool, is it's not just teaching yourself based on an outline that you wrote or the notes that you took in class.

It is taking information and making sure that you can make someone else understand it based on your knowledge and your communication skills.

Lee Burgess: And one other thing that always gets me about Oral Advocacy or any time that you have to stand up and explain something to somebody is it really does force you to own it, you know, you can't really explain something that you don't

understand unless you're just memorizing a script, but it really forces you to, to have an ownership over the material that I think most of us don't necessarily have if we just read something or even write about it.

Megan Canty: Exactly, you know when you're when you're writing a law school exam, or when you're writing in any context, you're kind of you're thinking and you are communicating in a vacuum. There's nobody interacting with you There's nobody calling you out on bad facts or aspects of the law that might be questionable or how the law that you're talking about relates to other laws and fits into a larger framework.

You don't have that. You really only have that when you have oral argument and this oral communication. Because that's when, and the best part about it also is, remember, it's not just a speech, it's interactive. So people are asking you questions in the moment when they think of it. And so it really allows you to work through it in real time as opposed to having time to read somebody's response brief and then come up with what you want to say. You've had time to really craft it. It makes it much more, it makes it very honest and it makes it, you know, a very, it teaches you to think fast and think on your feet.

Lee Burgess: And when I entered the classroom and started teaching in the classroom, that was another point where I really felt challenged, you know, because of course you feel like you know the material that you're planning on teaching and that you've prepped for class, but I tell you, when you've got a whole classroom of students staring at you, ready to pepper you with questions, it definitely is like, oh, I should, pull on some other skills that I have, because I have to really own whatever my lesson is, because it might not go as planned.

You know, I can't stand up there and lecture without interruption for 60 minutes, or I could, but nobody wanted to listen to that lecture, so.

Megan Canty: Yes, exactly.

Lee Burgess: Yeah.

Megan Canty: So it's I think that the, the, the value in it, you, you've got a learning tool where, you know, you're able to have your assumptions challenged or have your, any issues that you've run into along the way, again, if you're talking about a case, if you have bad facts, if you've got law that's very complicated, if you have, you know, a long history of case law that you have to kind of get through and make sense of in the context of the case at bar, you're doing all of that in the moment

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and you're able to do all of that with someone saying, well, what about this? And what about that? So it helps you to both and there's a lot of information out there. It also helps you to clarify those issues for yourself, for the future. It also helps you to make sure that you understand what's important to other people. That's a big part, I think, too, is that, what you might think stands out about a case or about the law in general isn't always going to be what stands out to other people.

And when you get into practice, and you are, you know, your audience is now a judge, a jury, other attorneys, you need to be very cognizant of that. That it's not just what stood out to you, it's what's going to stand out to everyone else. And how do I address those things?

Lee Burgess: So what would you say if someone's listening to this podcast and they are saying, well, first of all, I never want to stand up in court ever.

So, so I'm just going to like, skip to the next episode, or I throw up when I think about talking in front of other people. So this is just not the podcast for me. But I think I would argue that no matter what sort of work you were planning to do it, these sort of skills of, you know, speaking about the law in clear and concise ways, being persuasive using oral communication, and just having some sort of comforts communicating with another person, whether it be in front of a judge or in a meeting or in a mediation or, you know, I mean, pretty much anywhere can be valid.

And I actually think for me oral communication skills can oftentimes translate into better writing. What do you think?

Megan Canty: I absolutely agree with that. I find that my students often say, especially students of mine who do MOOC court programs, they often say that, oh, you know, now that I've done the oral argument, I wish I could go back and rewrite that brief.

Or, now that I've done the oral argument, I've picked up on some things for the next time I write something of the way to approach things or of, you know, the types of questions people might have when they're reading it. I always say that, you know, when students are doing moot court or when they're taking an appellate advocacy class that i'm teaching that they shouldn't necessarily think that they're there so I can turn them into an appellate lawyer, right?

Very few people are going to go into appellate practice. It's more that oral argument and doing it in an appellate context is more of a, it's not so much a skill just so that you can go be an appellate lawyer. I mean, frankly, a lot of

people will tell you that appellate lawyers don't do a lot of oral arguments because so much weight is given to the brief and often that's how cases are decided.

So it really isn't about training you to be an appellate lawyer or even to be a litigator. It really is teaching you how to be comfortable thinking and talking about the law and how to be a better writer because you're learning about, if you say it orally to someone and you hear what their response is, you start to pick up on what people are thinking when they hear certain things.

And so then you think, then you're able to translate that into writing, you're able to front issues, you're able to address points that you might not have thought of. So even just people who are listening and think, I'm not going to do moot court, i'm not going to take one of these classes. I don't want to get up and talk in front of people, this isn't even about that you need to do a moot court activity or take an appellate ad class or do or even do an oral argument in law school. It's more that if you take that style and you learn from it. You know, even if you're just using it where you sit and talk to your friends in law school, hey, I'm working on this case, or I'm trying to understand this, can we talk through it?

Can we see if I'm explaining it well? It's, you know, learning how to explain the law to other people, and the appellate format works really well for that. Because you're not discussing a case in a vacuum. You're discussing it while talking about all the other cases that have come before it and the different policy considerations and the factual considerations, so it just gives you a really broad place to explore your case and to think about lots of different factors that are going to have an influence on how it's decided.

So even if you take that to, you know, Like you said, a mediation or a negotiation over a transactional deal, it's just that it teaches you how to think and it teaches you how to communicate effectively in a way that you know other people will respond to instead of just you feeling that you know the information and you could spit it back out on a law school exam.

Lee Burgess: So before we move forward, just in case there are some of the listeners who are just getting ready to start their law school experience and maybe scratching their head about some of this terminology, or these labels that we're talking about. Let's just do a brief recap of like, what all this stuff is we're talking about.

So when you're in law school and we're going to talk about some more of this stuff later, but most students end up taking some sort of a moot court program. I would say most law schools around the country require this activity. And what

you're doing there is you're kind of doing a mock exercise where you are making an appellate oral argument.

And an appellate argument is where you go to stand in front of a panel of judges, so they oftentimes have alums come or something like that, and you stand in front of a group of judges just like you would if you were an appellate lawyer and doing this after a case has been decided at the trial court level.

So appellate arguments come after the trial. If you want to be a quote unquote litigator those are people that go to court and they're, you know, questioning witnesses or outside of court, they're likely taking depositions they're giving opening and closing statements, and they're arguing in the courtroom, but that's the, more of the trial court level.

And then also in law school, there are advocacy competitions. So if you really love this stuff, you can compete against other students. There are even nationwide competitions where you create teams and things like that. So there are really a lot of different ways both in practice and in law school that you can interact with this stuff.

But I think the point that we're trying to make here is that throughout your law school experience and whatever you plan on doing when you practice, these are skills you need to have. I mean, one of my good friends from law school is a accomplished family law lawyer. And she has to go to court because family law and you end up in court quite a bit.

And, you know, she would get incredibly nervous before like any oral argument thing we did in law school, like looking green type nervous, and she's very good at it now. So, you know, some of this stuff is just part of the practice that you have to get used to, and, you want to start working on it now.

So the first way that I think you will interact with some sort of Oral Communication, Oral Advocacy, even if it's just for yourself, is in the classroom with the dreaded, not often loved Socratic method. So, listeners to the podcast have probably heard us talk about this before, but basically the Socratic method is where the professor typically, cold calls on people in class to ask them questions about the reading and to test your knowledge of the law.

Some professors still make you, like, stand up in front of the entire class. Some professors will allow you to raise your hand so you're not put on the spot. Everybody's got a horror story about this. But what does the Socratic method really have to do with oral advocacy?

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Megan Canty: Well, you know, they're really connected in my opinion.

So not every professor still uses the Socratic method, but most professors still use some type of question and answer technique in class and call on students. And when they do this, you know, they're basically trying to extract information from the student, to first of all, you know, test you to see if you've done the reading and if you know what you're talking about.

But it's also to use the student to lead the class towards understanding the facts of the case and the law and why it's significant. So it's used as a teaching tool, both for that individual student who was called on and also for the class as a whole. So, you know, instead of the professor just lecturing at you, they make it interactive.

And that's a good thing. A lot of people find it terrifying. Of course I always did. . Well, you're, you're in front of your peers and you're terrified you're gonna embarrass yourself, but it's not, it's not a bad idea and it's not a bad method necessarily.

Lee Burgess: And if it goes poorly, the only person that will remember it is you.

We always talk about this. Like, I can still tell you my embarrassing moment in first semester crim law. Like, Alison has her own moments. Megan, I'm sure you have your own moments. And no one but us, and maybe the people who listen to us talk about it, ever remember these stories. So just, just remember that if you embarrass yourself, you were the only person to remember it and everybody else is just glad it's not them.

So that's it.

Megan Canty: Exactly. So it's, so don't be scared of it, but, and that's the thing. So it's not, you know, when I talk about this, I, I just like to point out, I'm not criticizing the Socratic method or the question and answer technique. I think it's, you know, a very useful teaching tool, but the, the thing is that that's great when you're kind of being introduced to the law for the first time as a 1L.

But no one's going to lead you down that path of logic when you're dealing with your own cases, and no one's going to do it in your later law school classes. You know, that, this isn't going to continue. As you continue your law school career, you're not going to be in those, you know, big sections, 1L year with all the same people and the professors using the Socratic method, so you have to learn to think on your own. So oral argument is a way that you can bridge this gap. And I kind of learned that. I was very fortunate. My 1L year, I went to Loyola University

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Chicago School of Law, and before I joined Wayne State, that's where I was teaching and working as well and I learned from my Comm Law 1 professor, who was a fantastic professor she actually had us, just for two or three cases, she would tell us all to prepare an oral argument on the case, as if we were arguing it in front of the Supreme Court.

Because obviously in Comm Law, you're studying Supreme Court cases specifically. So, we wouldn't all do it, because there wasn't time. But instead of calling on us, and doing the Socratic method, she would say, okay, you four, you know, you're going to do your oral arguments today and you're going to argue against each other.

And it was so valuable because I realized when I was preparing my oral argument for a classic Comm Law case, that, what I thought I knew about the case, you know, I thought I knew it really well. I was like, I'm ready for this. If the exam was tomorrow, I've been outlining, I've been taking notes and studying.

And I realized that there was a lot that I didn't know. As soon as I got up there and my professor started asking me questions and we had that more interactive experience and I had to think for myself and talk about things that we weren't talking about in class, I think that's the big difference.

You're not just talking about the case, you know, give me the facts and what was important. She was asking me about other cases and how they related to this. And I really you know, learned, and I, I'm sure I did a terrible job at doing it, but it really kind of showed me how much I didn't know, and when she did that throughout the semester, I think we all kind of learned that, and it kind of gave us all a key, even just in the context of studying for our 1L exams, I think it showed us that it wasn't as cut and dried as, you know, memorizing your case briefs.

And I think that that's a misconception that a lot of law students have, that it's just memorizing your case briefs and your outline and your notes from class, but when it comes to the application, which is going to be what distinguishes you during those exams, right? I mean, hopefully we all have memorized, you know, everything pretty much, you know, you're, you're hoping that you've memorized it all well. You hope everyone in the class has done the work, but really what's going to distinguish you is your analysis. And so that's what an oral argument is really teaching you is to do your own analysis and to think outside of the, you know, little microcosm of one case at a time.

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So it also, you know, for people who are interested in litigation, it also does build that skill. Even if you're not going to be an appellate litigator, you know, you're going to have to speak in front of a judge every time you argue a motion. I mean, it teaches you how to have this interactive experience with someone and to be able to talk freely about a case instead of just making a presentation.

Lee Burgess: Mm hmm. Yeah, I think that's, that's exactly right. And I love the point that you made about legal analysis being the way that you differentiate yourself, because one of the things I frequently talk to my students about is remembering what makes us lawyers. You know, we go to school to create some specialized skills, allegedly, right?

And anyone can summarize a case. Once you get past, like, kind of the legalese language, just, just about anybody could read a case and summarize it. That's basically what the brief is. What makes us lawyers is being able to take that law and apply it to facts and then stand in the role that we're meant to advocate for and really be able to use the material to you know, to hopefully get some certain outcome.

Like that's a skill. Like that's, that's legal analysis, you know?

Megan Canty: And that's, and that's what oral argument builds, I think, is, it's a way, you know, and it's, and it's a way that is accessible to everyone because you can build these skills in a number of ways, but oral argument is pretty accessible to most people.

And you know, it really teaches you, and again, whether you're gonna be a transactional attorney or a litigator, you do need to be able, when you're a lawyer, to formulate a position, defend it, determine your weak points, and find answers to your weak points and to be able to apply what's happening in your current case to any set of facts, and consider the implications of your case and of the law outside the bounds of what's happening right now.

And that's kind of, that's what it teaches you, and that's something any lawyer is going to need to be able to do, no matter what the context is.

Lee Burgess: Very true. And, you know, we're recording this in the summertime, and if you're listening to this and you happen to be working at a courthouse, you or you're working in DA's office or U.S.. Attorney's office, or somewhere where trials are happening, sometimes you can even ask around and ask if you can go sit in on one of the trials. So, when I was summering at a U. S. Attorney's Office, there was a huge patent case going on about dialysis machines. So, really, really exciting stuff, guys.

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Dialysis machines. Actually, it wasn't even the dialysis machine. It was the screen on the dialysis machine. So we're not talking about super, super exciting trial work, but they had flown, there was a big money case. Patent litigation is big money, and they had flown in like ringers, basically, they'd flown in high powered litigators who just came in to like do a lot of these arguments and the U.S. Attorneys were so good to us and said you need to take some time and go sit in that courtroom and watch these people who are considered some of the best and the best in this area because it's worth it and I can still, I can actually still see the guy who was the, the guy from Texas that they flew in to the Bay Area to do this case and he was super charismatic.

He had such like, worm simplicity to whatever he said, and you could just see the jury just eating it up and it was such an amazing learning experience and I had even grown up around litigators. My dad is a litigator and I had grown up going to court since I was a very, very little kid and I Still really as a kid got the impact of different attorney styles in the courtroom.

But as an adult, I still could really see when somebody has this skill and is really practiced, harnessing it, how powerful it could be. So, watching people who are good at what they do, or sometimes not good at what they do, can be a very great teaching tool. So try and absorb this stuff because this is part of the legal profession.

It's part of you deciding what your oral communication persona is gonna be. And you should look for all opportunities to not only practice it yourself, but also learn from those who are really skilled.

Megan Canty: Yeah, and I would just add to that that, you know, don't, don't think that everyone that you're going to observe is good at what they're doing.

Lee Burgess: Oh, so true.

Megan Canty: I always say that the mark, you know, because, you know, I've, I've always told students to do that too. You know, go, you know, if you're lucky enough to live near, you know, an appellate court. When I was in Chicago, you know, the Seventh Circuit was right there. We would always tell our students, and some professors teaching certain classes required them to go to the Seventh Circuit and watch an oral argument or watch, but I'd say go watch People of the Seventh Circuit, go, you know, to the Daily Center, go watch a trial, but what should really speak to you about if someone's doing a good job is, do you understand what they're saying?

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Because, you know, in a trial, the jury is not a group of expert attorneys. So, just like you, you know, if it's something you know nothing about, do you feel like you understand it and it makes sense to you, whether it's an oral argument or, you know, a, you know, a, any kind of a trial presentation, whether it's an opening statement, anything, is what the lawyer is doing, does it make sense to you?

Because that, to me, is really the mark of someone who is keeping it very simple and very clear as if anyone can understand it.

Lee Burgess: Yeah, when I was 12, I think, I was watching a trial that my dad was was doing and the other side was doing their closing argument and it was a, it was a case about drug enforcement and I couldn't understand at all what the defense lawyer was talking about. He was talking about babies and like this case was not about babies. It was just all very confusing and afterwards the, the attorneys are all talking about it. And one of the attorneys or an FBI agent turned to me and said, you know, so what did you think? And I was like, I couldn't understand what he was talking about.

Like, why was he talking about babies? And they're like, and that is exactly what we hope the jury thought.

Megan Canty: You know, I, I think I think the assumption that a young law student is going to have if they don't understand is, I must not be smart enough to understand this person, or I don't, I don't know this case, or I'm not a lawyer yet.

So I always just caution, not every lawyer you see is good. So if you don't understand what's happening, maybe it's you, but it could also very well be them. Watching, I agree with you completely, the more that you can observe, the more that you can learn. It's just like with writing, you know, the more examples that you read, the more you're able to parse out the good from the bad and learn what you should adopt into your own style and what you should set aside as ineffective.

Lee Burgess: Exactly. So the first time you're going to really encounter this stuff outside of the classroom with the Socratic method is probably in your MOOC. court's program, which can differ slightly between schools. Some schools have student run programs. Some schools have more faculty run programs. But it usually always includes some sort of written aspect.

So you work on writing an appellate brief, and then you have to get up in front of a panel of sometimes alums, sometimes professors to argue one or both sides

of the case. And so, Megan, what do you think is important for students to keep in mind as they walk into this this piece of their law school experience?

Megan Canty: Well, first of all the one thing I say is I recommend Moot Court to anybody who has the time to do it regardless of what, what aspect of the profession they plan to go into. And obviously I'm biased, because I run a moot court program and I am advising the program here at Wayne State this coming year.

I'm working with the students who run it and I did moot court. I love it, so of course I'm biased, but I really recommend it because In this setting, you're going to spend roughly two months with your case, or the problem, as they call it. So, you usually spend about a month writing a brief, and another month preparing your oral argument after your brief is turned in.

That's the most traditional way that most competitions are run. And this is really valuable in a unique way because it lets you really live with one case for a long period of time, which is more like what you're going to do when you get out and you're in practice. Now you won't have the luxury of having only one case at a time when you're out.

But I mean in law school, I mean you have the one case but you also have your coursework and any other commitments so it's not like this is all you're doing. But, so it lets you really have a very, a real world experience. I shouldn't say real world. I should say it lets you have a simulated experience.

Lee Burgess: That's true.

Megan Canty: That mimics a little bit of what the real world is like. I mean, a real world appeal you would work on for a lot more than two months. But you, but it lets you have a long period of time with one case instead of just in class where you're moving through case after case after case as you learn about the law and you're reading multiple cases a week and you're, you know, learning from them and moving on, it lets you really delve into it.

The other thing I like people to know is that at most moot court competitions, you're actually arguing both sides of the case. So, some make you write two briefs and you have to write a brief for both sides too, but that's less common. What's more common is, you're assigned which party you represent for the brief writing portion, you write your brief, you turn it in, and then when you prepare for oral argument, you have to prepare both sides because at the competition in different rounds, you'll be assigned to represent different sides.

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And this, I think, is the single most valuable thing about Moot Court and what my students have told me time and time again has really helped them in practice because what happens when you do that, it's really a luxury you're never going to have again, is to be able to do that. You're not just thinking about, you know, okay, I am the plaintiff, or I am the appellant, I am, you know, representing this party, this is my case, and you get so invested in it, right, when you do it that way.

So the way that most people, coaches or faculty teaching moot court or however it's structured, they'll have you first do what they call your on brief argument and then they'll have you, once you've kind of gotten that going, flip and start working on your off brief argument and then you'll kind of switch between the two to kind of perfect them.

And I always find that students are kind of blown away the first time that they sit down to write out an outline for their off brief argument and especially the first time they get up to argue it. Because they've gotten really invested in this one side of the case and suddenly they are seeing the real weaknesses that exist in the on brief argument that they initially did because they're actively arguing against it. They're not just thinking, what might someone ask me or what might someone be concerned about? They're literally attacking their own original argument and constructing a counter argument to every point that they just made.

So this really trains you how to find the weaknesses in your own case as opposed to thinking of yourself solely as an advocate who should only be thinking about your client and your side. Once you find the weaknesses in a case, you can figure out why they're important and how to respond to them. You know, whether it's go out and do more research or come up with an answer as to why that weakness actually isn't dispositive or even very important.

So this arguing both sides really gives you a real, a learning experience that you really can't get in any other context.

Lee Burgess: And I think that point that you're making about really being able to see both sides is so important because I think what often times you forget, both on a law school exam, which you're supposed to be able to argue both sides on, typically, unless your professor tells you not to, and even in practice, you have to be able to anticipate the other side's arguments, you know,

Megan Canty: Yes.

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Lee Burgess: If you're writing a brief, you have to be able to see the weaknesses in your own brief and try and cut off those counterarguments as soon as you can, you know?

Megan Canty: Yeah.

Lee Burgess: It, this, to be able to see the problem as, you know, being an advocate for one side, but then also being able to step in the other side is so critical.

And, and I think it's interesting too, is when I have gone to speeches where they talk about preparing for very you know, important or arguments such as things at the US Supreme Court, but I didn't really appreciate until I was out in practice and I would go to these types of talks for fun, because that's what you do when you're kind of a legal nerd, you go to these talks for fun. Is you hear about how they do all these rehearsals. where they play all these different roles and all they do is just hammer each other. You know, get the best and the brightest people who know the most about this case and hammer each other about the weak points over and over and over again.

And to me, that was just so striking because it really showed that even the best of the best have to really practice being able to see the weak points and respond to the weak points and not get caught off guard. when somebody's hammering them about, you know, something that maybe isn't as strong for them.

And that's, that just shows that this is a constant journey, you know, that this, this skill that you're starting in your moot court class you know, or maybe in an oral advocacy competition or as a new lawyer when you're working on your briefs, I mean, all of this is about being able to think like a lawyer and put on different shoes of different people who are going to interact with this material so you can, you know, really represent your side the best as possible.

Megan Canty: Yeah. And that's, and I know a lot of litigation firms that you know, even with trials, they will moot the case as they call it, you know, where they'll just kind of, you know, different firms handle it different ways, but you know, they'll get a group together to kind of workshop it and point out all the problems and see how they can deal with it.

I think it's a really common practice and it's so valuable, and the, the earlier you start learning to do that for yourself, the better, because. You're not always going to be able to do that especially as a young lawyer, you know, you're probably not going to be given the kinds of cases where everybody's going to get together and ready to help.

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But you learn to develop that skill on your own so that when you don't have the luxury of people, you know, kind of on your team you're able to develop it. The other part of moot court competitions that I think is so valuable is that, you know, you go out to these national or regional competitions, so you get out of just your own law school. Because within your own law school, you're being taught, I mean, yes, there's a variety of professors and a variety of people, but you're kind of learning the style of your school and the way that people at your school think, and the more that you get out there, and you do this argument, so let's say you go to a regional or national competition, you're in front of all these panels of judges. You've never met them. They have no connection to you. They might not even be from the same area of the country, so they might have different stylistic preferences, it lets you really see how convincing you are to a wide variety of people and what communication styles and methods seem to work with the widest range of individuals because those judges at competitions, after you're done with your round, as they call it, when everyone's done their oral arguments, they give you feedback and that can be tough because one person might say they loved something and another person tells you they hated the exact same thing and that's a whole other issue, but that way you're able to see obviously, everyone won't agree all the time, but you'll be able to see the common themes of feedback that you get and what seems to be a recurrent theme in your work so that you know what you're doing well and what you can improve upon if you're going to be dealing with, you know, different audiences.

So it just gets you out of your comfort zone. It gets you away from professors you already know, people you've already worked with, other students that you, you've been working with and it gets you out there into the world where you can have this simulated environment and get feedback and kind of see, okay, what do I keep hearing over and over about myself and what's good and what do I need to work on?

Lee Burgess: That's a really great point. You know, I hadn't thought about the different styles around the country. Which is, is just a really great thing to, to think about because when I was working at my law firm, I would always crack me up when we would do these multi office virtual meetings, when you would go, they would just show the pictures even in the conference rooms of each different office, you know, the New York office or somewhere in Chicago and somewhere in Miami and somewhere in California, and just how everybody was dressed, The office was such a big difference, you know, about the formality of the office just based on, you know, we were all practicing at the same law firm, so, you know, and it,

but it is a really good point that that formality sometimes translates into the courtroom and even within different types of courts.

You know, a state court maybe have a different level of formality than a federal court or, you know, an appellate court. So, it is good to to try and absorb what different regions are like and different kind of levels of the court system can also be like. That, that's an interesting point, and I had thought about that.

Megan Canty: Yeah, I think it's, I think it's just a good learning opportunity because, you know, if you ever are, you know, traveling, you know, if, if you become the big lawyer that gets flown in, you know, like you were talking about in that case you know, you want to kind of know, and probably at that point in your career, you would know, and you'd be talented enough that it wouldn't matter.

But, you know, when I look at moot court competitions, you know, it's like, I'm always thinking about, okay, what type of student is best suited to that competition? So it's not always about like, Who's my best student? Who's going to go to this competition? It's who's the best student for that type of competition is one of the factors that I always tell moot court student boards to take into account, you know, when you're selecting who goes where, because different styles, you know, like in New York, you can have a very different style that might not go over as well if you are in the South or if you're on the West coast.

You know, it's gonna obviously be different. And so, you know, when you're being strategic with your students, you think about that and, you know, even if you're not, it's just a great learning opportunity for the students to be like, oh, okay. So in Chicago, this seems to be what I keep hearing from people.

That's good to know, or in this location, this is what I keep hearing. So I think it's a it really is valuable and even if it is just local even if it's within your own city and you're only gonna practice in that area. It still gets you out of, you know, the little world of your school, and so it's still very valuable that you're just in front of people with, you know, a different range of experiences in the legal community.

Some of them might be judges, some are attorneys, and you know, they're all gonna have you know, a different viewpoint. And so it still teaches you what communication seems to work across the board.

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Lee Burgess: Yeah, that's a really interesting point, you know, and for the law students listening to this you know, when you learn more about your moot court program, some of them are graded, some of them are not.

Ours was pass, fail, and a lot of people would blow them off. But you know, one thing that you should keep in mind is that the legal community is quite small sometimes. And if I as a 1L did my oral argument. Of course, this stuff really does stick to you. I could tell you exactly what I talked about and it's become quite a few years ago now, but I still vividly remember it.

And I was a panel of three alumni and then about eight months later or so, I was at a callback interview at the law firm that I ended up accepting my offer at, and one of those judges was at my callback interview, and she remembered me from my moot court argument. Thankfully, I had done well, because if I had not prepared well and been professional and given it a go, you know, of course, I didn't like, you know, drive myself crazy about it, but that could have actually hurt my chances of getting a job, because she would have, you know, possibly remembered that I wasn't so professional.

So it is really important to just keep in mind that you know, doing these exercises, go ahead and give it a go because you are not only working on your own skills and going to be better every time you get feedback, but you're also working on your reputation in your legal community. You never know where you're going to run into people again.

Megan Canty: Exactly. I, I've seen students get offers for job interviews at moot court competitions by someone from, that was on a panel who later comes up to them and starts talking to them, you know, there's often like awards, banquets and things at these competitions and sometimes, you know, I've seen that happen where someone who judged a panel will start talking to a student who impressed them and it ends up leading to a job interview.

And like you said, the legal community is small. You know, I was, when I was in law school, I was in Chicago. It's a big city and there's a lot of lawyers. But I was continually shocked at how small the legal community started to feel even in a major city like that you know, it's nuts, and that's a good general rule of thumb for anybody starting law school or in law school Remember that your reputation starts now everybody in your classes everybody that you come across, these are gonna be people who are out there practicing as well.

And you know the way that you That's how you handle yourself, the way that you approach everything you do in law school including your oral arguments

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that I've been telling you that you all need to be doing, everything that you do is going to be, you never know what someone's going to remember about you and this is when your reputation as a lawyer starts.

Lee Burgess: I mean, I think you've done a great job of doing oral advocacy for Oral Advocacy on this podcast.

Megan Canty: Well, thank you.

Lee Burgess: You're welcome. All right. So, since we're running out of time, I mean, Megan and I could talk about this all day, but you know, just things to keep in mind, you know, oral arguments are going to teach you some of the most basic skills you need to practice law, and you should think about honing these skills in all parts of your law school career from sitting in class and making the most of the Socratic method to participating in your moot court programs, and then if you're interested in it, doing oral advocacy competitions trying to go out and watch or listen to oral arguments, you know, I think you can download audio files of like Supreme Court arguments and things like that, like, like, get into this stuff. It's pretty exciting. And it's not just for those in litigation because being able to discuss something and explain something to someone is going to help you be a better lawyer, whether or not you're in a conference room, or if you are writing briefs it's, this stuff is really going to translate into any context, because as complicated as the law seems, if you can explain it in a simple and persuasive way, you're going to be really good at what you do.

So Megan, any final thoughts to our listeners out there who are going to start trying to pay more attention to their oral advocacy experience?

Megan Canty: Just, no, just echoing what you said, get out there, take advantage of any experience that you can, and just you know, remember that you're going out to, you know, be an attorney, and attorneys need to understand the law, they need to be able to explain the law, and they need to be able to think about the law and everything that goes into making it.

So, make sure that you are developing those skills, and oral advocacy is one of the many wonderful ways you can do that.

Lee Burgess: Awesome. Thank you so much. And with that, we are out of time. If you enjoyed this episode of the Law School Toolbox podcast, please take a second to leave a review and rating on iTunes. We'd really appreciate it. And be sure to subscribe so you don't miss anything in the future. If you have any questions or comments,

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please don't hesitate to reach out to myself or Alison at Lee@LawSchoolToolbox.com or Alison@LawSchoolToolbox.com or you can always contact us including Megan via our website contact form at LawSchoolToolbox.com. All right, thanks for listening and we'll talk soon.