

Alexis R.:

Welcome to *The Path & The Practice*, a podcast dedicated to sharing the professional origin stories of the attorneys at Foley & Lardner LLP, a full service law firm with over 1,000 lawyers across the US and abroad. I'm your host, Alexis Robertson, director of diversity and inclusion at Foley. In each episode of this podcast, you'll hear me in conversation with a different Foley attorney. You'll learn about each guest's unique background, path to law school and path to Foley & Lardner. Essentially, you'll hear the stories you won't find on their professional bios. And of course, you'll learn a bit about their practice. Now let's get to the episode. This episode features a conversation with David Sanders.

Alexis R.:

David is a partner out of Foley's Washington, DC office, and his practice is focused on mergers and acquisitions, joint ventures and issues related to executive employment. Additionally, David is vice chair of Foley's business law department and co-chair of the firm's trade secret and non-compete specialty practice group. In this discussion, David discusses growing up in Potomac, Maryland, his decision to attend the University of Michigan and Georgetown University Law Center. And for anyone at Foley who knows David, you know that he is Mr. Michigan. So I get him to dive into how exactly it is that a kid who grew up in Maryland ended up going to the University of Michigan and became the super fan that he is today. Additionally, we talk about David's decision to attend law school and what that experience was like for him.

Alexis R.:

He also shares how upon graduation, he joined the law firm as a litigator, and actually spent a number of years as a litigator before switching to a corporate M&A practice. In addition to this, David reflects on the nearly 20 years that he has spent practicing at Foley & Lardner because the firm he initially joined was actually merged with Foley in the early 2000s. David also talks about his role as co-chair of Foley's LGBTQ Allies committee. He also provides wonderful insight on the progression of a corporate practice and some fantastic advice on the importance of being nice to everyone. I hope you enjoy my conversation with David. David Sanders, welcome to the podcast. As usual, we're just going to jump right in and have you give your professional introduction.

David Sanders:

Thanks, Alexis. My name is David Sanders, and I am the current vice chair of the business law department at Foley & Lardner. I formerly ran the transactions practice with Steve Barth for about seven years. I've been at Foley since I was at a 20 person firm that merged into Foley in 2001. Our offices here are at 3000 K Street in Washington, DC. I was born seven blocks to the left at 23rd & K Street. I got married seven blocks to the east at 23rd & K, and I got married seven blocks to the Northwest at 34th & Prospect. So other than four amazing years in Ann Arbor, which I'm sure we'll get into a little bit later, I've spent my entire life pretty much right here in Washington, DC.

Alexis R.:

Wow. This is the epicenter of your life, almost down to the blocks almost. And I have to say, I don't know, a word on the University of Michigan. It comes up frequently in the podcast because I went there for law school. I've had guests on who went to Michigan and I've even said let's be careful. There's a chance some of our listeners aren't huge Michigan fans and this could have a chilling effect on them, but this is the warning, this is kind of the Michigan podcast. We're going to talk about it quite a bit. If someone listening doesn't like the University of Michigan, I don't really know what to tell you because I think David, your unofficial name at Foley is Mr. Michigan.

David Sanders:

No, I think that's fair. And if the people here could see my office and the pen that [inaudible 00:03:46] out of the victors and the phone charging station with the block M and the Juwan Howard bobble head and those who stay will be champions, they would certainly understand it. But one thing I do want to share with people is that despite our differences, I'm a uniter. So one of my closest friends is a diehard Buckeyes fan. And the chief diversity officer at our firm, Eileen Ridley, is a die hard Golden Domer. And it was really hard for her when she finally had to admit that Tom Brady is a better quarterback than Joe Montana. It wasn't easy for her, but she did it. And the beauty of it is seriously, all kidding aside, underneath it all, there's a layer of respect.

David Sanders:

There's this Midwestern ethic of we're all in this together. And yeah, we may fight on the basketball courts or the football fields or the hockey rinks, but at the end of the day, we all want each other to do well and it's such a great thing to be able to follow your alma mater. And I'm lucky enough that my daughter is a rising senior at the University of Michigan. So it's a generational thing and it's amazing.

Alexis R.:

That's amazing. We do. We all have mutual respect, but if you're able to buy a colleague a Michigan shirt because their child now goes to Michigan, a school they didn't otherwise support, you're going to do that, and so that's just how it is at Foley. But let's jump in. You already answered part of my first question when you said that you were born approximately seven blocks from the office you now sit in, but tell me more about that. So we know you're from DC, but tell me more.

David Sanders:

Sure. And an important part of the story for me too is I am a proud second generation lawyer. My dad went to NYU undergrad and NYU law school. He had a full academic ride and a New York State Regent scholarship on top of that in order to be able to go to NYU undergrad, and then worked as an accountant to put himself through law school, started in the Justice Honors Program and moved down here. My mom was born and raised in Philadelphia and moved down here to teach and they met then. They met in DC, actually in Crystal City, got married. I came along soon thereafter and I have three younger brothers. One represents high net worth investors in New York City, another is a real estate lawyer in New York City, and the youngest is an orthopedic surgeon here in DC.

Alexis R.:

Wow. And so did you grow up in the district, in DC?

David Sanders:

I actually grew up in suburban, Maryland. I grew up in Potomac and now I live in Bethesda, which is pretty much right next door. And I went to Churchill High School, which is in Potomac. And I know that you talked about Potomac with Sarah Madavo. She actually grew up within 50 yards of where I got my first speeding ticket.

Alexis R.:

That is really random and specific. That is very interesting.

David Sanders:

It was not my last speeding ticket, but it was definitely my first.

Alexis R.:

Well, so tell me, what was it like growing up in Maryland? If I found you, I don't know, circa middle school or high school, what were you doing? What were you into?

David Sanders:

Unfortunately, I love where I am now and I loved growing up here. It is a competitive environment where people work hard and people get great educations and value education. And I think because of that, there are so many bright people around here and people who want to do the right thing that you never feel like you're out there on an island. There's always someone going through what you're going through. And I went to a big state school and then I went to the biggest law school in the country. And I guess the sizes of these things never overwhelmed me. I felt like I was ready to be one of 23,000 undergraduates at the University of Michigan and I was ready to be one of 625 lawyers or future of lawyers in my first year of class at Georgetown Law School. So if I had to think critically about what it was like to grow up here, I think being surrounded by so many people who were vested in their success and the success of the world around them and the success of the communities in which they live was really a helpful thing.

Alexis R.:

That's really interesting. Were there any sort of sports or other hobbies that you had as a kid, at least that are worth mentioning?

David Sanders:

Yeah. So I've basically played every sport I can. I grew up outside. I grew up playing outside with my friends and my brother's friends, whether it was soccer or basketball or ice hockey. The 1980 Olympics, I was 10 years old when they happened and that made me want to play hockey. And I had a lot of very tense and difficult negotiations with my parents and they finally relented and let me play hockey. And the great thing is that here I am at 51 years of age and I still play on two hockey teams. I play hockey twice a

week and it's something I'll never give up. I also play softball with the folks I grew up with. I'm the left center fielder. The left fielder and I, our dads are both lawyers and played softball together from the 1960s until they both retired somewhere around '70.

Alexis R.:

I appreciate you elaborate on that, especially about hockey because I knew you played hockey and I think when I first joined the firm, I want to say probably within the first month or so, we talked and instantly had the connection because of Michigan, but also because my husband is very similar to you in that he is the hardcore Michigan fan. I think he aspires to have the Michigan wardrobe and other items that you have, but he also hockey and he started playing as a kid. I was wondering how you started playing because you didn't grow up in the Midwest. And I think growing up on the East Coast, it's maybe not as common to play when you're younger, but it sounds like you figured out how to get connected with the sport.

David Sanders:

It certainly wasn't as common, but now the only ice time we get before COVID was at 10:00 PM. So it's been great because there's one thing I can promise, and that's when you're chasing a little rubber puck across the ice, the last thing you're thinking about are billable hours and it's such a great stress release for me.

Alexis R.:

That's a really good point. I also had Chris Ward on the show. So for listeners, he's a labor and employment partner out of Chicago, who I guess also played adult men's league hockey, but he made sure to correct me and say, "Alexis, that's called beer league, that's what you call it. We're not calling it adult men's league."

David Sanders:

Well, I will tell you this, one of the best players on my team was a defense woman at Yale. So I don't even think you can call it men's hockey.

Alexis R.:

Oh, that's a good point.

David Sanders:

Yeah. She's I think a cardiologist and by the way, an evil good hockey player.

Alexis R.:

That's amazing. Well, I appreciate you elaborating on all of that because also this show, in addition to I think dispelling a lot of, I don't know, a preconceived notions that people may have about who becomes lawyers and what the path is to law. I want people to hear that lawyers and particularly Foley lawyers, we do other stuff. Now, like how I said we, even though I don't practice as a licensed attorney at Foley, but I

include myself in the we. We have full lives, but tell me, okay, so you said you're probably a second generation lawyer. Did you know law school was where you were heading? Let's say I found you in high school, would you have told me, "Yes, I'm going to be a lawyer."?

David Sanders:

Well, I have to be careful because my parents get sensitive about this, but I always tease them and say that they were very open when I was growing up and they said I could be any type of lawyer that I wanted to be, but frankly, that was not accurate. It was really limited to corporate and high stakes litigation. So I was raised by a tax lawyer. When I was growing up, for a while I wasn't sure whether I went into the law because it was what everyone expected or because it was what I really wanted. And when I was in high school, I figured out, okay, I'm really good at reading and writing. I have the skills to do it. And when I was in law school, I made a decision. I was still kind of battling with this and I said, you know what? I'm going to do this for four years. And I'm going to turn around on my 29th birthday and I'm going to ask myself, do I really love what I do?

David Sanders:

Because then it won't be too late to make a change. And by the time I was 29, I was engaged to be married. I was about to get married. I had switched from litigation into corporate and M&A and literally the first M&A transaction I worked on, it was like a cartoon light bulb went off over my head and I was like, this is what I'm born to do. So for those of you litigators out there, I love you just as much, but my calling was M&A and my calling is negotiating documents and working with folks to get the deal done. And I thrive on that, and at 29 I was doing that. I was engaged to be married to a woman that I loved then and I love even more now and that's it, I've never looked back.

Alexis R.:

So listeners might get annoyed with me because what I'm supposed to do is have you elaborate on the love of M&A, and we will get there, but I'm taking you back because I personally just need to know why the University of Michigan? You grew up in Maryland. How did you end up applying to Michigan, going to Michigan, becoming Mr. Michigan?

David Sanders:

Okay. So that's good. And I want to put a tie on what I just said because I think it's important to understand that you don't always need to worry, is this the right course for you and the right path for your life? I gave myself that four years to give myself an idea of where I really wanted to end up and by then, I had figured it out. When I was in high school, everyone was everyone, parents, guidance counselors, friends, they were all pushing me towards smaller schools. For whatever reason, they felt like I should go to a smaller school. And if I'm honest with myself, academics was never really an issue for me, becoming outgoing and developing my personality, it was something I needed much more of. So I think that I needed a big school or I was going to sink or swim and have to find myself socially and have to learn how to get along with different types of people socially.

David Sanders:

And that led me to University of Michigan. I got in very early, it was rolling admission back then. And I went through the process and at the end of the day, that was the school I really wanted to go. I said yes before I had ever gone there. The first time I went to Ann Arbor was for orientation the summer before my freshman year. And it's funny, my parents always used to tease me about Michigan, "Why'd you go to Michigan? Look at all these other schools you could have gone to." And it's funny because I said to them when I was 42, 20 years after I graduated, I said, "Okay, it's been 20 years. Have I ever said a bad word about Michigan?" And they're like, "Nope. No, you haven't. You love it." And I said, "Exactly." And my closest friends are from Michigan. One's a lawyer, one owns a brewery and one's a middle school teacher, and we all still hang out and we text all the time and-

David Sanders:

And we all still hang out and we text all the time. And the sports is an amazing thing. And it's a source of pride, except for football right now. Every other sport, we're actually doing really well, shout out to the women's gymnastics, national champs. But just sports is really just a catalyst that gives us a reason to all hang out and support a university that taught us great things academically, socially, and in our commitment to the community around us.

Alexis R.:

Thank you very much. I had to get the origin story. This is like true superhero origin story stuff right now for me.

David Sanders:

Nice.

Alexis R.:

And also for me, I went to American University for college and undergrad. I did not understand the big 10 stuff, didn't necessarily know what the big 10 was until I met my now husband. As I've said, a lot of times, I'm not really a sports person, but yeah, Michigan is absolutely one of those quintessential college experiences that if you saw in a movie, you're like that's college. And I think that's how the University of Michigan is. But okay, so you go to Michigan, I'm assuming you got what you wanted. You got in a environment with a lot of people. You clearly got the opportunity to develop your personality somewhere along-

David Sanders:

Yeah, I came out of my shell. So somewhere along the line, I found my voice.

Alexis R.:

So how does the law school decision come into play? How did you decide to come back to DC?

David Sanders:

So I actually chose Georgetown over Virginia, which was... I don't think a lot of people would have done that, but after four amazing years at Michigan, I felt like I needed to really prepare myself for life as a lawyer in a more real-world environment, in a big city. So I knew that I probably would've had a more enjoyable experience at UVA and gone to a slightly higher ranked school. I think they were eight and nine at that time, but I also knew that I needed to be in a city. I wanted to work 20 hours a week during law school, second and third year, which I did. And that's where I ended up getting my offer. And that's the firm that merged into Foley in 2001. And I wanted to get tougher and I wanted to have more of an adult city life. And that's what I did. And that's why I chose Georgetown. And I got that and I'm an adjunct professor at Georgetown now. I'm committed to the school. I got a great education there and I think they did a great job teaching the skills to become a practicing lawyer.

Alexis R.:

So what was that adjustment to law school like for you? Did it go pretty seamlessly or was there an adjustment?

David Sanders:

It was a reality check. I remember the like one of the first days at lunch, like I literally left being a summer camp counselor at the summer camp I grew up at 9:00 PM one night and started at law school 9:00 AM the next morning. I had a great tan, but I was not ready for people who had been in the working world for several years, for people who were from all different parts of country in the world. And I just remember at lunch that first day being at a table where all the people were talking about was Supreme Court biographies and Supreme... Like this justice said this and this justice said that. And like, I don't know, like I can name all nine justices, but like I've never read any of their biographies. I hope I'm not like saying something lawyers shouldn't say out loud, but I was like, can we talk about sports or like TV or movies or anything?

David Sanders:

And eventually, I found my crew and I found my group and law school was rewarding and great. But that first week, I just remember people were like passionate about things that I had no idea people were actually passionate about.

Alexis R.:

I think that could be a universal experience for a lot of people in law school. So I think it's great that you're sharing that because there's likely someone who's going to listen who's like, yeah, I had that feeling last year.

David Sanders:

Oh, and there's no doubt there are people who are going to be listening and thinking, oh my God, how could someone not be fascinated by law school biographies or by Supreme Court justice biographies. And yeah, I get it. I understand. But like, I actually have a paradigm of how I talk to people that I haven't met before about stuff. And I got to tell you, I start with sports, a downshift into pop culture, probably Taylor

Swift or something like that. And then like, if I lose you with those two things, I'll go on travel. But like Supreme Court justice biographies, really low on the list.

Alexis R.:

Far down the list. Yeah. I didn't realize you were supposed to have read all the biographies for all the justices before law school. Oops. And it sounds like you did adjust. You said you found your people and I did not know about this started as a litigator switched to corporate. So in law school, did you think litigation was what you wanted to do?

David Sanders:

So the first job I got as a first year summer associate was as a litigator. And if you think it was easier to get a paying job as a first-year summer associate back then than it is now. So I got one, it's a small firm, Freeman, Leevey, Kroll & Simons, and I was a litigator and I worked 20 hours a week. I worked full summer. Then I worked 20 hours a week, that second year, all summer third year, and then all summer between second and third year and then 20 hours a week third year working on litigations. There was a big arbitration that I was like third chair at, as a law student, with a partner and an associate at [inaudible 00:19:09]. I got great experience as a litigator. I worked for about a year and a half as a litigator full time. And it just... I don't know. It was work.

David Sanders:

It didn't energize me. I didn't get energy from it. I didn't love it. I was told I was okay at it. And then after I asked to switch, I was told I was the best researcher the lawyer had ever had, who I was working for. Of course, he never complimented me when I was actually working with him. I hope he doesn't listen to this. But then I asked to switch to corporate because I wanted to try it. And like I said, once I switched to corporate, I was like, okay, I get the people litigate and litigation is really taking a set of facts that's already been established, applying all the law you can find and making arguments.

David Sanders:

It's retrospective in nature. For me, transactions are prospective in nature. You're not trying to boil the ocean. You're not trying to solve for every. Sooner or later, there is a cost benefit analysis of, do I want a 70 page agreement or do I want 120 page agreement? And if the 70 page agreement covers 98% of the scenarios that takes another 50 pages to cover the other 2%, are we okay with the 70 page agreement, knowing that the cost is X or X plus whatever? And making those judgment calls and working through that with clients and then negotiating them with the other side and advising the client what the risk is it's just something that's really exciting and interesting to me.

Alexis R.:

That is a fantastic way to describe it. One's reactionary. one's prospective, but you said something else. So I don't even know which direction I want to go, but hopefully we can talk about both. This whole idea that ideally you do what energizes you. And I think that particularly as lawyers, and this is tough. This could be a touchy thing for lawyers because it's hard being a lawyer for a lot of reasons. And maybe we can get

into that too a bit, but you are proof. And I think many people at Foley are proof that people find areas of the law that they truly love and that energize them. And I just have to harp on that for a second.

David Sanders:

When I meet with law students and I mentor about a dozen a year, it's been less the last two years because of COVID. But I love mentoring students and helping them work through stuff. A lot of them will ask, "Well, what are the hot areas?" And I'll tell them what the hot areas are, but I'll say, "Don't forget to do what you enjoy." And a real eye-opener for me was doing the Myers-Briggs test because I learned what my personality type was. And I was able to frame work, come up with a framework of the personalities of the people, my clients, and my coworkers. And then I was able to relate to them better on their terms and finding ways that we could work together and have more of a meeting of the minds.

Alexis R.:

And it just creates some major self-awareness. It gives you, I think, terminology and tools to be more self-aware to better know yourself and to know others. And also, I think what's hard for law students in particular is, well, how do I know what I'm going to love when all I know... Like for a lot of people in law school, like they watched TV. They've seen maybe something criminal law in court, but they don't know that you exist as a type of lawyer.

David Sanders:

True. And one of the ways I would advise them to get that experience, and it's hard to do, is to look for summer program options that are working at companies where they have contracts and where they have contract departments, where you can see what that's like, and you can see what it's like to negotiate and what it's like to do something other than litigation.

Alexis R.:

That is fantastic advice. And there's two things I want to do. One, I want to keep marching through your career. At least just a little bit more. We've gotten to the part where you switched practices. You're now a corporate lawyer. You've mentioned that your firm merged with Foley in early 2000s, but reflect a little bit on the learning you did to become a corporate lawyer. And also what that experience was like once you joined Foley. So basically, just tell me more.

David Sanders:

Okay. So I'm not going to tell you I read the Wall Street Journal. I'm not going to tell you that I read up about business. The most important thing I think I did was throwing myself into the deals and writing, getting any writing assignment I could and learning how to write these documents and understand the purpose of the documents and stepping back and making sure it wasn't just a find and replace exercise. The good news is that Microsoft Word has had the same shortcut keystrokes since I was using Microsoft word 2.0 in Ann Arbor. And it's not just control C, control V. It really is thinking about each individual phrase and how it fits into the document as a whole. You need to see each tree and then you need to back up and see the forest and see how they fit. And I pushed myself to do that.

David Sanders:

I pushed myself to read the boilerplate and forced myself to figure out what it's saying, because there's some pretty important stuff there. And once I understood the way the documents worked and the transactions we were doing, and I didn't understand this the first time. The first time I was just filling in blanks and didn't even realize what an office certificate did, but maybe a month in, I was like, okay, there are these closing conditions and these covenants. Why are some covenants and why are some closing conditions? And then I read through when I dove in and today's new lawyers have a great advantage in practical law because there's agreements that tell you what each side is trying to accomplish. I kind of figured that on my own. The other thing I did was I took accounting classes. When I was at Michigan, one of the guys in my accounting classes now is the GM of the Lakers. He was super smart and graduated Michigan Law with grades and stuff.

David Sanders:

So when I was a junior associate, I took an accounting class. When I was a senior associate, I took another accounting class and these are just one day classes. And then I was a junior partner, I took an accounting class. I'm pretty sure it was the same class each time, but I understood it very differently each time. So I understood enough about balance sheets and income statements and why my clients were doing the deals. And I always pushed myself to understand why a client was doing a deal. And if you could understand why they were doing it and what your role as the lawyer was to facilitate getting that deal done, it makes you a better lawyer. Some deals are all about the intellectual property and the employment agreements and the severance agreements really don't matter that much. Some deals aren't about the intellectual property at all, and the employment agreements and the accounts and the customers you're getting are everything. And you need to know that going in when you draft a document and when you see what's important to negotiate, because you're not negotiating the best deal for you. You're negotiating the best deal for your client. And a lot of lawyers forget that.

Alexis R.:

You've said so many fundamentals about... Well, one, not just corporate practice, but fundamentals, I think, to being good at what you do. And everything you just said exhibits that curiosity. And passion and interest are there too. But a lot of what you said was you were curious about X, Y, or Z. You want to learn more. And so you took the steps that one should take to answer questions. And I don't know. Actually, I'll just speak for myself. I think as a junior lawyer, I very much didn't know what was going on. And maybe it didn't occur to me to be curious in that way. So I just think it's really powerful that you describe it. And I hope that some people take your advice and like, oh, I could not just do find and replace. Like you said, I could figure out what this document is for.

David Sanders:

But that didn't happen to me right away, because it was so over... And I'll be the first to admit the first two years, I was not a good lawyer the first two years. When I look back, I was not good. And because it's so overwhelming at first, you're doing find and replace, and you're checking to make sure this subject agrees

with the verb and all that. You're looking at words, which you're not really taking in the meaning. So you need to get to the point where that stuff is happening automatically, so you can take in the meaning. And once I realized I was doing that two years in, I really pushed myself to understand the meaning. And now when I mentor associates, I will say to them, okay, now, how does this fit in with the whole? What does this language do? What role does it play? And the associates who work with me know it's not okay to point something out and leave it at that. You need to come up with your proposed solution, because I want them to think through the process of becoming a lawyer and giving advice.

Alexis R.:

Which is really helpful guidance. And I really appreciate that clarification also because being a junior lawyers also, like you said, you're learning a lot, but it's also a little bit scary. Like you've likely never been given whatever task you're asked to do. You want to do it right. You know you at the very least don't want to leave in the names of the parties who last used this document. So it can be a lot to also want to have like a holistic bird's eye view.

Alexis R.:

But I think your point of you will get to the point where you can a couple of years in, take more time to figure everything out, or maybe it's earlier. I also think people are a lot savvier than I was. When I talk to law students now, many of them just know more about what's going on than I did when I was in their position. But I think it's really helpful because people look at you now and you listed all the leadership roles you have in the firm and you've been doing this work for quite some time, to hear you reflect on that and to hear that you also once were a second year, who was figuring it out.

David Sanders:

And it's funny because like it doesn't seem that long ago, but I remember the first time-

David Sanders:

... that long ago. But I remember the first time that someone told me someone else was kissing up, and I was like, "To me? Really?" And they're like, "Yeah, David to you." And I was like, "What?" So-

Alexis R.:

You're like, "Why would they do that?"

David Sanders:

I know, "Really?" That's a shocking moment when that starts happening to you.

Alexis R.:

Well, now tell me more about the ins and outs of your practice. So we know corporate, transactional, M&A, but what does it look like day-to-day? How do you describe your practice?

David Sanders:

So I cut my teeth on service-based M&A, and that's important because it led to my other primary gig as a lawyer, and that is I actually chair the firms' trade secret non-compete practice. Usually that's a litigator, but because I did so many M&A deals that were based on service-based businesses where the employees and the owners were critical to the success of the business going forward, I became an expert in non-competes. And I've got a pretty decent memory, so whether it's reciting all the Heisman trophy winners or reciting the non-compete law of the 50 states and the district of Columbia, that's the kind of thing I do for fun. And in my basement, I do have an homage to Michigan Heisman trophy winners just in case you're curious.

Alexis R.:

I fully expected that. Yeah.

David Sanders:

Yeah. And I can tell you a story about when I bought something off of the wall of the Victors' Collection in Ann Arbor when they said that's not for sale, and I said, "Come on."

David Sanders:

So that developed this expertise in non-competes and trade secrets, which I followed, and there's actually a lot of interesting developments, especially now as governments grapple with wage requirements and whether or not non-competes are anti-competitive and which types of employees should be bound by them. But also, I just did a ton of M&A in healthcare related fields and service-based fields, I've done M&A with heavy manufacturing, light manufacturing in the U.S., in Japan and Korea and Latin America. I am a middle market M&A expert, I think is the way you would call it. I've closed over 150 deals probably and a ton of joint ventures that are really fun because there's no roadmap for them, so you don't engage in the same old negotiations because each one's so different. So I'm engaged in a lot of those.

Alexis R.:

So I've had a few other corporate lawyers on, and it's where I've shared my lack of comfort with the practice area, because it wasn't the life that I lived, and I've had a number of them do that break down of what does it mean to do deal work. So listeners, if you want to get into that, look at some prior episodes.

Alexis R.:

But David, I would love to have you comment on the way the path or actually the expertise... Maybe that's sort of not the right way to describe it, but the way the practice changes as you get more senior in the role. So we did talk about how when you're very junior, you could be changing documents around so they fit the deal, but my understanding is that once you hit the level you're at there's also quite a bit of advising and deal structure. So could you comment on how that trajectory and how what you do changes as you've become more senior as a M&A attorney?

David Sanders:

Yes. As an M&A attorney, the first few years you are working on maybe one or two deals at a time for eight to 10 hours a day, or whatever, maybe three or four matters. Now I routinely have 20 to 25 time entries a day. Very rarely do I spend more than two hours on any one transaction or any one matter. I also do a lot of counseling and a lot of working with private equity backed and venture capital backed startups. So it's generally a lot of different review of what junior partners or mid-level associates or junior associates have done for me to take a quick look.

David Sanders:

An example would be, if we're working on say a \$50 million M&A deal, I would have a senior associate or junior partner running the deal and they may have me review the purchase agreement just to make sure everything makes sense, there's nothing that is out of place. And if there's a specific issue that's unique or complicated, I would come in and work through that and maybe even negotiate that with the other side.

David Sanders:

There was one deal we're working on where the owner of the business have developed his own IP that my client was not buying, but at the same time, there was a potential it could conflict with some things my client was doing. So that was one where I had to get on the phone with the lawyer for the other side and hammer out something that protected what my client was doing, but also gave his client the ability to do what he wanted to do following closing. So that's the type of thing where I might parachute in, come and fix some stuff, work on some stuff and then move on. But it is a lot of counseling, a lot of big picture discussions not only on one specific transaction, but on generally what your outlook is for different transactions of that type and how you're looking to integrate a marketplace or penetrate a marketplace.

David Sanders:

The skills that are key to that are not only some business acumen and some awareness of what's going on in the world, but also understanding psychology. Look, and I only took intro to psych in college. I didn't take more than that. But there's a lot of understanding the way people are going to react to get to yes and there's a lot in the lawyer mind that's completely different than the business person's mind, and I want to go into this because I think it's interesting. And that is, as lawyers, we take this whole set of facts and we're constantly winnowing, winnowing, winnowing, narrowing, narrowing, narrowing. So when we talk to clients, we tend to talk like that. We tend to start by, "Here's what you can't do, here's what you can't do, here's what you can't do, but here's why you can do this."

David Sanders:

One of the first times I was ever talking to the CEO of a client, I said, "Here's what you can't do," he cut me off, started talking about what they can do and I never got a chance to finish my beautifully worded sentence. So what I learned is when you're talking to clients, start with here's what we can do, this is what I would suggest we do and here's why I ruled out all these other things. You want to lead with what they want to hear first because if you don't, they will cut you off and you'll never get the finish. And as much as lawyers love to hear them speak, CEOs really love to hear themselves speak.

Alexis R.:

I'm also thinking that what you just said is also how you should write the email to a partner when you are a junior lawyer, because you've learned not to write these crazy long emails with I've learned not all this and then to have your answer 800 words down at the bottom, please flip it around and have your answer at top. And if they want to read more about what you rolled out, they'll read that if they'd like, but it's a similar communication style.

David Sanders:

Oh yeah. And the thing is, it's different than if you're working with an in-house legal department than if you're working directly with executives. If you start a memo to an executive with question presented, they're going to laugh and make fun of you for days. But if you're working with a place with a robust in-house legal department, that may be fine, the memo they teach you first year of law school, the memo format may work. But C-level executives who are not lawyers, bullet points. They want bullet points.

Alexis R.:

Yeah, bullet points and a PowerPoint slide at some point.

David Sanders:

Exactly.

Alexis R.:

But also I think a big theme of what you just said and something I like to call out for particularly the law students and junior associates listening, your practice is dynamic. And I think this goes to why being a lawyer is difficult because if you're doing well, you will continually need to get a new skill set because you'll get new sorts of opportunities and what you did as a second year associate is not what you do now as a partner running a group. And I think that can be hard for people because, from what I've seen, it takes a good 10 to 15 years to start feeling truly competent as a practicing attorney. Could be wrong. Give or take.

David Sanders:

Well, Malcolm Gladwell, I think, says you need to do 30,000 hours of something to be good at it. I forget exactly what he said, that was a great book, but it was *Outliers*.

David Sanders:

When I first got a leadership role, I was 40 or 41 and I spent way too much time trying to put square pegs in round holes. I knew what I thought it took to bring in business and develop a book of business. What I didn't realize then, as simple as it sounds, is you can't change people, you can only get them to be the best versions of themselves. And the only way you're going to do that is by encouraging them and helping them when they want it. So I spent a lot of time trying to get people, frankly, whose highest and best use is not going to happy hours to go to happy hours. There are some people who are just going to develop business by writing articles, others by speaking in front of big groups, others by hobnobbing and

schmoozing, and that's okay. If we all work together, there's space for all of us to work together to grow our practice in a way that's acceptable to us. And it's good to stretch yourself, but you can't make someone into something they're not. I think that's a lesson for a lot of us.

David Sanders:

The bottom line is in order to be a lawyer, you need to be a really good writer, and a really good reader and you need to be able to process information quickly. And I think sometimes we forget how hard it is just to do those things and how many people don't make it to this level just because the ability to read and write that intensely for 12, 14 hours a day is not for everyone. And then once you get there, thinking about how to use that ability to inspire others, or to get others to do things that really fit their best version of themselves, is a much better way to spend your time than getting them to do something that they're inherently uncomfortable with.

Alexis R.:

Sometimes when I'm talking about diversity and inclusion within large law firms, what I will say is a lot of attorneys went to law school to be lawyers, not to manage people. And I think some of what you just said about leadership and how to bring out the best in people really exhibits that that is a strong... So that's a skillset you have or at least something you've learned about. Whereas I think a lot of lawyers are reticent and sort of confused when it's time to flex that muscle as well. But what's interesting to me is I've never had the opportunity to even talk to you about your practice because we've talked plenty, but whenever we do it's about something related to DNI at the firm and particular recently, the fact that you are one of the co-chairs of Foley's LGBTQ and particularly, the allies group. So in addition to everything else you've just said about the various leadership roles you have at the firm, you're very much a champion for diversity and inclusion at Foley so I'd be remiss if I didn't raise that on the podcast. I don't know if you have any observations or comments you want to make about that, particularly about your role on the allyship subcommittee. But I had to say it because we've talked so much over the last year and a half partly because of that.

David Sanders:

No, and I appreciate that. It's a critical part of who I am, but frankly, it's not about me. You have the arguments that everyone knows, in order to give the best advice to clients you need to represent diverse viewpoints.

David Sanders:

I had a Zoom call with my friends celebrating our 25th anniversary of graduating law school, and a lot of them are GCs or in-house, and they told a story of how a group of GCs were interviewing a top law firm to represent a group of companies in a really important litigation. And the men in the room kept talking over the women attorneys at their own firm, and that disqualified them right away. So there's a business reason to get smart on it, but also it's just the right thing to do.

David Sanders:

For me, I get asked, why do I work so hard to help allies and is there a reason? And there really isn't other than when I got married, I gained so much strength and confidence from being married and from having someone who believes in me and having that relationship, it crushed me a little bit to realize not everyone could have that. That led to me becoming a very significant and strong advocate for same-sex marriage. It led to me going to human rights campaign dinners. I'm also a staunch ally of people of color. My good friend and law school classmate, Yolanda Young, started Lawyers of Color. And that's an important part of who I am.

David Sanders:

I think I know that I need to leave this place more diverse than I found it and I know to do that, the way to do it is to help the folks I work with develop their own books of business so they can have that same power to play the role in the community they want. Because when you have a big book of business, it gives you the opportunity to serve on charitable boards, and it gives you the opportunity to vote with your time and your energy and your wallet to support causes. I take very seriously the fact that this battle is going to be won not only by diverse voices speaking up, but by the old white, straight guy in the room, standing up and saying, "This is the way the world needs to be and I'm going to put my effort and my money where my mouth is on it."

David Sanders:

Look, I'm proud of the fact that Martin Luther King day 2020, I was out handing out coats to homeless people in the district and I'm talking about it, so obviously I want to brag about it a little bit, but it's because if other folks can see that and say, "Okay, you know what, maybe we could all do that a little bit more," then we've made a difference and we're helping. And I don't want to get too schmaltzy and schmoopy and all that, but the bottom line is I'm very team-oriented, and if I can help the people on our team develop their own books of business and be able to help shape the world the way they want, it's an amazing thing.

Alexis R.:

Absolutely. And what you said about needing the white straight guys to stand up and be involved too, if I had a dollar for every law firm partner, and this isn't Foley, this is in other firms as well, who has said, "Oh yeah, diversity is great, but I'm just this 65-year-old white guy. You don't need my help." And I'd say, "No, no, no, I do need your help and here's why it's important," because ultimately this is about people and we all should be advocating for-

Alexis R.:

It's important, because ultimately this is about people and we all should be advocating for other people, bottom line. So I love that you said that. I do want to circle back to Yolanda as well.

David Sanders:

Let me just say one other thing about this, because I think it's a really important, because I examine and re-examine all my actions all the time to make sure that I'm seeing the world in a fair way and giving

equal opportunity to everyone. And I think if you're not constantly self-analyzing what you do and how you do it, you're probably not doing it justice. Because we all come to the world with our own preconceptions, and it's really important that we are constantly assessing what we do, how we do it, to make sure that we're giving everyone an opportunity. So every speaking engagement I get, I offer to my team. I make sure everyone gets an opportunity to join me at these speaking events or to have them on their own. And I make sure that every time there's a networking event to go to, I bring someone every time, diverse or not, woman or other gender.

David Sanders:

And I make sure that I do everything I can to provide equal opportunity to everyone. And I'm constantly critiquing myself on that to make sure I'm doing it right. And the other thing I would say is, the biggest fear for me right now is saying the wrong thing unintentionally, because at 51 I don't feel like I can anticipate the way different generations see things. I'm a naturally very glib person, and I'm afraid I'm going to say something that isn't as up-to-date as it could be. And I just feel like we need a little more kindness and a little more compassion, especially when this is what keeps me awake at night. How can I make sure everyone has an opportunity to succeed?

Alexis R.:

I appreciate that. And without me fully flipping into an inclusion workshop and that language, but what you've just said is it's important to be intentional, because when we're intentional, that's how we're able to interrupt bias. It's when we're on autopilot that we don't realize the lens we have, the culture we draw from and how that can cause us to reach these automatic snap judgment, things we don't even realize that we're doing. So I think what you just said is a great example of how to be intentional and doing the work. And I get asked this a lot about, what if I say the wrong thing? And actually, Verna Myers, the amazing DNI professional expert, she has a book called, *What If I Say the Wrong thing?* So people can pick that up.

Alexis R.:

But ultimately, I think assuming and knowing that all of us, we will say the wrong thing. And when you do say the wrong thing, being open and gracious when someone corrects you versus defensive. And to talk about another person that I respect in addition to Verna is Brene Brown, who talks about the difference between being a knower and being a learner. And if you're a knower, you're just trying to be right. Whereas if you're a learner, you're trying to get it right eventually after trying many times. So I think everything you said just exemplifies that. As our time starts to come to close, I had a couple additional questions for you. One was, you did mention that your firm merged into Foley, and that was, it sounds like about 20 years ago. So I'm just curious, what has kept you at Foley? What's so great about Foley and Lardner?

David Sanders:

So we merged into Foley February 1st, 2001. And like I said, my dad was a lawyer in the city. I didn't want to go to a big firm because of my preconceptions about what big firm life was like. I've played

softball, I've played hockey. One hockey team I'm on, I was the youngest guy when I joined the team in 1994, now I'm the oldest guy by like 15 years. My preconceptions as to what firm life was like were wrong with respect to Foley. I've been able to be a very good spouse and a very good parent. I've been able to work hard on really tough, sophisticated matters with people I genuinely like. And we have this Midwestern ethic of politeness, kindness, being smart without having to brag. Now I'm from the East Coast, I don't have that affliction. But most of the firm, it's just a really great place. It's substance over style. And sometimes that may hurt us because we don't brag as much as a lot of our competitors.

David Sanders:

But we've got these amazingly talented, bright people who are really committed to the client service. And it's a focus on client service, and a focus on our clients and a focus on, to use the words that our CEO, Jay Rothman, likes to use, focus on stewardship and a focus on leaving this place better than we found it. And it's kind of amazing when I think back that I haven't done a resume since first year of law school. When I was filling out my last car lease application, I had to put my previous employment and I had to call the owner of the summer camp, who's the son of the guy who owned it when I was there. And I was like, "hey, I had to put you down as my previous employment." He's like, "all right, I'll go to my dad's house and find your file. Not sure what kind of employee you were. We'll have to see." Meanwhile, my kids have all gone to the camp forever and all that, and my brothers and I all went there.

David Sanders:

So I think to answer your question, I just can't imagine practicing law anywhere else. I can't imagine. I've been able to do everything I've ever wanted to accomplish in my career personally and professionally here at Foley, and I know I'll always be able to do that.

Alexis R.:

I can definitely confirm that everything you said, that kind of Midwestern ethos. But I will say coming in to Foley, I was and I still kind of am in the camp of like, but can we brag just a little bit more? Because there were things I would find out about what the firm had done, and I was like, "did you guys tell anybody?" They'd be like, "no, we just did it because it's the right thing to do." Which is right. That's laudable and it's fantastic, but I am team, let's brag just a tiny bit more.

David Sanders:

I know. I know. But it's who we are. And we're getting better and we'll get better. But it's such a great place to work and it's awesome. I do want to make sure we get back to Yolanda. So what questions did you have about Yolanda?

Alexis R.:

I just, with Yolanda I wanted to highlight how you all had met. And I could be getting this wrong, but I recall, I know you met either in law school or maybe even at an interview, and you've stayed friends ever since, something like that.

David Sanders:

Yeah. So she and I were in the waiting room at a law firm that we were both waiting to get interviewed during second year, during normal interview season. And that law firm no longer exists. It was a very big law firm that had a whole building here that may or may not have been in a John Grisham movie. And she and I, our friendship has outlasted that law firm. It was a great law firm. And we have become lifelong buddies. And we worked together on Lawyers of Color. We hang out together. We share a love of sports and a love of DC sports. So it's been an amazing, look back, graduated 25, 26 years ago, and it's just been awesome to be along for that ride.

Alexis R.:

I just love that story, because I don't know that a lot of people realize that waiting to interview, you might look around, they're going to be like, these are my competitors. But what you got was a lifelong friend out of that. And I've since had the opportunity, I think the reason I got to even meet Yolanda was because we hosted the Lawyers of Color Summit last year before COVID.

David Sanders:

Right before COVID. That's one of the last events we went to.

Alexis R.:

Right under the radar there before COVID hit. And I love that, and I think it's such a great way to show how connections are made and you kind of never know where things are going to lead in life. But as we do wind down, my two final questions for you, David, are one, is there anything else you wanted to hit on that we haven't talked about? And then after that, and knowing you've already given so much great advice, what's your sort of final takeaway words of wisdom to law students or somebody whose maybe early on in their career navigating the legal career?

David Sanders:

The one thing I wished I had known and practiced when I was younger was how far you get in life just by saying, hi, how are you? And pausing a beat for the answer. And this goes to the point we were just discussing about waiting for an interview. If I had just known how much further you get by being nice to people, like in the East Coast there's kind of this, look at everyone a little leery. Don't be nice unless there's a reason to be nice. I'm more of, quoting Roadhouse, I'm more of the be nice until it's time to not be nice kind of person now, which is really where I am in life. And so I will never forget. I was in SFO late one night, and my red eye got canceled. And I went up to the clerk at the counter and I said, "hi, how are you?" And he looked at me and he's like, "you're the first person who's ever asked me how I am. It's been a tough day."

David Sanders:

And I said, "I'm really sorry to hear that. It's tough. I know that this can be a tough job." He's like, "thank you. How can I help you?" And a light bulb went off and I was like, wow, if you're nice to people, they're nice to you and you can diffuse situations. So he got me on an earlier flight and I made it home just fine.

So now I try to be nice. I don't always succeed, but I do try to be nice until it's time to not be nice. And what was the first question right before that?

Alexis R.:

If there's anything else you wanted to hit on.

David Sanders:

So being nice until it's time to not be nice. Start with a hi, how are you? And listen. And get over yourself. I just feel like with everything everyone's been through over the last year, everyone's gone through it in their own way, kindness, and empathy and making that everything doesn't have to be a fight is really, I just wish everyone were still a little bit more willing to be a little more empathetic. I think that'll serve us well in the future.

Alexis R.:

That is wonderful advice. Thank you so much, David. And of course, the final final question always is, if people have questions or comments, want to reach out to you, can they feel free to find you on Foley's website and email you?

David Sanders:

Of course. I love talking. I love talking. So I'm always happy to talk.

Alexis R.:

Wonderful. Thank you so much, David.

Alexis R.:

Thank you for listening to the Path in the Practice. I hope you enjoyed the conversation and join us again next time. And if you did enjoy it, please share it, subscribe and leave us a review, because your feedback on the podcast is important to us. Also, please note that this podcast may be considered attorney advertising and is made available by Foley and Lardner, LLP for informational purposes only. This podcast does not create an attorney, client relationship. Any opinions expressed here in do not necessarily reflect the views of Foley and Lardner, LLP, its partners or its clients. Additionally, this podcast is not meant to convey the firm's legal position on behalf of any client, nor is it intended to convey specific legal advice.