

**00:00:01:06 - 00:00:04:22**

**Travis**

Hi everyone. My name is Travis. Welcome to VJEL Talks.

**00:00:05:00 - 00:00:09:01**

**Hope**

Today we're here with Vermont law and graduate school President Rodney Smolla

**00:00:09:06 - 00:00:24:09**

**Travis**

President, Smolla officially began his term as President of LGS in July 2022. He is an advocate on a wide variety of legal issues, and has argued in numerous courts across the country, including the Supreme Court of the United States.

**00:00:24:10 - 00:00:36:10**

**Hope**

He has also published over 100 articles in law, reviews and other publications nationally. He is known as a scholar on matters relating to constitutional law, civil rights, and freedom of speech.

**00:00:36:12 - 00:00:44:04**

**Travis**

He's here with us today to have an open conversation about environmental law and the role that VLGS plays in advancing.

**00:00:44:06 - 00:00:47:08**

**Hope**

Without further ado, President, Smolla.

**00:00:47:10 - 00:00:54:03**

**Travis**

First off, could you give us a little background on just yourself and how you came to be the President of the law school?

**00:00:54:09 - 00:03:00:16**

**Rodney Smolla**

Well, I was admitted to practice in Illinois in 1979, and I'm admitted in Illinois. See if I can remember all the jurisdictions. Virginia, Delaware and Washington and I have practiced prologs each to pretty much every federal circuit, every major state in the United States over the last 40 years. I've also been an academic, in addition to being an active litigator. And so I think I've been at a dozen schools, if I can remember them. DePaul, Illinois, Arkansas. Denver, William & Mary, Richmond, Washington & Lee, Georgia, Duke. Trouser. Furman, Indiana, where I visited, and then some foreign universities. So I've been an academic at a lot of places. I stumbled into administrative leadership. I had not ever thought I wanted to do that, but that began when I was Dean at the Richmond Law School and then I became Dean at Washington Lee Law School. Then I became President at Furman. Then I became Dean of Delaware Law School and then, became President here a year ago. And, I suspect this would be my last gig. had no plans to do anything more beyond this. and so that's the that's the basic chronology of my life. I've also been a writer, so I think I've written 17 books. And, I continue to keep my treatises updated. so that's that's the story I've, I've known about Vermont Law School now, Vermont Law Graduate School from afar for a long time. and had been here a little bit by the time, but, you know, applied, ran the piece for the new

strategic plan, contemplated that they did while President Dean applied for the President's position, and it happened to work. But pleased to be here.

**00:03:00:18 - 00:03:18:08**

**Travis**

Amongst our many theories of all that we practice here. Could you speak to how environmental law, not only in Vermont was attractive, is that a growing practice of law that is becoming more conscious around the United States, or are we still something novel?

**00:03:18:10 - 00:08:19:22**

**Rodney Smolla**

Well, when the school started, it didn't start with the idea that it would be in it, especially environmental. And the school started a little before I started law school. I went to law school from 1975 to 1978, and environmental law was just becoming part of the curriculum of American Law schools and I think it was perceived as pro environmentalist, progressive, save the Earth. You know, it was it was roughly at the same time of the beginning of what we now think of as the environmental law, right around mid 1970s, maybe a bit earlier. And then I think, well, once this all happened, And this is true, it almost every field of law a good analog would be labor law there there was a huge huge need for environmental lawyers. But the need was from corporate side, the corporate client side. so if you were Exxon Mobil, you suddenly needed an army of environmental lawyers in order to be compliance with environmental laws. And so I think that as as that happened, environmental law became a giant part of the curriculum of just about every law school. Not that every law school had rich offerings in it, but I'll bet you there wasn't a law, I'd be interested to know if there was any law school in the country, let's say, by 1980 that didn't have a faculty member dedicated to teaching environmental law, and didn't offer it once or twice a year. What happened here was unique. What happened here had no precedent anywhere probably, except for Howard University at its decision to dedicate the entire ethos of the Howard Law School to overruling 'Plessy versus Ferguson' and making Civil Rights Law the signature .... I don't think there's ever been a Law School that just said the whole school's existence is got to be aimed at the Civil Rights movement . And I've always thought, again from afar, that when what was in Vermont Law School began to make environmental law the centerpiece of everything it did, it had that, it had a similar ethos and the number of people teaching environmental law and doing scholarship on environmental law dwarfed any school. And the number of curricula off lines dwarfed any school. And so if when I go around talking to alumni, if I talked to alumni from the 70s, maybe early mid 80s, they didn't come to law school because they wanted to be environmental lawyers, some of them did. That wasn't what they were thinking of. And then you see, and then I see among our alumni a dramatic shift in which almost everybody who came seemed to have it in the back of their mind. That's probably a bit of an exaggeration, but it became the signature identity of the school and what it was known for. I think it still is. I think that's still, the most powerful, outside optic, in terms of people looking in at the school. Of course, there are other things, but restorative justice and justice reform and we now have a graduate school. But when I talk to students who are here now and I, I take a group of students out to dinner or I meet them at social events or they come talk to me in my office like you two are talking to me now. And I say, where are you from? And they say, Los Angeles or Texas or Chicago? And I said, well, how why on earth are you here? Almost every time it's I was interested in going to a school that then emphasizes environmental law. Not every time, but a lot of the time. So I think it's still I think it's still an important part of signature. so there are other schools now around the country that have also made it a huge part of their identities. And then there are the big giant research universities that have Law Schools Yeah, UCLA, Berkeley, that have decided environmental law is going to be an important part of their curriculum. Of course they have unbelievable resources, billion dollar endowments, but even there, you know, one of my oldest friends is the Dean of the Berkeley Law School or Chairman And we started to teaching together, at DePaul in 40 years ago. And, yeah, Berkeley has a great

environmental law program, but they have 25 other great programs, too. It's not that it's not the signature identity. It's not it's not 50% of the faculty, you know, teachers in that area. In the same way that it exists here. So that's a long, rambling answer. But that's my perception of how things go. And, and, you know, we're we're fighting to hold our spot and to, to keep our identity.

**00:08:20:00 - 00:08:38:01**

### **Hope**

Going off of that, I guess, then, you know, this concept of environmental law is something that's emerging still, I think, and and is still like seeking some kind of ground. and you have a wide range of experience. Can you talk maybe briefly about any experience that you might have had with environmental law before coming here?

**00:08:38:02 - 00:18:03:12**

### **Rodney Smolla**

Zero. I mean, other than when environmental law touches administrative law, and when environmental law touches constitutional law. But an environmental lawyer or environmental law teacher. So, you know, there are... environmental law's a blend of substance and process. And the substantive side, you know, whether whether, for example, the Clean Water Act, which effects the waters of the United States should include wetlands or not, and whether the wetlands have to be a continuously flowing surface from a body of water or not. That's substantive. That's the decisions were made. This on the Sackett case. That's not my world. On the other hand constitutional law has been my world for decades. And a lot of environmental laws is process and a lot of it is administrative law. And the developments in the last two or 3 or 4 years, in that role I pay a great deal of attention. And, you know, in that world there are three docs that right now, or ten have major impacts on efforts to combat climate change. the Chevron doc, which comes from a environmental law case, the actual decision at Chevron was an anti-environmental decision and was a decision that favored the oil, but it created a doctrine, deference to an agency's own interpretation. that's all organic stature and that would come to be a tool for expanding the discretion of administrative agencies, and particularly a tool for expanded the discretion of the EPA and other agencies that touch on environmental matters in a way that I think was pro environment . So if you had talked to a friend who was a friend of one of the lawyers at Chevron who said we lost the case on behalf of the environmentalist, he said it was the best loss he ever had because Chevron would then become such a great tool? I think it's almost certain that Chevron will be overruled this fall. There's the case involving, you know, the the the fisheries that I think is going to result in the overruling of of Chevron. I've read the brief, by Paul Clement in that case and, I've been reading the tea leaves of the justices and I think they're going to do that. That's not environmental law purely, it's really administrative law but it has a big impact on environmental law. On the constitutional side, there is a constitutional doc called the Not delegation, which prohibits Congress delegated legislative authority to the states. I had long thought t the doctrine was dead, that it had not been used since the Schechter Poultry days and Panama refining cases, both of which from 1935, before the New Deal court came into play. And I remember teaching constitutional law and tell it, students probably need to know this doctrine because the sneaky bar examiners could ask you a question about it. But the reality is it's a dead duck. Congress has not had a wall return because of sweeping discretion granted to an agency since the New Deal. And there is this other view, there is this sort of interpretation of the delegation doc called The Intelligible Principle Doc. Means you have to give an intelligible principle to guide the agency, but that is so amorphous, so expansive, it doesn't matter. And then there was a case called the Gundy case involving sexual offenders. And this is from about three years ago. And in Gundy, congress had given to the Attorney General, the discretion to decide whether sex offender registry rules should apply to people who were already in jail for sexual offenses at the time the law was passed. Congress didn't apply it to that time, congress said to the Attorney General. "You decide". That's a sweeping delegation. the court by five three vote upheld the doc, upheld the delegation.

But three of the conservative justices, led by Justice Gorsuch, said, I think this is unconstitutional. I think Congress can't just give it to the Attorney General this kind of discretion. I think the non delegation doctrine is an offense to our constitutional structure. I think Panama Refining and Schechter Poultry were great cases not bad cases the way they've been caricatured. Schechter Poultry case often called the Sick Chicken case because lawyers like me liked to mock it and Justice Alito said actually I kind of agree with with Justice Gorsuch. But I'm going to vote with the liberals who are firming the grant, because if I don't, it'll be a four four vote, and that means there's no precedent. It's affirmed by an equally divided court, and this would be chaotic in the prison system, because the prison system wouldn't know whether it could do it or not do it. The Attorney General wouldn't know. So I'm going to vote with the progressives but if the time comes, I would be willing to reopen. Justice Gorsuch's opinion in that case said something like this. Maybe I lost this today in trying to revive the non delegation, but but constitutional law is sneaky and principles are sneaky. Sometimes you put the kibosh on a doctrine under one name, but it comes back another. And he said, for example, the major questions doc, is a doctrine that says agencies can't decide major questions without a clear state from congress a clear state from congress Now, that's the first time that phrase Major Questions Doc has ever been used. He talked about it as if it was an existing doc. Well, lo and behold, his prediction charted true, because then you saw in the West Virginia case, the Supreme Court saying there is such a thing as the major question. Doc Majors question, doctor, prohibits the EPA from shifting energy policy away from carbon producing emitters to cleaner air to cleaner policy. Unless congress makes that decision and then in the last couple of terms that doc has become very powerful centerpiece of the Supreme Court, overturning the COVID restrictions that the Biden administration had imposed and it was the centerpiece, something close to the hearts of students, to the court overturning the Biden administration's student law policy. In both cases, the major question doc And this has huge impact, impact on on environmental law, because it basically says to the EPA or to the Federal Energy Regulatory Commission, don't go hog wild, you know, protecting the environment. If the if what you try to do is a big deal, you better have very clear statutory authority. And even in the in the Sackett case, the Clean Water Act case, although although in a literal sense, it wasn't a major question SoC decision, it was looming in the background. And Justice Kagan in her dissent talked about that. The court is now, this is not Justice Kagan its the way I would put it , the court is on a crusade to maybe not dismantle, but to heavily restrict the moderate administrative state and last thing I'll say in this long rambling answer, is you can look at this two ways. You can look at this and say, this is really bad for the environment, because we know in today's world Congress is not able to make these major decisions. There's no way with divided government, Congress is going to move us entirely away from, you know, carbon producing energy. There aren't the votes there and, you know, not the votes of the House and Senate. You've got such close divide. And Joe Manchin kind of leaning more toward oil and coal companies, that it's only vast discretion to an administrative agency that will get the job done. If you don't have that discretion, you can't get the job done. So you might think this is a bad time for protecting the environment because of these court decisions. But then there's another way to think about which is you could have an EPA that is very anti environmental . So, you know, today's polls show the most likely the next President is Donald Trump. If Donald Trump becomes the next President and his EPA wants to do even less, maybe pulling back on discretion is a good thing. Although my guess is it's a door that pretty much swings only one way . Does sort of, it's not sort of what goes around comes around. The reason I would say that is it's easier to tell an administrative agency, don't go there. And there's very little courts can usually do if the agency doesn't go there, it's an uphill battle to get a court to say to an agency "You must do this." It's much harder for an agency to say, "We want to go there". and it can't point to a specific part of a statute that says you're allowed. So that's my long ... that's all I know about environmental law. Go any more deeply than that and I will to be in trouble.

**00:18:03:17 - 00:18:23:04**

**Hope**

Myself and maybe some other environmental students here, probably most of them, are feeling a little disheartened by this, this pattern that you've mentioned in the current Supreme Court. We feel like we're fighting an uphill battle, which I mean, we always are at this point. But do you have any words of wisdom.

**00:18:23:06 - 00:21:59:17**

**Rodney Smolla**

I don't necessarily have words of wisdom. I do think the battlegrounds are shifting and the battlegrounds are shifting more toward lobby legislation, working in the nonprofit world, working in the corporate space. So I think the strategies for improving regulatory structures that will protect the environment are probably shifting from litigation. I mean, I don't mean to say entirely litigation, but, I would I think we need to deploy our forces and our resources in other areas. So, for example, there is tremendous pressure on the corporate world, internationally to be green. And that pressure comes from interesting places. It comes from public opinion. It comes from nonprofit accreditation agencies that certify your company is green, your company is in compliance with our provisions. And these things matter to companies. It comes from lenders who are under pressure if they're going to underwrite big deals to make sure the deal is overly cautious and protect. So that's an interesting read. State legislatures are interesting, the Vermont state legislatures, state legislatures in other states that are environmentally conscious. Now that, there's a limit to what the states can do, because it's only affecting things in one state, although there's a, there is a fascinating, interesting overall, slight countermove on that at the federal constitutional level, the the ability of one state to project its legislation and impact other states is a complicated body of constitutional law, the Dormant Commerce Clause body of law. And that's a very uneven body of law. I love teaching that area, I think it's fascinating, it's very uneven. But there was an interesting decision, wasn't maybe purely environmental law, it was more of an animal rights type thing, it was the pork case out of California, in which the court gave California the permission to impose a rule that affects pork producers. And because of California's huge leverage in the American economy that inevitably has ripple effects across the country. And so, you know, everything doesn't go in one way. So I would say, don't be discouraged, but just be realistic as to how you try to get things done. And it may well be that policy and legislative, work is now as important or more important than the pure traditional litigation. The other thing I'll say is, and I don't want to be political, I don't want to be overly political. But, you know, the there were bipartisan laws passed during President Biden's charter that were very pro-environmental in many ways, a lot of resources dedicated. Republicans may try to roll some of that back, but that's an example of the possibility of forward movement in the legislative arena. So it's not impossible, but it's a different type of, different type of slightly different skill set and a different type of adverse.

**00:21:59:19 - 00:23:57:01**

**Travis**

You know, the two courts in my mind are the Judicial courts and the court of public opinion certainly can have it's day. Now, I'm wondering if we could go back, and I'll try to make a connection here that you can tell me if it's off or not. But when I see the Civil Rights era, you get, going through that and court opinions that came down from that era, I'm sure allowed lawyers and advocates alike to try out new theories and try out new, arguments. And I suppose that was a definitional era for that portion of words. I feel that our generation's lawyers might have their day in environmental law and so to go back to some of the Supreme Court opinions, and I, I would, promote the poor producer's case , because I think Gorsuch does a really nice opinion on that. it doesn't seem to me that there's a true North Star with some of the conservative justices, besides the fact that they will look at history and got a heritage of the country and seeing where the case doesn't involve the court. So the Navajo case and they appear to say, this isn't the court's realm to decide on and I think, to Hope's point, is that a lot of these opinions, the result is

something that is not, you know, that doesn't make us happy or some people happy. Nevertheless, I think that there's also a lot of investment into creativity in arguments and seeing how the justices might work with that, or even outside policy. So is there a connection there in your time, you spent a lot of time with the First Amendment law, but is that more of the where there's not a straight North star, there seems to be ability to make free arguments and how that might relate to the environment today.

**00:23:57:03 - 00:28:44:16**

**Rodney Smolla**

You know, I don't know that I have a clear answer. I think it's very hard to generalize, I think, too big. It's one thing to do that from a law school perspective, it's a entirely different thing to try to do that in specific litigation arenas. So, maybe this repeats the answer I just gave. We do have a Supreme Court today, that is conscientiously, and in my view, intellectually honest interprets statutory positions. Now I don't see the Sackett decision which was the Clean Water Act decision involving the continuing waters standard that is now been imposed, was good statutory construction. I think that was poor statutory construction. Notice that Justice Brett Kavanaugh, a conservative justice, went with the liberal justices in case, fought back. He lost. It was a five four decision. He lost, but he fought back. But there are several of the key votes on the court today, several of the key conservative votes that will enforce a statutory provision. If there could, Vance, it favors a certain result without regard to their policy process. So it's not, in my view, an always an ideological forum. Let me give a few examples. In one of the most important cases last term, not an environmental case, a Civil Rights case, the Supreme Court upheld the key part of the Voting Rights Act and the heart of the Voting Rights Act that was upheld is a fascinating balance between what I call outcome equality. That is to say, when you redistrict the congressional delegation of the state, you should try to create as many minority districts as are reflected in a population of the state. So to try to translate that, if you're state is one third people of color, an outcome theorist would say you're congressional delegation should be one third districts in which people of color are likely to live in. That's one view. The other view is all that matters is that everybody has an equal vote, and we should be agnostic and indifferent. and colorblind to the outcome . The justices on this court personally, philosophically tend to be very close to colorblind justice. You saw that in the Harvard, North Carolina cases where they overruled affirmative action. Yet in the voting rights case, the justices led by Chief Justice Roberts, said, I look at the Voting Rights Act. I look at the compromise Congress struck. It struck a deliberate balance, in which it wanted as many minority districts as possible without going all the way to proportionality. That was the code word for it should equal the population. And that was a compromise, a bipartisan compromise in Congress led by then Republican Senator Robert Dole, who later ran for President on a Republican ticket. And the court conscientiously enforced him. The biggest example in modern times is Justice Gorsuch's opinion holding that the Civil Rights Act of 1964 is discrimination on the basis of sex provision. It includes discrimination on the basis of sexual orientation or gender identity. He said. I know, I know, of course, that in 1964, nobody that voted for this act thought they were protected gay and lesbian people. Nobody thought they were protecting transgender persons. But when they wrote the word on account of sex, even though they didn't understand what they meant, what it means is you can't discriminate on the basis of sexual orientation or gender identity, because every act of sexual orientation discrimination is inherently an act of sexual discrimination. Every act of gender identity discrimination is inherently an act, of sex discrimination. That's from a conservative Justice, but he was following the literal text. So I don't think it's hopeless. But if you're asking what the strategies are, it's, you know, like, in, in, Jerry Maguire, show me the money. You know, you got to show me the text and hope that the text will be interpreted conscientiously. And If you can't do it, then go back to my earlier answer., you've got to try to convince congress to change the text. And maybe an uphill battle depends on who's in Congress and who's in the white House.

**00:28:44:20 - 00:29:27:20**

**Travis**

Then to speak to, I think people's angst is that you do have a atrophied Congress at the moment. It's not going to be able to really get past any, what I think people would consider extraordinarily progressive or big time legislation, although I think the IRA being the largest environmental legislation that we've seen, no, it wasn't called Clean Water Act or such by. Right. Certainly great things there. you know, is is for young policymakers, or up and coming policy makers going through law school wanting to become lawyers or advocates. Is it now time to look at the higher sphere, not just a minor vision of what they're working at? Because I think there's just so many...

**00:29:27:20 - 00:31:51:22**

**Rodney Smolla**

Yeah[...] I guess my view is turn your acts into advocacy and and it's a long it's a long haul. But look overwhelmingly in my view, your generations students, they really take it serious. And I get the sense that that's a big majority of this generation. And probably it includes people that are going to vote for Donald Trump and people who are going to vote for Joe Biden, assuming they're the nominees. But, you know [...] as John Kennedy said in my, when I was young, you know, the torch is being passed to a new generation and the torch is be passed to your generation, and you have a lot of allies and politics [...] and, you know, you have leaders in the current United States Congress that are going to be turning over leadership to others. Mitch McConnell is 81 years old, and Joe Biden would be in his 80s if he's reelected. Donald Trump would be in his late 70s. the the people being elected to Congress are going to be younger, your generation is going to have a big influence on them. Your generation will largely be people in the Congress or in other arenas. I, I believe it will happen, I really do. I believe that that that at least in this country and probably worldwide, there will be changes. They probably won't come fast enough. We'll probably reach some terrible tipping points. So they're going to be very difficult to undo. But at least when it comes to the environment, in a way it's not rocket science. If you release less carbon into the atmosphere and you do it with enough force, you can, you can, you can recapture ground, I hope I mean, it doesn't have to be, I'm not a scientist. You can't, and I think I think capitalist markets will move in that direction. And I think political markets will move in that direction. So just stay at it. I mean it's a long it's a long road. But I wouldn't be, I wouldn't be, I wouldn't be discouraged. and you know, supreme courts change too. And you can always see what the Supreme Court will look like in 10 years, so so hang in there. So, you like my slogan "Turn your action into advocacy" or whatever All right. you just need it on a bumper sticker. [...] I'll say, "Turn your angst into anger". that'll cause road rage.

**00:31:52:00 - 00:32:28:11**

**Hope**

Something that they're very fortunate to do in the last year or so, is participate in a lot of international environmental advocacy. I have followed particularly, negotiations on article six of the Paris Agreement, which is the carbon market and in that space we see a lot of development in that non-market approaches and involving, NGOs and non-government actors, non [...] actors. maybe in a fight for environmental justice, where do you see other places, other organizations being involved in the fight ?

**00:32:28:13 - 00:35:09:20**

**Rodney Smolla**

Well, I think it's something. Yeah I mean the more allies you have, the better maybe. Maybe, you mention the global solution, there's no question that the international arena is in court. And to the extent that among the leaders in pushing for aggressive, policies addressing things like climate change, American universities and European universities, I think are powerful drivers, powerful intellectual drivers. Take generally the West and I mean basically Europe and the United States, maybe some places in South

America, there's traction. So I think it's enormously important. I guess the question is, how do you get China on? how do you get Russia on? How in the fractured geopolitical world that we're in, do you either, can you be sure that other giant nations that are as or in what they pop into the air as, as Europe in the United States is we'll get with the program? I hope, maybe it's naive. I hope that the generations that will ultimately come to power in places like China, the economy, the power to be part of or progressive policies, not just on the environment. Things like human rights in a democracy by exposure to experiences in the West. So I think, students from China that attend school in London, and attend school in Paris and attend school in California and attend school here. We have a lot of history of relationships with Chinese universities. It rubs off. And it's not that we're here to indoctrinate, folks or impose our culture on them, but I think, I hope that they come back somewhat empowered and, and may be able to try to affect positive change in those countries. so I think you guys asked a great question and in a way, I'm affirming it that, that global space is enormously important . I'm also being realistic as to how hard, as to how hard it is and you know, think of how hard anything is, in terms of trying to influence the leaders of China to do things that we think are "better" for the world. And would be better for China. So I think my short answer is, yeah, you're right. That's an important arena. But you got to be realistic. It's it's a tough road ahead. Not so much to influence, you know, Western Europe and even America. policy, but getting farther beyond that is hard.

**00:35:09:22 - 00:35:57:19**

#### **Hope**

Something that I follow, particularly to my role in the Journal of Environmental Law, as I know about, and its place in the environmental movement, how we've seen these two kind of diverging roads of the environmental movement. And so when we think about environmental justice and we think about how we can be advocates in local communities and empowering people to be meaningfully involved in the decisions in their own communities. Do you have any advice for students who want to be advocates for environmental justice, and who want to work within local communities, and how they can operate and and move through a changing system as we've talked about previously with the, you know, pre or, altri the way that we might need to operate within the world of environment law.

**00:35:57:20 - 00:37:54:18**

#### **Rodney Smolla**

I only have grassroots advice. I think that as a macro strategy or to not trivialize and call it a strategy, as a macro morale [...] it has huge problems. I think that and this school is probably positioned better than any other school in the country, to do research and have educational programing that pushes their problems forward, because it really is the confluence of wanting to protect the physical environment and wanting to protect the oral environment . So I mentioned Howard and Civil Rights movement. But it's the, it's the blood of those two things. And I think it has a lot of appeal. I think that, it has the potential, but this is probably, I may be naive , to cross some political and ideological boundary lines because when we think about environmental justice, we think about how poor environmental policies disproportionately impact disadvantaged communities. And that can include disadvantaged or White communities in Appalachia as well as disadvantaged or [...] with large populations of People of Color. And so one might think that there might be some alliances there that crossed, you know, some of the traditional political boundaries that we tend to think of. I think it's very powerful. I think it's gaining a huge amount of traction. I know it's an enormously important value for people with resources who want to invest. Donors, foundations, government agencies that want to move policy in that direction, be attentive to it, and as a person who has to spend a lot of time fundraising for our school, it's a theme I talk about with folks a lot.



**00:37:54:18 - 00:38:08:14**

**Travis**

And the final question. Your advice for students either those taking the bar and going to be out starting their career, or one else who are looking up this hill and sitting towards class and saying "My gosh", what would you say?

**00:38:08:17 - 00:39:05:06**

**Rodney Smolla**

Yeah, you know, I think . So I have, I have a daughter who is a young lawyer in Nashville. I have another daughter who's in her third year of law school, but she's going for four years., because she's going to night school. And I'm back in DC. So this is not just advice I give as an educator, it's advice that give us a Dad Skills matter more than substance. And, I am a lawyer that can't remember, legal documents. I just have no ability to remember legal documents . You may think that's crazy. It's not, a lot of the very good lawyers don't know. but you don't have to remember stuff. Just look it up. You know, read the case, you read the statute. Do your research. The skills of writing, so many employers say, "please send me someone who can write". Write clearly, write gracefully, write cogently, restate basic rules, grammar, structure.

**00:39:05:08 - 00:43:03:13**

**Rodney Smolla**

And I'm not being, I'm not trying to be journalistic here. Habits of professionals. Understanding how to listen, understanding how to interact with people. The standard how to keep your emotions under control. Understanding how to negotiate, understanding how to deal with people that are on the opposite side from where you are in the matter or dealing with the people that are on your side. And very often what you find as a young lawyer is, one of the hardest things to develop is the ability to understand how to interact with the client, interact with the other lawyers on your team. So everything I'm telling you about are skills. Some of them are skills like writing and and articulation and speaking. Some are skills of good professional habits, organizing your time, dealing with stress, judgement. Those are going to matter the most. They're going to matter the most as you progress through school. So if you're a first year student, it's not just memorizing a lot of stuff. It's paying attention to developing the ability to analyze and to express yourself. And for those that are about to graduate, these skills are going to be part of the bar exams. They're not as much a part of the bar exam as I wish they were. I wish we didn't have a bar exam. I think it's absolutely ridiculous it requires that. But we're going to have a and there's going to be a new bar exam coming soon, that's going to be more skills oriented. So it doesn't hurt you there. but the bar exam is going to come and go and you're going to have your first jobs and it won't be substance. That's going to be the hard part. That'll be easy for you. It's going to be writing a clear, concise memo, writing, drafting a clear, precise, pleading, drafting a clear doc, giving coaching advice to more senior lawyer, to a client. All of those things, developing your judgment. All of those things which are hard to do in a school. We heavily emphasize experiential learning and I think that's worth \$1 million, I guess, with so much, because you get you have so much growth when you are exposed to having to deal with a real client, deal with real conflict resolution. So that's my advice. And then, don't be worried about making mistakes. You know, I've had to talk to to my kids and young lawyers i've mentored. We all make errors, but don't let it kill you when you realize "I should have written this differently" or "I should have said this differently". We all do that. We're all always learning all the time and trying to improve. Be resilient. and understand, life it doesn't tend to come down to one make or break moment. Very, very rarely does it. Of course, once in a while it does. But, so many of our current students five years from now, five years after their graduation, will be in their third job or ten years from now, they'll be in their fifth job. And and, maybe some will be at the same job they always had, but it's so common to move around, shift around and just kind of being

resilient. and the last thing is that your life matters more than the law and pay attention to your family, paying attention to kids. If you have kids, pay attention to your partners, pays off to your mental health, your physical health. Your well-being is correct. What fun is it to. First it's no fun to wreck your life over being a law student or being a lawyer. Your life is your life. Your body is your body. Your mind is your mind. Your soul is your soul. That what you have to learn. So I, I am lucky, I love being a lawyer and I've loved being a legal educator, but I've always put a huge amount of time into my family, and I don't begrudge a second.

**00:43:03:15 - 00:43:05:00**

**Hope**

I just wanted to say thank you.

**00:43:05:00 - 00:43:05:18**

**Rodney Smolla**

Oh, my pleasure.