It's been a longstanding tradition at Seton Hall Law for a faculty member to give an Orientation talk to the incoming class on the topic of “On Becoming a Lawyer.” I've always liked the notion of “becoming” because it conveys the sense of a journey, not a destination. And that means that all of us – you and I – are on the same road.

Now, I admit I've been travelling a little longer than you have. As you take today’s first step on your path, that allows me to give you a bit of a preview of what you will encounter. I can guarantee you a few bumps in the road and maybe a detour or two, but also assure you that the journey will be extraordinarily satisfying – so long as you commit yourself to the path that you start down today.

I know the last thing the classes of 2017 and 2018 want to hear is much about the good old days. So I’ll share only a few basic facts about my own early steps. I started Law School in 1965 and was admitted to the bar in 1969. For historical context, that was the year Neal Armstrong walked on the moon; President Nixon proclaimed that he would end the Vietnam war in 1970; Jimi Hendrix was the final act of Woodstock; Sesame Street premiered; and the Jets won the Super Bowl.

But not to pause on ancient history, let's fast-forward to today, 2014, where my teaching focuses on Contracts, Employment Discrimination, and Employment Law. As you will soon learn, Contracts has been around almost from the beginning of
time – legally speaking. But Employment Law, as we now know it, just did not exist in 1965.

There was, it is true, Labor Law and Wage & Hour law, both of which date back to the 1930s, but the rest of a vast and sprawling landscape in which I teach and practice just wasn’t there when I finished law school. Employment Law had to be invented, and that’s what happened in the several decades after I graduated. Individuals, just like you and me, came out of law school and took jobs in law firms, public interest organizations, corporate legal departments, Congress and state legislatures, government agencies, think tanks, and academia.

And, from all those different institutional perspectives with literally thousands of different personal value systems, lawyers began to create the law of the employment relationship. Some represented employees, almost always plaintiffs; some represented employers, almost always defendants. Some thought that the way to resolve many of the issues was drafting legislation or administrative agency regulations. Some thought that creating law school courses and writing articles and books would best contribute to the employment law project.

It was and is, for me, a very messy but, incredibly exciting time. And what most intrigued me in the beginning was that there was no overarching principle, no guiding light.

The genius (although not everyone might agree about that word!) of the American legal system is that it is not really a system – rather it’s a method of reconciling disparate voices into a fragile equilibrium that, at any given moment, we call “the law.” And if you don’t like the law as it is today, contract out of it, lobby your legislator, submit a comment to an administrative agency, issue a white paper, or sue somebody.
Maybe your work will change the law tomorrow.

And that pretty much describes how employment law was invented. By people, mostly in my generation, who created this entire body of rules which is part of the fabric of the law’s seamless web.

But most of my contemporaries are fading from the scene. It’s people in your generation – not to put too fine a point on it, it’s you – who will reinvent the law we created or invent the law in areas we’ve never even thought about.

I’ll let the employment thing go in a moment – really I could go on for a lot longer but that’ll be the sad destiny only for those of you who take one of my classes.

But let me tell just one hopefully revealing story. In January, I had a moment of what Yogi Berra would call déjà vu all over again. The New Jersey Law Journal ran a front page story headlined *Laws Criminalize Online Harassment, Prohibit Pregnancy Discrimination*. Online harassment is new, so it wasn't a surprise that a state would pass a new statute to address it.

But with respect to pregnancy discrimination, I did a double-take. Congress had passed something called the Pregnancy Discrimination Act in 1978 – 36 years before. That statute was enacted to overturn Supreme Court decisions that had held that pregnancy discrimination wasn't sex discrimination. Rather (believe it or not), the Court ruled that pregnancy classifications divided the world into pregnant people and nonpregnant people and, while all pregnant people were, admittedly, women, nonpregnant people were of both sexes. No sex discrimination. QED. That silliness was ended on the federal level in 1978 by the Pregnancy Discrimination Act.
But the point of the Law Journal story – and of the 2014 New Jersey statute – was different. The Pregnancy Discrimination Act did not require any accommodations of pregnancy. Instead, Congress required employers to treat women equally to men. So if an employer would fire a man who was too sick to come to work one morning because of a hangover, it could fire a woman unable to arrive on time due to morning sickness.

That's was the rule under NJ law until the new statute, and it’s still pretty much the federal rule – although the United States Supreme Court will decide a case this Term that may narrow it. Stay tuned.

But as of January 2014 that’s not the law in New Jersey: in the Garden State, employers must “reasonably accommodate” a women’s pregnancy.

What does that mean? I have been teaching this stuff for nearly 40 years and I don’t know! But I do know it’s more likely to be you than me who helps decide what it means. You’ll be advising corporate Human Relations departments as to what they must and must not do; you’ll be suing employers who you think got it wrong; you’ll be defending those suits and arguing that the accommodations a woman seeks are an “undue hardship” on the employer. And some of you will be sitting on a state or federal bench deciding what the heck the 2014 NJ Legislature meant by putting the words “reasonable accommodation” and “undue hardship” in the statute.

But, of course, up to this point I’ve been talking about my legal world – the world of employment. I’m pretty confident that, had I asked my professors when I started law school in 1965, what my most likely legal career would have been, nary a one would have talked about employment.
(As an aside, I should note that I would never have asked and they would have been shocked if I did – a definite change for the better between Seton Hall in 2014 and my law school in 1965).

In any event, it would have been beyond the scope of comprehension of my teachers that the legal world would change enough to create thousands of jobs in such a backwater as the law of employment. And I don’t view myself as more clear-eyed and insightful than the very smart professors who taught me. So, while I know that you’ll be figuring out what net neutrality and censorship means on the internet, who, when, and for what drones can be used, and whether robots have rights, I can’t predict what kinds of law most of you will be practicing, much less what that law will look like. But I can sketch a few of the social issues that are being teed up for a legal answer, ones that might – or might not – change radically over your life in the law. Or, more precisely, ones that you will answer over your life in the law:

Privacy – not just in the workplace but in the public square

Environmental law: not just global warming – however critical that is -- but a huge range of environmental issues including water and farming rights

Health law: whether or not the Affordable Care Act survives the current onslaught of attacks, our health care system will look radically different in the decades ahead

Dispute resolution: will our courts become mostly for criminals as consumers, employees and others continue to be shunted out of the courts and into arbitration?

I don’t know what we, I mean you, of course, will do about any of these issues. But I do know that – unlike, say, the sale of securities – past performance is a promise of
future performance – at least if what the past teaches is that attorneys will have to be comfortable with, indeed, embrace change. Because change is the only constant in the law.

But when I say embrace change, I am not suggesting that every fad is worthy of adoption. And more critically, I am not advising you to go along to get along. You bring to law school your own values, and, while they may be refined and shaped here, the values that you emerge with at the other end of the process will be, in large part, who you are in your professional life. Those values will guide what kind of law you pursue, who you represent, your job choices and how you behave as a lawyer. Your values, which will continue to evolve, will determine the role you play in creating the legal world you will inhabit.

For instance, when I used the accommodation of pregnancy example, I’m pretty confident there were two reactions to New Jersey’ new law: for some, “right on” (to use a phrase out of the 60s) and to others, that’s not equality, that’s preferential treatment. Not to mention that I’ve dealt with students long enough to know that not all of you found this issue as fascinating as I do.

But the point is, whatever your views, you will need to engage issues such as this, which means you need to engage each other. And Seton Hall Law School provides the ideal forum to do that. Whether inside or outside the classroom, we encourage a diversity of wildly conflicting opinions and we discourage anyone – and I mean anyone, including the professors – from thinking there is one right answer for the complicated social problems that we, as lawyers, confront.

Your training here – to analyze problems, to not only understand but also appreciate competing perspectives, to discuss with others, and, hopefully, often to
reach sensible compromises – will be invaluable as you continue on the path to becoming a lawyer over the course of the next few decades.

And when you end your journey 40 or 50 years down the road, having finally become a lawyer just in time to hang up your sneakers, you will have had a rich and rewarding life in the law, and you will have left your imprint on it.

So I conclude as I began: welcoming you to join me in a journey that has no Google map or GPS but one which guarantees you an interesting landscape, smart and fun traveling companions, and the promise – if you commit yourself to the enterprise – of a fulfilling, meaningful, and eventful career.