



The Mentor Challenge in Changing Times

by Jack W. Burtch, Jr.

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Mentoring is critical to good law practice. If you are old enough to be a member of the Senior Lawyers Conference, chances are you learned how to practice law from more experienced lawyers. Typically, a more experienced lawyer in a firm or community “adopted” a newly licensed lawyer and gave advice about how to succeed, avoiding the pitfalls of law practice. The mentor was a teacher, advocate, guide, confidante and, in the best of circumstances, a role model for the protégé. Mentoring usually involved self-selection. New lawyers sought guidance from recognized leaders in their field. This system worked well for a long time. But the practice of law is changing. Time is more valuable, and the focus on billable hours discourages “non-productive” activities—such as teaching new lawyers how to practice law. The challenge is how to teach the practical and ethical aspects of law when powerful economic forces are against it.

The Mentor’s Role

New lawyers and lawyers in career transitions need mentoring. Usually lawyers rely on mentors to help them begin their practices, and mentors can be an important part of many professional transitions. The lawyer who has moved to a new city, taken up a new specialty or is faced with an unfamiliar ethical situation, needs a mentor. Mentors can serve as passive sounding boards and as active guides, helping protégés with their work and their

careers. Mentors are often bridges to the larger community. But, whatever the scope of involvement, a mentor should help an inexperienced lawyer become a competent attorney.

Relationships are the foundation of mentoring. The mentor/protégé team moves the protégé forward in his or her professional life, dependent upon the needs, desires and personalities of the two participants. This interaction is the essence of mentoring.

Early Experiences

Today’s law school graduates are in the same situation we were all in when we graduated. We didn’t have a clue about how to practice law. I graduated from Vanderbilt Law School in 1972. When I joined Hunton & Williams as an associate the following year, Hill Wellford handed me a complaint in a matter called *Clanton, et al v. Allied Chemical Company*. That was the first time I had ever seen a court paper. As the junior lawyer on a team defending a class action race discrimination case, I was given the opportunity to

talk to witnesses and take simple depositions where I could do little harm. When I fumbled a question, Hill, opposing counsel, or even Dwain Savik, the court reporter, would make a better suggestion.

On the day before an important arbitration, I received a phone call from the head of the firm’s labor section, Frank Lowden, who asked me if our witnesses were prepared for the next day. “Of course they are,” I said. “They know where to be and at what time.” It became apparent that I did not know what “preparing” a witness meant. At least I had 24 hours to get it right.

Learning labor law was my priority. I filled my early days researching complex topics, reading thousands of case digests and writing memos. What made labor law come to life, however, was the time spent in Paul Thompson’s car on the way to and from representation hearings or labor negotiations. Paul was an encyclopedia of labor law. He explained what we were trying to do and which issues were important. I learned as much in Paul’s car as I had in the law books.

I am lucky to have learned how to practice law from talented and patient lawyers. They were, and still are, my mentors. Most senior lawyers have had similar experiences. Whether our mentors were in a large firm or a small practice, they showed us how to do things. Other experienced members of the bar taught us as well. Without sacrificing their zealotness in representing their clients, even experienced adversaries made time to help new members of the bar.

Most of us who learned to practice law under the old paradigm did not know that we were being mentored. Our mentors may have been largely unaware of their own roles. They were passing on what they had learned in the same way they had been taught.

They taught us legal substance and procedural techniques and transmitted the values necessary for good lawyering. My mentors taught me that a lawyer's word is sacrosanct and that integrity is non-negotiable. They taught me to always be prepared, to be reasonable, to treat everyone with civility and respect and to honor the courts. The values instilled through mentoring form character, transform ethical mandates into habits of practice, and integrate personal and professional life to the benefit of both. These values are as important today as ever. The challenge is how to teach them in an environment where the practice of law is so different.

Teaching Professional Values

Law schools are commonly criticized for not teaching law students how to practice law. The criticism is unfair, but it does not seem to go away. Over the past several years, law school curriculum committees have continued the debate about the role of the law school. Some want a more clinical approach that emphasizes third-year practice, trial advocacy and negotiations. Others favor teaching students to think like lawyers and leaving skills development to the early years of practice. While ethics courses are required, there is little, if any, exposure in law school to the day-to-day decisions lawyers must make—informed by the Rules of Professional Conduct. New lawyers need guidance because classroom ethics courses do not prepare them for the daily ethical decisions of law practice.

Many law schools, law firms and bar associations teach the values and skills necessary for lawyers to practice at the highest level of professionalism. New attorneys have special needs. Many feel lost after law school. New lawyers in large firms feel isolated, especially if they took the jobs to pay off enormous law school debts. Law school requires long hours, but it comes as a surprise to many new graduates that a new law practice requires even more hours. They miss their outside activities and time with friends. Feeling miserable becomes normal. The pressure to excel at unfamiliar work wears down even the most resilient new graduate.

The Crisis of Morale

What many consider to be “success” in law practice—the accumulation of wealth—has undermined the traditional mentoring process. Many of today's new lawyers will enter large practices where they are expected to bill at least 1,800 to 2,000 hours per year. This leaves very little time for nurturing relationships. Competition among the largest firms for the top law students has, until very recently, driven up starting salaries. This is reflected in hourly fees and billable hours requirements. Clients, reacting to the cost of legal services, resist a firm's assigning more than one lawyer to a matter unless absolutely necessary. The attitude that “all time not collected is wasted” inhibits new lawyers from learning by listening in on a phone call, or from sitting in on a meeting or hearing. The automobile ride tutorial has been replaced by CLE tapes.

The pattern of grind-it-out-until-you-become-a-partner has become increasingly unattractive to recent graduates. The crisis of morale in our profession is amply documented. Lawyers generally suffer higher rates of depression, alcoholism and unhappiness than do other professions or the population at-large. Anthony T. Kronman's *The Lost Lawyer* describes the decline of the lawyer-statesman into the lawyer-drudge.

The Virginia Bar Association, through its Law Practice Management Division, has developed a set of values to support a lawyer's balanced life. These include:

- Ever-increasing competence as a lawyer;
- Absolute integrity and truthfulness in dealing with others;

- An understanding and embracement of professional ethics;
- Good listening skills, good “people skills” and sound judgment;
- A balanced life, which includes family and friends, community ties and service outside the practice of law;
- Respect for others, with appreciation of and openness to people of diverse backgrounds and opinions;
- A commitment to lifelong learning;
- A commitment to using our skills and education to make our communities safer, our institutions stronger and people's lives better;
- A commitment to teaching and mentorship by which the values of the legal profession are passed on to future generations;
- A guiding sense of spiritual values;
- Physical health and emotional well-being;
- Civility in professional and personal interactions; and
- Collegiality and fellowship with other lawyers.

The encouragement and wisdom of an experienced mentor can help keep these values in focus.

The Modern Mentor

Given the forces against transmitting the best traditions of law practice, limited time and the billable hour, the need for competent mentoring is greater now than ever before. The new lawyer may depend on more than one experienced lawyer to get the guidance he or she needs for the future. Ida O. Abbot describes some of the roles and functions of today's mentor in her article, *Adapting Mentoring to the Modern Legal Workplace*, (LexisOne, January 2001). The mentor cares, by giving guidance and long and short-term career support. The mentor is a guide who explains the unwritten rules of the firm or the legal community. The mentor is a protector who runs interference for and supports the protégé. The mentor is a teacher of legal skills and a role model of good practice. The mentor is a coach by providing feedback and giving assignments that stretch the protégé's skills. The mentor is a

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sounding board and confidante, listening carefully to what is really on the protégé's mind, especially his or her doubts and fears. The mentor builds confidence and connects the new lawyer with the firm or the community, suggests new practice opportunities and becomes a friend for the long haul.

Law schools, law firms and bar associations recognize the need for mentoring students and new lawyers and are responding. Hofstra University School of Law encourages students to accept an assigned alumni-mentor. The mentor's role is described on the school's Web site:

[T]o give the student a realistic view of the legal profession. Appropriate topics for discussion between students and mentors are issues of current concern to the profession, the mentor's approaches to ethical and professionalism dilemmas, career goals, types of legal practice, law practice management issues, and quality of life issues in law school and the practice of law.

Hofstra University Alumni Mentoring Program, Guidelines for Students at www.hofstra.edu/academics/law/law_alumni_mentor_guidelines.cfm.

While Hofstra's guidelines state that mentoring should not be used as a recruitment or placement opportunity, if the relationship is successful, the student gains an advocate.

Law Firm Mentor Programs

Law firm mentoring programs are part of firm recruitment efforts. Almost every law firm with a Web site describes its mentoring program to prospective applicants. These programs address the new lawyer's need to connect to the firm and the firm's need to retain the new lawyer for as long as possible.

Most firm mentoring programs are specifically designed to introduce the new lawyer to the ways of that particular firm. For example, the Shaw Pittman firm says:

Shaw Pittman has a formal mentoring program to help its new lawyers become integrated and confident contributors to the firm. *** Associate Advisors can answer questions about firm matters such as assignments, group dynamics or supervisory styles. *** The firm's mentoring programs are important, and associates and partners alike are recognized for providing meaningful assistance to the development of junior lawyers.

Shaw Pittman Web site at www.shawpittman.com/Home.nsf/recruit/index_legal.htm.

It would be interesting to know if the last sentence is, in fact, operative. If a component of a lawyer's compensation depended on the development of successful associates, the importance and dynamics of in-firm mentoring programs would change dramatically.

The Howrey Simon description of its mentor program is also firm-oriented.

The Mentorship Program supports new associates as they begin work at the firm. Mentor Partners provide feedback and guidance with respect to training programs, firm policies and general administrative procedures. A Mentor Partner serves as a general resource to aid associates with their assimilation into the firm and their professional development.

Howrey Simon Web site at www.howrey.com/careers/index.cfm?content_id=209.

These statements, culled from numerous law firm Web sites, are typical. While salutary general "professional development,"

these programs seek to develop successful team players who will adapt to the firm's needs. While this is important for a new associate, these in-firm programs seem to omit the importance of the more generalized, positive values necessary for a sound, self-regulating, profession.

Bar Association Mentor Programs

The mentor programs supported by state and local bar associations tend to take the broader view. Maryland's mentor program combines practical advice with an emphasis on professionalism.

The purpose of the program is to provide a resource for attorneys to seek and receive advice, or to discuss one or more of the following areas of possible concern: (1) practical practice and law office management-related issues; (2) issues involving such matters as personnel, escrow or other accounts; (3) substantive areas of the law and related procedural issues; (4) appropriate and professional conduct and how to deal with inappropriate conduct; (5) the importance and means of being involved in Bar and community activities and in developing a support network for an attorney's practice.

Maryland State Bar Association Web site at www.msba.org/sec_comm/mentor/index.htm.

The Missouri Bar's description of its mentoring program is both practical and inviting. It recognizes that lawyers may need different kinds of mentoring at different times in their careers. Mentoring is not just for the inexperienced lawyer; it is also appropriate for a lawyer moving into a new field. This bar association also understands that, often, a mentor lawyer in the same firm cannot give the best advice for a particular career. There may be an inherent conflict of interest between what is best for the lawyer and what is best for the firm.

You may be a newly admitted lawyer starting your career. Or, perhaps you've been in practice for a while, but you're interested in a mentor to help you improve your practice. Perhaps you're a solo practitioner who could benefit from having another lawyer to explore ideas about

managing your office and legal practice. Perhaps you're changing careers. Perhaps you're in a large firm and feel uncertain about asking questions of senior partners. Perhaps you are doing pro bono work and have cases outside your practice area. Perhaps you've been in practice for a long time, but you're not up to speed with using computers and you'd like to learn. Perhaps you have another situation where a mentor could help.

Missouri Bar Association Web site at www.mobar.org/feature/featurem.htm.

The Fairfax Bar Association's mentoring program notes that all new attorneys "need ready access to ideas and wisdom about marketing, networking, career advancement, professional etiquette or other matters . . ." The Fairfax program provides a confidential—but not attorney/client—relationship promoting professionalism and courtesy within the bar "by passing valuable customs from experienced attorneys to new attorneys."

Fairfax Bar Association Web site at www.fairfaxbar.org/mentor.htm.

Ethical Issues of Mentoring

Because mentor programs promoted by bar associations assume that mentors and protégés will not be associated with the same firms, these programs address ethical issues such as confidential client information. Some, like the Fairfax program, seek to avoid the issues altogether by limiting the mentor relationship to non-substantive legal issues. Others, like Maryland, take a more proactive approach.

Attorneys utilizing the Maryland State Bar Association Mentoring Program are not establishing an attorney/client relationship. Rather, the purpose is to provide counseling, guidance and a learning relationship. The less experienced attorney should not reveal any client confidences to the more-experienced attorney but rather seek guidance in general areas. The less-experienced attorney shall not disclose the content of any discussions, suggestions or advice by the mentor to any person under any circumstances, unless ordered by a Court of competent jurisdictions to do so.

Maryland State Bar Association Web site at www.msba.org/sec_comm/mentor/index.htm.

Among bar association mentor programs, it is not uncommon to require the applicant protégé to sign a release agreeing not to sue the mentor or the bar association. Some releases specifically state that the mentor program does not create an attorney/client relationship between the mentor and protégé and that all discussions are of a general nature and do not involve client confidential material.

Passing on the Tradition

Mentoring is an old-fashioned concept. It has its roots in the apprentice system of professional education. It provides the transition from academic book learning to the process of gathering information and giving legal advice, which is the lawyer's particular work.

The successful mentor understands that the job is not to mold the protégé into the mentor's own image, but rather to allow protégé lawyers to achieve professional maturity on their own. The good mentor is concerned with the whole person. When the lawyer's life is out of balance, the lawyer's ability to make sound judgments is diminished. Without sound judgment, a lawyer cannot give the best legal advice. At its best, mentoring is a confidential relationship based on openness and mutual trust. Above all, the good mentor is a good listener, a person attuned to the concerns and needs of the protégé. The good mentor listens with the heart.

There is no way we, as senior lawyers, can adequately thank those who took their time, energy and patience to train us. All we can do is try to pass it on. Especially for the new lawyer, the pressures and

demands of modern law practice can be enormous. Good mentoring is becoming increasingly important, just as the time for it is becoming increasingly rare.

We can improve the situation. If there are mentoring programs in our local bar associations or in nearby law schools, we can offer to become mentors. Many of these programs could use a new dose of energy. If there are no mentoring programs available, we can offer to start one. Mentoring programs are too important to depend on busy law students and already-stressed new lawyers.

The Senior Lawyers Conference of the Virginia State Bar advocates mentor programs throughout Virginia. No other section has this mandate, and it is a natural one for us to adopt. In Virginia, we are proud of our professionalism, our civility and our high standard of law practice. This tradition can be passed on only by example.

Mentoring is not simply an altruistic exercise. We do something for others and we also help ourselves. Staying connected with new lawyers forces us to stay open to new ideas. Some of our most closely cherished assumptions and attitudes will be challenged. We may even reconsider some treasured practices and techniques. But one of the great joys of being a lawyer is the opportunity to learn new things. When we offer to teach, we cannot help but learn. By mentoring others, we enhance our own professional skills. The need is clear. The opportunity is present. Helping new lawyers enter the practice of law with high standards of professionalism also helps us remember why we became lawyers in the first place. 🍷



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