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**WHEN BIG BROTHER IS WATCHING [OUT FOR]  
YOU: MENTORING LAWYERS, CHOOSING A  
MENTOR, AND SHARING TEN VIRTUES FROM MY  
MENTOR**

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**WHEN BIG BROTHER IS WATCHING [OUT FOR] YOU:  
MENTORING LAWYERS, CHOOSING A MENTOR,  
AND SHARING TEN VIRTUES FROM MY MENTOR**

Julie A. Oseid\*

It's 1982, I'm 21, a junior in college, with no definite plans beyond graduation. Maybe I should think about graduate school or law school. I attend a law school information session and learn that the only requirements for law school are an undergraduate degree in any field and the LSAT test. This seems like a possibility because I will have the degree in a year, and how bad can the LSAT be? One slight problem – I have no idea what lawyers do. I have seen them on T.V. and in movies. I know the state district court judge in my small hometown because his son was in my high school class, but most of the people in my family are teachers. Luckily, ignorance does not usually stop 21-year-olds, and it did not stop me. I applied to law school, attended, worked as a law clerk for the county attorney and a large law firm, clerked for a judge, passed the bar exam, and then began practicing in a field that I knew virtually nothing about.

The best thing that happened to me to shape my legal career was that I found a mentor who has guided me from the time I signed up to take the LSAT. By most predictors, our mentoring relationship was doomed to failure. He is male; I am female. He is only three years older than me. He has a passionate personality; I tend to be more moderate. Throughout our entire mentoring relationship we have never practiced or even lived in the same state. The stages of our lives have never quite intersected: when I was taking the LSAT, he was clerking for a large Phoenix, Arizona firm; when I started law

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school, he was clerking for the Ninth Circuit; when I was in my last two years of law school clerking for a large county attorney's office, he was starting his practice in a mid-sized Bismarck, North Dakota law firm; when I was clerking for the Ninth Circuit, he was a mid-level associate; when I worked for a large metropolitan law firm, he became a partner and then a United States Attorney; when I took years off to raise my family, he returned to private practice and ultimately to academia; when I started teaching at a law school, he gained tenure. With all the statistics against us, why has this 25 year mentoring relationship been so ideal? He's my brother.

You might not be lucky enough to have a close family member who shares your values to guide you throughout your career. I know you are not lucky enough to have Steve Easton as your brother, but one of the values he taught me is that we are privileged to participate in the legal profession, and we have an obligation to give back. My hope is that by sharing the best professional advice I ever received, I am fulfilling part of that obligation.

In this article, I examine the importance of mentoring relationships in the legal profession with an emphasis on how mentoring will help teach a lawyer both how to be a successful professional and how to be a successful person. In Part I, I consider the history of legal education with its resulting, but perhaps unintended, change in mentoring from a daily occurrence to a practically nonexistent event in the life of many prospective lawyers. I relate the well-documented benefits of professional mentoring. I finish Part I by describing the current renaissance in legal mentoring. In Part II, I suggest qualities a law student or lawyer should look for when choosing a mentor. I recommend that the ideal mentor is someone relatively new to practice who shares values with the protégé. I

also suggest that the protégé choose someone who can be trusted with confidences. I argue that the effort to find an effective mentor is worth at least the investment of time lawyers spend in finding employment. In Part III, I share my mentor's best advice in the form of the ten virtues he has consistently emphasized: diligence, initiative, efficiency, reflection, enjoyment, simplicity, civility, honesty, sharing, and equality. Of course he never called them "virtues," but I label them "virtues" because they encompass ethical principles with an aspiration for moral excellence.<sup>1</sup> His advice has been remarkably helpful and accurate. The ten virtues have worked consistently for me at every stage of my career. For example, the virtue of diligence helped me achieve success in law school and it has helped me achieve success in my current career. Perhaps most essentially, the ten virtues have helped me develop personally as much as they have helped me develop professionally. These ten virtues can help any lawyer achieve moral excellence and build strong character while serving in the legal profession. In my discussion of the ten virtues, I share both the virtue and the practical habits my mentor suggested as ways to achieve each virtue.

## I. MENTORING IN THE LEGAL PROFESSION

In this section, I briefly review the history of American legal education, summarize the benefits of professional mentoring, and relate some of the exciting current efforts to revive legal mentoring.

### A. EDUCATING LAWYERS: FROM APPRENTICESHIP (DAILY CONTACT WITH MENTORS) TO LAW SCHOOL (NO MENTORS).

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<sup>1</sup> William J. Bennett described morality and virtues in his Introduction to *The Children's Book of Virtues* "not as something to be possessed but as the core of human nature, not as something to *have* but as something to *be*, the most important thing to be." WILLIAM J. BENNETT, *THE CHILDREN'S BOOK OF VIRTUES* Introduction (Simon & Schuster 1995) (emphasis in original).

American legal education has passed through four phases: apprenticeship followed by a bar exam; law school as an alternative to apprenticeship; mandatory law school with no apprenticeship alternative; and finally our current system of ABA-approved law schools coupled with college attendance.<sup>2</sup> The movement of legal education away from apprenticeships and into the academy has been described as “the most momentous change in professional training over the past century.”<sup>3</sup>

At the time of the American Revolution, most prospective lawyers served in an apprenticeship.<sup>4</sup> In an ideal apprenticeship, the student learned from the lawyer by observing the senior lawyer, and discussing legal questions and solutions.<sup>5</sup> The apprenticeship requirement changed significantly during the 1800s, when law school was a viable alternative to apprenticeship. In 1800, fourteen out of nineteen jurisdictions required apprenticeship, but by 1860, apprenticeship was required in only nine out of 39 jurisdictions.<sup>6</sup> The apprenticeship experience was slowly, but steadily, being replaced by law schools as the primary means for educating lawyers. By 1930, four states required

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<sup>2</sup> ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* 205 (Univ. of N. Carolina Press 1983). Law school education will continue to evolve. Scholars currently suggest that legal education integrate student learning in three areas: legal analysis, practical skills, and professional identity. WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER & LLOYD BOND, *EDUCATING LAWYERS: PREPARATION FOR THE PRACTICE OF LAW* 13-16 (Jossey-Bass 2007) (these Carnegie Foundation authors reviewed the literature on legal education, consulted with the Association of American Law Schools, met with the Law School Admissions Council, and visited 16 law schools in the United States and Canada).

<sup>3</sup> SULLIVAN ET. AL, *supra* note \_\_\_\_, at 25.

<sup>4</sup> STEVENS, *supra* note \_\_\_\_, at 3 (of the original thirteen colonies, only one did not have a prescribed period of training).

<sup>5</sup> *Id.* (citing accounts from John Quincy Adams and Thomas Jefferson who related the value of their apprenticeship experiences to other early lawyers who complained that the apprenticeship consisted primarily of copying).

<sup>6</sup> *Id.* at 7-8.

attendance at law school. In the remaining 45 jurisdictions, new lawyers could qualify for practice either by law school or law office training.<sup>7</sup> By 1945, law school was required without an alternative of law office apprenticeship study.<sup>8</sup> Finally, by 1970, the current model requiring four years of college and three years of full-time law school became the norm.<sup>9</sup>

Perhaps inadvertently, this dramatic change from apprenticeship to law schools ultimately eliminated the practitioner from a teaching role for prospective lawyers.<sup>10</sup> The authors of the report on legal education issued in 2007 by The Carnegie Foundation for the Advancement of Teaching described this as a hostile takeover.<sup>11</sup> This change in American legal education transformed professional life both in the positive way of giving prospective lawyers a uniform and current training, but also in a negative way by creating

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<sup>7</sup> *Id.* at 174. The four states requiring law school were West Virginia (three years), Colorado (two years), Kentucky (one year), and Wyoming (one year). At this same time, only four states still required students to complete some form of office training. *Id.* at 174.

<sup>8</sup> *Id.* at 205.

<sup>9</sup> *Id.* at 209 (“A law student of 1970, thoroughly indoctrinated in the unyielding standards of his time, would probably have had difficulty believing that it was not until roughly 1950 that the number of lawyers who had been to college exceeded the number of those who had not.”).

<sup>10</sup> Mentoring in the legal profession paralleled the four historical phases of American legal education. First, during the early days (“forced mentoring”), those hoping to be lawyers worked daily with more senior lawyers. Next, during the transition phase from apprenticeship to law school (“optional mentoring”), some prospective lawyers worked with senior lawyers, but some did not. This stage was followed by the long lull period (“no mentoring”) when the emphasis on law school training replaced contact with practicing lawyers. Finally, starting in the late 1980s, but gaining momentum in the early 2000s (“mentoring renaissance”), legal mentoring is again seen as valuable for prospective and practicing lawyers.

<sup>11</sup> They explained, “[T]his spelled the eclipse of traditional forms of practitioner-directed apprenticeship by academic instruction given by scholar-teachers. Law entered the American university at a time when attempts to blend academic and practitioner traditions of legal training resulted in what was, in some respects, less a reciprocal enrichment than a protracted hostile takeover.” SULLIVAN ET. AL, *supra* note \_\_\_\_, at 5.

a larger divide between practitioners and academics.<sup>12</sup> Practitioners' involvement dwindled from a daily event to a complete absence in the prospective lawyer's life, which eliminated practitioners' ability to share their experiences:

Over the course of the twentieth century . . . the cultural resources available to any who wished to defend the earlier practitioners' traditions within the legal academy seemed correspondingly thinner and fewer. In its quest for academic respectability, legal education would come to emphasize legal knowledge and reasoning at the expense of attention to practice skills, while the relations of legal activity to morality and public responsibility received even less direct attention in the curriculum.<sup>13</sup>

Many may be tempted to long for the time when all lawyers served apprenticeships. Yet, the early American mentoring system was not always a positive experience for prospective lawyers. Some, like John Quincy Adams, had wonderful mentoring experiences and supported the apprenticeship system.<sup>14</sup> But Thomas Jefferson, who had a good apprenticeship experience, nevertheless noted, "I was always of opinion that the placing of a youth to study with an attorney was rather a prejudice

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<sup>12</sup> Specifically, the change in legal education introduced quality control, but reduced trust between practitioners, academics, and the public:

It has reduced the arbitrary and often haphazard nature of old-time apprenticeships. It has opened the induction of neophytes to a measure of quality control, as well as the likelihood that the knowledge imparted will be well tested and reasonably current. But it has also bequeathed a legacy of crossed purposes and even distrust between practitioners and academics, as well as between the academy and the public, which still besets the preparation of professionals.

*Id.* at 25.

<sup>13</sup> *Id.* at 7.

<sup>14</sup> John Quincy Adams elaborated:

It is of great advantage of us to have Mr. [Theophilus] Parsons in the office. He is in himself a law library, and proficient in every useful branch of service; but his chief excellency is that no student can be more fond of proposing questions than he is of solving them. . . . I am persuaded that the advantage of having such an instructor is very great.

CHARLES WARREN, A HISTORY OF THE AMERICAN BAR 169 (Little, Brown, & Co. 1911).

than a help.”<sup>15</sup> Unfortunately, not all apprenticeships were ideal, and in some cases the apprentice spent much time copying documents<sup>16</sup> Current mentoring relationships are subject to the same problems.<sup>17</sup>

The second difficulty with the apprenticeship system is that, in the good old days, several classes of people were excluded not only from mentoring, but from the legal profession itself. The good old days certainly would not have benefited me, a woman. Even today, a lack of mentoring for female lawyers is seen as a major impediment to their advancement.<sup>18</sup>

#### B. THE VALUE OF MENTORING

Despite the potential downsides of mentoring, the current use of mentoring as a supplement to a formal legal education has several positive benefits. Every lawyer should be on a lifetime journey to embrace professionalism, and mentoring is one way to help lawyers develop professionalism.<sup>19</sup>

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<sup>15</sup> Alan McKinley Smith, *Virginia Lawyers, 1680-1776: The Birth of an American Profession* 186 (1967) (self-published Ph.D. dissertation, Johns Hopkins University) (on file with author).

<sup>16</sup> STEVENS, *supra* note \_\_\_\_, at 3 n.5.

<sup>17</sup> When the mentor and protégé are well suited to each other, it is a positive experience, but mentoring experiences are not always positive. *See infra* Part I.B. New lawyers many also find that some of the work assigned by mentors is the modern equivalent of copying documents.

<sup>18</sup> Elizabeth K. McManus, *Intimidation and the Culture of Avoidance: Gender Issues and Mentoring in Law Firm Practice*, 33 *FORDHAM URB. L.J.* 217, 218- 220 (2005) (“Despite the importance of informal interaction, this is where women suffer most from lack of mentoring.”); *see also* Deborah L. Rhode, *Comm’n on Women in the Profession*, *Am. Bar Ass’n, The Unfinished Agenda: Women and the Legal Profession* 16 (2001), available at <http://womenlaw.stanford.edu/aba.unfinished.agenda.pdf> [hereinafter *Unfinished Agenda*] (“Women who are not mentored are in fact less likely to advance.”).

<sup>19</sup> Antonio “Tony” Alvarado, *A Radical Proposal for Lifetime Professionalism*, 37 *ST. MARY’S L.J.* 1053, 1088 (2006). In this essay, Alvarado presents a “platform for future discussions on the agendas of those entities which focus on legal professionalism, whose missions include the education, licensing, regulation, and other related services for the



A mentor is a “wise and trusted teacher and advisor.”<sup>20</sup> In Homer’s *The Odyssey*, the goddess Athena came to earth as Mentor, a trusted friend of Odysseus, who cared for and advised Odysseus’s son during Odysseus’s absence in the Trojan Wars.<sup>21</sup> A mentor guides, teaches, and tests the novice by giving sage advice.<sup>22</sup> The concept of a mentor is found throughout the world’s folklore and literature,<sup>23</sup> but the concept of mentors in work relationships is fairly recent.<sup>24</sup>

The value of business mentoring is well-documented in several business fields, and all the benefits apply to legal mentoring. The four benefits of mentoring include

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legal profession in Texas” and suggests a reallocation of resources to address the professional priorities of “communications with clients, professionalism perceptions, and the economic realities of the practice of law.” *Id.* at 1054-55. Alvarado also laments that the traditional practices of mentoring and training new lawyers is not as prevalent in recent years because he recognizes that mentors and legal peers “hold the key to sharing professionalism perspectives.” *Id.* at 1063.

<sup>20</sup> IDA O. ABBOTT, *THE LAWYER’S GUIDE TO MENTORING* 3 (Nat’l Ass’n for Law Placement, Inc. 2000).

<sup>21</sup> *Id.*

<sup>22</sup> Ruth Anne Robbins, *Harry Potter, Ruby Slippers and Merlin: Telling the Client’s Story Using the Characters and Paradigm of the Archetypal Hero’s Journey*, 29 SEATTLE U. L. REV. 767, 782 (2006).

<sup>23</sup> ABBOTT, *supra* note \_\_\_\_, at 3. Ida Abbott notes:

Laurent A. Daloz, in his book, *Mentor: Guiding the Journey of Adult Mentors*, explains that this concept of the mentor is found not just in *The Odyssey*, but throughout the world’s folklore and literature in such varied figures as fairy godmothers, Merlin, Dante’s Virgil, the spider woman in Native American lore, Utnapishtim in the Gilgamesh epic, the Skin Horse in *The Velveteen Rabbit*, and Yoda in Star Wars. Daloz further explains that mentors take us on a journey: “We trust them because they have been there before. They embody our hopes, cast light on the way ahead, interpret arcane signs, warn us of lurking dangers, and point out unexpected delights along the way.”

*Id.*; see also Robbins, *Harry Potter*, *supra* note \_\_\_\_, at 782 (adding Harry Potter’s Professor Dumbledore and Dorothy’s Glinda to the aforementioned list of mentors).

<sup>24</sup> ABBOTT, *supra* note \_\_\_\_, at 3 (“Research in this area [mentors in the workplace] began in the mid-1970s, about the time that women were entering the work force in record numbers . . .”).

career mentoring to enhance the protégé's advancement in the organization,<sup>25</sup> psychosocial mentoring to enhance the protégé's sense of competence and identity,<sup>26</sup> role modeling,<sup>27</sup> and professionalism mentoring.<sup>28</sup> Lawyer mentors provide all four benefits.<sup>29</sup> The senior lawyer can help the novice lawyer develop good judgment and good habits of the mind.<sup>30</sup> Professor Ursula Weigold notes:

Working with a mentor can help a student acquire essential skills and professional values early and significantly reduce the risks to clients of being represented by a newly licensed attorney. Experienced attorneys can serve as role models for students not only in displaying technical proficiency, but also in exercising sound judgment in difficult circumstances. Mentors can model the attitudes, habits, and virtues that characterize good attorneys as well. . . . Attorney-mentors socialize students into the profession by exposing them to the moral and ethical

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<sup>25</sup> Common career mentoring includes coaching, exposure, protection, sponsorship, and providing challenging assignments. KATHY E. KRAM, MENTORING AT WORK: DEVELOPMENTAL RELATIONSHIPS IN ORGANIZATIONAL LIFE 25-32 (Scott, Foresman and Co. 1985).

<sup>26</sup> Common psychosocial mentoring includes acceptance and confirmation, counseling, friendship and role modeling. *Id.* at 24, 32-39.

<sup>27</sup> Although originally included as part of psychosocial mentoring, role modeling is probably a separate function that ensures the protégé “develops professional knowledge and skills that at least satisfy the minimum professional standards and optimally substantially exceed minimum standards.” Neil Hamilton and Lisa Montpetit Brabbit, *Fostering Professionalism Through Mentoring*, \_\_\_ J. LEGAL EDUC. 17 (forthcoming 2007) (currently available at <http://ssrn.com/abstract=899405>); see also Sarah A. Hezlett & Sharon K. Gibson, *Mentoring and Human Resource Development: Where We Are and Where We Need to Go*, 7 ADVANCES IN DEVELOPING HUMAN RES. 446, 449 (2005) (some research suggests that role modeling should be viewed as a third, separate mentoring function).

<sup>28</sup> Professionalism mentoring helps the protégé in a peer-reviewed profession like law internalize the principles of professionalism. Hamilton and Brabbit, *supra* note \_\_\_, at 17-18.

<sup>29</sup> *Id.* at 32, 38-47 (formal mentoring programs can provide all four mentoring functions, with a particular focus on the professionalism and role modeling functions).

<sup>30</sup> Exercising good judgment in uncertain situations is the mark of the expert lawyer. SULLIVAN ET. AL, *supra* note \_\_\_, at 8-9. Experts possess two key features which novices need to obtain: highly structured knowledge and knowledge related to context. *Id.* at 25.

dimensions of law practice and allowing them to observe the standards of experienced attorneys.<sup>31</sup>

Mentoring helps the prospective attorney learn ethics in part because it gives the new attorney an opportunity to discuss ethics in an informal setting.<sup>32</sup> There is some debate about the relative value of formal mentoring programs versus informal mentoring relationships,<sup>33</sup> but the empirical data suggests that both informal and formal mentoring are preferable to no mentoring.<sup>34</sup>

Mentoring also benefits the legal profession as much as it benefits the mentored lawyer. Although the empirical research on mentoring relationships is relatively new, the research suggests that mentored lawyers are more likely to make partner<sup>35</sup> and report

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<sup>31</sup> Ursula H. Weigold, *The Attorney-Client Privilege as an Obstacle to the Professional and Ethical Development of Law Students*, 33 PEPP. L. REV. 677, 696-97 (2006).

<sup>32</sup> Chenise S. Kanemoto, *Bushido in the Courtroom: A Case for Virtue-Oriented Lawyering*, 57 S.C. L. REV. 357, 383 (2006).

<sup>33</sup> Formal mentoring relationships are typically initiated through an organizational process and are structured. Informal mentoring relationships develop naturally over time and have no structural rules. Connie R. Wanberg, Elizabeth T. Welch & Sarah A. Hezlett, *Mentoring Research: A Review and Dynamic Process Model*, 22 RESEARCH IN PERS. & HUMAN RES. MGMT. 39, 83 (2003).

The comparative benefits of informal mentoring relationships are: informal mentors and protégés may be more motivated and committed; the protégé can choose a mentor with good relationship and communication skills, a compatible personality, and similar interests and goals; and informal mentors may be more willing to engage in mentoring that might be perceived as favoritism because the relationship is less visible. The comparative benefits of formal mentoring programs are: giving all protégés access to a mentor; and a structured program that can select outstanding role models, provide training, require goal setting, provide guidance on meetings, monitor the relationship, and give mentors recognition for their contributions. *Id.* at 83-84.

<sup>34</sup> *Id.* at 87.

<sup>35</sup> Monica C. Higgins and David A. Thomas, *Constellations and Careers: Toward Understanding the Effects of Multiple Developmental Relationship*, 22 J. OF ORGANIZATIONAL BEHAV. 223, 239-40 (2001) (surveying 800 attorneys at 12 large New York state corporate law firms in 1989-90 with a 28% survey response rate and concluding that lawyers with a constellation of mentoring relationships were more likely to be promoted to partner); David N. Leband & Bernard F. Lentz, *The Impact of Having a Mentor on Earning and Promotion: Evidence from a Panel Study of Lawyers*, 6

higher job satisfaction,<sup>36</sup> but are less likely to leave a law firm.<sup>37</sup> The 2004 *After the JD* project, which studied approximately 5,000 people who represented roughly 10% of those individuals becoming lawyers in 2000, confirmed that mentoring is important to the success of new lawyers in a law firm setting.<sup>38</sup>

Much of what has been written about mentoring is anecdotal. Scholars lament the lack of empirical evidence studying lawyer mentoring relationships.<sup>39</sup> It will be exciting

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APPLIED ECONOMICS LETTERS 785 (1999) (respondents reporting that they had a mentor in 1984 were more likely to have made partner in 1990).

<sup>36</sup> Higgins & Thomas, *supra* note \_\_\_, at 236; G. Melton Mobley, Charles Jaret, Kristin Marsh & Yoon Yong Lim, *Mentoring, Job Satisfaction, Gender, and the Legal Professions*, 31 SEX ROLES: A JOURNAL OF RESEARCH 79, 12 (1994) (survey of 1,132 Georgia lawyers in 1989); Jean E. Wallace, *The Benefits of Mentoring for Female Lawyers*, 58 JOURNAL OF VOCATIONAL BEHAVIOR 366, 370 (2001) (39% response rate to survey of 1,300 practicing lawyers in Western Canada).

<sup>37</sup> Higgins & Thomas, *supra* note \_\_\_, at 236; David N. Leband & Bernard F. Lentz, *Workplace Mentoring in the Legal Profession*, 61 S. ECON. J. 783, 797, 799 (1995) (data from the 1984 ABA National Survey of Career Satisfaction).

<sup>38</sup> NAT'L ASS'N FOR LAW PLACEMENT FOUNDATION FOR LAW CAREER RESEARCH AND EDUCATION AND AM. BAR FOUNDATION, *AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS* 13, 89 (2004) (this initial report presented data based on questionnaires administered two to three years into the new lawyers' careers, but the study will employ follow-up questionnaires and personal interviews at both six and ten years into the respondents' careers).

The authors reviewed the study results and noted that mentoring is a difficult topic to research, but mentoring is important to the success of new lawyers in a law firm setting:

The topic of mentoring is one of the more difficult ones to probe in studies of legal careers. Mentoring is often informal, casual, and difficult to quantify and recognize. The results may also be elusive. Mentoring can be a key to success, and it may be a way to cope with, and perhaps accept, repeated disappointment. What is clear at this point in lawyer careers is that informal mentoring in law firm settings – however difficult to measure – is central in the careers of new lawyers. Well over a third (and as high as half) of respondents in these settings identify informal mentors as the first most important source of assistance for learning office protocols/customs and for having a personal advocate in the firm.

*Id.* at 80.

<sup>39</sup> Hamilton and Brabbit, *supra* note \_\_\_, at 19 (“Empirical research on mentoring relationships is a field still at a relatively young stage.”).

to see how studies and scholarship develop as mentoring regains prominence in the legal field. Still, the plethora of articles describing one lawyer's personal account of a wonderful mentor is a sign of hope and an affirmation that mentoring relationships are alive and effective in the legal profession.<sup>40</sup>

### C. THE CURRENT REVIVAL IN LEGAL MENTORING

Despite the change eliminating a formal apprenticeship program as part of legal education, mentoring has continued as part of the learning process for many new lawyers. This mentoring happens in law offices, bar association groups, and government legal offices every day. During the last three or four decades, however, lawyers, legal educators, and bar associations have renewed efforts to revive formal mentoring programs. This section highlights four of those efforts: the American Inns of Court founded by lawyers, mentoring programs at law firms, the Mentoring Program at the University of St. Thomas School of Law endorsed by legal educators, and the mentoring program started by the Georgia State Bar Association.

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<sup>40</sup> See, e.g., Lowell E. Baier, *Dr. Jerome Hall – A North Star in My Life*, 81 IND. L. J. 465 (2006); Ruth Anne Robbins, *A Tribute to Judge Michael Patrick King: The Mentoring King*, 35 RUTGERS L.J. XIII (2004); Irma S. Russell, *An Authentic Life in the Law: A Tribute to James K. Logan*, 43 U. KAN. L. REV. 609 (1995); Patrick J. Schiltz, *Legal Ethics in Decline: The Elite Law Firm, the Elite Law School, and the Moral Formation of the Novice Attorney*, 82 MINN. L. REV. 705, 738 (1998) [hereinafter *Legal Ethics in Decline*] (relating specific experiences with his mentor James Fitzmaurice); Daniel D. Barnhizer, *Mentoring as Duty and Privilege*, 82-Jan MICH. B.J. 46 (Jan. 2003) (noting that Supreme Court Justice Thurgood Marshall often credited his success to his mentor Charles Houston); Fournier J. “Boots” Gale, III, *Mentoring – Past and Present (President’s Page)*, 67 ALA. LAW. 404 (NOV. 2006) (mentioning mentors who influenced him throughout his career).

## 1. American Inns of Court

American Inns of Court are “designed to improve the skills, professionalism and ethics of the bench and bar.”<sup>41</sup> American Inns of Court are modeled on the English system of apprenticeship.<sup>42</sup> Chief Justice Warren E. Burger and Chief Judge of the Ninth Circuit J. Clifford Wallace discussed the concept of starting American Inns of Court in the late 1970s.<sup>43</sup> The first American Inn of Court was founded in 1980 in the Salt Lake City area.<sup>44</sup> Today, more than 20,000 judges and lawyers actively participate in an Inn of Court.<sup>45</sup>

Each American Inn of Court is a group of lawyers and judges (and sometimes law professors and law students) who meet monthly to hold programs and discussions on

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<sup>41</sup> American Inns of Court, <http://www.InnsOfCourt.org/Content/Default.aspx?ld> [hereinafter *Inns of Court* website].

<sup>42</sup> *Id.* The English Inns of Court were places for prospective lawyers to live and study: The original Inns of Court were founded in London in the 14th century. At that time an Inn was a large house or mansion where law students would live and study. Over time, the Inns developed into places where apprentice lawyers could learn, set up shop, eat, study and prepare cases, all under the same roof. The Inns of Court still thrive in modern-day England. There are four separate Inns where England’s trial lawyers – the barristers – are educated, trained and regulated.

Robert L. Eisenberg, *Nevada Chapters of the American Inns of Court*, NEV. LAW. 10 (Oct. 2006).

By the mid-eighteenth century, the English Inns of Court deteriorated from places of education to social clubs. Lee J. Strang, *An Originalist Theory of Precedent: Originalism, Nonoriginalist Precedent, and the Common Good*, 36 N.M. L. REV. 419, 455 n. 249 (2006). Strang noted, “Blackstone felt that the Inns ‘entirely neglected’ any form of academic oversight ‘either with regard to morals or studies,’ and offered instead only ‘allurements to pleasure’ and addictive ‘amusements [and] other less innocent pursuits.’” *Id.* The English Inns of Court have since improved. The American Inns of Court are not merely fraternal organizations. *Inns of Court* website.

<sup>43</sup> *Inns of Court* website.

<sup>44</sup> *Id.* Justice Burger and Judge Wallace had invited Rex E. Lee, who was then the Dean of the J. Reuben Clark School of Law at Brigham Young University, to test the idea of a chapter of an American Inns of Court. *Id.*

<sup>45</sup> *Id.* (“There are also nearly 50,000 judges and lawyers who are alumni of an Inn.”). The suggested number of members for each Inn is approximately 80 active members. *Id.*

ethics, skills, and professionalism. The Inn members are divided into “pupilage teams” of several novice and experienced lawyers who meet informally in groups of two or more outside of the monthly Inn meetings to allow “the less experienced attorneys to become more effective advocates and counselors by learning from the more-experienced attorneys and judges.”<sup>46</sup>

## **2. Law Firm Mentoring Programs**

Several law firms have added to the mentoring renaissance by instituting formal mentoring programs and supporting informal mentoring programs for lawyers at all levels of experience. Lawyers recognize that the fast-paced legal profession with its pressure to bill time often leaves little opportunity to mentor junior lawyers.<sup>47</sup> Yet, the millennial generation has higher expectations of direction and involvement. Law firms recognize that without mentoring, millennial lawyers will continue to leave law firms resulting in high costs.<sup>48</sup> To combat both attrition and lawyer dissatisfaction, law firms are responding by supporting formal and informal mentoring. New lawyers react

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<sup>46</sup> *Id.* The Inns also encourage individual mentoring (“In addition, each less-experienced member is assigned to a more-experienced attorney or judge who acts as a mentor and encourages conversations about the practice of law.”).

<sup>47</sup> Paul Burton, *What Money Can't Buy: Organic Mentoring in Law Firms*, 43-MAR ARIZ. ATT'Y 12 (March 2007) (“The notion of spending non-billable time with another lawyer for the esoteric purpose of exchanging wisdom seems quaint.”). One author estimates that, even though 80 percent of law firms report the use of mentoring, he “suspects that the real figure – if we base it on the percentage of law firms actually having viable, working mentoring initiatives – is probably less than 5 percent.” Robert R. Bergland, *The Recreation of a Mentoring Tradition at Winstead Sechrest & Minick*, 21 NO. 6 OF COUNSEL 14 (JUNE 2002).

<sup>48</sup> See Burton, *supra* note \_\_\_\_, at 12; see also *supra* Part IB (lack of mentoring is one major factor in the growing attrition rates for new lawyers joining law firms).

positively to mentoring efforts.<sup>49</sup> Further, mentoring has benefits throughout a lawyer's career, and efforts to mentor should not be limited to those newly admitted to the bar.<sup>50</sup>

### **3. University of St. Thomas Law School's Mentorship Program**

The University of St. Thomas School of Law (UST Law) in Minneapolis, Minnesota is also making strides in the mentoring renaissance by requiring formal legal mentoring for law students.<sup>51</sup> UST Law's mentor externship program connects law students, in all three years of law school, to the life of a lawyer by pairing students with respected judges and lawyers in the legal community. Students are required to participate in the program. Students and mentors develop a personal and professional development plan to identify goals and record accomplishments from the mentoring relationship. The plan has three objectives: to foster professionalism, to provide students with a real world view of practicing law, and to create opportunities to discuss issues of professionalism and the practice of law.<sup>52</sup>

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<sup>49</sup>Bergland, *supra* note \_\_\_\_, at 16; *see also* Paul Burton, *What Money Can't Buy*, 67 OR. ST. B. BULL. 33, 36 (Oct. 2006) [hereinafter *What Money*] (mid-level and senior associates benefit from mentoring in the following ways: strategic, facilitative, gaining a confidante, bridging the knowledge gap, and networking).

<sup>50</sup>*See* Dean J. Zipser, *The Value of Mentoring*, 47 ORANGE COUNTY LAW 5 (Mar. 2005) (mentors were valuable throughout his career); *see also* Burton, *What Money*, *supra* note \_\_\_\_, at 33 (mid-level and senior associates should also be mentored).

<sup>51</sup>Patrick J. Schiltz, *Making Ethical Lawyers*, 45 S. TEX. L. REV. 875, 879-84 (2004) (describing the University of St. Thomas mentoring program as it existed in 2004).

<sup>52</sup>Lisa Montpetit Brabbit and David M. Bateson, *Mentors Mind the Legal Gap*, LEGAL TIMES, Sept. 4, 2006, at 32.

The program has attracted a diverse pool of 550 lawyer mentors. These mentors provide the traditional mentoring functions, “[Mentors] introduce students to a wide range of legal tasks and judicial activities and share with them the traditions, ideals, and skills necessary for a successful career. Mentors also help students learn the many unwritten rules, customs, and courtesies of the legal profession . . . .” Through this formal mentoring process, UST Law hopes to help law students develop high professional standards, habits of excellence, and strong ethical standards. *Id.*



#### 4. Georgia State Bar Association Requirements

A final example of the renaissance in formal mentoring programs is the Georgia State Bar Association's recent mandatory requirement called the Transition into Law Practice Program.<sup>53</sup> Lawyers who passed the summer 2005 Georgia bar examination, and all those passing subsequent Georgia bar examinations, must participate in this mandatory program. The program matches new lawyers with experienced mentor lawyers appointed by the Georgia Supreme Court for the new lawyer's first year of practice.<sup>54</sup> The Program's stated goal is "to afford every beginning lawyer newly admitted to the State Bar of Georgia with meaningful access to an experienced lawyer equipped to teach the practical skills, seasoned judgment, and sensitivity to ethical and professionalism values necessary to practice in a highly competent manner."<sup>55</sup> The new lawyer and mentor develop a Mentoring Plan, and at the end of the one year period, the mentor must sign a certificate indicating that the new lawyer completed the Mentoring Plan.<sup>56</sup> The Mentoring Plan must include opportunities for the new lawyer to discuss and implement professional skills and values.<sup>57</sup>

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<sup>53</sup> STATE BAR OF GA. AND THE COMMISSION ON CONTINUING LAWYER COMPETENCY, TRANSITION INTO LAW PRACTICE PROGRAM, EXECUTIVE SUMMARY 1 (2005).

<sup>54</sup> *Id.* at 6.

<sup>55</sup> *Id.* at 1.

<sup>56</sup> *Id.* at 27.

<sup>57</sup> The Mentoring Plan must include the following key elements:

1. Regular contact and meetings between the mentor and beginning lawyer.
2. Continuing discussions between the mentor and beginning lawyer on at least the following topics:
  - a. Ethics and professionalism.
  - b. Relationships with clients, other lawyers (both inside and outside the firm), the judiciary and the public, including unrepresented parties.

Georgia's experience with this ambitious mentoring plan will be closely watched. At least two states, Alabama and Ohio, have adopted mentoring pilot programs, hoping to follow in Georgia's footsteps.<sup>58</sup>

## II. CHOOSING A MENTOR

As noted in Part I, mentored attorneys increase their chance for success. Through mentoring, lawyers obtain all the intangibles necessary for success: they are drawn into the loop of career development, they learn the stated and unstated practices and policies of the legal profession and the firm or government office where they practice, they receive better and more challenging work, they are included in social events that can lead to professional opportunities, they acquire marketing skills.<sup>59</sup> Patrick Schiltz notes, "A novice attorney learns the value of mentoring either by having one or by not having one. I was fortunate to have one."<sup>60</sup> I learned early in my career that I should invest as much

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- c. Professional work habits, organizational skills and practice management
  - d. Economics of practicing law in the relevant practice setting.
  - e. Responsibility and opportunities for pro bono work, bar activities, and community service.
  3. Introduction to the local legal community.
  4. Specific planning for professional development and continuing legal in and outside the firm.
  5. Periodic evaluation of the mentor-beginning lawyer relationship.

*Id.* at 11.

<sup>58</sup> Gale, *supra* note \_\_\_, at 404 (Alabama State Bar Board of Bar Commissioners approved the mentoring pilot program which will use a group mentoring style, some with one mentor and five protégés, and others with two mentors and eight protégés); [www.sconet.state.oh.us/mentoring/PDF/tempGovBarRule.pdf](http://www.sconet.state.oh.us/mentoring/PDF/tempGovBarRule.pdf) (Ohio Supreme Court adopted a pilot mentor program to begin effective July 1, 2006 and extending through June 30, 2007).

<sup>59</sup> McManus, *supra* note \_\_\_, at 218-19; Rhode, *Unfinished Agenda*, *supra* note \_\_\_, at 16.

<sup>60</sup> Schiltz, *Legal Ethics in Decline*, *supra* note \_\_\_, at 720.

time finding mentors and fostering relationships with them as I spent finding employment.<sup>61</sup>

You might be reading this and thinking, “Oh, easy for you to say . . . you had a built-in family relationship that you did not even have to work to develop.” A fair point. It was not difficult for me to foster a relationship with my brother, but I recognized that there were limits to the mentoring relationship with my brother. He never practiced in the same legal community with me. Further, role modeling by mentors of the same gender is considered critical.<sup>62</sup> As a result, I knew I needed to develop additional mentoring relationships. The model for mentoring has changed in several ways over the years, but one of the most significant changes is that the old model of one mentor is being replaced by the new model of many mentors.<sup>63</sup> I recognize that mentoring can mean success, so I sought and continue to enthusiastically seek mentors.

New lawyers need to learn how to begin and build mentoring relationships. New lawyers should use initiative when seeking a mentor, “Make the first move; show the mentor your enthusiasm.”<sup>64</sup> Neil Hamilton urges new lawyers to build the mentoring

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<sup>61</sup> See Cranmer, *supra* note \_\_\_, at 14 (July 2006) (young lawyers must become self-starters in developing their own careers which includes seeking mentors).

<sup>62</sup> Wallace, *supra* note \_\_\_, at 373 (female mentors are better role models for female protégés).

<sup>63</sup> ABBOTT, *supra* note \_\_\_, at 23. Abbott further explains, “Instead of aspiring to find a single perfect mentor, this new approach counsels lawyers to develop a network of relationships with many mentors at different times and for different developmental purposes . . . .” *Id.*

<sup>64</sup> ABBOTT, *supra* note \_\_\_, at 83. Abbott suggests that young lawyers use initiative both in finding a mentor and in maintaining a relationship with a mentor:

[T]he ultimate responsibility for professional development rests with the protégé. Many young lawyers who want a mentor’s help do not realize how much they can do to start and influence the mentoring relationship. Rather than wait to be chosen by a mentor, prospective protégés should take the initiative. Lawyers who sit before their keyboards hoping

relationship by preparing and asking good questions, being candid, showing the mentor your best effort and work product, sharing kindnesses, and regularly expressing gratitude to the mentor.<sup>65</sup>

Three common features have made my mentoring relationships successful: sharing values with the mentor, choosing a mentor with only a few years more experience, and selecting a mentor who can keep confidences.

#### A. MENTOR SHARES YOUR VALUES

I freely admit that it does not get any easier than having a mentor who was raised in the same family. I am talking about someone who knows that honesty was so highly valued in your family that you do not enter the line for “less than 10 items” in a grocery store if you have eleven items in your cart, even if two of the items are two cartons of milk joined together with a plastic binder, particularly if you think this might only require one scan, and a strong argument could be made (especially after attending law school) that this is really only one item. Cheating on a client’s bill is obviously out of the question.

If at all possible, choose a mentor who shares not only professional values, but also personal values.<sup>66</sup> Patrick Schiltz notes, “A mentor with a moral compass similar to the young lawyer’s has already traveled this ground and can be extremely helpful as the

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someone will notice the high quality of their work are less likely to be mentored than those who ask potential mentors for advice and feedback. Even when assigned a mentor, protégés should show initiative in the mentoring relationship.

*Id.*

<sup>65</sup> Professor Neil Hamilton, *Initiating and Building Mentor Relationships*, MINN. LAW. 5, 8 (April 16, 2007).

<sup>66</sup> See ABBOTT, *supra* note \_\_\_\_, at 70 (describing a successful mentoring relationship because the mentor and protégé “placed the highest value on superior legal work and strict ethical standards”).

young lawyer struggles to practice law in an integrated manner.”<sup>67</sup> A mentor who shares your values will help guide you as you strive to become an excellent lawyer and a better person.

#### B. MENTOR HAS A FEW MORE YEARS OF EXPERIENCE

Conventional wisdom suggests pairing new lawyers with very experienced lawyers.<sup>68</sup> I can see the benefits of this arrangement, and I have benefited from several relationships with more experienced lawyers. But for my money, a lawyer who is just a few years ahead of you in practical experience is the best mentor. Although it is valuable

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<sup>67</sup> See Schiltz, *Legal Ethics in Decline*, *supra* note \_\_\_\_, at 733. Schiltz points out that lawyers learn to practice ethically, not by listening to the mentor’s words, but by watching how a mentor practices law:

He [mentor James Fitzmaurice] taught me by being a decent man who practiced law every day in a decent manner. . . . Moral formation “rests on small matters, not great ones,” and what I recall most about Fitzmaurice are “the small matters”:

I recall how Fitzmaurice would take strident letters or briefs that I had drafted and tone them down. I recall how Fitzmaurice would run into an attorney who had treated him shabbily and greet the attorney warmly. I recall how Fitzmaurice would time and again refer clients and files to young lawyers in our firm who were having trouble attracting business. I recall how Fitzmaurice never blamed others for his mistakes, but often gave others credit for his accomplishments. I recall how often Fitzmaurice took the blame for mistakes that I and other young attorneys made. I recall how Fitzmaurice, at the conclusion of a trial or hearing, would walk over to the client of his adversary and say, “I just want you to know that your attorney did a terrific job for you.” In short, what I best recall about Fitzmaurice were not occasions of great moral heroism, but his “quiet, everyday exhibitions of virtues.” It was through such exhibitions that he helped shape my character and instill in me the habit of acting ethically.

*Id.* at 738 (footnotes omitted).

<sup>68</sup> See, e.g., Tod Aronovitz, *Mentoring is for You!*, 77-MAY FLA. B.J. 4 (May 2003) (mentoring provides “wise and experienced attorneys to extend guidance and promote professional advancement for inexperienced younger attorneys); Judge Carolyn Clause Garcia, *Getting Back to the Good Old Days*, 32-FEB. HOUS. LAW. 35 (Feb. 1995) (lawyers often trained by older, wiser, and more experienced colleagues, but mentoring relationships often available only to men).

to hear what it was like “when I was a first-year associate twenty years ago,” it is even more valuable to hear what it was like “when I was a first-year associate three years ago.”

As lawyers, we know that memory changes an individual’s perception of events.<sup>69</sup> That applies to lawyers, too. The brilliant twenty-year lawyer veteran might not be reporting what it was really like twenty years ago.<sup>70</sup> Lawyers, like others, may long “for a past that never really existed.”<sup>71</sup>

This memory challenge is further complicated by the reality that the rules have changed. For example, the average billable hour requirement for law firms has increased dramatically in recent years.<sup>72</sup> Most estimate that average billable hours have increased

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<sup>69</sup> See, e.g., ELIZABETH F. LOFTUS, *EYEWITNESS TESTIMONY* 7 (Harv. U. Press 1979) (“[Eyewitness testimony] can be flawed simply because of the normal and natural memory processes that occur whenever human beings acquire, retain, and attempt to retrieve information.”); Leslie C. Levin, *Lawyers in Cyberspace: The Impact of Legal Listservs on the Professional Development and Ethical Decisionmaking of Lawyers*, 37 ARIZ. ST. L.J. 589, 620 (2005) (“There is a psychological tendency not to re-examine decisions once they have been made, and so experienced lawyers who follow practices that violate the ethical rules may not be quick to re-examine their practices.”)

<sup>70</sup> See Bruce A. Green, *Professional Challenges in Large Firm Practices*, 33 FORDHAM URB. L.J. 7, 14 (2005) (after relating the personal stories of two lawyers who lauded their early experiences twenty years ago, Green noted, “One might question whether the quality of informal training at law firms was as outstanding two or three decades ago as older lawyers now recall.”).

<sup>71</sup> Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 891(1999) [hereinafter *On Being Happy, Healthy, and Ethical*]; see also Harry T. Edwards, *A New Vision for the Legal Profession*, 72 N.Y.U. L. REV. 567, 571-72 (1997); Deborah L. Rhode, *The Professionalism Problem*, 39 WM. & MARY L. REV. 283, 303-07 (1998).

<sup>72</sup> Susan Saab Fortney, *The Billable Hours Derby: Empirical Data on the Problems and Pressure Points*, 33 FORDHAM URB. L.J. 171, 172 (2005) [hereinafter *The Billable Hours Derby*] (“Over the last decade the number of hours expected of associates increased along with hikes in associate salaries.”); see also Susan Saab Fortney, *I Don’t Have Time To Be Ethical: Addressing the Effects of Billable Hour Pressure*, 39 IDAHO L. REV. 305, 305-06 (2003) [hereinafter *I Don’t Have Time*] (increased salaries result in increased billable hours and noting one analysis estimating that increased salaries require associates to work 300 extra hours a year); A.B.A. Commission On Billable Hours Report 2001-2002, available at <http://www.abanet.org/careercounsel/billable.toolkit/bhcomplete.pdf> at 3

from 1400 hours per year in the 1960s, to 1800 hours per year in the 1980s, to up to 2200 hours per year in 2000.<sup>73</sup> Several other aspects about practicing law have also changed including: client expectations that work will be performed instantly and around-the-clock, technological changes, pressure to provide cost-effective services, and a decline in client loyalty with its resulting competition for clients.<sup>74</sup> Discovery today often involves

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(during the 1990s “billable hour commitments reached unreasonably high levels in many firms”). NALP, the National Association for Law Placement, reported in their 2006 Legal Hiring Wrap-Up that associates salaries rose up to \$145,000. NALP – The Association for Legal Career Professionals, 2006 Legal Hiring Wrap-Up; *see also* Douglas R. Richmond, *Professional Responsibilities of Law Firm Associates*, 45 BRANDEIS L.J. 199, 228 (2007) (“Of course, associate salaries at large law firms are on the rise again. No one yet knows what effect this round of salary increases will have on associates’ billable hour models, if any. Associate salaries are overhead, and increasing billable hour models is one way for firms to compensate for increases in overhead.”).

<sup>73</sup> Schiltz, *On Being Happy, Healthy, and Ethical*, *supra* note \_\_\_, at 891 (“Thirty years ago, most partners billed between 1200 and 1400 hours per year and most associates between 1400 and 1600 hours. As late as the mid-1980s, even associates in large New York firms were often not expected to bill more than 1800 hours annually. Today, many firms would consider these ranges acceptable only for associates who had died midway through the year.”); *see also* Nathan M. Crystal, *Core Values: False and True*, 70 FORDHAM L. REV. 747, 763 (2001) (“Esther Lardent, the director of the pro bono institute at Georgetown, notes that the number of billable hours for lawyers has increased from 1700 a few years ago to an average of 2200 to 2300.”). In 2004, one survey reported that over 80 percent of firms have a minimum billable hour requirement, and the average amount of time billed by attorneys ranges from 1886 hours for firms of 10-49 attorneys up to 2059 hours for firms of over 300 attorneys. Saab Fortney, *The Billable Hours Derby*, *supra* note \_\_\_, at 175-76; *see also* Douglas R. Richmond, *Professional Responsibility and the Bottom Line: The Ethics of Billing*, 20 S. ILL. U. L.J. 261, 227 (1996) (referring to 2004 and 2005 polls by the American Lawyer that show mid-level associates bill approximately 1950 hours per year). NALP reported that the overall average of billable hours in 2007 was 1,886 hours per year. 2006-2007 NALP DIRECTORY OF LEGAL EMPLOYERS 13.

<sup>74</sup> Bruce A. Green, *supra* note \_\_\_, at 14-15 (Donald Bradley listed these as “forces that have changed the practice of law” at Fordham University’s conference entitled “Professional Challenges in Large Firm Practices”).

hundreds of thousands of pages of documents.<sup>75</sup> The skills required to achieve partnership in a firm have also changed, and will likely continue to evolve.<sup>76</sup>

A legal career is a rich and long career. It starts on the first day of law school, and in some senses does not end until you die. Many lawyers go through several different positions as lawyers, from judicial law clerks, to private practice, to in-house legal positions, to academia, to judgeships, to political positions. Someone who played by the same rules is best able to help guide you throughout your career.

### C. MENTOR KEEPS CONFIDENCES

My final suggestion is to choose a mentor who you trust completely with your confidences.<sup>77</sup> Your mentor should want to mentor you and thus be invested in keeping your confidences.<sup>78</sup> It is very difficult to be completely honest with someone who is making decisions about your career advancement. On the tough days, your question for your mentor might be, “Will I always have to work this hard?” or “I need advice on how to handle both the billable hour requirement and the partner’s suggestion that I should write off part of my time” or “I am really struggling with my value of humility versus the

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<sup>75</sup> MARK HERRMAN, *THE CURMUDGEON’S GUIDE TO PRACTICING LAW* 35 (ABA Publishing 2006) (“Law school also never burdened you with a true understanding of the word ‘discovery.’ That word does not mean 3,000 pages of documents that you can read, understand, and inquire about intelligently at depositions and trial. Maybe ‘discovery’ meant that in the 1950s, but it doesn’t mean that today.”).

<sup>76</sup> The current trend is that partners “now must be good at delegating, maintaining relationships, meeting client needs, and making sure staff are trained to move up in the firm.” 06-11 COMPENSATION & BENEFITS FOR L. OFF. 1 (Nov. 2006).

<sup>77</sup> ABBOTT, *supra* note \_\_\_, at 124-25 (advising that the issue of confidentiality should be discussed at the beginning of the mentoring relationship, but also noting that not all mentoring relationships will have complete confidentiality).

<sup>78</sup> Kanemoto, *supra* note \_\_\_, at 383 (“Above all else, for mentoring to be successful, both the mentor and the new lawyer must want to be a part of the mentoring process.”).



pressure to ‘sell’ myself.” These issues require you to bare your soul, so choose a mentor you can trust with your deepest confidences.

### III. MY MENTOR’S BEST ADVICE – TEN VIRTUES

Even if you are convinced that legal mentoring is critical and that you should look for a mentor, you may not yet have formed a relationship with an ideal legal mentor. But I have, and I want to share his best advice and wisdom in the form of the ten virtues he taught me.

I picture him laughing as he reads these gems of wisdom because he would never give his advice the lofty label of “virtues.” He would say that his advice is not groundbreaking, but instead just common sense counsel based on his own experience in the legal profession. He begins every response to my requests for advice with, “For what it is worth.”<sup>79</sup> Then he asks me to reflect on and define my goals. He further cautions that I have to use my own judgment about what will work for me. These preliminary disclaimers are exactly what make his advice so valuable. He does not contend that his is the only, or even the best, way.<sup>80</sup> Most importantly, he gives me the confidence to develop my own professional identity in the manner that fits for me.

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<sup>79</sup> As I was learning modern text messaging lingo, he taught me that FWIW means “for what it is worth” because he began his email replies to my requests for advice with FWIW. Just recently he has started his advice to me with FWLIW, which I now know means “for what little it is worth.”

<sup>80</sup> He often premises his advice to me with the caveat that much of his advice goes against conventional wisdom, but that these practices worked for him. He also always reminds me of our mother’s saying, “Be careful what you ask for because you might get it.” This was her way of saying that sometimes the things we desperately want can be accompanied by things we cannot imagine. In Steve’s case, he is always willing to give advice, but he knows that I might not always be as willing to follow it. Two years ago, I wrote to him about a law review submission deadline, but gave several reasons why it would be impossible for me to meet the deadline and my chances of placement were slim. After a lengthy email acknowledging that all my excuses were valid, Steve gave his

It became clear to me that he was passing on virtues when I began writing this article. I realized that he had been coaxing me through twenty five years to follow virtues that would help me become a moral lawyer. Calling his advice “virtues” affirms that our ultimate goal as lawyers and human beings should be moral excellence. The ten virtues discussed in detail here capture the essence of his good advice and counsel. It is very tough to ignore advice that continuously pays off; the ten virtues and the suggested habits to help develop the ten virtues have worked for me consistently at every stage of my career. If followed, the virtues and habits will help anyone become a successful lawyer and person. The first five discussed are personal virtues: diligence, initiative, efficiency, reflection, and enjoyment. The second five discussed are relationship virtues: simplicity, equality, civility, honesty, and sharing.

#### A. PERSONAL VIRTUES

I call the first five “personal” virtues because they are the virtues that will help a lawyer develop the individual qualities for moral excellence. These virtues capture the essence of the lawyer as she works independently, which will be a significant part of her professional life. When no one is looking, these are the virtues that will be the measure of the lawyer.<sup>81</sup>

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advice, “Start writing.” He was kind enough not to add, “And stop making excuses.” He backed up that advice with a lawyer’s list of supporting arguments. I made the deadline, and my article was accepted. I find it very difficult to ignore good advice that constantly pays off.

<sup>81</sup> Sidney Poitier wrote a book called *The Measure of a Man* where he explained:  
More recently, I decided that I wanted to write a book about *life*. Just life itself. . . . I felt called to write about certain values, such as integrity and commitment, faith and forgiveness, about the virtues of simplicity, about the difference between “amusing ourselves to death” and finding meaningful pleasures - even joy. . . . In other words, I wanted to find out, as I looked back at a long and complicated life, with many twists and

## 1. Diligence (“You might not be able to out-think them, but you can outwork them.”)

Diligence is the “long, steady application to one’s occupation or studies; persistent effort.”<sup>82</sup> Diligence encompasses several good traits including hard work, discipline, and perseverance. My mentor said from the beginning, “You might not be able to out-think them, but you can outwork them.”<sup>83</sup>

Diligence has a bit of a negative reputation these days. Generation Xers are often quoted as saying that they do not want to become workaholics like their parents, who never seemed to enjoy life.<sup>84</sup> Diligence does not require that lawyers become

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turns, how well I’ve done at measuring up to the values I espouse, the standards I myself have set.

SIDNEY POITIER, *THE MEASURE OF A MAN: A SPIRITUAL AUTOBIOGRAPHY* xi-xii (HarperCollins 2000).

<sup>82</sup> THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 369 (1978). Diligence is a derivation of diligent which comes from the Latin “diligens” which means loving. One meaning of diligent is to single out, choose, or love. *Id.*

<sup>83</sup> He was specific about the diligence required, “Learning the law takes a lot of hard work. It is learning a new language and a new way of thinking. It is only by struggling with the law that you can learn it.” He advised that hard work was required for law school when trying to learn the law, but also that diligence was required throughout a legal career because lawyers must constantly learn new things about the law. He noted that during a legal career, a lawyer is often required to immerse herself in the law.

Abraham Lincoln also advised prospective lawyers to read the law:

If you wish to be a lawyer, attach no consequence to the *place* you are in, or the *person* you are with; but get books, sit down anywhere, and go to reading for yourself. That will make a lawyer of you quicker than any other way.

Letter from Abraham Lincoln to William H. Grigsby (Aug. 3, 1858), in ABRAHAM LINCOLN: *SPEECHES AND WRITINGS* (1832-1858) 484-85 (Don E. Fehrenbacher ed., The Library of America 1989) (emphasis in original).

<sup>84</sup> See Tracy L. McGaugh, *Generation X in Law School: The Dying of the Light or the Dawn of a New Day?*, 9 LEG. WRITING 119, 132 (2003) (Generation Xers are not slackers, but “[t]hey are simply reluctant to invest in an institution without some assurance that they will get something in return that will justify rethinking their current balancing of personal and academic/professional lives.”).

workaholics, but it does mean that successful lawyers work hard. My very own mentor Steve Easton explains:

In the practice of law, knowledge comes from hard work. Your goal, though not always attainable, should be to know more about your case than anyone else, especially opposing counsel. . . . Unless you are one of the unusual individuals who is blessed with a photographic or other extraordinary memory, you can acquire that superior level of knowledge only through hard work. . . . For a lawyer, the three most important things are preparation, preparation, and preparation.<sup>85</sup>

Further, the Model Rules of Professional Conduct require both competence<sup>86</sup> and diligence.<sup>87</sup>

My mentor recommended the following very specific habits to help develop the virtue of diligence: work hard, make deadlines your friends, and follow a disciplined work schedule.

Hard work means that you are always prepared: prepared for the exam, prepared for the motion or oral argument, prepared for the client meeting. My mentor was even more specific about what he meant by hard work. He advised that I treat learning and practicing the law like a 40 hour a week job.<sup>88</sup> He knew from experience that learning the law takes persistence and there are no shortcuts.

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<sup>85</sup> Stephen D. Easton, *My Last Lecture: Unsolicited Advice for Future and Current Lawyers*, 56 S.C. L. REV. 229, 251 (2004).

<sup>86</sup> MODEL RULES OF PROF'L CONDUCT R. 1.1 (2007) ("A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.").

<sup>87</sup> *Id.* at R. 1.3 ("A lawyer shall act with reasonable diligence and promptness in representing a client.").

<sup>88</sup> My mentor recommended that I start by treating law school like a job. He was also clear that, like with any job, 40 hours a week was a minimum, but many weeks would require more than 40 hours of work. He recommended that many weeks of law school, and many weeks in practice as a new lawyer, would require 60 hour work weeks.

My mentor advised that a change in perception from viewing deadlines as enemies to viewing them as friends was a second habit that would help me learn diligence. Most lawyers see deadlines as the enemy because the deadline comes with the resulting stress to meet the deadline.<sup>89</sup> Yet there are many positive aspects to deadlines because they provide a definite period of finality. Deadlines help you structure time and prioritize. Once you view deadlines as your friends, you may find yourself creating self-imposed deadlines. For example, instead of seeing the final deadline for the submission of the summary judgment brief as the deadline, you may find yourself creating interim deadlines: the facts will be written by this date or the research on this particular issue will be completed by this date. These deadlines should be strict but achievable. By making deadlines your friends, you will reduce your stress.

The third habit that helps develop diligence is following a disciplined work schedule. This habit has as much to do with effective planning as it does with having the discipline to follow through with the plan. It starts with soul searching while you learn when and under what conditions you are most productive and then replicating those conditions. For example, if you know you are most productive in the morning, schedule your time so that you can accomplish the most difficult tasks of your day in the morning. If you are most productive without any distractions, then make sure you are closing the door to your office, turning off your phone, and turning off the Inbox notification from your email. Following a disciplined work schedule requires a commitment to balancing both professional and personal obligations, and planning for personal obligations when

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<sup>89</sup> I tell my students that they will be paid as lawyers, at least in part, to reduce the client's stress about deadlines. I have yet to meet the lawyer who has not had at least one bad dream about not meeting a deadline.

developing a work schedule. In some cases, it requires a commitment to delayed gratification.<sup>90</sup>

A diligent lawyer does not work nonstop. Research shows that taking breaks maintains productivity.<sup>91</sup> Instead, the virtue of diligence helps lawyers enter every situation, from a law school exam to an oral argument, prepared.<sup>92</sup>

## **2. Initiative (“Get out of the starting blocks as fast as possible, at every single stage of your career.”)**

Initiative means “the power, ability, or instinct to begin or to follow through with a plan or task; enterprise and determination.”<sup>93</sup> Steve warned me, so I was prepared, “You will often hear advice in your legal career that you should not worry too much about your performance at the beginning of law school or in a new job. You will be advised to take your time getting acclimated. Ignore that advice. Put on the track spikes and come out of the starting blocks as fast as possible.”<sup>94</sup> This advice has remained at the

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<sup>90</sup> When it is not possible to complete your work before an activity then the diligent lawyer will not allow days to pass without completing the work. For example, if your child is performing in a school show that begins at 10 a.m. it may be impossible to complete all necessary work for that particular day before the performance. The diligent lawyer will attend the performance, but then return to her work so that the necessary work can be completed in that day.

<sup>91</sup> See RUTH ANN MCKINNEY, *READING LIKE A LAWYER*, 65 (Carolina Academic Press 2005) (“Cognitive psychologists stress that the more prolonged your study time, the more frequently you will need to take breaks.”).

<sup>92</sup> Diligence has played a role in every one of my professional legal successes. I strive for consistent preparation. I worked hard in law school and practice. I plan my work schedule and commit to that schedule. Even as I write this article, I am viewing the deadline as my friend and motivator, although admittedly not my favorite friend at this particular moment.

<sup>93</sup> AMERICAN HERITAGE DICTIONARY, *supra* note \_\_\_\_, at 676.

<sup>94</sup> Because he is my brother, Steve knew how this would resonate with me. I may be the only two-mile runner in the history of my high school who jumped the gun during a race which is known not for the importance of a fast start, but for the value of pacing, endurance, and a strong finish.

front of my mind at all stages of my career. I believed my reputation was being made the day I walked into every legal office, and I tried to make every day count.<sup>95</sup>

Initiative is one of the best predictors of achievement.<sup>96</sup> An Admissions Director for undergraduate students at Harvard and Radcliffe noted, “We have particular interest in students from a modest background. Coupled with high achievement and a high ambition level and energy, a background that’s modest can really be a help. We know that’s the best investment we can make: a kid who’s hungry.”<sup>97</sup> My mentor urged me to show that I was that hungry kid “itching for more responsibility.”<sup>98</sup>

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Steve was very specific about what might happen, “At orientation for law school, they will tell you not to worry about your performance, but to take your time getting to know how law school works.” Steve’s advice, “Do not believe it. You can dispute the value of class rankings, but the reality is that first semester grades will determine your class ranking and all the opportunities that follow from that like Law Review and judicial clerkships. If you do not care about doing those things, then take your time to acclimate. If you do care, or you are not sure whether you want to do these things, you need to start strong. Almost everyone has the law school thing figured out by March 17; you need to figure it out by October 17.”

<sup>95</sup> When the law firm told my group of 18 new associates not to worry too much about our performance in the first year because we would not be evaluated for 18 months, I was skeptical. I did not think anyone was intentionally lying, but I did wonder if this statement about taking it slow was good advice.

As noted in Part IB, a mentor can be especially valuable in helping a new lawyer learn both the written and unwritten rules of the profession and particular practice groups.

Patrick Schiltz points out, “Just as there are “posted” and “real” speed limits in each community – and just as “real” speed limits vary among communities that observe the same “posted” limits – so too are there “posted” and “real” rules when it comes to sanctioning unethical conduct.” Schiltz, *Legal Ethics in Decline*, *supra* note \_\_\_\_, at 718. There are also “posted” and “real” rules about many other things in law including the expectations for lawyers.

<sup>96</sup> LANI GUINIER, MICHELLE FINE, AND JANE BALIN, *BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE* 10 (Beacon Press 1997).

<sup>97</sup> *Id.*

<sup>98</sup> MARK HERMANN, *supra* note \_\_\_\_, at 26 (“[T]he best young lawyers in this firm are itching for more responsibility. They are not happy with writing a research memo; they want to write the brief. They are not happy with writing the brief; they want to argue the motion. They are not happy with arguing the motion; they want to try the case. They are not happy with trying the case; they want to have overall responsibility for the client.”).

My mentor suggested two habits that would help me develop the virtue of initiative: show up and outperform expectations. Woody Allen said, “80% of life is just showing up.”<sup>99</sup> My mentor reiterated that sentiment, but further explained, “You’ve heard it for years. Someone repeats the old cliché, ‘He was lucky because he was in the right place at the right time.’ There is a certain amount of luck involved, but increase your odds by showing up at those places and times.” He recommended that I join groups in law school, attend firm functions, and simply experience as much of legal professional life as possible.

The second habit to help develop initiative is to outperform other’s expectations, even when the initial expectations are high. Do more than is expected. Demonstrate that you want more responsibility, and that you are capable of handling the additional responsibility. If you were asked to review a deposition transcript, make a timeline of important events and summarize the three most important statements made in the deposition. If you find an important issue in your research that you were not specifically asked to address, bring it to your senior attorney’s attention and ask if she would like you to do additional work on the issue.<sup>100</sup> Everyone appreciates someone who thinks beyond assigned tasks.<sup>101</sup>

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<sup>99</sup> William Safire, *The Way We Live Now*, N.Y. TIMES, Jan. 14, 2001, § 6 (Magazine), at 18 (Allen confirmed that he authored the line, but Safire noted Allen is often misquoted, starting with President George H.W. Bush, as saying, “Ninety percent of life is just showing up.”).

<sup>100</sup> One note of caution is necessary here: do not spend too much time on a new issue because it may not be relevant for this particular client, or the attorney may have assigned this work to another lawyer.

<sup>101</sup> I am currently working with two people who value initiative. I asked my administrative assistant Henry Bishop to make copies of materials for a new project. He asked independently if he could index the materials. My research assistant Matthew Schwandt also outperforms my high expectations. He pursues research leads beyond the



One of my recent professional experiences is a perfect illustration of how initiative can help lead to success. I was “retired” from legal practice and staying home to raise my family. A friend called me and said one of our State Supreme Court Justices planned to speak to my daughter’s Eighth Grade class. She knew I was a lawyer and asked if I would be interested in going to lunch with Justice Paul H. Anderson and two other lawyers. I said yes. We had a delightful time discussing the law, gourmet cooking, and biking. Two years later, I was teaching when I learned that Justice Anderson would be on campus speaking to a small group of law students. I asked him if we would be willing to stop by my class to make a few remarks. Justice Anderson agreed. My students were thrilled, the visit has turned into an annual event, and this year the “remarks” expanded to include a tour of the Minnesota Judicial Center, State Capitol, and Justice Anderson’s chambers. Justice Anderson and I also published an article together about our state’s approach to judicial federalism.<sup>102</sup> My experience is not unique. These opportunities are available everywhere, and the ones who benefit are those who show up and maximize the opportunity by doing more than is expected.

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first hurdle and considers innovative approaches. He wrote directly to Carter Phillips to help me provide support for the virtue of simplicity.

<sup>102</sup> Paul H. Anderson & Julie A. Oseid, *A Decision Tree Takes Root in the Land of 10,000 Lakes: Minnesota’s Approach to Protecting Individual Rights Under Both the United States and Minnesota Constitutions*, 70 ALB. L. REV. 865 (2007). The benefits of this opportunity have not been limited to professional development. Paul Anderson and I have become friends, and I also count him as one of my current mentors. This experience was a personal example of how initiative also helps lawyers find and develop relationships with mentors. *See supra* Part II.

### 3. Efficiency (“Your stock will increase if you do great work in a minimum amount of time.”)

An efficient lawyer works to eliminate waste, expense, or unnecessary effort.<sup>103</sup>

My mentor told me about the value of efficiency when I started law school, “The most successful students are not those who study the most hours, although that usually helps. The most successful students learn to study efficiently and effectively. Efficiency will transfer to practice. An efficient lawyer is highly valued.” Ever since these words of wisdom, I have tried to “produce outstanding work at minimal cost.”<sup>104</sup>

There is some debate about whether efficiency is valued in a time when associates must meet stringent billable hours requirements.<sup>105</sup> It initially may seem like the associate who can churn a file will have an easier time fulfilling the billable hour requirement.<sup>106</sup> There may be some truth to this complaint, and perhaps this is one of many reasons to consider if billing time by the hour is the most effective way to charge clients.<sup>107</sup> But in

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<sup>103</sup> AMERICAN HERITAGE DICTIONARY, *supra* note \_\_\_, at 416 (“efficient” defined as “[a]cting or producing effectively with a minimum of waste, expense, or unnecessary effort”).

<sup>104</sup> HERRMAN, *supra* note \_\_\_, at 14.

<sup>105</sup> F. Leary Davis, *Back to the Future: The Buyer’s Market and the Need for Law Firm Leadership, Creativity and Innovation*, 16 CAMPBELL L. REV. 147, 178 (1994) (the billable hour requirement penalizes efficiency).

<sup>106</sup> Richmond, *supra* note \_\_\_, at 262 (“Once touted for its efficiency and fairness, hourly billing is now routinely criticized for encouraging fraud and inefficiency.”); John A. Beach, *The Rise and Fall of the Billable Hour*, 66-OCT. N. Y. ST. B.J 8, 11 (Oct. 1994) (“[F]ees based wholly on time spent can reward the lawyer for inefficiency and witlessness, at the client’s expense.”); Niki Kuckus, *The Hours*, 2002-OCT LEGAL AFF. 40, 40 (Oct. 2002) (“Few other industries would thrive if they measured productivity by the time their workers spent without regard to what those workers created. The standard invites inefficiency, not to mention fraud.”).

<sup>107</sup> The American Bar Association appointed a commission in 2002 to consider the impact of billable hours and the billable hours system on the profession. *Getting Your Firm Off the Clock & Billing Creatively*, 02-7 LAW OFF. MGMT. & ADMIN. REP. 1 (July

my own experience, supervising attorneys always appreciated lawyers who could complete the work efficiently because they must justify the bill to clients.<sup>108</sup> They value efficiency.<sup>109</sup>

My mentor suggested three particular habits to help me achieve efficiency: organization of both thoughts and work product, learning to prioritize, and finishing projects.

Organization is a key component of efficiency. If you learn to organize all the material involved in practicing law and all your thoughts, you will be well on your way to practicing efficiently. My mentor cautioned, “You cannot believe how much time is wasted just trying to find pieces of paper.” The first step in organizing all those pieces of paper is to have great assistants. Additionally, find some organization system that works for you.<sup>110</sup> My mentor is a big fan of notebooks. When writing a brief, he suggested copying the relevant motion papers, any sections of the record that supported the facts for the motion, and the major statutes, cases, and other relevant law and putting

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2002). *See generally*, Susan Saab Fortney, *I Don't Have Time*, *supra* note \_\_\_\_ (empirical study in 1999-2000 focusing on the effect of billable hours expectations on firm culture).

<sup>108</sup> It also helps a partner justify the time spent on a file if the associate is clear and specific when making time entries. Clients are more likely to pay a self-justifying bill that “describes tasks in a way that helps the reader understand why the work was necessary.” HERRMAN, *supra* note \_\_\_\_, at 95-96 (Herrman suggests that instead of billing forty hours for working on a summary judgment motion, the associate record time more specifically like research the choice of law issue for three hours, research the statute of limitations and tolling for three hours, etc.).

<sup>109</sup> Herrman reminds new associates, “You have no obligation to bill time. You have one obligation: Represent our clients as effectively as possible at the lowest possible price.” *Id.*

<sup>110</sup> *See, e.g.*, Thomas Baird, *Paperless and Loving It: Technology and the Small Firm*, 68 TEX. B.J. 591, 591-93 (July 2005) (describing the benefits of paperless client files); Carl R. Draper, *Filing System Basics for Solo and Small-Firm Lawyers*, 94 ILL. B.J. 84 (Feb. 2006) (“The goals of a good filing system include secure, reliable storage and easy retrieval and analysis. It doesn’t matter whether the folders, files, and their contents are paper or digital.”).

them into a notebook. I saw smiles on partner's faces when I handed them this notebook two days before a hearing. A similar system can be used to prepare for depositions, trial, or client meetings.

My mentor gave additional advice for organizing thoughts, ideas, and tasks for every project. He said, "Start learning to think in an outline format. It is fine if some of your ideas have to come under a category marked 'other,' but be sure you are keeping track of those ideas, and before you have to explain an issue to a client or a judge, put your ideas into an outline." Logic is a critical element of the law. The outline format mirrors the way lawyers are trained to think about issues.<sup>111</sup>

The second habit of efficient lawyers is learning to prioritize. We all know at least one lawyer who is also a parent, spouse, and active community volunteer with a devotion to something completely outside the law like sports, art, or reading. We wonder how she gets it all accomplished. The answer is efficiency, and more importantly, learning how to prioritize. It is the ability to choose what needs immediate attention, how much attention is needed, and then taking the appropriate steps to complete that particular task.<sup>112</sup>

The third habit in achieving efficiency is finishing projects. Supreme Court Justice William Rehnquist explained how he developed this valuable habit on his first day as a law clerk in the United States Supreme Court.<sup>113</sup> He was reviewing a petition for

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<sup>111</sup> See RICHARD K. NEUMANN, JR., *LEGAL REASONING AND LEGAL WRITING: STRUCTURE, STRATEGY, AND STYLE* 103 (Aspen Publishing, 5th ed. 2005) (contending that a well-organized analysis is recognizable).

<sup>112</sup> DAVID ALLEN, *GETTING THINGS DONE: THE ART OF STRESS-FREE PRODUCTIVITY* 21-23 (Penguin Books 2001) (recommending that working on one project at a time helps reduce stress).

<sup>113</sup> WILLIAM H. REHNQUIST, *THE SUPREME COURT* 18-19 (Alfred A. Knopf 1987).

certiorari and trying to decide if he should complete his memo on the petition or read additional petitions.<sup>114</sup> He explains that it was on this very first day that he learned the value of finishing projects:

I finally decided to go back and finish it, thereby teaching myself a lesson that most law clerks and most judges have to learn somewhere along the line. Ideally speaking, you never know as much as you should about the particular matter being judged . . . . Perhaps it's just my own way of working, but I've always preferred when possible to go through one thing from beginning to end, do what I have to do with it, and move on.<sup>115</sup>

Justice Rehnquist is describing an efficiency tactic. It takes less time to make a decision on a matter than to revisit the issue at a later date. My mentor added one important suggestion to this habit of completing a project, "Learn when to stop. Sometimes you don't have a choice because a deadline forces you to stop. In those times when you do not have an imminent deadline, get a feel for when enough is enough. Never compromise on your competent and thorough representation, but remember the goal is to produce great work at a reasonable cost."<sup>116</sup>

#### **4. Reflect ("Reflect on the big story of your life, and all the short stories along the way.")**

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<sup>114</sup> *Id.* at 11-12, 19.

<sup>115</sup> *Id.* at 19.

<sup>116</sup> I was a third-year associate working in a large law firm when another associate asked me why I was assigned most of the work from a highly respected litigation partner. I asked the partner, and his response reiterated the importance of efficiency, "It is because you do great work in a reasonable amount of time. Our clients like that, and when our clients are happy, then I'm happy."

A new lawyer wants more senior lawyers to be impressed by her work, so the senior lawyers will send more work. HERRMAN, *supra* note \_\_\_, at 27 ("Take responsibility. I am delighted to see work move from my desk to yours. If you do the work that you are given, and do it responsibly, the trickle of work that I assign to you will become an avalanche. That avalanche is opportunity; use it.").

Reflection is a “concentration of the mind; a careful consideration.”<sup>117</sup> The life of a lawyer is busy. There is rarely a lull in the action. Taking time to reflect on your successes, mistakes, and career can seem like a luxury that you simply cannot afford.<sup>118</sup> This is simply not an option for my mentor, who urged me to “reflect on the big story of your life, and all the short stories along the way.”<sup>119</sup> He modeled reflection by sharing his thoughts about his own career, both the short stories about why he was successful or not in certain situations and the big story about whether he was where he wanted to be at that point in his life. His ultimate questions were the big life questions about his contributions to the law and society, and whether he was still following the moral path he envisioned when he first obtained his law license.<sup>120</sup> He asks me to reflect on the same specific questions, and ultimately I was able to both ask and answer the questions for myself, although he continues to be my trusted confidante.

The questions most often begin with “why” or “how.” Why do you think you did well on that exam? Why were you offered that job? Why did you lose control of the witness? Why did your oral argument convince the judge? Why are you considering this

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<sup>117</sup> AMERICAN HERITAGE DICTIONARY, *supra* note \_\_\_\_, at 1093-94.

<sup>118</sup> Practicing with a billable hour requirement can make any second that is not billed seem like wasted time. *See Easton, supra* note \_\_\_\_, at 268 (urging lawyers who bill time and know how much they are paid for each hour of work to choose family and other things over work a significant part of the time). Luckily, my mentors did not let the pressure to bill time prevent them from using some of that precious time to mentor me. *Cf. McManus, supra* note \_\_\_\_, at 223-24 (“The pressure of billable hours, which prevents many partners from taking the time to mentor, also affects associates. Taking time out to chat on a personal level is non-billable and is, on some level, a ‘waste of time,’ even though an associate might gain valuable experience from taking otherwise ‘billable’ time to get to know a potential mentor.”).

<sup>119</sup> *See* Reed Elizabeth Loder, *Lawyers and Gratitude*, 20 NOTRE DAME J.L. ETHICS & PUB. POL’Y 175, 183 (2006) (“A moral person, in my view, is essentially reflective.”).

<sup>120</sup> The law is a profession with a strong oral tradition. Lawyers tell war stories to teach other lawyers about morals and ethics. Stephen Gillers, *Teaching Legal Ethics: Improving the Required Ethics Course*, 58 L. & CONTEMP. PROBS. 61, 66 (1995).

career move? How will you organize your files next time so that you can locate the case the judge asked about? How do you plan to become a more effective teacher in the next year? How will you reach your goal of finding a more appropriate balance between your work and the rest of your life?

One benefit of a formal mentor program is that it helps lawyers develop the habit of reflection.<sup>121</sup> Reflecting can be painful. It is not easy to own mistakes,<sup>122</sup> or sometimes even to own successes. Still, it is only by reflecting that lawyers can learn from both mistakes and successes.<sup>123</sup>

My mentor suggested two habits to help me learn the virtue of reflection: scheduling times to reflect and sharing your candid reflections with someone you trust. Some times for reflection are built into law practice. Most lawyers reflect after a motion or a trial, or more accurately after hearing the results from a motion or trial. Most lawyers probably spend more time agonizing over losses than considering victories, but equal time should be spent considering both results because lessons and growth come from both results. Most lawyers have some kind of annual review which is another opportunity to reflect and set goals for the next year. Some other milestones in the year,

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<sup>121</sup> Schiltz, *Making Ethical Lawyers*, *supra* note \_\_\_\_, at 885.

<sup>122</sup> See Leslie C. Levin, *Lawyers in Cyberspace: The Impact of Legal Listservs on the Professional Development and Ethical Decisionmaking of Lawyers*, 37 ARIZ. ST. L.J. 589, 620 (2005) (“There is a psychological tendency not to re-examine decisions once they have been made, and so experienced lawyers who follow practices that violate the ethical rules may not be quick to re-examine their practices.”).

<sup>123</sup> See Kanemoto, *supra* note \_\_\_\_, at 374 (“Taking responsibility for mistakes and correcting them promptly are always wise in the practice of law. Humility helps attorneys realize that everyone makes mistakes just as it encourages attorneys to learn from their own mistakes.”). Kanemoto also points out that lawyers exercise courage by assessing personal shortcomings and embracing personal mistakes. *Id.* at 378.

perhaps tied to important events like birthdays or holidays, can be opportunities for reflection.<sup>124</sup>

The second practical habit to develop reflection is to find a trusted person to help objectively analyze your successes, failures, and future in the law. A lawyer may be able to understand professional nuances that may not be apparent to a nonlawyer, but the trusted person need not always be a lawyer. When reflecting on the big story of your life, consultation with those who share your life is most productive.

Reflection is a virtue that is not always openly admired in the legal profession. I have found that by valuing reflection I am able to stay on a path closest to my intended path.<sup>125</sup> All lawyers who practice the value of reflection have the advantage of making conscious decisions about how to be a better lawyer, how to shape their legal career, and how to achieve balance between work and the rest of life.

### **5. Enjoy (“You will spend a major part of your life working, so find delight in the legal profession.”)**

Enjoyment means “the act or state of experiencing joy or pleasure in something.”<sup>126</sup> The stresses surrounding attending law school<sup>127</sup> and the practice of law

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<sup>124</sup> Some lawyers may prefer the formality of journal entries at specific times during the year to record reflections. *See supra* Part IC (UST Mentor Program and Georgia State Bar Association require journal entries).

<sup>125</sup> The intended path is, at least in part, the one the law student originally envisioned when deciding to become a lawyer. Melissa Weresh notes that law students arrive at law school with “a sense of personal integrity – knowing right from wrong” and that students should be encouraged to “take pride in their profession and ethical discourse.” MELISSA H. WERESH, *LEGAL WRITING: ETHICAL AND PROFESSIONAL CONSIDERATIONS* 6 (Matthew Bender & Co. Inc. 2006).

<sup>126</sup> AMERICAN HERITAGE DICTIONARY, *supra* note \_\_\_\_, at 434.

<sup>127</sup> *See* Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112 (2002).



are well-documented and the subject of many scholarly articles.<sup>128</sup> Steve told me from the beginning, “If you want to practice law, and you want to be good at it, it’s like anything else – you’re going to have work hard, very hard.” Importantly, he added, “But it is an absolute blast most of the time. If you find the right employment fit, you will be able to say that you enjoy your profession, and you look forward to your work. It really doesn’t get any better than that.”

Is every day a blast? Not by a long shot. I recall days of document review which even Pollyanna could not describe as fun.<sup>129</sup> It is most definitely not fun to lose a case or even a motion. Some days seemed to drag by,<sup>130</sup> but studying and practicing law are most often a delight. I think it is the variety and challenge that is so compelling. Each

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<sup>128</sup> See Schiltz, *On Being Happy, Healthy, and Ethical*, *supra* note \_\_\_\_, Green, *supra* note \_\_\_\_, at 7 (“Schiltz argued in his article that the increase in the number of hours worked by lawyers in large firms denied them the ability to lead balanced lives and contributed to disproportionate levels of depression, divorce, substance abuse, and general misery. . . . Over time, Schiltz’s thesis has become increasingly less controversial.”).

<sup>129</sup> See Schiltz, *Legal Ethics in Decline*, *supra* note \_\_\_\_, at 726 (“Much of the work of attorneys is numbingly dull; no one can appreciate just how dull until she spends several weeks in a musty warehouse reading tens of thousands of pages of documents from the archives of a manufacturer.”).

I measure most of my work experience against my very first job at age 16 as a cashier in a department store in a small town. I checked out customer purchases. That part of the job was fine, and I enjoyed the small talk with the customers. It was the rest of the job description that led to my dismay. When there were no customers to help, I was required to “look busy.” Sometimes, the time would drag on at such an excruciatingly slow pace that I would make secret deals with myself that I would absolutely not look at the clock over the front door until at least an hour had passed. When I thought the appointed hour had passed, I looked up at the clock to discover that only 15 minutes had gone by. A day spent reviewing documents reminded me of my days as a cashier.

<sup>130</sup> Extensive document review days would top the list of the days when time virtually would seem to stop. See Schiltz, *On Being Happy, Healthy, and Ethical*, *supra* note \_\_\_\_, at 928-30 (big firm work is not necessarily more interesting or challenging than other legal work, particularly if your goal is to help people’s lives improve in a tangible way); see also HERRMAN, *supra* note \_\_\_\_, at 32-38 (listing the downsides of practicing law as including: irrational opponents, busy judges, extensive discovery, and the consuming nature of each case).

class in law school taught me something new. Each of my “lawyer” jobs taught me something new. Each client had a new concern, in a new fact situation, in a new business.<sup>131</sup> I learned about products liability, professional malpractice, and breach of contracts in a multitude of various circumstances. In my current career as a teacher, I have found my perfect job. I enjoy my students, and they inspire me to strive for excellence. I am challenged to learn more about legal and ethical issues. I am stimulated by discussions with my colleagues.<sup>132</sup>

My mentor told me that the practical habit that helps lawyers enjoy their profession is attitude, or how the lawyer views the world and the legal profession.<sup>133</sup> We have heard the cliché that “attitude is everything” proclaimed from football fields to boardrooms.<sup>134</sup> In my experience, attitude toward the legal profession is intertwined with each individual’s understanding of the value of lawyers in our society. The current public perception of lawyers is very negative.<sup>135</sup> Lawyers are constantly criticized for

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<sup>131</sup> HERRMAN, *supra* note \_\_\_, at 38-39 (“[T]his career offers endless variety. Every case involves new areas of law, new facts, and a fascinating new cast of characters.”).

<sup>132</sup> ROY STUCKEY AND OTHERS, *BEST PRACTICES FOR LEGAL EDUCATION*, 125 (Clinical Legal Educ. Ass’n 2007) (recommendation that for law school teachers to deliver effective instruction they should “take delight in teaching”).

<sup>133</sup> Although attitude is the important habit of finding enjoyment, the reality is that finding the right employment fit also is critical to enjoying a legal career. No one should expect to like every single thing about any job, but you are more likely to find enjoyment in your job if you find a legal position that melds with your values.

<sup>134</sup> LOU HOLTZ, *A TEEN’S GAME PLAN FOR LIFE 19-29* (Sorin Books 2002); National Business Research Institute, <http://www.nbrii.com/blog/default.aspx>.

<sup>135</sup> See Leonard E. Gross, *The Public Hates Lawyers: Why Should We Care?*, 29 SETON HALL L. REV. 1405 (1999); Manuel R. Ramos, *Legal Malpractice: The Profession’s Dirty Little Secret*, 47 VAND. L. REV. 1657, 1681 (“In the movies, television, the tabloids, the mainstream press, and the public opinion polls, lawyers are increasingly seen as dishonest, greedy, and selfish.”).

their dishonesty, lack of civility, and greed.<sup>136</sup> If I believed this was my profession, it would be difficult if not impossible to find enjoyment in my career. Instead, I believe that I, like all lawyers, perform “important and noble work.”<sup>137</sup> I believe that lawyers are critical for the success of our society and indeed, for any society where freedom and democracy are valued.<sup>138</sup>

Finding enjoyment in the legal profession will never be an absolute. There is a certain amount of heartache inherent in practicing law.<sup>139</sup> The American legal system is not perfect, and sometimes right does not prevail. The practice of law has a “human impact” and is a “deadly serious business with real consequences for real people.”<sup>140</sup> But practicing law is challenging, meaningful, and important. A person who chooses to make law her profession should find enjoyment in that choice.

#### B. RELATIONSHIP VIRTUES

The virtues discussed in this section help a lawyer in the relationship aspect of the profession. In its most elemental form, the law is a service profession.

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<sup>136</sup> See Lisa G. Lerman, *The Slippery Slope from Ambition to Greed to Dishonesty: Lawyers, Money, and Professional Integrity*, 30 HOFSTRA L. REV. 879, 881 (2002) (greed and dishonesty threaten serious harm to the reputation of lawyers).

<sup>137</sup> Easton, *supra* note \_\_\_, at 37 (“[I]t is we lawyers who create the mechanism for people involved in serious conflicts to peacefully resolve their conflicts in a system that places a search for the truth as a centerpiece of dispute resolution.”).

<sup>138</sup> See, e.g., Public International Law & Policy Group and The Century Foundation, *Establishing a Stable Democratic Constitutional Structure in Iraq: Some Basic Considerations*, 39 NEW ENG. L. REV. 53 (2004) (suggesting a preservation of internal and external stability while promoting the rights and interests of all individuals).

<sup>139</sup> See Easton, *supra* note \_\_\_, at 273.

<sup>140</sup> Schiltz, *Legal Ethics in Decline*, *supra* note \_\_\_, at 782-83.

## 1. Simplicity (“A good lawyer is a good teacher who can simplify difficult concepts.”)

Simplify means “to make simple or simpler; render less complex or intricate.”<sup>141</sup> My mentor advised, “We have heard about the virtue of simplicity our whole lives because we were surrounded by teachers. Simplicity is about good communication, both oral and written. Lawyers are paid to analyze and solve problems, but that is only the first step. The next is to make both the problem and possible solutions understandable to clients, colleagues, and judges. A good lawyer knows that she will make her most effective argument if she can persuade a twelve-year-old.” Renowned Supreme Court litigator Carter G. Phillips notes, “I always explained my cases before the Court to both children until they left for college. What always shocked me was how similar their reactions were to the Justices’. If the kids thought I should win, I won. And when they thought I should lose, I lost.”<sup>142</sup>

To gain this virtue, my mentor recommended that I adopt the habits of excellent teachers, so that I would develop into an excellent lawyer. Although he was speaking about the best college teachers, Ken Bain could have been describing the best lawyers:

[The best teachers], unlike so many others, have used their knowledge to develop techniques for grasping fundamental principles and organizing concepts that others can use to begin building their own understandings and abilities. They know how to simplify and clarify complex subjects, to cut to the heart of the matter with provocative insights . . .<sup>143</sup>

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<sup>141</sup> AMERICAN HERITAGE DICTIONARY, *supra* note \_\_\_\_, at 1207.

<sup>142</sup> E-mail from Carter G. Phillips, Managing Partner of the Washington, D.C. office of Sidley Austin LLP, to Matthew D. Schwandt, J.D. Candidate, Class of 2009, research assistant to Professor Julie Oseid (May 29, 2007, 02:21 CST) (on file with author). Mr. Phillips was a law clerk to Chief Justice Burger, and identifies Chief Justice Burger as his mentor. E-mail from Carter G. Phillips to Julie A. Oseid (August 17, 2007, 11:11 CST) (on file with author).

<sup>143</sup> KEN BAIN, WHAT THE BEST COLLEGE TEACHERS DO 16 (Harv. U. Press 2004).

Specifically, my mentor recommended that I communicate in plain English and provide a strong structure for legal arguments.

Lawyers should speak and write in plain language.<sup>144</sup> The ultimate goal is to make the law understandable. Anyone who can read or listen to English should be able to comprehend your legal arguments. Even in persuasive writing and speaking, when the lawyer's goal is to convince, plain English is most effective.<sup>145</sup>

Strong structure also helps simplify and clarify the law. A strong organization breaks complex topics into small component parts.<sup>146</sup> These component parts should then be arranged logically, so that the reader or listener can build her knowledge about the law. Lawyers are professional communicators.<sup>147</sup> The most effective lawyers simplify difficult concepts.

## **2. Civility (“Respect all the people, all the time.”)**

This virtue gives guidance on how a lawyer should treat other people. Civility is defined as “politeness, courtesy.”<sup>148</sup> In the practice of law, civility goes beyond politeness and courtesy, and extends to include kindness and respect. Supreme Court

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<sup>144</sup> RICHARD C. WYDICK, *PLAIN ENGLISH FOR LAWYERS* 3-6 (Carolina Acad. Press 5th. ed. 2005).

<sup>145</sup> Legal writing professors suggest that law students improve their writing style by focusing on strong subjects and verbs. LINDA H. EDWARDS, *LEGAL WRITING AND ANALYSIS* 270-75 (Aspen Publishers 2007) (Edwards further suggests avoiding passive voice, nominalizations, throat-clearing, and beginning sentences with “it is,” and suggests keeping the subject and verb close together and breaking up long sentences).

<sup>146</sup> HELENE S. SHAPO, MARILYN R. WALTER & ELIZABETH FAJANS, *WRITING AND ANALYSIS IN THE LAW* 89 (Foundation Press 4th ed. 2003).

<sup>147</sup> *See id.* at 3 (“[L]awyers write all the time. . . . To be a good lawyer, you must be a good writer.”).

<sup>148</sup> *AMERICAN HERITAGE DICTIONARY*, *supra* note \_\_\_\_, at 246 (an additional definition of civility is “a courteous act or utterance.”).

Justice Anthony Kennedy noted that superb professionals exercise civility and civility is an end in itself.<sup>149</sup> He explained:

Civility stands for the proposition that we owe respect to our fellow citizen because of the humanity we share in common. Civility underscores the idea of individual worth and dignity, the idea which is the first premise of democratic theory. Civility has deep roots in the idea of respect for the individual.<sup>150</sup>

The virtue of civility is an acknowledgement that every human has inherent value and should be treated with dignity.

My mentor said, “Respect all the people, all the time. You treat everyone with civility primarily because it is the right thing to do.” He then added a caveat, “You should also know that respecting others is the smart thing to do. You remember the old saying that it is easier to catch a fly with honey than with vinegar. It works.” I hesitate to mention this caveat because I fear that it may be interpreted as manipulation of the virtue of civility. Please believe me when I say that you will not find a more sincere lawyer than my brother Steve. He continually emphasizes that, as with all the virtues, lawyers should exercise civility with sincerity.<sup>151</sup> His caveat is added only as a caution against any temptation to dispense with civility, perhaps in response to another’s lack of civility. He urges me to always remember that practicing civility is both right and wise.

A personal story may help illustrate the point. I currently work with several librarians and many of them have experience in law firms and in legal academia. I asked one librarian how she prioritized her work. She responded, “We are professionals and we

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<sup>149</sup> Anthony M. Kennedy, Associate Justice, United States Supreme Court, *Law and Belief*, Address at the American Bar Association’s 1997 Annual Convention (1997), *reprinted in* 34 TRIAL 25 (July 1998).

<sup>150</sup> *Id.*

<sup>151</sup> Kanemoto, *supra* note \_\_\_\_, at 365.

approach all our work as professionals, but it is the same way here as it was in the law firms. We always do our best to respond to everyone's requests, but we work a little bit harder for those lawyers who continually treat us with respect."

Several basic etiquette habits will help a lawyer practice civility. Speak in a normal voice and never use derogatory words. Thank others. Follow the rules. Apologize if you have offended someone. Admit your mistakes.

Civility is critical in all a lawyer's relationships, but my mentor focused on the use of civility for four particular classes of people: opponents, clients, support staff, and court personnel. Many have commented on the loss of civility in the legal profession.<sup>152</sup> The focus of this concern is often the way lawyers treat other lawyers, whether that be opposing counsel, judges, or subordinate lawyers in the firm. Some lawyers think that "zealous" representation means "uncivil" representation. Quite the contrary. An effective advocate need not lack civility. In reality, those lawyers who treat others with civility often find that they can navigate through the legal process with greater ease than those lawyers with a reputation for a lack of civility. Practicing law with civility is one way for a lawyer to establish a good reputation.<sup>153</sup>

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<sup>152</sup> See, e.g., Schiltz, *Legal Ethics in Decline*, *supra* note \_\_\_, at 726; Joseph P. Tomain & Barbara G. Watts, *Between Law and Virtue*, 71 U. CIN. L. REV. 585, 596-98 (2003) (Ohio study of the need for civility and professionalism in the legal profession).

The legal profession is often criticized for its lack of civility, but several commentators have noted that civility seems to be a value lacking in all segments of society. See L.A. Johnson, *How tacky can we get? Manners seem to be missing*, Scripps Howard News Service, reprinted in *Minneapolis Star Tribune*, May 15, 2007 (proponents of etiquette lament that common courtesies like thanking others seems to be lacking in our current society, but some are renewing efforts to instill a common code of etiquette conduct).

<sup>153</sup> Kanemoto, *supra* note \_\_\_, at 367. Kanemoto observes:

We live in a small world, and even for attorneys in big cities, bad reputations circulate rapidly within the legal community. Lawyers can

Clients also deserve civility. Civility as it relates to clients requires both communication and compassion. My mentor often reminds me that the number one complaint from clients is that lawyers do not communicate with them.<sup>154</sup> A key component of respect for clients is simply communicating. Return phone calls as soon as possible. Keep your clients informed at least quarterly of the status of their cases, even if the file is currently inactive.

Intertwined with good communication is compassion. Participation in the legal system is very stressful for most clients.<sup>155</sup> I remember my first experience riding a horse as an analogy to a client facing a lawsuit. Many parts of my horseback riding paralleled a lawsuit: I was not there voluntarily, I had no experience, I was nervous, and I had no idea what to expect. The instructor was very experienced, but not very civil, respectful, or compassionate. I felt like I should not ask questions because any concerns I had were met with disdain. I survived the event, but I will not forget that one thought kept running through my mind, “If you are ever faced with a lawsuit, I will never treat you the way you have treated me.” I resolved to show compassion and civility by explaining all parts of the legal process to clients.

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maintain a solid reputation by constantly evaluating the manner in which they deal with others and by endeavoring to practice law with Politeness.

*Id.*

<sup>154</sup> Glen M. Grossman, *Ethical Ramifications – Read the Rules*, 40-FEB MD. B.J. 18, 22 (2007); Bernadine Johnson, *Legal Ethics: Avoiding Ethical Misconduct: What Are They Complaining About?*, 43 LA. B.J. 290, 290 (1995); William F. Zulch, *12 Questions to Ask Before You Hire a Lawyer*, 49-APR ORANGE COUNTY LAW 33, 37 (2007) (“The number one genesis of client complaints is a failure to communicate.”).

<sup>155</sup> Kanemoto, *supra* note \_\_\_, at 367 (“After years of practice, some lawyers become calloused and easily forget how the adversarial process affects clients, many of whom are first-time participants in the legal system. Clients will always greatly appreciate Politeness. Above all else, treating clients with Politeness and respect indicates a genuine concern for them.”).



Maybe I should have discussed treating support staff with civility first because it is so important. By support staff, I mean the administrative assistants, legal assistants, receptionists, recruiting directors, and other nonlawyers who work in the legal profession. This group is often overlooked, but my mentor advised that these people are the ones who can make or break a career, “Do not kid yourself for one minute. You will never be able to practice law effectively without your support staff. Great assistants will free up your time to practice law.” Treat support staff with civility, kindness, and respect. Do this in very concrete ways: respect their time, make suggestions for improvement only in privacy, thank them when they have done a job particularly well, and provide them with more challenging work.<sup>156</sup>

Finally, treat court personnel with civility. These are the people who help keep the court system running smoothly. They include law clerks, court clerks, court stenographers, deputies, and other court personnel. Probably the most effective way to treat court personnel with civility is to make the effort to learn the court rules and customs.<sup>157</sup> My mentor suggested that I become familiar with the rules and customs of each court where I would appear. He further recommended that I should try to learn the preferred customs of the judge assigned to each of my cases. One of my law school friends is now a state district court judge. She told me that one of the most surprising things she saw in her early years on the bench was the lawyers’ lack of familiarity with local rules and decorum. She further explained, “In my courtroom, I want the lawyers to

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<sup>156</sup> HERRMAN, *supra* note \_\_\_\_, at 48-51.

<sup>157</sup> I am assuming that lawyers will familiarize themselves with professional responsibility and general procedural rules. See Easton, *supra* note \_\_\_\_, at 265-66 (urging lawyers to learn the professional responsibility rules, and “the procedural or other rules that control their practices.”).

stand when they address me. I am amazed at how many lawyers do not stand. I advise all young lawyers to err on the side of formality in dress and action.”<sup>158</sup> She affirmed that civility to all court personnel is critical, “Never be rude to my clerks. I will hear about it, and I won’t be happy. These are hard-working people who devote their lives to civil service. I expect lawyers to respect them.”

### 3. Honesty (“Be trustworthy.”)

Honesty is “the capacity or condition of being honest; integrity; trustworthiness.”<sup>159</sup> My mentor advised me, “Be honest and trustworthy.” In its most simple form, honesty means telling the truth in both your words and actions. If you do tell the truth, people will trust you and earning trust is the most important thing you can do as a new lawyer.<sup>160</sup> Your honesty is closely tied to your reputation, which in your legal career is your most important asset.<sup>161</sup>

Patrick Schiltz urged new lawyers to develop the habit of acting with honesty and integrity:

Do not pad your time sheets – even once. And do not tell lies to partners or clients or opposing counsel. And do not misrepresent legal authority to judges. And do not break your promises. And do not do anything else that is contrary to the values you now hold. And finally, when you screw

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<sup>158</sup> Interview with Judge Mary E. Hannon, District Court Judge for the Tenth Judicial District, State of Minnesota (March 15, 2007).

<sup>159</sup> AMERICAN HERITAGE DICTIONARY, *supra* note \_\_\_, at 632. “Honest” is defined as “not lying, cheating, stealing, or taking unfair advantage; honorable; truthful; trustworthy.” *Id.*

<sup>160</sup> HERRMAN, *supra* note \_\_\_, at 10-11 (“To succeed at this law firm, the most important thing that you can earn is trust. If I trust you, then I will ask for your help on my cases. If everyone else at the firm also trusts you, then everyone will want your help. You will be offered the finest work available . . .”).

<sup>161</sup> Easton, *supra* note \_\_\_, at 248. Easton further explains that your honesty will help your reputation with judges, opposing lawyers, your bosses, and your clients. *Id.* He concludes, “You cannot demand trust. It is something you must earn. How do you earn trust as a lawyer? Two things are essential: honesty and hard work.” *Id.*

up – as I did, as every lawyer does – pick yourself up, dust yourself off, and try that much harder to develop the habit of acting ethically.<sup>162</sup>

My mentor’s advice was just as direct. If you say that you will write a memo by next week, write it. If a judge asks you about a case you have never read, admit you have not read the case.<sup>163</sup> If you find a case that is against your client’s position, tell the supervising lawyer and the client about the case. If you made a mistake in a document, admit it. Do not try to pass your mistakes off on anyone else.

#### **4. Share (“Find some way to give back.”)**

Share, when used as a verb, means to “divide and parcel out shares; apportion.”<sup>164</sup>

My mentor explained what sharing meant for lawyers, “We should share, or give back, some of our time and talent to others. We are privileged because we were given the opportunity to attend law school and practice law.”<sup>165</sup> We belong to a self-regulated profession which means the public trusts us to regulate ourselves. That is a tremendous responsibility, and it comes with an obligation. The obligation requires lawyers to strive

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<sup>162</sup> Schiltz, *On Being Happy, Healthy, and Ethical*, *supra* note \_\_\_\_, at 950.

<sup>163</sup> Chief Justice John Roberts recently noted that if you have read a controlling precedent, it could be very effective to be forthright about how the precedent is potentially contrary to your position. He explained:

You don’t see it very often and it can obviously be risky, but for somebody to get up and say, “The biggest argument against us is” whatever, “this precedent that you decided six years ago, and if you were going to follow it down the line, my client should probably lose. Here’s why I think you shouldn’t follow it in this case.” . . . I think that type of approach could be very effective.

Robert Barnes, *Chief Justice Counsels Humility*, WASH. POST, Feb. 6, 2007, at A15.

<sup>164</sup> AMERICAN HERITAGE DICTIONARY, *supra* note \_\_\_\_, at 1190.

<sup>165</sup> See Loder, *supra* note \_\_\_\_, at 193. Loder notes:

The lawyer becomes a “steward” of knowledge and skill and acquires obligations to use and not waste those bounties. . . . Lawyers possess insider knowledge and skill that increases their control over all clients, including sophisticated individuals . . . . [T]he lawyer owes special gratitude for a legal heritage that bestows greater than normal benefits.

*Id.* at 192-94.

for excellence in our self-regulation. But it comes with an additional obligation which is to give back to our legal community and to the larger community. There are several ways to give back to the legal community including giving one's time to be a mentor,<sup>166</sup> becoming active in local bar associations, or working on pro bono cases.<sup>167</sup> Lawyers are specially trained and it is useful if they use that training to help others, but I also know lawyers who prefer to share their time and talents in other ways. For example, lawyers volunteer to serve on nonprofit boards, volunteer in their faith communities, and even turn hobbies into volunteer opportunities.<sup>168</sup>

### **5. Equality (“Hold your head level.”)**

Equality is “the state or instance of being equal; especially, the state of enjoying equal rights, as political, economic, and social.”<sup>169</sup> As noted, my mentor and I have the same parents. Steve and I have often talked about how the most important lesson our parents taught us was, “You are no better than anyone else, but you are no less than anyone else, either.” We knew that other children were instructed to hold their heads high. We were instructed to hold our heads level. Two things were equally unacceptable in our family – looking down on others or putting others on pedestals.

My mentor advised me to continue practicing this value of equality in the legal profession, “Some of your professors and some senior lawyers, especially your

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<sup>166</sup> See, e.g. Jarrell Clifton, *1000 Lawyers at the Bottom of the Ocean*, 2007-APR W. VA. LAW 48, 49 (lawyers should take the time to mentor new lawyers and law students); Cranmer, *supra* note \_\_\_, at 14 (urging all lawyers to engage in mentoring);

<sup>167</sup> Cranmer, *supra* note \_\_\_, at 14 (working with a mentor on a pro bono case can be “a particularly rewarding experience”).

<sup>168</sup> See Tracy Carbasho, *Local Attorneys Teach Youths the Difference Between Bogies and Birdies*, 8 NO. 16 LAWYERS J. 6 (2006) (attorneys volunteer in Pittsburgh to use golf as a vehicle to “enhance the self-esteem, self-discipline, perseverance and sense of responsibility among at-risk, disadvantaged children attending inner-city schools”).

<sup>169</sup> AMERICAN HERITAGE DICTIONARY, *supra* note \_\_\_, at 442.

opponents,<sup>170</sup> will try to make you feel like you are ignorant and inadequate. Be diligent and be prepared. Remember that you may be inexperienced, but you are not inadequate. Look them in the eye; show them you will not be intimidated simply because they have been around longer than you. Never become one of those pompous lawyers who try to push around the new crowd. Always treat others the way you want to be treated.”

### **Conclusion**

Picture two scrawny kids, one boy and one girl, climbing Scotts Bluff National Monument in western Nebraska. The two are often mistaken for twins, but the boy is three years older than his sister. He runs ahead, checking for holes and rattlesnakes, but he is not too far ahead of her. She can still see and hear him. He warns her of the dangers and offers encouragement. He tells her that there are a couple of alternate paths, and even though he did not take those paths, he thinks they are probably safe. She mostly follows the path he took, but sometimes she ventures out on the alternate paths and once or twice she steps off the path completely. She trips a couple of times, in both expected and unexpected places, and he stops to help her brush off. He reaches the top before she does and he takes in the view, but his smile gets even wider as he reaches back to help her up to the top and they both see the sweeping view of the North Platte River Valley.

A great legal mentor is one who has traveled the path ahead, but who takes the time to look over his shoulder, stretch out his arm, and beckon you to follow. He is not too far ahead of you; you can hear his advice about how to navigate the obstacles you might face as you make your own way along the path. He listens to all your questions,

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<sup>170</sup> My mentor also advised that expert witnesses will also often try to belittle lawyers. Again, he recommended that the best protection against intimidation in this circumstance was diligence and thorough preparation.

confessions, and insecurities with confidentiality. He tells you about the roads that might diverge from the main path, recognizing that you might choose a different path. He urges you to practice law with morality and integrity. He helps you adopt the ten virtues that have made his journey successful and meaningful. An acronym for the ten virtues of diligence, initiative, efficiency, reflection, enjoyment, simplicity, civility, honesty, sharing, and equality is SEED RICHES. He plants the seeds of the virtues, which yield not monetary riches, but rather the riches of character, professionalism, and service.<sup>171</sup> He suggests ways to make your journey easier, but he warns you that the study and practice of law sometimes will be hard, scary, and uncertain. Still, he urges you to take the journey because being part of the noble legal profession is a privilege and honor worth every stumble and sacrifice.

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<sup>171</sup> Alvarado provides the following motto for lifetime professionalism, “The law is a noble profession that is embraced by those who aspire to the highest levels of competence and ethics in serving clients, so that it is possible, with dedication, discipline, and hard work, to realize that commitment to live greatly in the law.” Alvarado, *supra* note \_\_\_\_, at 1092.

