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Daniel D. Barnhizer

Michigan State University College of Law, barnhize@law.msu.edu

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Mentoring as Duty and Privilege

Looking back on his career, Justice Thurgood Marshall often credited his success—and the success of the civil rights movement—to Charles Houston, the mentor who saw Marshall's potential and drove him to succeed. All successful attorneys—practitioners, judges, and law professors—can identify those special individuals who profoundly influenced their approach to the law and the course of their careers. But while virtually every attorney will agree that mentoring the next generation is crucial for maintaining a skilled and ethical profession, growing pressure for billable hours in many private practices has limited severely the number of attorneys willing to take that next generation under their wings.

To an attorney emerging from the controlled law school environment into the unforgiving world of practice, the benefits of a mentor are incalculable. For junior attorneys, mentors provide the critical bridge between law school abstractions and the deep, personal involvement with the practice of law that is essential to success. The experienced attorney can open networking opportunities, provide a sounding board for ethical and strategic questions, help navigate delicate office politics, and generally serve as a reservoir of practical and theoretical knowledge about the law.

Mentoring connotes more than mere training, although training is clearly a major component of the mentoring relationship. Mentoring is a personal and professional relationship arising when the mentor attempts to convey a sense of legal professionalism to a junior colleague. All those I consider personal mentors not only tried to teach me about the law, but also took a personal interest in my development as an attorney. Each helped foster within me a deep sense of professionalism, duty, and respect for the law.

While most law firms have witnessed a decline in true mentoring, junior attorneys

historically made the transition between law school and practice under the watchful eyes of experienced mentors. Before the modern law school, attorneys traditionally read for the law under a senior practitioner before being allowed to work independently. Mentoring is still the norm with judicial clerkships and many government practices, and the possibility of being mentored by a wise lawyer remains one of the major reasons many junior attorneys initially forego a lucrative private practice. Even as recently as the late 1970s, mentoring was the primary means of instilling in junior attorneys the strategies and practicalities of law practice and a sense of legal professionalism. In many smaller legal markets, especially in rural Michigan and the Upper Peninsula, mentoring is still an honored tradition within the legal community.

In most practices and in larger legal markets, however, the drive for billable hours has dramatically curtailed the ability of senior attorneys to engage in non-billable activities. Many senior attorneys feel that junior associates should take advantage of formal firm-sponsored training opportunities and take the initiative to succeed on their own. The senior attorneys themselves are under heavy pressure to produce billable hours, making them unwilling to hold the hand of a junior associate who most likely will leave the firm in a few years. Junior attorneys have responded by leaving law firms in record numbers, many citing a lack of training and mentoring opportunities as primary reasons they feel little loyalty to their firms and colleagues.

Private practitioners must reexamine their commitment to a billable hours model that creates disincentives for senior practitioners

to mentor junior attorneys. First, mentoring helps fulfill our professional duties, both in terms of our duties to supervise junior attorneys under applicable rules of professional conduct, and in terms of improving and policing the quality of legal service that the profession provides the community. Second, mentoring makes sense economically by reducing attrition and increasing the quality and efficiency of the younger lawyer's work.

Mentoring as a Professional Duty

Mentoring junior attorneys contributes directly to a lawyer's professional duty to supervise subordinates. Michigan Rule of Professional Conduct 5.1 requires that "[a] lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct." Mentoring serves a prophylactic function in protecting firms and supervising attorneys from a junior attorney's ethical breaches. Junior attorneys are much more likely to bring a possible ethical issue to a mentor's attention early, allowing more opportunity to prevent the breach altogether or at least head off injury to the client (and a later malpractice action against the firm). Additionally, mentoring should speed the development of the junior associate's own ethical and practical legal skills, reducing the time in which the junior attorney is most vulnerable to committing unintentional ethical breaches.

The Economic Benefits of Mentoring

Mentoring—or lack of it—affects a firm's bottom line. Firms commonly complain that "greedy" associates train at the firm's expense for three years and then leave, taking with them the firm's investment in their development. For their part, dissatisfied junior and midlevel associates claim that they feel abandoned, untrained, and unappreciated by their

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law firms, and with no personal connection to their firms or colleagues, willingly change jobs solely for better pay. Attrition costs firms between \$200,000 and \$500,000 per associate, including lost revenues, lost training expenses, lost institutional knowledge, and replacement costs.

Additionally, mentoring directly affects firm reputation and culture. A firm that strives to build positive mentoring relationships with its junior attorneys will have a strong edge in attracting and retaining new associates. And associates who leave firms for in-house general counsel positions likewise will be more inclined to seek outside counsel with whom they have strong personal and professional relationships.

Conclusion

Mentoring can make substantial contributions to the firm's economic success and ethical obligations by reducing attrition rates, improving integration of new attorneys into the firm and practice, and increasing the rate at which junior associates can stand on their own without continuous supervision. Many firms have institutionalized a broad array of mentoring devices such as "mentoring bonuses" to partners for each associate mentored and explicit programs matching incoming associates with senior mentors.

Similarly, practitioners' groups such as the Michigan Trial Lawyers Association and the Prosecuting Attorneys Association of Michigan, and local and state bar associations have developed programs designed to provide attorneys just starting out with access to experienced mentors who can give advice on legal, ethical, or practical matters. Experienced attorneys also should consider initiating their own mentoring efforts. Time spent talking with an associate between assignments or over lunch about the practice of law, professionalism, strategy, networking, or other subjects will have a dramatic impact upon the associate's career and relationship to the mentor and the firm.

Finally, law schools also promote their own mentoring programs. The Geoffrey Fieger Trial Practice Institute at Michigan State University-DCL College of Law, for example, emphasizes connecting students within the program with experienced trial

attorney mentors for teaching and networking opportunities. Similarly, MSU-DCL, like many schools, aggressively works with alumni to establish networking opportunities for its alumni.

But experienced attorneys must see the benefits of mentoring for themselves. By so doing, they not only improve the quality of their own practice, but also—like Charles Houston—may author a new generation of attorneys instilled with a deep sense of professionalism and desire for justice. ♦

This essay is dedicated to the Honorable Robert B. Krupansky, the Honorable Richard L. Ny-

gaard, Laurence S. Kirsch, Frederick R. Anderson, John C. Keeney, Jr., and my father, David Barnhizer. Each of these individuals contributed uniquely to my development as an attorney through their personal interest in my approach to the law.

Daniel D. Barnhizer is an assistant professor at Michigan State University-DCL College of Law. He practiced as a litigation associate at Hogan & Hartson L.L.P. and Cadwalader, Wickersham & Taft in Washington, D.C., where he litigated cases involving professional ethics, corporate governance, and white-collar criminal defense. He served as a law clerk to the Honorable Robert B. Krupansky and the Honorable Richard L. Nygaard.



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