Building Legal Talent: Mentors, Coaches, Preceptors and Gurus in the Legal Profession*

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Law firms, bar associations and law schools rushing to establish formal programs to enhance the development of emerging lawyers should exercise caution in labeling the relationships inherent in their programs.

"Mentoring" is a term so laden with implications that it can create unwarranted expectations. The expectations of young lawyers told they will be working with a coach or preceptor, or will be able to spend some time with a guru, will likely be more realistic than will be expectations of lawyers told they will be supplied a mentor.

Traditional Informal Mentoring

As Malcolm Gladwell ably demonstrated in his recent book, *Outliers*, all top achievers are beneficiaries of circumstance. Most accomplished lawyers have been fortunate in having traditional, informal mentors throughout their professional lives. As protégés they learned the way the world works, became parts of ever-expanding networks, strengthened their knowledge and skills in challenging job and civic assignments, and profited from constructive feedback. They were socialized into the profession, learning the right things to do and the right way to do them.

These traditional mentoring relationships occur spontaneously and informally. They tend to be long-lasting, based on mutual respect, personal friendship and, more often than not, shared values. Mentors are attracted to protégés because of their personalities and their apparent skill. They see persons who are fun to work with and be around and who they can trust to get their work done in a timely, high quality manner. The focus of mentors is broad, on the complete careers of protégés rather than on discrete skills or attributes. Traditional mentoring relationships unfold in predictable patterns, and they are ideal for the development of new lawyers.

Mentoring relationships can also be extremely valuable for mentors. They certainly gain satisfaction from the achievements of protégés, but their rewards are more than psychic. They see their networks grow, their realms of influence broadened, and their organizations strengthened. They gain comfort from the likelihood that their protégés believe in their work and will labor to see that it is done even after the mentors are gone.

Deficiencies of Traditional Mentoring

While the willingness of senior lawyers to form informal mentoring relationships with talented, compatible new lawyers works well for mentors and favored protégés, it does not necessarily serve the needs of law firms for overall talent management. Everyone wants to work with the emerging lawyers who quickly prove themselves able and affable. These young lawyers get the opportunity to develop skills and demonstrate excellent performance. Work gets done quickly and well, without the necessity of extensive monitoring. Consequently, additional skill-building opportunities are provided to these favored sons and daughters. If the new lawyer possesses a pleasing personality or meets well other needs of mentors, relationships are deepened. The protégé gains more experience and garners more development opportunities than her peers, and the developmental gap between mentored and unmentored lawyers grows wider.

Mentoring relationships form more naturally when mentors identify with something familiar about prospective protégés. Often this familiarity transcends boundaries of gender and ethnicity, leading to tremendously rewarding relationships and great benefit to the parties' organizations. However, within some firms female and minority lawyers report difficulty in gaining mentors. These female and minority lawyers and others with great latent ability may never attain their full potential because they lack mentors or others who perform discrete talent development functions. Consequently, firms' potential for achieving the diversity essential for success in the 21st century—particularly in the arena of law firm leadership—is squandered or diminished.

The traditional "tournament of lawyers" documented by Marc Galanter and Thomas Palay,[1] in which large firms bring in huge associate classes knowing that only a small percentage will ever make partner, seems a waste of money and people, at least as it was conducted at most firms during the last century. In high level athletic competitions all of the players are beneficiaries of coaching. The games are much more interesting than they would be were only one of two competing teams coached. Likewise, a head coach of a college athletic team would be foolish to coach only those who appear to be true stars coming out of high school. Over a period of four or five years, less time than the typical law firm partnership track, many marginal recruits become solid contributors to the team, and others become world class athletes. Often star recruits, in law as well as in athletics, plateau or derail before attaining their potential.

The difference between those emerging lawyers who flourish in the profession and those who languish there is in large part a function of the opportunities presented to

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the lawyer to observe or receive instruction about aspects of practice, to perform those aspects, to receive prompt and constructive feedback concerning the lawyer's performance, to master the aspect, and then to repeat the process at a more complex level of practice.

Formal Mentoring Programs

In order to expand developmental opportunities beyond favored sons and daughters many bar associations and law schools have established formal mentoring programs, with varying degrees of success. The typical bar association mentoring program is of limited duration, usually no longer than a year. Law school programs may encompass all three years of legal education.

Formal mentoring programs often disappoint protégés and frustrate the mentors assigned to them because the word "mentor" creates among protégés a sense of entitlement to all of the advantages of traditional mentoring relationships, including a protecting *personal* relationship that extends beyond a mere *professional development*

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relationship. Formal mentoring programs can also disappoint protégés because of a poor fit of personalities that is unlikely to occur in the informal pairing up of traditional mentoring. Protégés may also feel that assigned mentors lack the competence to mentor them in important developmental areas, or that mentors' feedback skills are deficient. These disappointments are diminished when mentors are well trained and when mentored lawyers have been involved in the development of the formal program to the extent that they develop a sense of ownership of that process.

St. Thomas University School of Law in Minneapolis has established a formal mentoring program that minimizes endemic problems with solid planning, training and administration. It has a resource-intensive program that involves three full-time faculty and staff with 450 practicing lawyer mentors for St. Thomas's 450 law students, Mentoring relationships last through all three years of law school, and both mentors and protégés know what to expect from the program from its inception.

It is essential in any formal talent development program that expectations be established and communicated to all of the participants before any relationships are established. The firm, association or school should begin by determining objectives for its program based upon its needs and opportunities; it should also insure that the program is aligned with the direction of the organization and is consistent with its aspirations. If the aspiration of a firm, bar association or law school is to provide not only for the development of the emerging lawyer but also a protective *personal* relationship, it will probably want to call its formal program mentoring. Narrower and more focused goals might justify a different kind of relationship, with a more fitting title. In any event, prospective providers should begin their planning by examining traditional mentoring relationships to determine what protégés get, what mentors give, and what the profession needs.

The Seven Functions of Traditional Mentoring

In its programs, the Center for Creative Leadership, the international leadership development nonprofit with campuses in the United States, Brussels, Singapore and Moscow, has identified seven functions served in traditional mentoring relationships:

1. **Developing and Managing the Mentoring Relationship.** Building a trusting relationship, setting goals and monitoring.
2. **Sponsoring.** Exploring options and creating and seeking opportunities for development and visibility.
3. **Guiding and counseling.** Discussing and advising protégés concerning options; aspects of self, others and situations; and how the protégés can advocate for and protect themselves.
4. **Protecting.** Addressing threats to protégés emanating from situations and from protégés' own unhelpful attitudes and behaviors.
5. **Teaching.** Developing protégés' knowledge and providing development opportunities for its application.
6. **Modeling.** Setting a personal example of competence, integrity and optimism.
7. **Motivating and inspiring.** Being collaborative rather than dictatorial; supporting, validating and encouraging protégés; and helping align protégés' values with organizational goals.

Chart I on the following page shows the author's opinion of the general applicability of each of the seven functions to six senior-emerging lawyer relationships: traditional and formal mentoring, internal and external coaching, preceptorships, and gurus. Note that in the formal, as opposed to the informal, mentoring program the sponsoring and protecting functions are necessarily limited or contingent, and that in other formal relationships they are generally absent. The credibility and positioning of the senior lawyer or nonlawyer coach are too important to create obligations on the part of the talent developer to sponsor or protect the formal protégé in marginal situations. While all firm lawyers are obligated to the firm to insure that all emerging lawyers are treated justly, the personal protecting relationship in traditional informal mentoring is a matter of grace; it is not an entitlement, and it should not be in other relationships.

The Formal Talent Development Program

Just as good strategic planning models simulate what must go in the minds of great intuitive leaders when they make and implement their best intuitive plans, law firm talent development programs should simulate most of what happens in the best traditional law firm mentoring relationships. The main reason talent development programs are disappointing to protégés is their failed expectations, which would never have arisen had the limitations and realistic expectations of the programs been articulated at their outset. The commitment and technical competence of senior lawyers and coaches may also be suspect, often with cause. It is important that people perceived as competent be willing to serve in the firm's formal program and that they be provided the training necessary to perform the tasks determined for the program, particularly how to provide feedback.

Formal mentoring, coaching, preceptor and guru relationships may evolve into traditional informal mentoring for some of the participants, but those emergent informal mentoring relationships will run parallel to and not supplant the shorter term, more performance-focused relationships designed to maximize developmental opportunities for the firm or profession as a whole. In all of these relationships there should be a constant flow between conversations about critical performance and about opportunities for development.

Coaches

The primary developmental function of coaches is teaching. In that regard the relationship is superior to mentoring in that the coach and coachee can focus on the acquisition of technical competence, for which a close personal relationship is not essential. In traditional mentoring the mentor nurtures the professional and personal life of the protégé. In coaching the emphasis is professional, and the parties can focus on discrete skills and behaviors. The coach and coachee will meet often, usually for a term of several months, until skills are mastered.

Most senior lawyers coach emerging lawyers in their firms to at least a limited degree, though seldom in a planned and systematic manner. Lawyers who were excellent law students often say that they never really learned to write until they received from a senior partner the marked-up copy of the first draft of their first major drafting assignment for their new firm. If the job of a coach is to assess, challenge and support, the marked-up draft is both an assessment and a challenge to improve. What is often lacking in the firm is the support function.

Many firms provide the support function by employing in-house coaches, or developers, particularly in teaching legal writing, oral communication skills, and interviewing and counseling. By being more planful in making job assignments to emerging lawyers, observing their

Chart I.

Relevance of Traditional Mentoring Functions to Various Senior-Emerging Lawyer Talent Development Relationships

Function	Traditional Mentor	Formal Mentor	Developer or Internal Coach	External Coach	Preceptor	Guru
Managing the Relevant Relationship	X	X	X	X	X	
Sponsoring, Advocating and Creating Opportunities	X	Contingent				
Guilding and Counseling	X	X			X	
Protecting from External Threats and Emerging Lawyer Weaknesses	X	Contingent				
Teaching	X	X	X	X	X	X
Personal Example: Role Modeling as a Lawyer	X	X	*	*	X	X
Motivating and Inspiring	X	X	X	X	X	X

*While coaches need not be lawyers, they should model professional behavior.

performance, and providing prompt feedback and appropriate subsequent development opportunities, senior lawyers can greatly expand the firm's internal coaching function and human capital. One advantage of the latest economic downturn is that law firms have had some excess capacity that could profitably be utilized for coaching, should they so choose.

Firms may also use external coaches for the same teaching functions as internal coaches. There are other teaching functions for which external coaches are particularly suited. These include career planning, strategy formulation, and conflict identification, avoidance and resolution within and without the firm. These functions are particularly useful in accelerating the development of already superior achievers, and in discovering the deficiencies in either technical or interpersonal proficiency that can lead to the plateauing or derailing of lawyers' careers.

Preceptors

In planning for the establishment of its law school in 2006, Elon University resolved to address several problems in legal education. Among them were a lack of meaningful feedback to first-year law students on their performance, the difficulty first-year students have in seeing how what they learn can be applied in practice, a separation of law schools from the practicing bar, and what is sometimes perceived as a subtle message to students in the bottom three-fourths of the class that their development is unimportant to their faculty.

A large number of the local bar volunteered to cooperate with Elon's full-time faculty in periodically visiting first-year classes, observing students recite in class, providing feedback to the students on their performance, and helping them reflect on and discuss what could be done to prepare for improved performance at the next recitation. The lawyers also let the students know how what they were studying was used in practice, and they invited the students to visit them in their offices or accompany them to court. They also met socially with the students at Thursday afternoon teas sponsored by the School.

While Elon wanted the practicing lawyers to fulfill the guiding and counseling functions of mentors as well as the teaching function of coaches, it did not want to call the lawyers mentors. The quality of existing formal mentoring programs in the profession was uneven, and the school wanted to focus on the teaching function without creating unwarranted expectations on the part of students with respect to sponsorships and personal relationships. It was decided that the planned Elon program was most akin to preceptor programs in medical education, in which first-year medical students visit offices of practicing physicians to connect with their profession and gain technical skills. The physicians were called preceptors, and Elon adopted that name for its senior lawyers, influenced in large part by the work of former ABA and Florida State University president Sandy D'Alamberte.

The physicians in their offices had an opportunity to see the medical students doing some things doctors did, such as take medical histories. In the law school classroom, Elon's preceptors saw law students do what lawyers do, think and communicate their thoughts, and then took the students into offices where those skills are applied. In both instances, developmental opportunities followed by prompt, constructive feedback were crucial in accelerating the growth of emerging professionals.

The title preceptor is also important. It communicates both the personal example and motivating and inspiring functions of the role, as preceptors are chosen to be people who embody the precepts of the profession.

Gurus

Gurus are experts who can inspire and motivate as speakers at CLE programs or around a table of lawyers. Most of us remember fondly the opportunity to be in the presence of great lawyers, if only briefly. Law schools, bar associations and law firms should not ignore the value of the gurus among them. We should arrange for our emerging lawyers to be in their presence in various settings, from lunches to lectures.

Two Keys to Good Talent Development

Mentors, preceptors and coaches all have opportunities to provide emerging lawyers with developmental tasks. Structuring developmental assignments wisely and providing effective feedback are vital in maximizing development of talent. Emerging lawyers need "stretch" assignments that are challenging, but that they are capable of fulfilling with effort. While such challenges can be stressful, they do not cause burnout. Burnout comes from being limited to repetitive tasks wholly within one's scope of existing competence, typically document review for young litigators and compliance work for transactional lawyers.

Talent developers should also resist the temptation to begin and end feedback sessions with positive feedback when the purpose of the feedback is to inform the emerging lawyer of unsatisfactory performance. If they follow that widespread practice they are likely to create a watered down "sandwich" for their negative information that diminishes its constructive potential. A better process, whether giving positive or negative feedback or a mixture of both, is first to describe the situation the emerging lawyer confronted, then the behavior of the lawyer, and finally, the impact of that behavior. This Situation-Behavior-Impact process (SBI) is consonant with the concept of competence as situationally appropriate behavior. When the process is timely followed, the emerging lawyer receives prompt, constructive information that provides a basis for reflection, growth and enhanced performance on subsequent assignments. One should also remember that optimum development occurs when the emerging lawyer receives more positive than negative feedback.

A Suggestion for Bar Associations

Challenging job assignments and constructive feedback arise most naturally when emerging lawyers work on matters with or under the supervision of good, experienced lawyers who are concerned for the development of the junior lawyers.

These relationships develop organically within firms in the course of practice and sometimes when lawyers from different firms work together on matters. They provide an ideal context for all seven mentoring functions and justly deserve the mentoring title.

In today's economy several bar associations are concerned about recent law school graduates who do not have access to such relationships. They have not obtained jobs with firms and have opened their own solo practices. The challenges of these new lawyers are compounded by an ethical dilemma. Their ethical obligation is to decline matters they are not competent to handle unless they become competent or associate competent co-counsel, yet they have limited competence and do not possess the networks needed to associate competent counsel.

If bar associations could establish panels of senior lawyers who would volunteer to be associated in limited numbers of new solos' cases, they could solve this dilemma. Experienced lawyers could also refer to the new lawyers cases that they would normally decline but that provide good developmental opportunities, while remaining associated with the cases. These cases would also give the senior lawyers opportunities to help the solos with practice management, a major source of client grievances and the one place new solo practitioners are likely to find their law school educations deficient. Seven years after graduating from law school, 60.6% of lawyers say they wish they had received more business training in law school, according to the American Bar Foundation's After the JD longitudinal study.[2]

New solos, who will likely have excess capacity, could also volunteer to help senior lawyers with their pro bono cases, in exchange for an agreement to mentor them during the duration of the joint representation. Law students at Cooley Law School's Auburn Hills campus now work in such relationships under an agreement with the Detroit Metropolitan Bar Association. Almost all extra-organizational mentoring relationships will be altruistic on the part of the senior lawyer. When lawyers mentor within their firms they recoup their investments of time and talent by building the firm's human capital. With new solos, even when fees are shared, senior lawyers will usually make financial sacrifices, given the opportunities they forego in order to work with the new lawyers. As with other bar association programs, their primary rewards will by psychic, a superior level of motivation.

Conclusion

Oft-told is the story of Michelangelo seeing great potential in blocks of marble, potential figures he described as imprisoned in stone. He conceived his job to be facilitating the release of the figure within by removing the excess stone. That is a wonderful way for talent developers to view their work, chipping away at marble to free the emerging lawyer to become the professional she was meant to be. In this regard, Michelangelo's statue of David might be our ideal.

But there is more to the process. The Colorado sculptor Bobbie Carlyle's sculpture, Self-Made Man, shows a man with chisel and mallet, carving himself out of stone, as she says, carving out his character and his future. Talent development is a joint effort of the lawyer and the organization with which the lawyer is affiliated. Developmental opportunities are the chisels for the sculpting of our, and our organizations', character and future, and senior and emerging lawyers are collaborating sculptors.

** I would like to express my gratitude to Sandy D'Alemberte and Roland Smith for their insights into preceptors and coaches, respectively.*

Endnotes

1. Galanter and Palay, Tournament of Lawyers: The Transformation of the Big Law Firm (The University of Chicago Press, 1991).

2. Robert L. Nelson, *The Future(s) of Lawyering: Young Lawyers Assess the Value of Law School*, presentation at The American Bar Foundation Fellows CLE Research Seminar, *What Defines Competence? A Debate on the Future(s) of Lawyering*, Atlanta, GA, Feb. 12, 2011. Only instruction in legal writing rated higher in helpfulness at 63%.

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