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Mentoring and training

From the viewpoints of both a senior and a newer attorney

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Perhaps no aspect of practicing law has a greater impact on the daily lives of lawyers than the working relationships among attorneys in a firm. Our colleagues are our teammates, the people we and our clients depend on to be effective lawyers, the characters who populate the narrative of our career, and, apart from our families, the people we affect most regularly with our own behavior. Good law firm management prioritizes the success of those relationships, including through thoughtful mentoring and training practices. Here are some ideas – incorporating the perspectives of both a more experienced attorney and a newer attorney – for good practices in the areas of mentoring and training.

Starting from first principles

Training and mentoring tie into two goals of senior attorneys: providing clients with the best possible representation and serving as stewards for the professional well-being of more junior colleagues. The first goal is served when junior attorneys are efficient and effective, when they carry out tasks with the appropriate level of supervision and guidance, and when they are happy and have the resources they need to do their job well.

The second goal is served by helping newer lawyers improve their abilities, helping them learn to enjoy the practice

of law, giving them the tools to get through challenges, and being respectful of them, both in day-to-day interactions and in the bigger picture of their careers.

The goals of junior attorneys vary, but they probably include: wanting to do their work well and be effective for clients, wanting to increase their skills and improve their quality as a lawyer, wanting to be happy at work, and wanting to be on a path toward a satisfying legal career. Senior lawyers play a significant part in whether they meet those goals.

Formal training

Most plaintiff-side firms are smaller operations without formal training programs, but small firms can at least provide new attorneys with an orientation at the outset of employment, with opportunities for external training, and with biannual performance reviews.

Some good topics for orientation include:

Ethics rules

A review of the ethics rules and a discussion of which rules come up regularly in the firm's work (e.g., rules on confidentiality, solicitation, and communications with represented parties) will: (a) start to familiarize the junior lawyer with the ethics rules and decrease the likelihood of an ethical violation; (b) show the newer attorney that the firm takes its ethical obligations seriously; and (c) help the newer lawyer understand that ethical questions are not sources of anxiety, but legal questions governed by easily

identified rules to be answered with the help of senior lawyers as needed.

Time-keeping

Many new lawyers have uncertainty about how to bill their time: what tasks to bill for, how to describe them, whether to bill for tasks separately or together, how to bill for something that takes longer than they think it should, and so on. Providing good instruction at the outset and making new lawyers comfortable about asking billing questions can eliminate needless anxiety for new lawyers. A lack of comfort asking billing questions could lead new attorneys to under-bill when they feel uncertain about the amount of time that is reasonable to spend on a task and do not want to appear slow or incapable. Also helpful for new lawyers is an explanation of what happens with their time after it is recorded (e.g., it is reviewed by the senior attorney, who will decide whether to reduce the time recorded before sending a bill to the client; or it may be reviewed by the court in connection with a fee petition).

Firm processes

Plaintiff-side firms have their own approaches to conducting intakes, tracking the status of intakes, ensuring prompt decisions about whether to offer representation, and sending representation agreements or non-engagement letters. Likewise, firms have practices for how they keep the calendar, how they assign work among attorneys and paralegals, how they organize and store client files, and how they track CLE



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records. When a new lawyer joins a firm, orienting him or her to these considerations will help the attorney understand the firm's processes and reduce early uncertainty and mistakes. To streamline this process, the orienting attorney can inquire into a new attorney's prior experience with similar processes, which will be brand new for some attorneys and not for others. When new attorneys have little prior experience handling inquiries from potential clients, a firm should orient them to its practices.

Other than orientation and performance reviews (discussed below), formal training opportunities for smaller firms tend to arise outside the firm: CELA's Trial College or annual conference, The Impact Fund's trainings or annual conference, brown bag lunch events for summer associates, and the like. It is important for firms to bring those types of events to the attention of junior lawyers and to encourage participation. In addition to providing a learning opportunity, this gesture shows new attorneys that senior attorneys in the firm are taking an interest in the career development of the junior lawyers. This simple act, often just forwarding an email, can mean a lot to a newer attorney who may otherwise feel like his or her career development is not the concern of senior lawyers in a busy, fast-paced firm environment.

On-the-job training

Training for new lawyers at small firms is almost 100% on the job. It proceeds in haphazard order because lawyers joining a firm are trained in the order in which projects arise. Although seasoned lawyers are comfortable always learning on the job, this can be stressful for new lawyers, especially conscientious ones. When a lot is riding on your work, you have an adversary focused on exploiting any mistake you make, and you are doing things for the first time, the job is stressful. Here are a few thoughts about how to make on-the-job training as

effective and as positive an experience as possible:

Remember what you did not know

It can be hard for senior lawyers to remember not knowing certain things that they now view as common knowledge. The more a senior lawyer can be mindful of the experience level a new attorney brings to an assignment, the more effectively the senior attorney can explain the assignment and set the junior attorney up for success. This applies to everything from what legal terms mean, to basic questions of civil procedure, to which jurisdiction's case law is relevant for a given brief, to what to call the judge. Many newer attorneys thrive on a challenge, but even when that is the case, many of us are afraid of making mistakes in our work for clients. If a senior attorney is not sure what the junior attorney already knows about a subject, the senior attorney should ask. It is important to give new attorneys "stretch" assignments – things that they have never done and may be nervous about – but it is also important to walk them through how to do it, and to provide support throughout the assignment as they learn to do a new task well. The more that new lawyers have a chance to observe, the faster they learn. It is therefore helpful to bring newer lawyers to as many events in a case as possible – hearings, depositions, settlement discussions, panel presentations, client meetings – and to copy them on case-related communications.

Solicit dumb questions

Rather than tolerating "dumb questions," senior lawyers should solicit them. Junior lawyers may fear that asking a dumb question will expose them as imposters. When junior lawyers know that it is safe to ask dumb questions, it allows them to (1) get the answer, (2) make sure the senior lawyer has an accurate understanding of what the junior lawyer does and does not already know, and (3) make sure the junior lawyer does not labor under a misunderstanding that will

reduce the efficiency and quality of his or her work. A junior lawyer may also appreciate hearing about a senior lawyer's own experiences asking dumb questions or looking foolish. When a more senior lawyer shares his or her own worries or uncertainties with a junior lawyer, it eases the junior lawyer's stress and anxiety, and it sets a more realistic example of the experience of developing as a lawyer. An environment where lawyers can ask dumb questions makes for more effective training, increased camaraderie, and less anxiety.

Writing

The most basic and important skill for lawyers is writing. New lawyers learn how to write briefs, but they also learn how to write to clients, opposing counsel, court clerks, prospective clients, other lawyers in the firm, and many others. One prerequisite to learning to write well is practice. Senior lawyers have many ways to help newer lawyers improve their writing: (1) Give the junior attorney as many opportunities as possible to write – not only briefs, but letters, emails, articles, and the like; (2) show the junior attorney how you would improve on the things they have written – if you can explain why, that is all the better; (3) copy the junior attorney on your emails, and ask them to read your own writing so they get a sense of your style; and (4) help the junior attorney understand that repeated revision, of one's own writing and by others, is a critical part of legal writing. There is no shame in a heavily marked-up draft – it is a sign that the senior lawyer cares about helping the junior lawyer improve.

Provide substantive and timely feedback

It is frustrating for junior attorneys to work on an assignment for a senior attorney, submit it, and then hear silence. Although time constraints may not always allow for it, senior attorneys should strive to provide detailed, substantive feedback on assignments given to junior attorneys. The more



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detailed and substantive the feedback, the faster the new attorney can become a helpful resource and team member. When a junior attorney is reporting to a mid-level attorney and a still more senior attorney is on the case, the most senior attorney should give careful thought to how both the junior and mid-level attorney can receive appropriate review and feedback on their work.

Model time management

Firm management includes creating a professional culture in which work is done in advance, through planning and habit. Briefs written or revised at the last minute do not serve clients well. A firm where briefs are finished ahead of time is training its associates to follow that practice, while a firm that completes briefs at the eleventh hour instills the opposite habit. When junior lawyers are already learning on the job, asking them to do so when deadlines are imminent and time for review is inadequate makes the job more stressful. Senior lawyers should take responsibility for making sure work is completed ahead of time. Another common source of stress for new attorneys is having two or more assignments from multiple supervising attorneys and worrying about being able to complete them all on time. This is especially acute when newer attorneys have little idea of how long a given project will take to complete. Firms should cultivate an atmosphere where it is comfortable for junior attorneys to seek out guidance about how long to spend on tasks and how to prioritize assignments.

Performance reviews

Annual performance reviews, and ideally also a mid-year check-in, are an important part of training. These are opportunities for senior and junior lawyers to take a step back and review the junior attorney's performance, job-satisfaction, and career progression. To make performance reviews effective as

a form of training, the reviewer should be sensitive and kind, and should give specific and concrete feedback about projects and skills where the junior attorney can focus on improving. To ensure that the discussion is concrete, a good practice is to request junior attorneys to submit a summary of the work they have done during the review period, along with thoughts about the type of work they hope to do in the next review period. The task of the reviewer is also to think concretely about how the firm can proactively help the attorney improve. Firms should consider implementing 360-degree review processes so that everyone at the firm can grow with each other's help. When junior attorneys are being trained by mid-level attorneys, a 360-degree review lets the most senior attorneys know how they can help mid-level attorneys improve as supervisors and trainers of junior attorneys.

Formal mentoring

Formal mentoring programs often consist of assigning a junior lawyer to a senior lawyer in the firm as a mentor, making sure the senior lawyer takes the junior attorney to lunch every so often, and specifying that the senior lawyer's door is open as needed. These are good things, but mentors should view their role not merely as having an open door, but as having a responsibility to initiate interactions that help their mentee. This might include involving junior attorneys in professional or public service legal events, inviting junior attorneys to observe interesting depositions, hearings or trials, or proposing joint projects, like publishing articles or handling pro bono projects together. Mentors have access to things that they can use to help mentees advance their professional reputations, like relationships with editors who publish legal articles and relationships with organizations that need panelists for speaking opportunities or for board and committee volunteer work. Mentors can help mentees start learning how to generate business. Mentoring assignments

may rotate periodically so that junior lawyers have the chance to develop mentoring relationships with multiple senior lawyers, and vice versa. A new lawyer may benefit from having a mentor who is only a few years senior to him or her, as well as a mentor who is decades ahead.

In small firms, where a senior and junior lawyer might be interacting with each other every day, it may not make sense to have a formal mentoring program, but it is important to build into the life of the firm opportunities to step back from the day-to-day demands and talk about things other than the work at hand.

Informal mentoring

Junior lawyers observe how senior lawyers treat clients, opposing counsel, and colleagues, how they develop business, and how they talk about the legal work at hand and the profession itself. These interactions have the potential to be positive or negative – both in terms of setting a good example for a newer attorney finding his or her own style, and in terms of creating an environment where the junior lawyer feels happy, comfortable, and proud to be a part of the team. We are all familiar with the ups and downs of litigation – most new attorneys, when they hit a low patch, have probably told themselves that litigation is not for them. Some difficult aspects of litigation are unavoidable, whether it is an uncivil opposing counsel, a painful loss in a case, or a difficult interaction with a client. Creating informal mentoring relationships within a firm is one way to help newer attorneys thrive even during difficult times.

The heart of mentoring is communication. Whether it is dropping by someone's office to chat about weekend plans or a new favorite TV show, checking in by email, or having weekly firm lunches or a Friday afternoon happy hour – building relationships among colleagues at different levels in a firm works to the advantage of everyone involved. A firm



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culture that cares about the person, not just the lawyer, is the type of culture where we all want to work.

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