Mentoring:
The Future of the Legal Profession

The first major national conference on Mentoring: The Future of the Profession was held March 27th-29th in Columbia, South Carolina. Sponsored by the Nelson, Mullins Riley & Scarborough Center on Professionalism and co-sponsored by the American Inns of Court, the ABA Standing Committee on Professionalism and The South Carolina Chief Justice’s Commission on the Profession, more than 80 judges, lawyers, managing partners, deans, and representatives of state professionalism commissions were in attendance. This conference focused on the value of mentoring, the current status of mentoring in the legal profession, and the challenges of creating mandatory state mentoring programs. Summaries for several sessions are included in this newsletter.

Roberta Ramo Gives Keynote Address

Roberta Ramo, the first woman to be elected president of the American Bar Association and president-elect of the American Law Institute, was the keynote speaker at the Conference on Mentoring: The Future of the Profession. Ramo’s address was a compilation of observations and experiences from her own life regarding mentoring and the legal profession.

Ramo began her speech by discussing her husband as a mentor. Ramo’s husband, Barry Ramo, was a medical intern and resident while she was a law student at the University of Chicago Law School. Ramo said, “I had a chance to go to law school at the same time that he was an intern and a resident, and I got a chance to see the difference between learning about the law in a law school setting and being an intern and resident in a hospital where every single day, in every single way, medical students, interns, residents and fellows were faced with the reality of what it meant to take care of patients. That is something that most law students in our country don’t get a chance to see at all in an academic setting in a serious way…”

Ramo went on to speak of young associates who had shared their opinions with her of what made a good lawyer. Ramo explained, “Reports from them tell me that if we could make sure that every single law student had a judicial clerkship with a first rate judge that would produce the best continued on page 2
legal profession of all.” Ramo found that the young associates felt a sense of responsibility about their behavior and were determined not to let down their judge. No matter how long the associates had been away from their judge, there was still a feeling of obligation.

Ramo then listed three areas in the law where she believes lawyers should turn their attention. She first discussed what she feels is an “important disconnect between what lawyers and judges think is needed by new lawyers and what the recipients of the attention may think they need to know.” Ramo said that she wanted to merge the expectations of those who are at a time in their legal career when they can give advice with those who are at a time in their life when they need to seek help in a variety of ways. She observed that “…institutional solutions may not be as successful in forming or changing behavior as personal solutions. We must drive more and more to require an overseeing of practice for at least a year and maybe longer of those who are new to practice.” She stated that a final thing lawyers need to talk about is age. Ramo believes that there is a crisis in the legal profession as older lawyers get pushed out of firms, Ramo said, “…we need to look across the spectrum of lawyers in our profession and not only not chase them away, but require them to do more than they ever thought they would have to.”

John Baldwin, Marilyn Branch, Margaret Plane, and Rodney Snow, Salt Lake City, UT

Ramo concluded by advocating that seasoned lawyers teach their new associates certain skills. She reflected that all new lawyers would benefit from a mentor that preached civility, ethical clarity, the definition of professional responsibility, knowledge of the law, how to separate one’s own ethical judgments and their own integrity from the client’s expressed needs, and last but not least, style. Ramo added, “I am talking about young lawyers wanting to know what it is that puts together this whole persona of knowledge, integrity, persuasiveness, caring and hard work that makes a lawyer. So that you can look at the person and say, “Looks like a lawyer to me.”
SESSION 1: An Interdisciplinary View of Mentoring – What can it accomplish, what are its limitations, when is it most effective, and what is its value to professional institutions?

Dr. Kathy Kram, Professor of Organizational Behavior and Everett V. Lord Distinguished Faculty Scholar at Boston University School of Management, is one of the leading national authorities on mentoring. Kram was enlightening in her ideas about maximizing the potential of mentoring and minimizing the dysfunction sometimes associated with mentoring programs. In her conference speech, she emphasized the “transformative power” of mentoring.

Kram identified two essential roles that an effective mentor must be able to perform. The first focused on career development, in which the mentor helps the protégé learn the ropes of the firm, provides opportunities to experience various aspects of the firm’s practice, and offers some protection for the protégé when appropriate. The second is a more psychosocial function, with the mentor serving as a role model and providing counsel, affirmation, and friendship, as well as opportunities to observe how others work. While the mentor must be able to perform these functions, it is also important that both parties understand that the more senior mentor will not always have all of the answers.

Kram’s discussion also detailed the fundamentals of creating an effective mentoring relationship and some of the common impediments to good mentoring. She described the essential elements of effective mentoring as having time built into the system for mentoring; having clear expectations; having good interpersonal skills; having an ability to manage negative feedback; and having an environment that allows the parties to address issues of cultural difference. Kram added that mentoring can benefit protégés at all career stages. She explained that mentoring is an underutilized developmental tool and that its benefits can be lost if mentoring programs are not properly managed.

David Sluss, Assistant Professor of Management at the Moore School of Business, at the University of South Carolina, followed Kathy Kram’s presentation with a more in-depth look at studies involving mentoring techniques within the legal profession. He started by observing that a goal is to fully socialize new lawyers into the firm and the profession. Through Sluss’s research, he found that a mentoring technique referred to as “structured on-boarding” is highly effective, increases professionalism and reduces turnover. Structured on-boarding involves admitting new lawyers into formalized mentoring programs upon their entry into the law firm. However, it’s difficult to have a structured on-boarding scenario. Sluss found that instead the “sink or swim on-boarding” approach is often used by many law firms. Law firms with a sink or swim approach to mentoring were established to be less effective overall. Sluss emphasized that a greater problem with sink or swim on-boarding can be that when the new lawyer begins to sink, they can also possibly sink the client with them, which in turn hurts the law firm.

Sluss also focused on a topic that Dr. Kram had previously discussed, the idea of self-mentoring. Sluss stated that law firms should attempt to encourage proactive self-mentoring through techniques such as information seeking, feedback seeking, relationship building, general socializing, positive framing and language and customs training. Sluss noted that mentors can influence their protégés by encouraging the protégés to overtly ask questions, observe different members of the firm and engage in “tell me about” conversations, where different firm members share their ideals about work-related topics of interest to the protégé.
SESSION 2:
The Current State of Mentoring in the Legal Profession –
To what extent and how effectively do professional groups,
courts, and law firms currently provide mentoring?

Judge Deanell R. Tacha, chief judge of the U.S. Court of Appeals for the Tenth Circuit and President of the American Inns of Court Board of Trustees, and James O. Stuckey, a practicing lawyer and chair of the ABA Standing Committee on Professionalism, tackled the question of the extent to which mentoring is currently provided and current perceptions of mentoring in the profession.

Judge Tacha began her presentation by discussing the immense social change that the practice of law has undergone and then segued into how effective mentoring can facilitate these changes to ultimately better the profession as a whole. Judge Tacha’s message addressed the necessity in bridging the gap between new and experienced lawyers to form a “common culture,” while attempting to leave behind the stereotypes of lawyers that the media and public have come to accept. At one time, lawyers entered the profession with a fairly certain goal of helping others. She said that people entering the profession today may have more ambiguous goals than in the past and find greater emphasis placed on the bottom line of billable hours. This shift has led to greater levels of dissatisfaction and a bar consisting of lawyers who may or may not affect much change in their communities. Mentoring provides an opportunity, in her opinion, for more experienced lawyers and newer lawyers to share their visions of the practice, to the advantage of all involved.

She emphasized however, that mentoring cannot help if it is not effectively carried out. She urged mentors to avoid a “me teach you” approach and, instead, to understand mentoring as “a transmission of values that the individual lawyer holds dear and a ridding of stereotypes and the baggage of the old.” During her career on the bench, Judge Tacha said she has been able to tell which lawyers have been incorporated into a culture of ethics instead of modeling their behavior on media and stereotypical portrayals of lawyers. She urged that mentors help lawyers distinguish between being advocates, which is positive, and being adversaries, which she believes is counterproductive.

Mr. Stuckey went on to comment that one of the greatest problems in having mentoring in law firms is the disparity between the levels of quality in the mentoring experience. Stuckey stated that in large firms, mentoring is dependent on the ideals of the partners and the amount of funds set aside for the program. He posited that at smaller firms the quality of the mentoring experience is more reliant on the mentors and the protégés themselves.

He cited a recent NMR&S Center on Professionalism survey of law firms in North and South Carolina that showed only seven firms compensated their mentors for time spent mentoring. He interpreted that data as an indication that law firms still do not place adequate emphasis on mentoring new lawyers and said that firms should provide tangible incentives in addition to the intangible incentives for mentoring.

He supported efforts in Georgia to require mentoring for all new lawyers, but warned of the need to be prepared for backlash if programs were poorly constructed. Specifically he noted that a bar programs must not be viewed as a way to relieve firms of responsibility to provide excellent mentoring nor should a protégé view the mandatory program as an excuse not to seek out his or her own mentoring relationships.

Mr. Stuckey closed by noting the benefit to the profession of mentoring and predicted that law firms which embrace the concept and incorporate it into their culture will find that good mentoring helps the firm meet a number of goals, including creating more confident lawyers and promoting diversity.
SESSION 3: The Current State of Mentoring in the Legal Profession – Can/Should effective mentoring begin in law school?

Professor Neil Hamilton, Director of the Holloran Center for Ethical Leadership in the Professions at the University of St. Thomas School of Law, discussed research on the ethical development of professionals during their period of formal education. Hamilton paralleled the idea of mentoring in the legal profession to studies performed in military academies and at Harvard business school. Hamilton stated that in military academies, recruits entered with a “what’s in it for me?” perspective and eventually their perspective developed to an “I don’t care what everyone else does, my professional values make me do this” approach upon their graduation. Hamilton said he was surprised to find that this same progression did not occur among Harvard business school students, who were found to have graduated with the same identity and perspective that they had when they initially entered the program.

Hamilton suggested that in order for law schools to possess the same progression in its students that the military academies have, law schools need to set clear mentoring goals that are capable of assessment, move beyond the limited “anecdote and story” methods of mentoring and try out and assess various mentoring models to see what is most effective. Hamilton said that through better defining professionalism, law schools may have a more efficient way of trying to assess it.

Professor Hamilton was followed by David Bateson, Director of the Mentor Externship Program for law students at St. Thomas. Bateson outlined the school’s three-year mandatory mentorship program, which has matched students with lawyers and judges since 2001. He described three of the goals of the program as being to instill an understanding of the profession; to provide a variety of experiences through which to observe the practice of law; and to create an intergenerational conversation.

As lawyers and judges are recruited to become mentors, efforts are made to pair mentors and protégés based on common characteristics. Professor Hamilton noted that there are three stages of the mentoring process at St. Thomas. The first stage is a “cognitive apprenticeship” that helps socialize the student into the apprenticeship of “thinking like a lawyer.” The second stage, or “practical apprenticeship,” focuses on professional skill development, and the third stage focuses on formation of the student’s professional identity. The pairing of mentor and protégé is an effort to match the protégé with a person prepared to mentor at the student’s particular stage of progression.

Mr. Bateson added that every mentor is told clearly at the outset what is expected of them, and students are also carefully prepared for the experience. Students meet with their mentors in the first month of school to develop a mentoring plan for the year ahead and then submit their plan to the program director for review. Bateson noted that the program has a high level of quality control, which has been essential in the program’s success. The school utilizes an online program and can track how many times the students have met with their mentors and how many experiences in which the mentor and student have participated. Bateson believes that the program is a success and a model for any other law school thinking about a formalized mentoring program. He said that the program receives more than one million dollars in free legal time each year and that because of the program the school has an exceptional bond with its alumni.
Information and Research Findings on Mentoring Networks

Prof. John Montgomery, Director of the Nelson Mullins Riley & Scarborough Center on Professionalism has begun research on mentoring networks and their possible useful contribution to law firms and bar groups that are interested in mentoring.

Montgomery found that although there is substantial general discussion on mentoring networks in academic and professional literature, there are only a few studies exploring the benefits of mentoring networks. He found that most of the discussion prior to 2000 was conceptual and theoretical, with applied studies not appearing until after that date. Montgomery noted that the literature draws a distinction between career support (substantive training, skills training and rule modeling) and psychosocial support (counseling, friendship, affirmation of work tasks and honest feedback). Mentoring benefits seem to be dependent on the type of support that the mentor provides. The studies also distinguished benefits related to career success (promotion, salary level, and retaining an employee) from benefits related to intrinsic career satisfaction (the protégé’s desire to retain their position with their current employer, general job satisfaction and fulfillment). Montgomery believes that these distinctions are important to keep in mind as bars and law firms design mentoring programs. Since different types of mentoring apparently yield different benefits, certain mentoring network techniques will be more effective for some firms than others.

According to an article by Kathy Kram, one of the leading authorities on mentoring, and Prof. Monica Higgins of Harvard Business School entitled, “Reconceptualizing Mentoring at Work: A Developmental Prospective,” mentoring networks are likely to be more widely used in the future. The article posits that social network theory (the numerous ways people connect with each other, formally and informally, to accomplish life tasks) supports the idea that career developmental networks, including mentoring through multiple relationships, offer advantages beyond traditional mentoring. The article, which Montgomery notes is the foundation for work in mentoring networks, theorizes that mentoring networks will increase because of the changing nature of employment. The article goes on to discuss that mentoring networks can provide more benefits than the traditional mentoring relationship and that the amount of these benefits is dependent on the strength and diversity of the network and the interpersonal skills of the participants.

The topic of mentoring networks was also addressed by Kram during the Conference on Mentoring: The Future of the Profession, sponsored by the Nelson, Mullins Riley & Scarborough Center on Professionalism in March of 2008. During the conference, Kram focused on an area of mentoring that she found to be highly effective, the developmental network perspective. Kram said that this perspective involves the lawyer building their own developmental network. It is a handful of individuals where the person in the center (the protégé) enlists others to help them develop themselves. The lawyer has to build his or her own developmental network and can even use a formerly appointed mentor as one of the members of their network. In this scenario, a mandatory, formal mentoring program could be a part of the developmental network.
Upcoming Events

ABA Midyear Meeting 2009
February 11 – 17, 2009
Boston, Massachusetts
Advance Registration Deadline: January 9, 2009

ABA Standing Committee on Lawyers’ Professional Liability
Spring 2009 National Legal Malpractice Conference
April 22 – 24, 2009
Miami, FL

ABA Center on Professional Responsibility
35th National Conference on Professional Responsibility
May 27-30, 2009
Chicago, IL
The Nelson Mullins Riley & Scarborough Center on Professionalism website provides the most comprehensive electronic resource on professionalism. Information on the most recent articles, books and journals, as well as professionalism initiatives is available at http://professionalsim.law.sc.edu

We invite you to use this website as your primary resource for professionalism research. In addition, please send us any information from your research not included in our database. The Center’s email address is profcntr@law.sc.edu.

is published by the Nelson Mullins Riley & Scarborough Center on Professionalism at the University of South Carolina School of Law.

News items, short articles, or information on upcoming events pertaining to professionalism or related legal ethics issues should be mailed to:
NMRS Center on Professionalism, USC School of Law
701 South Main Street
Columbia, SC 29208

or e-mailed to:
jemontgo@law.sc.edu