

January/February 2022

# The Bench<sup>er</sup>

THE MAGAZINE OF THE AMERICAN INNS OF COURT<sup>®</sup>





## FROM THE PRESIDENT

### The Honorable Kent A. Jordan

Once upon a time, I happened upon this bit of trial transcript that was represented as authentic:

**The Court:** Next witness.

**Counsel:** Your honor, at this time, I would like to swat [opposing counsel] in the head with his client's deposition.

**The Court:** You mean read it?

**Counsel:** No sir, I mean swat him in the head with it. Pursuant to Rule 32, I may use this deposition for any purpose, and that is the purpose for which I want to use it.

**The Court:** Well, it does say that (pause). There being no objection, you may proceed.

**Counsel:** Thank you, judge. (Whereupon [counsel] swatted [opposing counsel] in the head with the deposition.)

**Opposing Counsel:** But, judge.

**The Court:** Next witness.

**Opposing Counsel:** We object.

**The Court:** Sustained. Next witness.

In one sense, this little vignette is too good to be true. I laughed out loud the first time I read it, and it still makes me smile. In another sense, though, the exchange is too easy to believe and less than funny for that. Frustrations that develop in the heat of battle—frustrations with positions and tactics adopted in court or in depositions or negotiations—can leave even the most patient among us wanting to reach for a suitable swatting transcript. Ours is a designedly combative profession, and none of us is immune to the stress that goes with it. One thing that can be very helpful in handling that stress is the encouragement of a supportive mentor. Among other things, a good mentor can help steer us away from resorting to transcript beatings as a means to handle a difficult opponent.

Mentoring is the subject of this issue of *The Bench*, and I'm grateful that it gives me the opportunity to tell you about one of my important mentors, Judge James L. Latchum. I've mentioned him to readers before. He was appointed to the U.S. District Court bench in Delaware in 1968 and had been serving for 15 years when I showed up to clerk for him. By the

time he passed away in 2004, he had molded the legal outlook and professional direction of 37 law clerks. Although he was not sentimental in the least, he evoked the warmest of feelings from all of us. He was, as one clerk put it, "our beloved mentor." And it cannot be coincidence that all of us who worked for him have tried to contribute to our communities and the legal profession, to practice with integrity, and to preserve the law as a profession of service for the public good. It is an admirable legacy and a direct reflection of Judge Latchum's example.

Attention to detail helped Judge Latchum to be a masterful teacher. His style was to give you a chance to think through a problem and then to test your answer in discussion, to challenge your assumptions, and to force clear, logical reasoning. His writing style reflected his view of life: economy and precision, or, as my co-clerk Kevin Brady would say, keep it like the judge: short and sweet. It was unnerving but exhilarating the first time the Judge Latchum handed me a stack of legal briefs and said, "Tell me how you think this one should come out." I was fresh out of law school, and I'm sure I made mistakes on that and other projects, but I don't remember them. I do remember clearly that I wanted to do my very best work for him. His own high standards and work ethic let him lead without preaching. And when a job was finally done to his satisfaction, he was not lavish in his praise, at least not with me. But he would say, "I think you got that just about right." And that meant the world to me.

Later, when I was serving as an assistant U.S. attorney and had to regularly appear before him, I knew without his saying a word if he thought I'd been less than precise or not fully prepared. He had a gift for communicating with a glance, and I never wanted to see that "I taught you better" look. When I went into private practice, I made a point of dropping by to chat with him often. Those visits were not only delightful in themselves; they allowed me to walk away with wise and useful counsel and much-needed encouragement. I trust that the articles here will provide some of that for you, too. I only wish you'd been able to meet Judge Latchum. ♦



Panel discussion participants included U.S. District Court for the Eastern District of Texas Article III judges, from left to right, Sean D. Jordan, Amos L. Mazzant III, and Richard A. Schell.

## Judge Paul Brown American Inn of Court

In September, the Judge Paul Brown American Inn of Court of Sherman, Texas, gathered in person at the U.S. Courthouse-Plano for a socially distanced meeting with COVID-19 precautions in place. Attendance at the meeting almost doubled this Inn's current membership volume with attendees/new applicants at this first meeting of the season.

The meeting featured a discussion with a distinguished panel of judges from the U.S. District Court for the Eastern District of Texas, which was moderated by career staff attorney Aileen Goldman Durrett, Esquire. Judges Richard A. Schell, Amos L. Mazzant III, and Sean D. Jordan discussed their backgrounds, what led them to the practice of law and to their current Article III positions, and their preferences, procedures, and pet peeves. Members and new applicants enjoyed this opportunity to be together and engage in casual conversations with the panel afterward.

The Inn was also honored to have David O'Toole, clerk of court for the Eastern District of Texas, and Nicholas Ganjei, acting U.S. attorney for the Eastern District of Texas, in attendance. Additionally, Mazzant, well-known for his baking hobby, did not disappoint! Inn members all shared excitement for the upcoming meetings and the large tray of assorted homemade cookies baked by Mazzant. After the meeting, several attendees reconvened at a local restaurant. The group included a great mix of seasoned attorneys, young attorneys, and future attorneys (pending bar exam results). Mazzant and his law clerks, Ganjei, and former U.S. Attorney for the Eastern District of Texas Joe Brown also attended dinner. ♦

## Judge Alexander F. Barbieri Workers' Compensation American Inn of Court



The Judge Alexander F. Barbieri Workers' Compensation American Inn of Court in Philadelphia, Pennsylvania, met in October to enjoy a meal while being updated on the current state of the law concerning various offsets and conflicts with various benefits systems that affect workers' compensation, including Social Security benefits, Medicare and Medicaid, unemployment compensation, and the recent COVID-19 federal aid packages. The Pennsylvania Workers' Compensation Bar is known for its cordiality, and the Inn meetings are one of the principal means of continuing this benefit to the profession. ♦

## IN THIS ISSUE...

### Feature Articles

- **Questions to Ask Yourself Before Agreeing to Be a Mentee or a Mentor**  
By Judge David W. Lannetti and Jennifer L. Eaton, Esquire ..... 12
- **Are You My Mentor? A Reflection on 20 Years of Participation in the American Inns of Court**  
By Elizabeth S. Fenton, Esquire ..... 14
- **You Are Always Mentoring**  
By Raymond T. (Tom) Elligett Jr., Esquire and Amy S. Farrior, Esquire ..... 18
- **Mentoring During and After the COVID Era**  
By Leslie A.T. Haley, Esquire ..... 20
- **How Can I Help? Mentoring Lunches Help Shape Careers**  
By Judge John H. Pietrzak ..... 23

### Online Only: [www.innsofcourt.org/BencherRecent](http://www.innsofcourt.org/BencherRecent)

- **Do I Really Need a Mentor? (Does the Sun Rise in the East?)**  
By Justice Douglas S. Lang, (Ret.)

### Columns

- **Ethics: Resources for Judicial Ethics Research**  
By Francis G.X. Pileggi, Esquire ..... 9
- **Technology: Ransomware: How to Defend Your Law Firm**  
By Sharon D. Nelson, Esquire and John W. Simek ..... 26

### Regular Features

- **Inn the News** ..... 3
- **Profile in Professionalism** ..... 25
- **Program Spotlight** ..... 27

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## Tennessee Professionalism Award

In 2020, Tennessee's American Inns of Court and the Tennessee Bar Association (TBA) introduced an annual Tennessee Professionalism Award patterned after the American Inns of Court Professionalism Awards.

The inaugural recipient of the Tennessee Professionalism Award was U.S. District Court Judge Pamela L. Reeves. Her long list of bench and bar activities have included service as president of the TBA, a member of the American Inns of Court Board of Trustees, and member of the Hamilton Burnett American Inn of Court in Knoxville, Tennessee. Reeves accepted the award during the TBA's virtual convention several months before her death in September 2020.

In 2021, Tennessee's 10 American Inns of Court and the TBA decided to recognize Reeves by naming the award the Judge Pamela L. Reeves Tennessee Professionalism Award.

In June 2021, at the TBA's annual convention in Memphis, Major General Albert Harvey (Ret.) became the second recipient of the award. Harvey is currently senior counsel at the Lewis Thomason law firm in Memphis. During his distinguished legal career, he has served as president of both the Memphis and Tennessee bar associations and as a member at the Leo Bearman Sr. American Inn of Court in Memphis. He has accepted leadership roles with the American Bar Association, including

membership in the house of delegates and board of governors. He is also a member of the American College of Trial Lawyers and the American Board of Trial Advocates.

The 2022 award will be presented in June at the TBA's annual convention in Nashville. ♦



Judge Pamela L. Reeves



At the awards presentation, from left to right, are Charles Swanson, Esq., Emeritus member of the Hamilton Burnett American Inn of Court and spouse of Judge Pamela L. Reeves; Michelle Greenway, Esq., immediate past TBA president and member of the Howell Edmunds Jackson American Inn of Court; Albert Harvey, Esq., 2021 recipient of the Judge Pamela L. Reeves Tennessee Professionalism Award; and Sherie Edwards, Esq., TBA president, member of the Harry Phillips American Inn of Court, and Emeritus member of the Belmont University College of Law School American Inn of Court.

## 2022 American Inns of Court Professionalism Awards

Members are encouraged to nominate outstanding legal professionals in their respective circuits.

The American Inns of Court Professionalism Awards are presented on a federal circuit basis to a lawyer or judge whose life and practice display sterling character and unquestioned integrity, coupled with ongoing dedication to the highest standards of the legal profession and the rule of law.

### 2022 Circuit Deadlines for Nominations:

February 21—Federal	April 15—DC and 2nd*
March 7—5th and 11th	May 16—9th and 10th
March 21—4th and 7th	

\*2nd circuit nominations are limited to a senior attorney.



Please visit [www.innocourt.org/ProfessionalismAwards](http://www.innocourt.org/ProfessionalismAwards) for more information.



## Robert J. Turner American Inn of Court

**T**he Robert J. Turner American Inn of Court in Oklahoma City, Oklahoma, held a meeting, titled “Ethics with the Judges,” which included six judges who candidly spoke about ethics in the legal profession. Discussion included civility toward each other and how civility is critical to the way cases are tried in court. Tips were offered on what is expected conduct in the courtroom—both toward the court as well as to opposing counsel. The judges also discussed their own responsibilities and what attorneys can expect from the court.

Attendees also talked about physical and mental well-being of attorneys and judges. Information was provided on how to obtain professional assistance at no charge through the Oklahoma Bar Association’s Lawyers Helping Lawyers program. Attorneys were encouraged to take time for themselves to maintain a healthy balance of work and life. ♦



*Participants included, from left to right, Judges Allen J. Welch Jr., Natalie Mai, Barbara Hatfield, Lydia Y. Green, Khristan K. Strubhar, and Jack McCurdy II.*



## Temple Bar Scholarships® Applications Now Being Accepted

**E**ach year through the Temple Bar Scholarships®, outstanding young U.S. lawyers are selected by the American Inns of Court to participate in a month-long scholarship designed to introduce young lawyers to the English legal system.

**Interested applicants are encouraged to submit a resumé and short personal statement no later than April 30, 2022,** with selections being announced by May 30. The scholarship runs October 2–28, 2022.

For more information and an application, please visit [www.innsofcourt.org/TempleBarScholarships](http://www.innsofcourt.org/TempleBarScholarships).

You may also contact Cindy Dennis at [cdennis@innsofcourt.org](mailto:cdennis@innsofcourt.org) or (571) 319-4703.



## Temple Bar Scholars for 2020 and 2021 introduced to 'Legal London'

**T**he 2020 Temple Bar Scholars Jodie C. Liu, Joseph O. Masterman, Dahlia Mignouna, and Anagha Sundararajan and 2021 Temple Bar Scholars Jack Boeglin, Trevor W. Ezell, Sarah Grant, and David S. Louk began a month-long scholarship in London, England, on October 4.

During their first week, the scholars toured three of the four English Inns of Court, met with the Inns' leadership, and had lunch in the dining halls. The scholars met with several legal dignitaries, including the President of the Supreme Court of the United Kingdom, The Rt. Hon. The Lord Reed of Allermuir; and The Rt. Hon. The Lord Chief Justice of England and Wales, The Rt. Hon. The Lord Burnett of Maldon.

The scholars met with officers of the Commercial Bar Association, General Council of the Bar of England and Wales, the Law Society of England and Wales, and the National Pro Bono Centre. Other activities during their first week included a visit to the Central Criminal Court of England and Wales, also known as the Old Bailey; the Royal Courts of Justice; the Supreme Court of the United Kingdom; and the Houses of Parliament.

The scholars remained in London through October 29, spending two weeks in "mini pupillage" in



*At the Rolls Building in London, from left to right, are Jodie C. Liu, Esq.; Anagha Sundararajan, Esq.; Sarah Grant, Esq.; Jack Boeglin, Esq.; Judge Kent A. Jordan, president, American Inns of Court; David S. Louk, Esq.; Trevor W. Ezell, Esq.; Dahlia Mignouna, Esq.; and Joseph O. Masterman, Esq.*

barristers' chambers. Their placement in chambers was arranged by the Commercial Bar Association. Most of the final week was spent at the Supreme Court of the United Kingdom shadowing the justices. The scholars also got a glimpse of the solicitor's side of the profession.

The Temple Bar Scholarship program is partially underwritten by Thomson Reuters and the Commercial Bar Association. ♦

## Nominations Sought for American Inns of Court Christensen, Powell, and O'Connor Awards

**E**ach year the American Inns of Court recognizes individuals whose lives—as well as their words and standards—reflect professionalism, ethics, civility, and excellence in the legal community. Please consider nominating someone for the following awards:

**The Lewis F. Powell Jr. Award for Professionalism and Ethics** recognizes exemplary service to the legal profession in the areas of professionalism, ethics, and civility.

**The A. Sherman Christensen Award** honors an American Inn of Court member who has provided distinguished, exceptional, and significant leadership to the American Inns of Court.

**The Sandra Day O'Connor Award for Professional Service** recognizes an Inn member in practice 10 or fewer years for excellence in public interest or pro bono activities.



**Nominations are due June 1, 2022**

Learn more at [www.innsofcourt.org/AwardsandScholarships](http://www.innsofcourt.org/AwardsandScholarships)







At the Rolls Building in London, from left to right, are Larissa Lee, Esq.; Anthony R. Franklyn, Esq.; Judge Kent A. Jordan, president, American Inns of Court; Kristen A. Lee, Esq.; and Matthew C. Zorn, Esq.

## Pegasus Scholars for 2020 and 2021 in London at Start of Legal Year

The 2020 Pegasus Scholars Kristen A. Lee and Matthew C. Zorn and 2021 Pegasus Scholars Anthony R. Franklyn and Larissa Lee began their six-week scholarship in London, England, on October 4, 2021. While in London the scholars met with several of Great Britain's legal dignitaries, including The President of the Supreme Court of the United Kingdom, The Rt. Hon. The Lord Reed of Allermuir; The Rt. Hon. The Lord Chief Justice of England and Wales, The Rt. Hon. The Lord Burnett of Maldon; The Rt. Hon. The Master of the Rolls, The Rt. Hon. Sir Geoffrey Vos; and The Chancellor of the High Court, The Rt. Hon. Sir Julian Flaux.

The scholars met with officers of the General Council of the Bar of England and Wales, the Law Society of England and Wales, and the National Pro Bono Centre. Other activities during their first week included a visit to the Central Criminal Court of England and Wales, also known as the Old Bailey; the Royal Courts of Justice; the Supreme Court of the United Kingdom; and the Houses of Parliament.

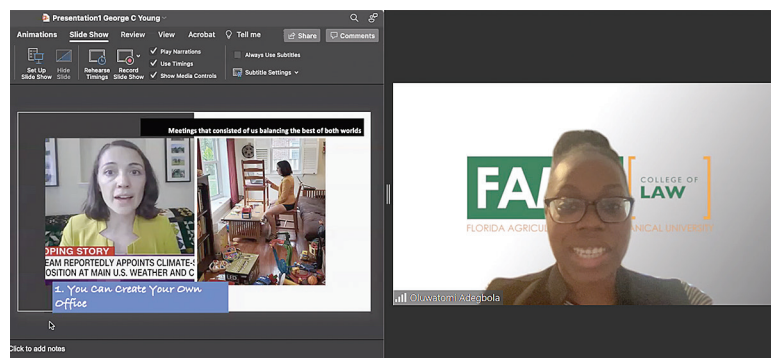
The scholars remained in London through November 12, where they spent a week at the Supreme Court of the United Kingdom, were placed in "mini pupillage" in barristers' chambers, and traveled to the Four Courts in Dublin, Ireland; International Criminal Court in the Hague; and Scotland and Northern Ireland to be introduced to other aspects of the United Kingdom legal system. ♦

## George C. Young American Inn of Court

The George C. Young American Inn of Court in Orlando, Florida, started its program year with what the Inn hopes to be its last virtual meeting. To commemorate that, several members' babies and grandchildren joined the meeting to say hello. Inn President Roger B. Handberg III, Esquire, welcomed everyone back and discussed the Inn's planned events, a swearing-in ceremony at the Supreme Court of the United States, and mentoring program.

The meeting began with an "Ethics and Professionalism Moment" featuring Lauren M. Ilvento, Esquire, who presented a recent disciplinary case involving failure to respond to discovery. Following the presentation, Judge Amy J. Carter led her committee's presentation, "Lessons Learned from COVID: Turning Lemons into Lemonade." David Haas, Esquire, discussed the issue from the solo and small-firm perspective. David Varet, Esquire, presented on the government attorney perspective.

Inn members discussed the pros and cons of lawyers embracing remote work and bringing employees back into office spaces as the pandemic subsides. Members also discussed the shifts in access to courts via remote practice, and judges offered their perspectives on the technological advances that will remain part of the practice. Oluwatomi "Tomi" Adegbola, a Pupil member, presented the law student perspective of the pandemic, which included humorous stories about technological mishaps during the pandemic—think the cat lawyer. She also led a discussion on the positives and negatives of how the technology has affected work-life balance. ♦



Oluwatomi "Tomi" Adegbola, right, a law student member of the Young Inn, presents humorous stories about technological mishaps during the pandemic.



## Bankruptcy Inn Alliance Distinguished Service Awards Presented

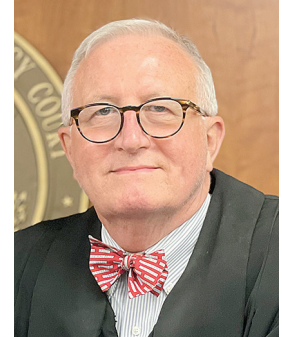
**T**he Bankruptcy Inn Alliance of the American Inns of Court was pleased to present its 2020 and 2021 Distinguished Service Awards following a one-year hiatus due to COVID-19. The awards were presented on October 8, 2021, during the National Conference of Bankruptcy Judges held in Indianapolis, Indiana.

The 2020 Distinguished Service Award was presented to Judge Judith K. Fitzgerald (Ret.), a shareholder in Tucker Arensberg in Pittsburgh, Pennsylvania, and a sought-after mediator and arbitrator of complex commercial matters. Fitzgerald served as a bankruptcy judge for more than 25 years before her retirement from the bench. She served on the U.S. Bankruptcy Court for the Western District of Pennsylvania, where she was chief judge for five years, and also served on the U.S. Bankruptcy Courts for the District of Delaware, the Eastern District of Pennsylvania, and the U.S. Virgin Islands. She is a fellow in the American College of Bankruptcy and former president of the National Conference of Bankruptcy Judges. Fitzgerald is a member of the Judith K. Fitzgerald Western Pennsylvania Bankruptcy American Inn of Court.

The 2021 Distinguished Service Award was presented to Chief Judge Harlin D. Hale. Since 2002,



*Judge Judith K. Fitzgerald (Ret.)*



*Chief Judge Harlin D. Hale*

Hale has been a judge on the U.S. Bankruptcy Court for the Northern District of Texas and has been chief judge since 2020. Hale was previously in private practice in Dallas, Texas, at Baker & McKenzie LLP and at McGuire, Craddock, Strother & Hale PC. He is a fellow of the American College of Bankruptcy and a member of the Honorable John C. Ford American Inn of Court in Dallas. He received the William L. Norton Jr. Judicial Excellence Award from the American Bankruptcy Institute in 2019.

A reception in honor of both judges was held following the presentation. ♦

### FREE PROGRAM IN A BOX:

## Trial Academy available to Inns

Created and offered jointly by the American Inns of Court and the American Board of Trial Advocates Foundation, the Trial Academy is designed to equip collaborating American Inns of Court and local ABOTA chapters to offer a hands-on trial skills program for new attorneys.

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All of the necessary materials are available for “purchase” at no charge and can be downloaded for Inns to present a premier trial skills educational experience for members.

**LEARN MORE:** [home.innsofcourt.org/TrialAcademy](https://home.innsofcourt.org/TrialAcademy)





## Resources for Judicial Ethics Research

**T**his short ethics column will provide a few resources for those who might have occasion to engage in research on judicial ethics. Over the past 24 years or so that I have written this ethics column, I have focused on those who sit in front of the judicial bench. In July 2012, my ethics column on these pages was titled “Resources for Legal Ethics Research.” Only a few of these columns have focused on the judicial side of the bench. *See, e.g.*, “What Is the Remedy for Appellate Judicial Bias,” *The Bench* (Sep/Oct 2020); “Status as Facebook Friend Not Per Se Basis to Disqualify Judge,” *The Bench* (May/Jun 2019); “ABA Issues Opinion on Judge’s Use of Internet for Factual Research,” *The Bench* (May/Jun 2018); and “Professionalism and Judges,” *The Bench* (Jul/Aug 2015).

Judicial ethics does not enjoy the same volume of learned commentary in the way legal ethics focusing on lawyers does, although a little more than a year ago there was much written in trade publications and the mainstream press about a decision by the Judicial Conference, a policy-making arm of the federal judiciary, which abandoned a proposal to prohibit federal judges from membership in certain groups of lawyers such as the Federalist Society or the American Constitution Society. *See* “Judges Not Barred from Federalist Society, ACS Membership,” Madison Alder, *Bloomberg Law* (July 30, 2020). *See generally* Rules of the Judicial Council of the United States Court of Appeals for the Third Circuit Governing Complaints of Judicial Misconduct or Disability. Of course, in the realm of federal judges, ultimately the United States Congress has the supreme authority to the extent that it has the power to impeach federal judges in extreme cases.

On a state level, each state has its own system for regulating judges. The National Center for State Courts hosts a Center for Judicial Ethics, which has a website that lists the entity in each state that provides advisory opinions to state judges. The Center for Judicial Ethics also sponsors a blog that provides updates on developments regarding judicial ethics.

In Delaware, for example, there is a Court on the Judiciary that reviews complaints against judges. There is also a separate Delaware Judicial Ethics Advisory Committee that allows judges to seek advice prospectively regarding whether certain behavior is consistent with the Code of Judicial

Conduct. This is akin to the Professional Ethics Committee of the Delaware State Bar Association, which also provides a similar service to lawyers.

The website for the Delaware Court on the Judiciary provides sanitized summaries of selected decisions that offer insights into the types of issues that it decides. The website of the Delaware Judicial Ethics Advisory Committee also publishes decisions—with names redacted—that are also a useful source for interpretations of the Delaware Judges’ Code of Conduct. *See generally* Delaware Judicial Ethics Advisory Committee Rule 4(b) (only allows the committee to issue opinions that address contemplated or proposed future conduct).

Some of the decisions of the Delaware Judicial Ethics Advisory Committee are available on Westlaw. *See, e.g.*, Del. Jud. Ethics Adv. Comm., Op. 1998-3, 1998 WL 35398038 (Feb. 18, 1998) (Deciding that a judicial officer was able to participate in a band that also raised money for charitable activities, as the judicial officer was not personally soliciting funds). The Delaware Judicial Ethics Advisory Committee also issues opinions on whether prospective conduct complies with the Delaware Code of Conduct for Law Clerks.

Another example of a decision by the Delaware Judicial Ethics Advisory Committee involved whether a judge was required to disqualify himself after recently learning that the father of a prospective witness was a painting subcontractor completing painting work on the judge’s home. *See* Del. Jud. Ethics Adv. Comm., No. JEAC 1997-4 (October 20, 1997). The committee’s decisions include citations to treatises such as Jeffrey M. Shaman, et al., *Judicial Conduct and Ethics*; and Richard E. Flamm, *Judicial Disqualification*, as well as court decisions and committee opinions from Delaware and other states.

Other treatises on the topic include Keith Swisher, *Judicial Ethics* (2016) and Joel Fishman, *Judicial Ethics and Discipline: A Legal Research Guide* (2020). Among the law schools that have online resources on legal ethics, and by extension judicial ethics, are Cornell Law School’s Legal Information Institute and Georgetown Law Library’s *Legal Ethics and Legal Profession Research Guide*. They both compile links

*Continued on the next page.*

to a wealth of resources, at least some of which are relevant to this topic. *See generally American Bar Association (ABA)/Bloomberg Law Lawyers' Manual on Professional Conduct.* Naturally, links to Westlaw and LEXIS are provided as well.

The ABA maintains a website titled Judicial Codes and Rules, which compiles multiple online resources about judicial ethics. Law review articles should also be considered. The United Nations publishes materials on the topic, though its focus seems to be primarily directed toward promoting

an independent judiciary in countries where that is a foreign concept.

Although I expect that most readers will rarely have the need to do research on judicial conduct, it should be useful to have a compilation of resources that is not otherwise readily available. ♦

*Francis G.X. Pileggi, Esquire, is the managing partner of the Delaware office of Lewis Brisbois Bisgaard & Smith, LLP. His email address is Francis.Pileggi@LewisBrisbois.com. He comments on key corporate and commercial decisions and legal ethics topics at [www.delawarelitigation.com](http://www.delawarelitigation.com).*



YOU ARE INVITED TO

# Write for The Bencher

## The Bencher

*The Bencher*® is the flagship publication of the American Inns of Court. Each issue features articles written to a central theme such as legal ethics, professionalism, civility, or mentoring. Authors are invited to submit original feature-length articles on the topics of professionalism, legal ethics, civility, mentoring, and other subjects that advance the cause of excellence in the practice of law.



## UPCOMING THEMES AND DEADLINES:

*May/June 2022*

**Theme: Outreach and Pro Bono Projects**

**Deadline: February 1, 2022**

Many Inns throughout the country participate in outreach and pro bono service projects. Tell us about the projects with which your Inn has been involved. Who were the beneficiaries of the project and how were they positively impacted? How did your Inn members contribute and how did Inn members and the Inn benefit from their volunteerism? How do outreach and pro bono projects tie into the mission of the American Inns of Court?

*July/August 2022*

**Theme: Reentry Programs**

**Deadline: April 1, 2022**

Many courts have reentry programs such as Drug Court and Veterans Court. The purpose of these courts, and other similar courts, is to

decrease incarceration and encourage citizens to become productive again. Tell us about the courts in your jurisdiction, what they do, and how they benefit society. Are you a judge, an attorney, or administrator in one of these courts? If so, please share your experiences.

*September/October 2022*

**Theme: Elder Law**

**Deadline: June 1, 2022**

Do you work in elder law? If so, please share your experience as a judge or an attorney working in this interesting area of law. What are the basics that individuals who do not usually practice in this area need to know? What are the issues that frequently come up and what are the important cases? Please share your knowledge with us, including any ethical issues that arise in the practice of elder law.

For more information, please visit [www.innsofcourt.org/Bencher](http://www.innsofcourt.org/Bencher).



## Cheerleading and Change: A Simple Framework to Effective Mentoring

**I** want to mentor others." Skilled mid-career and senior professionals often say those five words when interviewing for a job with our company.

Like most organizations, our LegalSifter team looks for people with our core values. Our employees have a sense of leadership at their center, often expressed as a desire to mentor others. Abraham Maslow's hierarchy of needs would place the motivation to help others somewhere above food, shelter, and safety, but below the needs for beautiful experiences and the realization of one's full potential.

### Mentoring brings two concepts to mind:

**Cheerleading:** When a mentee moves in a positive direction, great mentors encourage the mentee genuinely and frequently. The best mentors recognize their role in acknowledging their mentees' career or personal progress and are great listeners. When delivered appropriately, praise from the mentor emboldens the mentee to move forward.

**Change:** A mentor must supply consistent and relevant assessments and guide the mentee away from foreseeable hazards. Successful mentors have had mentees thank them for helping them move to a better path, often due to a single conversation. John Kotter's eight-step process for driving change is helpful when playing the role of a mentor (see [www.kotterinc.com/8-steps-process-for-leading-change](http://www.kotterinc.com/8-steps-process-for-leading-change)). Mentors are often positioned to create a sense of urgency (step 1), be part of a guiding coalition (step 2), and help form a strategic vision and initiatives (step 3) with their mentee. Catalyzing change is the responsibility of all mentors.

Cheerleading and change are the foundation of a good mentoring relationship. They are simple concepts to understand, but challenging to do well. Practicing cheerleading regularly and reading the works of Kotter will help. ♦

—Kevin L. Miller is CEO of LegalSifter Inc.

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# Questions to Ask Yourself Before Agreeing to Be a Mentee or a Mentor

By Judge David W. Lannetti and Jennifer L. Eaton, Esquire

**T**he potential value and benefits of a mentor-mentee relationship are well established. Even so, the nature of these relationships vary for many reasons. Some resemble apprenticeships, while others are more akin to pen pals, with infinite other possibilities in between. Regardless of the type of mentorship relationship you are looking to create, both parties will benefit from some simple planning at the outset. This advance planning provides the opportunity to think about the goals, time commitment, and overall effort that make the most sense for the mentorship endeavor. Further, the success of the relationship depends on a common understanding of each person's perspective.

From the viewpoint of both mentee and mentor, the answers to a few key questions at the outset of the relationship can properly set the foundation for the mentorship dynamic. First, what do I want to get out of the mentorship relationship? And second, how will I be able to measure whether the mentorship relationship is successful? These first

two questions present the perfect opportunity for each party to visualize the beginning, middle, and possible culmination of the mentorship endeavor even before it begins.

As is the case with any goal-setting process, these questions also require significant reflection to assess your current situation and visualize where you can



realistically end up. This will enable you to focus on your own personal expectations, which you can then share with your mentor/mentee counterpart. And each party needs to define success, whether it is a measurable step toward a tangible goal, or the accomplishment of a joint project, or simply satisfaction or fellowship. Third, in what form and how often do I plan to connect with my mentor/mentee? Establishing a schedule and communication routine can serve as a friendly reminder to connect while keeping each other accountable.

From the perspective of the mentee, the process of picking a mentor can be challenging and perhaps intimidating, but keeping a good mentor and making the most out of a mentorship relationship can prove even more challenging. To this point, it is important to understand your individual professional goals before approaching a potential mentor, as most mentees are looking for a mentor who represents, at least in part, who they want to become. A career path is a natural compass for the mentorship relationship. Once you define your anticipated career path and professional goals, you should be able to better understand how your mentor can help you traverse the trail. Of course, you may be seeking a mentor because you are unsure how to get from point A to point B; if that is the case, make sure you enter the relationship with appropriate questions to ask your mentor as you explore the possibilities. If you are uncertain about your desired career path, be sure to disclose to your mentor your uncertainty, as well as which potential paths you are considering.

From the perspective of the mentor, a key consideration is how to make the mentorship effort a productive use of time. We all have a finite amount of time to do work, spend time with friends and family, and engage in other activities we enjoy. Evaluating how mentoring fits into your commitments is an important pre-mentorship consideration. If you don't have the required time to devote to a particular mentorship relationship, don't take it on right now. Understand your constraints and the expectations of your mentee. Additionally, you need to evaluate whether you have the necessary skills that your mentee needs to support his or her professional goals. To provide the proper professional guidance to your mentee, you need to be able to visualize the necessary stepping stones—often invisible to your mentee—that will enable him or her to attain his or her goals. Mentee needs also vary; some mentees are looking for cheerleaders, others for sounding boards, and others for expertise and guidance. Listen to your

As is the case with any goal-setting process, these questions also require significant reflection to assess your current situation and visualize where you can realistically end up.

potential mentee and decide if you have the appropriate skills to help. And if you decide that you do, jump in and enjoy the experience.

In summary, there are several questions that both mentees and mentors should ask themselves in anticipation of starting a mentorship relationship:

- What am I looking to get out of the mentorship relationship?
- How will I measure success within the mentorship relationship?
- In what form and how often do I want to connect with a mentor?

A mentee should also consider two additional questions before seeking a mentor:

- What are my professional goals?
- How can a mentor help me reach my goals?

And a mentor should consider two different questions before agreeing to take on a mentee:

- Do I have adequate time to be the mentor that this mentee needs?
- How can I help a mentee reach his or her professional goals?

All in all, mentorship relationships should be productive and enjoyable for all parties involved. They can be incredibly rewarding, assisting mentees to successfully traverse the trails of the legal profession while affording mentors the opportunity to give back to those who want to follow in their footsteps while enjoying the success of others. Take time to think about the mentorship in advance and then make time to get the most out of your experience. ♦

*Judge David W. Lannetti is a circuit court judge in Norfolk, Virginia (Virginia's 4th Judicial Circuit). Jennifer L. Eaton, Esquire, is a civil litigator who is currently taking a leave of absence from private practice to serve as a judicial law clerk on the newly expanded Court of Appeals of Virginia. Lannetti is a past president, and both he and Eaton are current Executive Committee members of the James Kent American Inn of Court in Norfolk. The views advanced in this article are those of the authors alone and should not be mistaken for the official views of the Norfolk Circuit Court or the Court of Appeals of Virginia.*





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# Are You My Mentor?

## A Reflection on 20 Years of Participation in the American Inns of Court

By Elizabeth S. Fenton, Esquire

**A**lmost 20 years ago, I published an article in this very publication about how lawyers new to the practice could, and should, mentor their more experienced counterparts. A third-year associate in a Philadelphia, Pennsylvania, litigation boutique at the time and a new member of the Temple American Inn of Court, I wrote about ways in which junior lawyers like me could help senior lawyers in their practices. Mentoring did not need to be a one-way street. In fact, the most rewarding mentoring relationships involved sharing of ideas, networks, and advice. I still believe that.

Since then, I worked as an associate and non-equity partner at a large international law firm, then as a shareholder in a mid-sized firm, and now as an equity partner in an Am Law 200 national law firm, Saul Ewing Arnstein & Lehr LLP. In these roles, I participated in formal mentoring programs as both a mentor and mentee, served as a member of recruiting committees, and designed and implemented associate evaluation/career development programs.

Here are a few of the lessons I've learned about mentoring in those two decades and why I attribute having great mentors—of many types—as key to whatever success and satisfaction I've found as an attorney in private practice. Now, as a member of the mentoring committee of the Richard S. Rodney American Inn of Court in Wilmington, Delaware, I work to apply some of these lessons to our Inn's mentoring efforts.

### **Formal mentoring programs aren't the only option.**

Many legal employers, bar associations, and law schools have formal mentoring programs in which mentors are matched with mentees. For first-generation lawyers, members of groups that have historically been underrepresented in the profession, and new lawyers, these programs are vital. As a first-generation lawyer and a woman, I benefited greatly from having formal, assigned mentors in my early years of practice. However, there are limits to how well some of these formal mentoring programs succeed in their mission. First, the expectations for mentors and mentees often are not articulated or, if they are, they are too general. Second, the mentor and mentee may not be well-matched, and therefore the relationship is not rewarding for either member. Accordingly, while there will always be a place for formal programs, they should not be the only model.

### **Your mentor does not need to look like you.**

When I was a young lawyer (and I was a very young lawyer once—I graduated from law school at age 24), I mistakenly assumed that my mentors would need to “look like me.” Mostly, that meant they would need to be women. And as I matured as a person and a lawyer, I wanted to know more women litigators who were also parents. What I learned is that to succeed as a lawyer you should not limit yourself to developing relationships with lawyers who look like you. As a corollary to that notion, I also learned that I needed to look to all kinds of lawyers (and people) to figure out what would work best for me in my career.

Some of my mentors have modeled the way for me in my personal life, as a parent, spouse, and daughter. Some have modeled the way for me in showing me where I wanted to focus my practice. (And some of those were the same ones who encouraged me to take the Delaware bar 12 years after graduating from law school, as a parent of two children, and a partner in a law firm, so that I could transition my practice from products liability and financial services litigation to corporate litigation.) Some have modeled the way for me in how to develop a practice and a professional reputation. There was not only one mentor from whom I learned. In other words, establish a personal board of directors assembled of people you admire.

### **Your best mentors may not have a JD.**

Some of the people who have contributed the most to my development as a lawyer were not lawyers. I worked hard to have great relationships with the legal assistants, secretaries, paralegals, receptionists, and what many often refer to as “staff” in the law firm world. As a new lawyer, I relied on the advice

Some of my mentors have modeled the way for me in my personal life, as a parent, spouse, and daughter. ... Some have modeled the way for me in how to develop a practice and a professional reputation. There was not only one mentor from whom I learned.

and suggestions of staff to fill me in on the preferences of the partners for whom I worked, to keep me from making rookie mistakes, and to put things in perspective on the hard days. One of the secretaries who taught me the most—by example as much as anything—recently retired. She posted about her retirement on social media, and I commented, “Generations of lawyers have been molded by your smarts, good sense, and compassion.” I meant it.

### **Sponsors are important, too.**

At a certain point in my career (when I was aiming to become a partner), I realized the importance of sponsorship, as opposed to mentorship. A sponsor is, in my view, sort of like an uber-mentor. A sponsor will advocate for you and spend political capital on you. To advance in most employment settings, you must have a sponsor. A sponsor is someone who wants to help you and who probably has concrete reasons to help you (such as your work is valuable to a key client, you have specialized knowledge valuable to the sponsor's practice, or you have a key client relationship that the sponsor wants to keep in the firm). A sponsor is not someone assigned to help you. Don't assume that someone will act as your sponsor; sometimes you have to ask for sponsorship, and sometimes you even have to put it very plainly as to why their sponsorship of you is in both of your interests.

### **Keep in touch. Or don't.**

It's okay to move on from a mentor-mentee relationship that is not working. This goes both ways. As a mentee, I found it obvious when a mentor and I did not click or when we reached the natural end of what we accomplished together. I will always think fondly of the mentors who have helped me along the way, but with whom I have lost touch.

Likewise, as a mentor, I used to get frustrated (and take it far too personally) when I perceived that a mentee did not take my advice (or, in one

*Continued on the next page.*

memorable case, did the exact opposite of what I suggested). It's okay to transition away from a mentoring relationship that is not working. Unless it is a formal assignment, where you have to take some kind of concrete action, you can usually just let it go.

### Technology: friend or enemy?

The ease of communication in this day and age makes maintaining the mentoring relationship easier than ever in certain ways. In addition, it enables you to have access to a network of mentors across the globe. That said, there is value in sitting across the table from your mentor or mentee. I look forward to the day, hopefully soon, when we can resume those kinds of meetings and bump elbows, shake hands, give each other hugs, or even be socially distant so we can continue to grow professionally and personally.

### The American Inns of Court Movement is a leader and innovator in mentoring.

If you're a reader of *The Bench*, I probably don't need to say this, but I will anyway. Since 1997, I've been a member of three different American Inns of

Court (the University of Pennsylvania Law School, Temple, and Richard S. Rodney). We organically mentor each other all the time in our small groups, which are comprised of law students, associates, counsel, partners, and judges. Working together in these small groups, we share ideas, correct each other's mistakes, model professionalism, and encourage each other in myriad ways.

In our regular meetings and our joint meetings with other Inns, we grow our networks, learn, and practice leadership. We should be proud of this aspect of our mission and own the unique way in which the movement improves the profession. As many Inns, including my own, begin to adopt more formal mentoring programs, we should build on this success and use the lessons we have learned to adapt to the many changes and challenges our profession faces as we navigate our way into a post-pandemic future. ♦

*Elizabeth S. Fenton, Esquire, is a partner in Saul, Ewing, Arnstein & Lehr in Wilmington, Delaware. She is a member of the Richard S. Rodney American Inn of Court.*

## James C. Adkins Jr. American Inn of Court and Gerald T. Bennett Cooperative Learning American Inn of Court

Gainesville, Florida's James C. Adkins Jr. American Inn of Court and the Gerald T. Bennett Cooperative Learning American Inn of Court, along with the Eighth Judicial Circuit Bar Association, have collaborated for six years in the annual Amaze-Inn Race. The Amaze-Inn Race is a legal-themed scavenger hunt in which judges, magistrates, lawyers, and law students are placed into teams to participate in activities challenging the body, mind, and taste buds throughout downtown Gainesville.

Participants must solve clues to determine the locations of various challenges. The challenges are judged by volunteers in the legal community. Past challenges included taking an immigration quiz, completing crossword puzzles, assembling puzzles, eating exotic foods, playing pool, scoring points on a pinball machine, timed workouts, and singing on stage. There are challenges for every skill level and ability. The teams work together in a cooperative spirit and then share a meal once all teams complete the challenges. Costumes are encouraged! Connections are made, and

long-term relationships are fostered. While the event has been suspended due to COVID-19, the groups look forward to returning to the event in the future.



*Amaze-Inn Race participants compete together on the "Let Justice Roll" team. In the photo, from left to right, are Tatiana Raevsky, Bennett Inn; Jennifer Cates Lester, Esq., Bennett Inn; Ryan L. Gilbert, Esq., Bennett Inn; Judge Meshon T. Rawls, Adkins Inn; and Caitlin Burke, Esq.*



# The **2022** Warren E. Burger Prize



**T**he American Inns of Court Warren E. Burger Prize is a writing competition designed to promote scholarship in the areas of professionalism, ethics, civility, and excellence.

You are invited to submit an original, unpublished essay of 10,000–20,000 words on a topic of your choice addressing the issues of excellence in legal skills, civility, ethics, and professionalism.

The author of the winning essay will receive a cash prize of \$5,000, and the essay will be published in the *South Carolina Law Review*. The 2022 Warren E. Burger Prize will be presented during the annual American Inns of Court Celebration of Excellence at the Supreme Court of the United States in Washington, DC, in October 2022.

**Submissions are due July 1, 2022.**



[www.innsofcourt.org/burgerprize](http://www.innsofcourt.org/burgerprize)





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# You Are Always Mentoring

By Raymond T. (Tom) Elligett Jr., Esquire  
and Amy S. Farrior, Esquire

**Y**ou are always mentoring—whether you appreciate it or not. New lawyers learn from how they see other lawyers act. As has been said, it is easier to instruct someone how to be virtuous than to be virtuous.

The 2001 film *Training Day* follows Jake Hoyt, played by Ethan Hawke, on his first day as a narcotics officer assigned to the experienced Alonzo Harris, played by Denzel Washington. Their initial encounter begins with Harris explaining what he expects from Hoyt, who sees much more of Harris' approach as the day goes on. In time, it becomes clear Harris does not just push the limits of permissible policing, he far exceeds them. Washington's performance as a bad trainer was so good that he won the Academy Award.

Some law firms have formal mentoring programs. In others, training may be less formal: an associate gets a marked-up draft pleading back from a partner or a brief comment. But as in *Training Day*, the quality of the mentoring will vary from firm to firm, lawyer to lawyer. That is one reason having a mentor outside the new lawyer's employment can provide benefits, including a different viewpoint.

Mentoring efforts vary by locale. With over 1,000 new lawyers a year in the state, the Florida Bar does not try to pair each new member with a mentor. The

Bar sponsors a "Lawyers Advising Lawyers" program where members can seek advice from volunteer attorney advisers. This, and other programs, are on the Bar's website at [www.floridabar.org/prof/pmentor](http://www.floridabar.org/prof/pmentor).

Many smaller voluntary bars and local bar groups provide more personal options. The American Inns of Court has long advocated mentoring within local Inns. The American Inns of Court website provides extensive mentoring materials at [www.innsofcourt.org/mentoring](http://www.innsofcourt.org/mentoring).

As the website reveals, there are many forms of mentoring besides one-on-one pairings. These include informal settings such as the Inn meetings and pupillage program preparation sessions. Having the variety of input from several more experienced lawyers can avoid the *Training Day* experience (not that there should be any Denzel-like characters in Inns).

As with many aspects of law, the pandemic affected mentoring. Many Inns and people did not meet in

person. One more Zoom-like encounter may not have been viewed as that rewarding. Hopefully, by the time this article appears, the situation will have improved.

We have each had Inn mentees over the years (although not during the pandemic hiatus). Beyond a lunch with just a single pairing, we have found having two pairs of mentors-mentees visit can provide for a more varied and natural interaction. We have tried this with other lawyers in our Inns and together for a cross-Inn experience.

Of course, the cross-Inn mentoring experience can also work on a larger scale. Mentoring groups from multiple Inns can meet for a mentoring “mixer” after work. In our experience, casual settings are far more conducive to forming lasting mentoring relationships than formal (dare we say coerced) ones.

As the Inn mentoring outline observes, mentoring can and should go beyond simply substantive expertise or technical skills. Mentoring is an opportunity to discuss ethical and professionalism issues. For example, how does the lawyer balance a client’s desire to promptly resolve the case with an opposing counsel’s requests for extensions?

The Inn mentoring guidelines suggest how to set up the mentor experience. One facet is selecting mentoring topics in advance. That can be useful to provide a format, but we have been flexible in allowing the discussion to go to areas of interest to the mentees.

Another suggestion is to attempt to pair mentees and mentors who have common practice areas or interests. And while this may sound uncomfortably like online dating sites, the premise that people with common interests are more compatible than people who have nothing in common may apply equally well to forming mentoring relationships.

Indeed, some groups have taken the mentoring/dating analogy to an even higher level: speed

mentoring! In this experiment, prospective mentors and mentees meet for a few minutes before moving on to someone else. The obvious goal is to find someone with whom each could create a successful and enduring mentoring relationship. If the right relationship is created, mentoring should naturally follow.

But mentoring happens in group settings as well. While Inn presentations and pupillage groups no doubt provide loads of mentoring opportunities, younger lawyers may still need more basic information and training. Occasional presentations, perhaps before the regular Inn meetings, aimed exclusively at newer lawyers, on topics such as legal writing, time keeping, and marketing afford these Inn members additional opportunities to learn from experienced lawyers, as well as time to get to know and learn from each other.

The bottom line is that mentoring newer lawyers in an array of settings will give these lawyers the best opportunity to learn in ways that work best for them. Just as children learn how to act from their parents, teachers, and others they encounter, lawyers learn from each other. Planning and the right pairings can make the difference between a good mentoring experience and a *Training Day* one. ♦

*Raymond T. (Tom) Elligett Jr., Esquire, is a partner in Buell Elligett in Tampa, Florida. He is a member and past president of the J. Clifford Cheatwood American Inn of Court and serves on the American Inns of Court Editorial Board for The Benchers. Amy S. Farrior, Esquire, is a shareholder in Buell & Elligett PA. She is a member and past president of the C.H.Ferguson-M.E. White American Inn of Court in Tampa.*

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**Do I Really Need a Mentor?  
(Does the Sun Rise in the East?)**

*By Justice Douglas S. Lang, (Ret.)*

## Youth Community Outreach Program-in-a-Box

The American Inns of Court has a suite of program materials to help your Inn extend the mission of the American Inns of Court in your local community. Created by a task force of Inn leaders from around the country, the Youth Community Outreach Project contains presentation materials, handouts, and detailed guidance for how your Inn can help educate high school students about their legal rights and responsibilities as young adults.



**Download the materials for free:  
[www.innsofcourt.org/YouthOutreach](http://www.innsofcourt.org/YouthOutreach)**





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# Mentoring During and After the COVID Era

By Leslie A.T. Haley, Esquire

**M**entoring is an age-old cornerstone of entry into the practice of law. Mentoring started in medieval times in England, and while the four English Inns of Court in London still use the same model, mentoring has taken on new dimensions in the United States. In particular, previous mentoring models are being challenged in new ways.

## **Mentoring—Formal or Informal?**

Enhancing a lawyer's competence to practice or advise on legal matters involves the use of many resources. Every area of the law is constantly changing, which brings competency challenges on an ongoing basis. Creating solid practice-based relationships enhances our ongoing competencies in all practice areas.

The recent emphasis on attorney mental, emotional, and physical well-being is particularly relevant these past two years as we have seen the effects of social isolation on so many. The practice of law, once only done within the formal script of a professional office space, has become more and more virtual and remote and therefore more isolating for lawyers and their clients.

Mentoring has been forced to adjust in ways we never anticipated. The ability to simply engage with another lawyer at the water cooler or a local bar meeting, in the courthouse, or over drinks at the end of a stressful day has all been compromised. The informal ability to share commonalities of your day and trade war stories as you seek advice or assistance has been compromised as well.

The true definition of mentoring has evolved; it is no longer just a formalized and structured program that has oversight and "rules" that define clear roles and responsibilities, although some framework may be helpful.

The pandemic lockdown has brought to light the importance of the more informal (or unidentified)

forms of mentoring that have gone on for decades within the practice of law. They have now become more and more important with the advent of remote working, virtual practices, virtual court hearings, and electronic communications. Creating formal or informal legal networks has become a foundation of the legal profession. Never have they been more important or more compromised than since the beginning of this pandemic. Yet, never has it been more important to recreate these dynamic relationship-building networks to support the advancement of the practice and the ethics of our lawyers.

Further, the engagement of lawyers in some type of network (even an online platform) not only enhances our legal skills but also supports our mental and emotional well-being, which is of such significant importance.

Yet for many, a clearly identified and structured mentoring program allows for clearly identified goals and measures of success that allow both parties to steer the mentorship in a mutually agreeable direction and ensures that both parties find value in the relationship. Allowing the relationship to evolve organically is important, but having a general agreement that outlines the goals of the mentorship will help you progress together.

### **Everyone Gains and Grows**

There are three kinds of mentors for lawyers: those who help you do your job better, those who help you advance your career, and those who set good examples and help you learn how to become a positive force in the profession and the community.

Finding a single mentor who can serve all three of those roles is rare. Still, a mentor who is knowledgeable about legal ethics may help mentees do their job better (for example, helping a new litigator understand the limits of which personnel of an entity may be contacted under the “represented person” rule (See RPC 4.2), which, one hopes, would help their career.

Moreover, a legal ethics mentor may help the mentee not only to do the right thing but also to avoid “traps for the unwary” that may ensnare those who rely only on their moral compass or who do not have the knowledge and experience to recognize the ethical risks and requirements of a particular situation.

Moreover, while many principles of legal ethics are based directly on morality, others are based on professionalism and practical experience. For examples, the requirement of candor toward a tribunal (See RPC 3.3) lines up fairly directly with basic moral notions, but the limitations

on commingling a lawyer’s and a client’s funds (See RPC 1.15) reflect practical experience and are designed to avert financial mistakes and the placing of temptation in our paths.

Good values alone are not a substitute for knowledge or experience, and a lawyer may learn not only from his or her own life, but also from the advice and the example set by a good mentor. Sometimes a moral compass is not enough, and it may even lead to snap judgments that are wrong.

Looking through the eyes of the mentor, the value of spending some time with a lawyer who is new to the law and younger in age can be not only rewarding but particularly insightful and helpful to those of us who have been around in the practice for several decades. We sometimes miss the “forest for the trees” just because some things become routine. In particular, having a younger and more inexperienced set of eyes look at an issue or pose a question pushes us into a new venue of not only exploration of the matter but also possibly a new excitement to a somewhat boring redundancy.

Further, there is simply no doubt that with the speed of changes in technology there is much to be shared by the next generation of legal practitioners. The technological advancements that they can bring to a conversation or a legal office are a new wave and makes it much easier to embrace when advanced by a colleague who has already tried and tested their value and security.

### **Two Great Examples**

I have been fortunate over the course of my legal career to be engaged in two vibrant and extremely successful mentoring programs. The first exists through my Lewis F. Powell Jr. American Inn of Court here in Richmond, Virginia, where we partner with law students from the University of Richmond School of Law. We pair our practicing bar members with outstanding law students who become engaged in the work and programs of the Inn and the camaraderie and interplay with members of the bar and the judiciary. They partake in our programs and socials and are encouraged by their mentors to visit law firms and court hearings and have the value of introductions into many practice areas of the law.

In addition, I am a member and past president of the Metropolitan Richmond Women’s Bar Association, which has supported a robust mentoring program for over 15 years, pairing members of the association with first-year women law students from the University of Richmond School of Law. This successful program involves many levels of

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mentoring, from considerations of practice specialization and appropriate internship opportunities, to the more basic discussions and support of life balance with family and children. I have found many of these relationships that started through the organization have existed for decades into practice and have been the foundation for more growth and development for both mentor and mentee. They have also formed the basis and continued growth stream for the bar association itself as we continue to embrace a young and vibrant leadership of women lawyers, many of whom have been groomed from within. These professional relationships often result in lifelong friendships as well.

### Let's Make This Intentional

In light of the impact of this pandemic on the culture of lawyers and therefore the reduction of opportunities for traditional mentoring, the Education of Lawyers Section of the Virginia State Bar, in partnership with the Senior Lawyers Conference, Diversity Conference, Young Lawyers Conference, and Family Law Section, sponsored a virtual continuing legal education program in

conjunction with the Virginia State Bar's annual meeting in June 2021.

The program was centered around this timely topic of mentoring, and a panel of judges, lawyers (both young and more mature in their practice years), and law professors discussed the topic of mentoring. I was honored to be the moderator of the panel and led a lively discussion about the mutual benefits mentoring serves for both the mentor and mentee, the value of having a defined mentoring program, the value of informal mentoring relationships, and the ethical pitfalls one needs to be wary of when engaged in some mentoring relationships.

I think it is vitally important to the professionalism and continued advancement of the legal profession that we continue to highlight mentoring opportunities. And I think it is particularly timely as we continue to advance lawyer well-being. We all know that relationship-building leads to healthy outcomes! ♦

*Leslie A.T. Haley, Esquire, is a partner at Park Haley LLP in Richmond, Virginia, where she advises lawyers and law firms on issues related to professional responsibility and legal malpractice issues. She is a member of the Lewis F. Powell Jr. American Inn of Court.*

## Robert W. Calvert American Inn of Court

As the oldest and largest Inn in Central Texas, the Robert W. Calvert American Inn of Court in Austin has a rich and varied set of mentoring programs. Below are just a few of the mentoring programs that the Calvert Inn sponsors.

### Lunch with a Judge

The Inn invites judges to host brown bag lunches at the courthouse, in their courtrooms, or in their jury room for small groups of associate members. The goal is to provide associate members the opportunity to get to know each other and our local judges in an intimate setting. Participants give rave reviews.

### Larry York Mentoring Luncheons

This is a joint program with local Inns of Court, sponsored by the Calvert Inn. The luncheon is named after Larry York, a member of the Calvert Inn who was well-known for encouraging younger lawyers to uphold the models of integrity and professionalism. Each lunch is organized around a table and features an engaging speaker tasked

with facilitating group discussion on a chosen topic or problem.

### Mentoring Minute—When Legends Speak

At the beginning of each meeting, a video clip featuring one of Calvert Inn's legal legends is played for the membership. The interview video clip is two to five minutes long and allows the membership to hear the perspective of the Inn's most experienced and respected members.

### Master's Studio

The Calvert Inn is launching a new mentoring program. Prior to the regularly scheduled meeting (in person or virtually), we will feature some of our attorneys by topic, such as practice area, or by office practice, such as solo or government. The goal is to provide a setting in which members with questions or similar areas of interest can connect with other experienced attorneys in a casual setting.





# How Can I Help? Mentoring Lunches Help Shape Careers

By Judge John H. Pietrzak

**A**my L. Putnam, Esquire, started her legal career in Lancaster County, Pennsylvania, in 1977 as one of only 12 or so women lawyers in the county. She found no real mentoring opportunities for young lawyers.

Many years later, Putnam read about the American Inns of Court movement and its focus on mentoring. She thought creating an Inn would benefit younger lawyers and help fill the mentoring void she had experienced. She reached out to several colleagues she thought may share a similar interest. Two responded. Together, they founded the James S. Bowman American Inn of Court in 1994 in Harrisburg, Pennsylvania.

Putnam has worn many hats in the Bowman Inn: founding member, Inn president, counselor. She has also served as nominating committee chair and membership committee chair and participated on two bylaws revision committees.

The Bowman Inn went through several iterations of mentoring in its early years, including assigning individual mentor/mentees and creating small practice-focused mentoring groups. Putnam started a monthly mentoring lunch group that included members of her pupillage group and other members she thought would benefit from the lunches. She included older and younger attorneys with the goal that the more experienced lawyers would develop relationships with the younger members. Over time, she included members who had “graduated” from the Inn and who had previously attended her mentoring lunches.

Putnam’s mentoring lunches were intentionally informal. Starting with the new Inn year each September, the group spent the fall just getting to know each other. They talked informally about where they worked and their practice areas. In this way, the lunch attendees were available to each other for questions and discussions and interacted in a more relaxed social setting.

Each January, Putnam would ask attendees if anyone had a question on a particular topic or for a particular member of the lunch group. Typically, the younger lawyers would ask her or another more experienced lawyer how they had gotten to where they were in their career.

Putnam has consistently followed this informal model for her monthly mentoring lunches for more than 20 years and has found that it continues to work. Over the years, attendees of the lunches have reached out to her and other lunch participants to talk one-on-one about various issues for which they needed advice. Several lunch participants who were interviewed for this article said they thought the informal style of the lunches helped them get to know other participants and helped promote discussions among the group in a way that was not possible during more formal Inn meetings.

Each of the three participants interviewed reported slightly different experiences and shared different benefits from their attendance at the mentoring lunches. One participant joined the Bowman Inn as a pupil in 2014 and is still an active member. Putnam invited him to the monthly lunches after he expressed an interest in mentoring. His goal in attending the lunches was to meet as many attorneys as he could on a personal level so that he could learn from them. He didn’t have family members who were attorneys from whom he could learn how to be an attorney. He watched how the group members acted and listened to them talk about themselves and their practices. He paid particular attention to how the members went about their business, what they did and thought, how they described their interactions with clients, how they developed their practices, and all the little things that went into making them professionals. He believes that these interactions helped him develop as an attorney early in his career.

Another lunch regular joined the Bowman Inn in 2012 and graduated out in 2016. He recalled that



Amy L. Putnam, Esquire

*Continued on the next page.*

when he moved to Harrisburg as a young attorney, he didn't know anyone and had no real professional connections. A friend suggested that he reach out to Putnam, which he did. He remembers that Putnam appreciated how hard it was for a young attorney to get started in a new city. After she sponsored his membership to the Bowman Inn, he attended her lunches as often as he could, rarely missing them. He continued to attend the lunches after graduating from the Inn, at Putnam's invitation. He developed a mentoring relationship with Putnam right away, which continues to this day. He also benefited from the advice and mentoring he received from other members of the lunches.

This lunch participant experienced some dissatisfaction with his area of practice and at times wondered whether the practice of law was the right path for him. He said that Putnam helped him understand himself better and helped him realize a direction for his interest, even though it has not yet resulted in a change of career path. Putnam put him in touch with people in another legal field to whom he would otherwise not have had access.

The third member of the monthly mentoring lunches interviewed for this article joined the Bowman Inn in 2008 and is still an active member. He started attending Putnam's lunches when he was a member of her pupillage group, and he considers her to be his mentor. As he has progressed into leadership roles in the Inn, he continued attending the lunches because he believes Putnam sees him as someone the younger members should get to know. His experience mirrors that of the other members interviewed. The lunches provided an intimate opportunity to meet other Inn members in a setting where he was comfortable asking questions. He also learned how other attorneys approached their craft.

He met an older attorney through the mentoring lunches that he also considers to be a mentor. He and this attorney have since served together as co-chairs on at least one Inn committee. He has met with this attorney and with Putnam outside the monthly mentoring lunches to seek their counsel about different job opportunities. He remembers one job specifically that both advised was not the right fit for him at the time. He took their advice and soon was able to accept another job offer that was a much better choice for him. He would not have been available for that job had he not heeded their advice. As perhaps the best compliment to Putnam and her monthly mentoring lunches, this lunch participant now has his own mentoring lunch group with several colleagues.

The lunch participants interviewed for this article did mention one other important benefit that they realized from their participation in these mentoring lunches. They have each faced other lunch attendees as opposing counsel in cases they have handled. Some of these cases were highly contested and involved issues of statewide significance in administrative law. All reported that they had a higher level of trust with each other due to their familiarity from the mentoring lunches. They felt that this level of comfort allowed them to proceed with the cases with less litigation and that their clients ultimately benefitted.

Some of the participants have also made connections through the mentoring lunches that helped guide them through challenging life situations that did not involve work or the practice of law. In that way, the lunches provided benefits beyond the immediate goal, but in ways that developed naturally and were no less beneficial.

One of Putnam's lunch participants said he believes that Putnam is a "connector," that she knows a lot of people and can connect people in need with those who can help them.

Putnam believes that if someone is open to being helped, he or she seeks out the mentor. She intentionally tries to put people in situations where they can get to know people who are willing to help. By doing this and being available when others needed her guidance, she has helped to mentor a generation of young Inn members and attorneys. They are returning the favor by putting the lessons they have learned into practice and by mentoring other young attorneys.

In Putnam's experience, more men than women are open to, and seek, mentoring. She is not sure why that is, but that has been her observation. During mentoring events with the Bowman Inn, she has encouraged women members to be open to, and to seek out, mentoring opportunities.

Putnam has not been able to hold her group mentoring lunches since the start of the COVID-19 pandemic, but she does continue to keep in touch with some of the attendees by other means or through individual lunches. ♦

*Judge John H. Pietrzak is an administrative law judge with the Office of Administrative Law Judge for the Pennsylvania Liquor Control Board. He has been a member of the James S. Bowman American Inn of Court since 2003, serving as Inn President from 2016 to 2018. He currently serves as the co-chair of the Inn's mentoring committee.*

# PROFILE IN PROFESSIONALISM

## Judge Matthew F. Kennelly

### 2021 Professionalism Award for the Seventh Circuit

By Rebecca A. Clay



Growing up in Indiana, Matthew F. Kennelly was a paper boy—a job that required him to get up when the papers landed in his driveway. “I started getting up at 4:30 in the morning when I was 14 and just never stopped,” Kennelly says. Now a judge on the U.S. District Court for the Northern District of Illinois, he attributes his success to that early training. When not sidelined by a shoulder injury as he is now, he typically gets up at 4:30, swims two miles, and is at his desk by 6:45. “I am an efficient person who gets stuff done,” he laughs. “I am a complete grind.”

As a child, Kennelly was also a “news junkie” who aspired to a career in politics. “Starting at age six or seven, I was reading the newspaper every day, watching what was then the only morning news—the *Today* show—and watching the nightly news,” he says. “In those days, back in the 1960s, a significant majority of people involved in politics were lawyers, and it seemed like a good way to get into politics.” But by the time Kennelly had earned an undergraduate degree in government from the University of Notre Dame in 1978, he had lost interest in politics but kept his interest in the law. He earned his law degree from Harvard Law School in 1981.

After law school, Kennelly served in private practice for a year, then clerked for Judge Prentice Marshall of the U.S. District Court for the Northern District of Illinois. He then worked in private practice again, representing both individuals and corporations in civil and criminal cases. In 1999, President Bill Clinton nominated him to join the U.S. District Court for the Northern District of Illinois.

As a judge, Kennelly “has conducted some of the most complex trials on the court’s docket and has ruled on literally thousands of motions,” says Circuit Judge Richard Linn of the U.S. Court of Appeals for the Federal District, who nominated Kennelly for the award. “He is universally considered to be one of the smartest judges on his court.”

One of Kennelly’s goals is to help ensure that the judiciary system is as efficient as he is. “One of the key things you can do as a judge is help other judges and the court system operate better,” Kennelly says.

One way he has helped achieve this goal was to help ensure that his district was one of the country’s first to establish special local rules for patent infringement cases. To ensure that the rules had the support of lawyers instead of simply being imposed by judges, the court assembled a committee of both judges and lawyers. “We tried to draft rules consistent with what lawyers were telling us was solid and sensible,” says Kennelly, whose committee meets periodically to update the rules.

Kennelly currently chairs the court’s Restart Task Force, which focuses on how to reopen the court system safely despite the pandemic. Finding ways to keep the court’s business moving has been a challenging but interesting task, Kennelly says. Take jury trials, for instance. “Jury trials now end up taking a lot of extra courtroom space,” he says. “You cannot put juries in the jury room, so a second courtroom serves as a jury room.” A third courtroom contains a video feed so the public can watch the trial. A fourth courtroom is where jury selection takes place.

Kennelly is also a member of the Seventh Circuit Criminal Jury Instruction Committee and the Seventh Circuit Civil Jury Instruction Committee.

“I...can only wonder at Judge Kennelly’s energy, as he seems to say yes to every request for service on court committees, yet still remains devoted to his case responsibilities,” says Judge Joan Humphrey Lefkowitz of the U.S. District Court for the Northern District of Illinois, who wrote in support of Kennelly’s nomination.

Kennelly has been a fellow of the American College of Trial Lawyers since 1999. He is also a founding member and former president of the Richard Linn American Inn of Court in Chicago, Illinois, and a longtime member of the Chicago American Inn of Court. “In my opinion, the Inns are the best and most important bar groups I have been involved in because they provide an unparalleled opportunity for lawyers and judges to get together and learn from each other, teach each other, and relate to each other rather than talking across a room,” he says. “It is a significant part of our legal community.” ♦



# TECHNOLOGY IN THE PRACTICE OF LAW

By Sharon D. Nelson, Esquire, and John W. Simek



*Sharon D. Nelson, Esquire, is a practicing attorney and the president of Sensei Enterprises, Inc. She is a past president of the Virginia State Bar, the Fairfax Bar Association, and the Fairfax Law Foundation. She is a co-author of 18 books published by the American Bar Association. She can be reached at [snelson@senseient.com](mailto:snelson@senseient.com).*

*John W. Simek is vice president of Sensei Enterprises, Inc. He is a certified information systems security professional, certified ethical hacker, and a nationally known expert in the area of digital forensics. He and Nelson provide legal technology, cybersecurity, and digital forensics services from their Fairfax, Virginia, firm. He can be reached at [jsimek@senseient.com](mailto:jsimek@senseient.com).*

## Ransomware: How to Defend Your Law Firm

**R**ansomware has been a constant curse for law firms, especially during the pandemic with lawyers working from home on networks three and a half times more vulnerable to attack. Law firms need to work on shoring up their defenses.

### Good News and Bad News from Coveware

Coveware is a ransomware incident response firm that issues eagerly awaited reports each quarter. What was the good news at the end of Q3 2021? The average ransomware payment remained at \$140,000.

Sadly, there was a cautionary admonition for law firms. Coveware says small and midsize professional services firms, especially law firms and financial services firms, appear most at risk from ransomware attacks because of their lack of cybersecurity preparedness, apparently because they think they're too small to be targeted.

That thinking has always been wrong, but it is more wrong now. Why? Because governments and law enforcement are cracking down on ransomware gangs. Those efforts have intensified since the Colonial Pipeline attack in spring 2021.

Coveware says, "We have seen statistical evidence and intelligence showing that ransomware actors are trying to avoid larger targets that may evoke a national political or law enforcement response. This shift from 'big game hunting' to 'mid game hunting' is personified in both the ransom amount statistics but also the victim size demographics from the quarter." In other words, ransomware gangs may avoid attacking the AmLaw 100, but not mid-sized firms that nonetheless hold very valuable data.

### Changing a Law Firm's Mindset

We were struck by this statement in the Altman Weil 2020 Law Firm Survey: "Most law firm partnerships don't want to change, aren't good at it, and by and large don't think it's necessary."

Often, small and mid-sized law firms do not consider cybersecurity with the appropriate gravity. They will generally take some steps toward protecting their data, but they rarely go far enough—and they often protest the time and money involved in securing their confidential data.

There is irony in that thinking because the firms often do not consider the time and money that will be spent on responding to a data breach. These days, most successful ransomware attacks do constitute a data

breach because the cybercriminals now routinely exfiltrate a law firm's data before encrypting its data.

Change management is often difficult in law firms, which seem perpetually resistant to change. The pandemic changed that to some extent, as video conferencing, accepting electronic payments, signing client engagement agreements electronically, etc. became routine.

### What Are the Fundamental Steps Law Firms Should Take to Secure Their Data?

There are critical steps that every law firm can take. The best first step is to make sure you are getting advice from a reputable cybersecurity company. You want the folks working on your security to have well-respected cybersecurity certifications.

#### Here are our most highly recommended security tips:

1. Enable two-factor authentication (2FA) anywhere you can. It will stop 99.9% of all account takeover attacks.
2. Make sure you have endpoint detection and response protection for all the devices connected to your network. This solution will monitor for behavior indicating malware or an attack.
3. Make sure you have multiple backups, test them often, and always have at least one backup not connected to your network so it can't be encrypted or destroyed.
4. Apply updates and patches promptly—if you are concerned about them "breaking" something, have a third party test them.
5. Control or disable network services. Don't use Remote Desktop Protocol.
6. Restrict privileged access and deploy a privileged access management solution.
7. Do cybersecurity awareness training for employees at least once a year—twice is better.
8. A great resource is CISA's one-stop shop website: [www.cisa.gov/stopransomware](http://www.cisa.gov/stopransomware).
9. Get a cyberinsurance policy, but be wary. Costs are escalating while coverage is lessening.
10. Develop a comprehensive Incident Response Plan to avoid panic and mistakes if you do suffer a ransomware attack. ♦

## Mentoring: The Key to Developing Professional and Ethical Attorneys and Ensuring Collegiality and Competence in the Practice of Law

### Program No.: P13764

Presented By: The James Kent American Inn of Court  
Presented On: October 26, 2016  
Materials: Articles, Handouts  
CLE: Approved (1.5hrs)

### Summary

Mentoring has been one of the pillars of the American Inns of Court mission since its inception. It has also been foundational throughout history, at least since the time of the ancient Greeks. The name itself harkens back to Mentor, the wise father figure, teacher, role model, and counselor described in The Odyssey. It was a fixture of Greek and Roman life and is still important to the personal development of youth, citizenry, athletes, and attorneys thousands of years later. In keeping with this long tradition, this program educated audience members on the goals of mentoring, practical suggestions for mentors and mentees, relevant mentoring as it relates to the American Bar Association's Rules of Professional Conduct, different relational scenarios, and the myriad benefits of mentoring, both for the mentee and the mentor.

### Roles

Introduction ..... Master of the Bench or Barrister  
Establishing Relationship ..... Pupil  
Mentoring in Law School ..... Master of the Bench  
Importance of Mentoring ..... Pupils  
Tales from the Trenches—Managing Partner ..... Master of the Bench  
Tales from the Trenches—Associate/Student ..... Pupil and Associate  
Terminating the Relationship Pupil and Barrister/Master of the Bench

### Agenda

Introduction & Welcome ..... 10 minutes  
Establishing Relationship ..... 20 minutes  
Mentoring in Law School ..... 20 minutes  
Tales from the Trenches ..... 25 minutes  
Terminating the Relationship/What Not to Do ..... 15 minutes  
Discussion and Closing Remarks ..... 15 minutes

### Recommended Physical Setup

Microphone, Podium

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# The Bencher

*The Bencher* is the flagship publication of the American Inns of Court and is published six times a year. The purpose of *The Bencher* is to provide a regular communication link among the national office, Inns, and members of the American Inns of Court. Contributions are welcome. Feature articles or news items must be submitted to the editor and will be reviewed for suitability and may be edited for content or to fit. *The Bencher* accepts paid advertising. The presence of advertising in no way implies that the American Inns of Court either has any relationship with the advertiser or endorses the product or service advertised, unless so indicated in the body of the advertisement or elsewhere. Please submit content to Rita Zimmerman, editor, at [rzimmerman@innsofcourt.org](mailto:rzimmerman@innsofcourt.org). Address changes should be made online at [www.innsofcourt.org](http://www.innsofcourt.org) or sent to Howard Hurey at [hhurey@innsofcourt.org](mailto:hhurey@innsofcourt.org).

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