

THOUGHTS ON MENTORING

By Robert G. Ward, Q.C.*

When I was told I was this year's Peter Hyndman Mentorship Award winner, I was, and still am, a little overwhelmed. I had three immediate thoughts. The first was that I was aware of the stature of past recipients, some of whom I know well, so it was a little intimidating to be part of that group. Secondly, I considered it an honour to have my name associated with that of Peter Hyndman, a man well known for his decency, civility, superior abilities and willingness to help others.

Thirdly, I thought "I am not really sure I know a lot about mentoring, so I am not sure what I can say about it or, particularly, why I deserve the award." I do know that I personally have had the benefit of some outstanding mentoring, but I looked on that simply as part of everyday practice, not as some separate specialty.

When I started to practise and for many years after, the idea of lawyers mentoring other lawyers was unknown, or at least unarticulated. When our firm adopted a mentoring program by matching up senior lawyers with less experienced lawyers, I thought it sounded like another one of those "progressive ideas" that the Law Society comes up with from time to time. And I vaguely wondered, what is expected of me in the program? Should I review the mentee's files? Should I query mentees about their experience and their issues? That did not seem appropriate, since my mentees were mature people who were qualified as lawyers. So I didn't change anything: life simply went on!

Sometime after the program was initiated and I had been named as a mentor and supposedly carrying out a mentor's duties, an associate pinned a star on my door that read "Bob is a great mentor."

The associate was not identified, but I had just assisted an associate with the presentation of a case in court, so I had my suspicions. In any event, it made me reflect on the issue: what is a mentor?

And this brings me to my first point, and I have only three. Mentoring, in my view, is not a separate specialty or skill set; it is, in my experience, at its best, simply a part of everyday practice.

* The Peter S. Hyndman Mentorship Award is awarded each year to a member of the bar who has achieved distinction as an outstanding mentor to younger lawyers. In November 2011 it was awarded to Mr. Ward after a fine dinner at the VBA annual general meeting at the Hotel Vancouver. These are Mr. Ward's remarks on that occasion.

And, whether or not I knew it at the time, I now know I was fortunate to have a great mentor.

I want to tell you a little bit about that mentoring.

As some of you may know, I was articled to a lawyer, now deceased, named Ron Bray, and I practised closely with him for a number of years. He had a profound impact on my practice, and while I am quite sure that he never thought of himself as a mentor, he was a tremendous source of wisdom and confidence building. He was a no-nonsense lawyer who expected people with whom he worked to perform to the level of their abilities. He taught by making his mentee an integral part of a team.

When you were in court with Ron, it was your duty to take half the case, at least; not always the best part—in fact, rarely the best part, but I do recall one mentoring lesson learned early and forcefully. We had assumed conduct of a case shortly before it went to trial, so our preparation was pretty rushed. The “trial plan” was largely restricted to taking turns in cross-examining witnesses, so we kept a list with our initials beside the witnesses. That worked pretty well for a couple of days, and then on the third day opposing counsel called what was no doubt his star witness. That witness was excellent and devastating to our case. It was the type of evidence that you sit there and think it really can’t get any worse than this, but the prospect of cross-examining the witness is intimidating.

When the witness had finished with his evidence in chief, Ron said: “Your turn to cross-examine.” I replied, “No way; it’s your turn.” Checking the list, Ron decided I was right and immediately jumped up (I thought to begin cross-examination) and applied for an adjournment. The trial judge thought that was an excellent idea, so we adjourned for the day. We settled that night. So I learned a valuable lesson from my mentor: that there is a time to settle.

More importantly, Ron knew the impact someone has when they believe in you. He knew, instinctively, that a mentee will thrive when a respected mentor believes in him; that what mentees do not need is someone who belittles them or embarrasses them in the dubious notion that it will motivate them.

Although I worked most closely with Ron Bray, I had many mentors, none of whom, I am sure, consider themselves my mentor. Jack Edwards, Brent Kenny and all the partners and associates in the firm: they were all my mentors because each of us learns from observing and absorbing the qualities of those around us. Our mentors are all around us. We need guidance in choosing positive mentors, and the mentors need guidance on how to mentor.

And this brings me to my second point: what can a mentor offer? I suggest the most valuable thing a mentor can do is provide knowledge that is not easily available in formal courses.

There are certain attributes that are difficult to acquire as young counsel and that senior counsel can help instill. Young counsel can be instructed while articling as to the essential requirements of practice; they may even learn something of them in law school. However, the essential attributes of honesty, integrity and civility to other counsel, together with a logical approach to the resolution of conflicts, are common to all great lawyers and are more the result of association with lawyers who you look up to than the result of any classroom training. Yet these are essential attributes, and it is incumbent on all of us to encourage others in the acquisition of these traits.

Many young lawyers suffer from self-doubt and have some apprehension about their abilities. The removal of self-doubt is vital and beneficial. Mentees need to know that they can take positions and offer advice both to clients and with the court; that they can do so without making fools of themselves and without fear of ridicule. Confidence is an essential element for lawyers, and it is something that we, as mentors, can impart; it cannot be learned from Quicklaw.

Having said that, I must say that not all young lawyers lack confidence. I will give you a prime example. I worked with a young associate who had a pro bono case that was decided favourably to our client in the first instance by an administrative tribunal, followed by an appeal to the Supreme Court, which was dismissed. The opposing party was a large corporation and retained senior counsel to take an appeal to the Court of Appeal. That caused us considerable discussion, following which we made a joint decision that since it was her case she should be counsel on appeal and I would sit as her junior counsel.

Having reviewed the factum and discussed it, my associate was bound and determined to make an argument before the court that was centred upon the sympathy the court should have for our impoverished clients, who were facing a wealthy corporation. I cautioned her that the argument was irrelevant; that the issue was whether the learned trial judge had applied the appropriate test in his ruling. I suggested, unsuccessfully, that the argument should be removed from the factum; I also strongly suggested that if it wasn't removed from the factum, she should at least skip over it in argument and proceed to the merits of the appeal. Undeterred, this was the first argument she made when she stood up and, predictably, one of the judges leaned over his desk and asked, "What on earth does that have to do with the appeal"? She rebounded adroitly from that pointed remark and went on to do a very good job and prevail in the appeal.

During our debriefing over hamburgers and beer, she said: "Don't say 'I told you so'." I said I wouldn't...but I did. The important lesson for her, I think, was an unspoken one; that making a mistake in court is not fatal.

Everyone makes mistakes, and one can still proceed with confidence and prevail if one's case is sound. You need not fear that a misstep is devastating or is something that should permanently crush your ego.

For me, the relationship with Ron Bray was the model of what a relationship between lawyers should be, and I suspect that is the essence of mentoring: the exchange of ideas, the sharing of stress, collegiality, confidence in each other and confidence-building. And confidence is key, in my view.

And that brings me to my third point: mentoring is not an act of self-sacrifice, it is not all about giving. It no doubt eats into your immediate billing, but it nevertheless is an activity that is as much selfish as it is selfless. Mentoring is a complementary relationship in which you not only provide guidance or advice, but you receive both of these back, and you receive much more. We have a lot to learn from younger lawyers: fresh ideas and new points we may never have considered. Your mentees will give back to you; they will enrich your practice and the enjoyment of your practice. Looked at from a mercenary perspective, they will refer cases to you after they have gone—trust me on this one.

I enjoy working with younger lawyers; it is one of the most gratifying parts of practice. It provides a fantastic opportunity to observe and assist in areas that are not easily learned from books. It provides the mentor with the opportunity to observe and absorb fresh perspectives and to enjoy the enthusiasm of newer lawyers.

One can expect to receive vicarious gratification by seeing a mentee succeed and come into his or her own. When opposing counsel is a former mentee who you recognize both as a friend and as an adversary to be reckoned with, it is just great. It gives one enormous pleasure to bask in the accomplishments of another who was a mentee and inevitably will become a replacement. I have faced and continue to face former mentees in litigation. It doesn't keep us from a social and close relationship outside court: my experience is that this simply reinforces the relationship.

Mentoring is not something that leaves us poorer; it enriches us and it needs to be assiduously promoted.

I have worked with a most wonderful group of lawyers; I have learned from all of them. The receipt of the Peter Hyndman Award is an added bonus; it is enormously complimentary. My true gratification, however, comes from the mutual benefit of myself and those I have had the honour of working with and mentoring over the years.