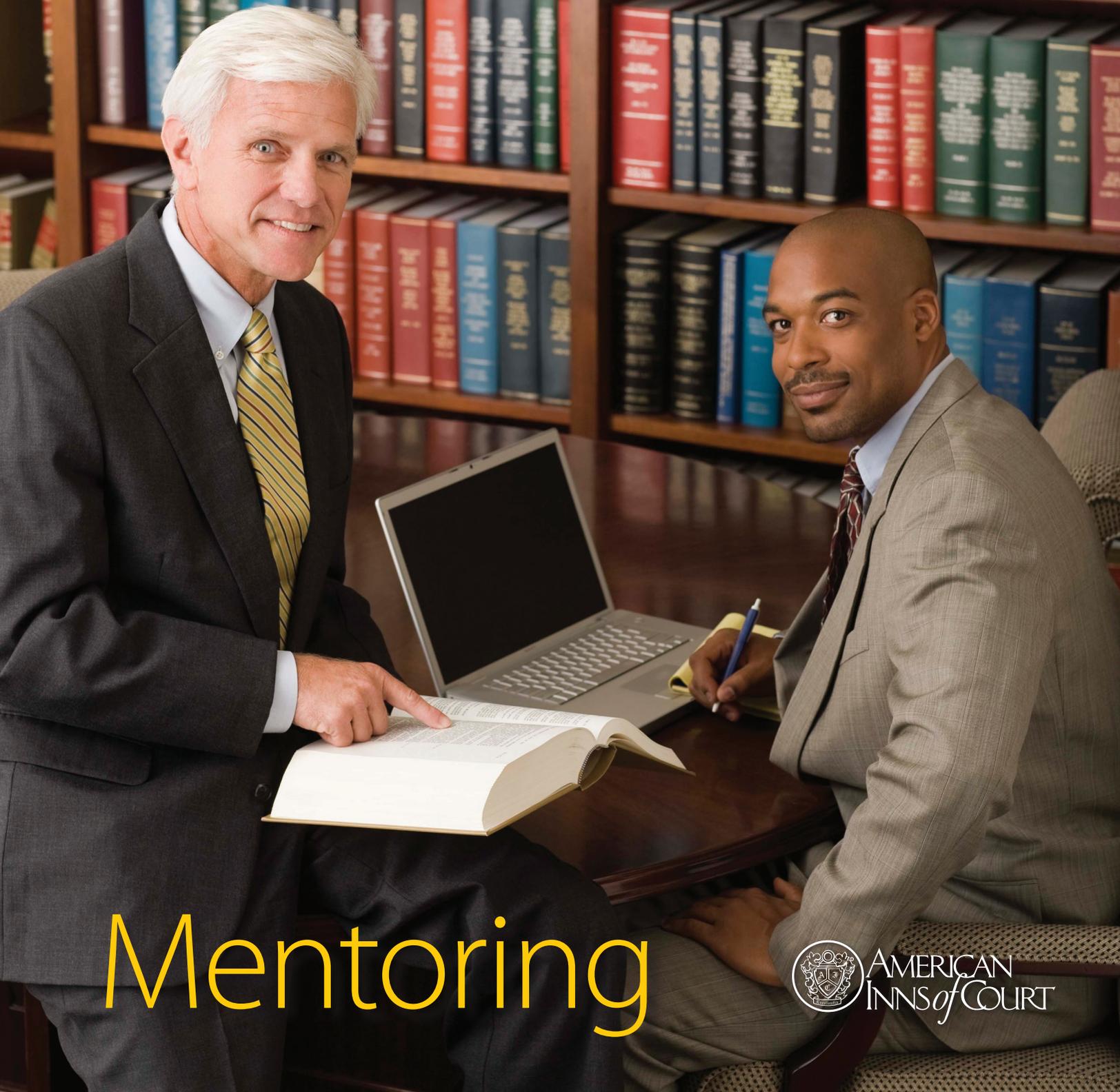


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The Bench

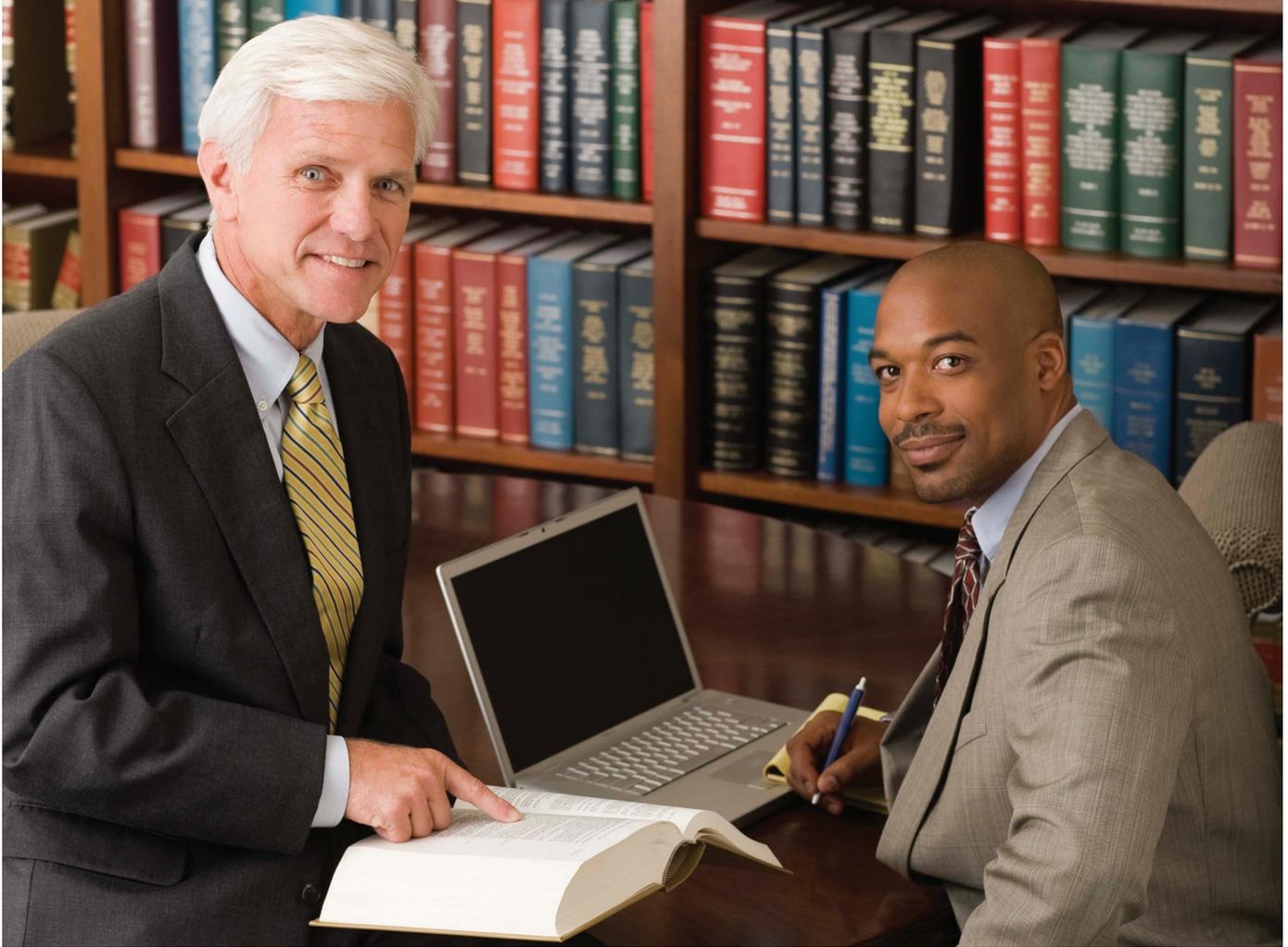
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Mentoring



AMERICAN
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Robert B. Fiske, Jr., is one of the country's leading lawyers. A litigator and trial lawyer of extraordinary talents and an advisor with impeccable judgment, Mr. Fiske has served the country and private clients alike with the highest skill and good grace. In the process he has mentored hundreds of young lawyers and serves for each as the best example of what a lawyer should be.

A graduate of Yale College and the University of Michigan Law School, Mr. Fiske served as an Assistant U.S. Attorney in the Southern District of New York as a young lawyer. He became U.S. Attorney of the same district in 1976 and in 1994 was appointed as Independent Counsel in the Whitewater investigation. Among many other positions, he has represented the Judicial Council of the U.S. Court of Appeals for the Fifth Circuit and served as Chairman of the Judicial Commission on Drugs and the Courts. He was a member of the Commission for the Review of FBI Security Programs (Webster Commission) and was Special Advisor to Attorney General Andrew Cuomo. Mr. Fiske is currently a partner at Davis Polk & Wardwell, where he has practiced when not in public service.

Mr. Fiske delivered the following remarks in New York City as the featured speaker at the June 8, 2010 dinner celebrating the Tenth Anniversary of the Federal Bar Council American Inn of Court.

—Lee S. Richards, Esquire

Mentoring Robert B. Fiske, Jr.



I thought I would take a few minutes tonight to talk about how important mentoring was to my development as a lawyer, to talk about the people that played that role for me, and finally, my observations as to why mentoring is important, and what are the qualities that make a good mentorship.

I was fortunate to learn the value of mentoring before I was even out of law school. In my second year at Michigan, I was part of the first class of student assistants in the U.S. attorney's office in the southern district. The U.S. attorney, J. Edward Lumbard, had started the program with the idea that it would give second-year law students an opportunity to work in the office (for most of us for nothing) on a one-to-one relationship with assistant U.S. attorneys. Each of us was assigned for the summer to work with an assistant—it was a built-in mentorship relationship from the outset.

I was extremely fortunate to spend that summer working side by side with and under the tutelage of Fred Nathan. He had a major narcotics

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case against a drug dealer, Tony De Angelo, which went to trial before Judge Edmund L. Palmieri. I wrote evidentiary memos, interviewed witnesses, drafted requests to charge, and sat at the counsel table during the trial, literally doing everything except participating in the trial. We got a conviction despite the fact that

our principal witness was murdered two weeks before trial. It was a heady experience for a second-year law student—no one's professional career could have gotten off to a better start.

From that summer, I learned from Judge Lumbard something I have carried with me ever since—in his words, “never assume a damn thing.” I also learned from him and the assistants who worked for him the importance of public service. That summer became

the motivational springboard for everything I did later in public service and Judge Lumbard was my role model—and mentor to the extent he could be from the second circuit. When I became U.S. attorney I tried, as best as I could, to run the office the way he did.

In private practice at Davis Polk, I had two exceptional mentors, Hazard Gillespie and Lawrence Walsh. They were very different—no two great lawyers are ever the same—but I learned a great deal from each of them. Both incident allies are still going strong: Gillespie will be 100 in July and Walsh was 98 in January.

From Hazard Gillespie, I learned the skills of advocacy. Working under him, I learned how to write a persuasive brief—he was a great believer in the statement of facts—write that persuasively and you are 90% there. And on oral argument, he always stressed what he learned from his mentor, John W. Davis, “go for the jugular.”

I also learned from him how to be an extraordinarily aggressive and effective advocate while still being courteous and civil to your adversary.

From Judge Walsh, who had his first job working for Judge Lumbard, I learned to always think about the case the way the decision maker will—don't get enmeshed in your own partisan view. Also, always be candid with the court—if there are bad facts, bring them out yourself and try to deal with them. And he always taught us—never be satisfied with good enough. Always push yourself until you have done the very best you can. He was an “out-of-

the-box” thinker long before anyone had coined that phrase—never satisfied with the “by the book” approach until he—and the rest of us at his urging—had tested our imaginations to see if there was a better approach.

Finally, I learned a lot from a partner in another firm about personal relationships and thoughtfulness. Early on, I was part of a large team—at the bottom of it working on a big case, in which there were several defendants each represented by a separate law firm. One of those firms was Simpson, Thacher, and its team was led by Whitney North Seymour, one of the great lawyers of his time. Among other things, he was renowned for what was called the bar association triple crown: he had been president of the ABA, the New York state bar, and the New York City bar. We had a meeting of all the firms—probably 20 or 25 lawyers in all. I introduced myself to Mr. Seymour as Bob Fiske and he said “I will call you Bob if you will call me Whit.” Three weeks later, we had another large meeting, and when I walked in he said “Hi, Bob.” I found it pretty extraordinary that he would go out of his way to remember the name of each of the most junior associates in the other firms. You can see—50 years later—what an impression that made.

Why is mentoring important?

It is important for several reasons:

It is the professional obligation of every lawyer to help in the development of younger lawyers. It is something we owe to the individual lawyers—it is also something we owe to the profession. Improving the quality of lawyering by younger lawyers improves the quality of lawyering as a profession. At Davis Polk, we know not every lawyer is going to become a partner—the vast majority do not and go elsewhere. They work very hard for us—put in long hours—and we feel that we owe it to them in return that when they leave, they will have been mentored and trained to develop the skills and values that will enable them to be successful lawyers wherever they go.

So what makes a good mentor?

First, it is obviously teaching professional skills, working directly with the mentee. It means teaching by specific instruction; it means teaching by example, when the younger lawyer can learn by watching—in court, at meetings with clients and interfacing with people. And it means teaching by giving the younger lawyer the maximum amount of responsibility to learn by doing it on his or her own, followed by constructive suggestions—not criticisms.

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Second, it means prompt feedback. Nothing means more to a younger lawyer than finding out right away what was good and what maybe was not so good with the work he or she did—rather than waiting three months or six months for a periodic review.

Third, it means involving the younger lawyer in the whole case. If he or she writes a memo on whether the client should follow a certain course of action, bring the younger lawyer to the meeting with the client—or at the very least, let him or her know the ultimate result—what did the client decide to do? This, like the prompt feedback, sounds obvious, but they are not. We are all very busy, and too many times senior lawyers just don't take those simple steps. Similarly, keeping the younger lawyers abreast of what is happening in the case, involving them in strategy meetings (even if the time is unbillable), and does wonders for morale.

Finally, mentoring means not just helping with the development of professional skills—it means instilling the right values at what is an early, impressionable stage. Integrity, the highest ethical standards, fairness and—as Hazard Gillespie showed me—civility and courteousness.

In this vein, there is a book called *Life in the Law* that contains a series of short essays by a group of prominent lawyers from around the country. One of these is by a senior partner in a Georgia law firm entitled “Mentoring: Your Legacy to the Bar.” it starts out as follows:

“Lawyers and judges, without exception, recognize the importance of good mentoring in the development of competent, professional, and ethical young lawyers.

That lesson was brought home to me in my first year as a beginning lawyer, working as an associate in what was then a small firm. Here is what happened: after final arguments were over in a hard-fought trial, the judge had invited the lawyers to come to his chambers while the jury was out deliberating on a verdict. (The older lawyers and the judge were good friends, personally and professionally, over many years). As we were all sitting in chairs grouped around the judge's desk, the talk turned to news of the bench and bar. One of the older lawyers remarked that old 'so-and-so,' a veteran trial lawyer at the Georgia bar, had recently 'gone to meet his maker.' To my surprise, the judge then asked, 'What was it about old so-and-so that made dealing with him, in or out of court, so unpleasant?' after a moment of

silence, the judge answered his own question. He said, 'I think one of old so-and-so's main problems was that he simply wasn't 'raised right' as a young lawyer. Remember, he started out under [[another old so-and-so]], carrying his briefcase. That was the only mentor he ever had. No wonder he 'turned out to be so obnoxious to deal with.'

Just about that time, the judge was advised that the jury was ready to deliver its verdict. As the older lawyers were leaving the room, the judge reached for his robe, and then motioned me to remain in his chambers. When the others had left, the judge finished fastening his robe and then turned to me and said, in a not unkindly voice, 'young man, you are fortunate to work at a good firm and to have a good mentor there. You will have no excuse if you turn out like old so-and-so! I hope you will remember that!'

Over the years, I have always remembered those words. And the judge was right. A young, inexperienced lawyer who has a good mentor has a gift that is priceless—to that young lawyer, as well as to our profession and its future.”

Everything I have said up to now has been about the benefit of mentoring to the mentee. I would like to end by talking about the benefit to the mentor. In my career—right on a parallel level with the victories in court and other professional successes I have had—is the gratification that I have experienced over the years from watching the professional development of the young lawyers that I have worked with: watching them grow to become federal and state judges, high government officials, law school deans, corporate general counsel and leaders of the New York bar. Tonight I can say that I am very proud that included in that group were Denise Cote, Pete Putzel, Lee Richards, and John Siffert, who have played such a vital role in this important organization.

—Robert B. Fiske, Jr.

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