

2023

Mentored: On Leaders, Legacies, and Legal Ethics

Renee Knake Jefferson
University of Houston Law Center

Follow this and additional works at: <https://ir.lawnet.fordham.edu/flr>



Part of the [Law and Gender Commons](#), and the [Legal Ethics and Professional Responsibility Commons](#)

Recommended Citation

Renee Knake Jefferson, *Mentored: On Leaders, Legacies, and Legal Ethics*, 91 Fordham L. Rev. 1285 ().
Available at: <https://ir.lawnet.fordham.edu/flr/vol91/iss4/9>

This Colloquium is brought to you for free and open access by FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Fordham Law Review by an authorized editor of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

MENTORED: ON LEADERS, LEGACIES, AND LEGAL ETHICS

*Renee Knake Jefferson**

INTRODUCTION.....	1285
I. MENTORSHIP FROM HISTORY	1290
II. ETHICAL MENTORING.....	1298
A. <i>The Meaning of Ethical Mentoring</i>	1298
B. <i>The Importance of Ethical Mentoring</i>	1304
III. MENTORSHIP AS PROFESSIONAL RESPONSIBILITY	1306
CONCLUSION	1309

INTRODUCTION

What died didn't stay dead
You're alive, you're alive in my head . . .
I know better
But you're still around

—Taylor Swift, *Marjorie*¹

When I confided in Professor Deborah L. Rhode, the nation's most-cited legal ethics scholar, that some of my best mentors are dead, I did not expect her to join them. She died suddenly in January 2021, departing the world much too soon but leaving behind an extraordinary legacy of scholarship on ethics, leadership, and gender inequality. Deborah served as a mentor from my early days as an academic more than a decade ago and, at the end of her life, became a treasured friend. Together, we often discussed the ethics of

* Professor of Law and the Joanne and Larry Doherty Chair in Legal Ethics, University of Houston Law Center. Thank you to Emory Powers and Katy Stein for excellent research assistance. Special thanks also to the Elizabeth D. Rockwell Center on Ethics and Leadership at the University of Houston Hobby School of Public Affairs for a faculty fellowship award that supported the research and writing of this project. I am grateful to the participants of the *Fordham Law Review* colloquium for their thoughtful feedback. This Essay was prepared for the Colloquium entitled *In Memory of Deborah Rhode*, hosted by the *Fordham Law Review* and co-organized by the Stein Center for Law and Ethics on October 21, 2022, at Fordham University School of Law.

1. TAYLOR SWIFT, *Marjorie*, on EVERMORE (Republic Recs. 2020).

mentorship and the need for better mentoring to remedy the enduring gender gap in leadership across all professions, especially our own—the law.

I discovered the power of mentorship from the grave, if you will, while digging through presidential archives and reading oral histories for my book *Shortlisted: Women in the Shadows of the Supreme Court*.² There, I encountered previously untold stories of trailblazing women, and I found lessons to guide me personally and professionally. Though no longer living, these women became powerful influences as I studied and wrote about their lives. Indeed, one of the eight strategies for remedying enduring gender inequality at the conclusion of *Shortlisted* recommends the reader to “find mentors in ‘her’ story.”³ The book explains:

Women are frequently counseled to seek a mentor as they ascend to power. Doing so is not always easy, however, in part because it is difficult to find someone willing to reveal the complexities of navigating personal and professional challenges in a vulnerable and honest way. This is not surprising given that in order to advance in professional settings, women often suppress the desire to speak out about disadvantages due to fear of retaliation, and sometimes they fail to recognize injustice because “it’s just the way things are.” Remembering the stories of women who made themselves visible at a time when women were not seen can inspire a world led by individuals who reflect the public we serve.⁴

While rarely discussed as a component of formal and informal mentoring in professional life, others acknowledge the significance of mentorship that endures after a life ends. Molecular biologist Dr. Francesco Elia Marino, in his research on mentorship in academia, recalled the wisdom of his own mentor, Dr. Elspeth Gold, who passed away in 2015: “When you mentor someone you are creating a legacy, you will live in the mentee forever, your teachings, your science and a part of you will become immortal.”⁵ As John C. Maxwell puts it, “[m]ost people who decide to grow personally find their first mentors in the pages of books.”⁶ Whether the mentor from the past is personally known or not, there is power in the lessons from that legacy.

Finding mentors from the past to help remedy gender inequality in the present feels especially urgent in the wake of the 2022 U.S. Supreme Court decision *Dobbs v. Jackson Women’s Health Organization*,⁷ which left individuals able to bear children with fewer constitutional rights than those before them.⁸ The decision whether and when to have a child is the most important economic decision that one makes about their future professional

2. See RENEE KNAKE JEFFERSON & HANNAH BRENNER JOHNSON, *SHORTLISTED: WOMEN IN THE SHADOWS OF THE SUPREME COURT* (2020).

3. *Id.* at 206.

4. *Id.*

5. Francesco E. Marino, *Mentoring Gone Wrong: What Is Happening to Mentorship in Academia?*, 19 POL’Y FUTURES EDUC. 747, 749 (2021).

6. Matt Karamazov, *The 15 Invaluable Laws of Personal Growth*, MEDIUM (Oct. 5, 2021), <https://medium.com/better-advice/the-15-invaluable-laws-of-personal-growth-8f1a766d1890> [<https://perma.cc/935V-LLJ5>].

7. 142 S. Ct. 2228 (2022).

8. *Id.*

goals. No longer does Dr. Martin Luther King, Jr.'s long "arc of the moral universe" necessarily bend toward justice.⁹

The Supreme Court's curtailment of women's economic and reproductive health rights also comes on the heels of the harmful reaction by "some men in positions of power [who] now say they are afraid to participate in mentoring relationships with women" in the wake of the #MeToo movement.¹⁰ Notably, this dynamic is not new to the post-#MeToo world—it long predates it.¹¹ The resistance toward mentorship of women is especially problematic; as Deborah has taught us: "Gender inequalities in leadership opportunities are pervasive; perceptions of inequality are not. A widespread assumption is that barriers have been coming down, women have been moving up, and equal treatment is an accomplished fact in public life."¹² And yet we know, despite relatively equal numbers of women and men entering the legal profession over the past two decades, that the number of women holding leadership roles as equity partners, judges, deans, and general counsel does not reflect this parity.

One of the primary reasons for gender disparity in positions of leadership is, for women, "the absence of mentors and access to informal networks of advice, contacts, and client development."¹³ The "problems of exclusion are greatest for those who appear 'different' on other grounds as well as gender, such as race, ethnicity, disability, or sexual orientation . . . [or] family responsibilities."¹⁴ The stories of those historically excluded from the legal profession because of their perceived reproductive capacity or color of their skin can offer much-needed mentorship, in addition to filling egregious gaps in our national story and identity. Justice Joseph P. Bradley, concurring in

9. See Martin Luther King, Jr., *Remaining Awake Through a Great Revolution* (Mar. 31, 1968), <https://www.youtube.com/watch?v=SLsXZXJAURk> [<https://perma.cc/33MV-DYNQ>].

10. Sophie Soklaridis, Catherine Zahn, Ayelet Kuper, Deborah Gillis, Valerie H. Taylor & Cynthia Whitehead, *Men's Fear of Mentoring in the #MeToo Era—What's at Stake for Academic Medicine?*, 379 *NEW ENG. J. MED.* 2270, 2270 (2018); see also Deborah L. Rhode, *#MeToo: Why Now? What Next?*, 69 *DUKE L.J.* 377, 415 (2019) ("Many observers have worried that the costs of #MeToo will be borne not just by abusive men. Women will be among the casualties as well if the movement makes them seem overly sensitive and makes male colleagues more reluctant to engage in mentoring relationships. Former Secretary of State Condoleezza Rice . . . worried that we might 'get to a place that men start to think, 'Well, maybe it's just better not to have women around.'") (quoting Alexandra King, *Condoleezza Rice on #MeToo: 'Let's Not Turn Women into Snowflakes,'* CNN, <https://www.cnn.com/2018/01/13/politics/rice-metoo-axe-filescnntv/index.html> [<https://perma.cc/U8AX-7TJV>] (Jan. 14, 2018, 11:53 AM)).

11. See DEBORAH L. RHODE, *THE UNFINISHED AGENDA: WOMEN AND THE LEGAL PROFESSION* 16, 44 (2001) ("Concerns about sexual harassment or the appearance of impropriety can heighten that discomfort. Male attorneys often report reluctance to mentor or to be seen alone with female colleagues because of 'how it might be perceived.'" (quoting Cynthia Fuchs, Robert Sauté, Bonnie Oglensky & Martha Gever, *Glass Ceilings and Open Doors: Women's Advancement in the Legal Profession*, 64 *FORDHAM L. REV.* 291, 356 (1995)).

12. Deborah L. Rhode, *Keynote Address: The Difference "Difference" Makes*, 55 *ME. L. REV.* 16, 17 (2003).

13. *Id.* at 18.

14. *Id.*

the Supreme Court's 1872 decision to deny women the ability to practice law in Illinois, wrote that the "natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life."¹⁵ More than a century later, Deborah Rhode, at the invitation of the *Maine Law Review*, delivered a keynote address in 2002:

Just in the space of a single generation, we have witnessed a transformation in gender roles and leadership opportunities. When I went to law school, I had no course by or about women. There was no women's law association and no events like this one. What is striking to me now is how little of it was striking to me then; it was just how law and life were. All that has changed¹⁶

What she did not know, and did not predict, is that the generation who followed would witness and be responsible for a devastating retreat in the fight to secure full rights for all individuals in the United States.

Now more than ever, we need mentorship from Deborah Rhode, her peers, and the women who came before her. I first met Deborah in 2010, but I knew her from reading her work long before then. As a junior scholar, it seemed like she was everywhere I turned, no matter how disjointed my research pursuits might have appeared. I veered from legal ethics, to access to justice, to the depiction of women in the media, to lawyer speech and the First Amendment.¹⁷ The unifying theme? Mentorship and bringing along the next generation. Deborah was known for the concept of "ethics by the pervasive method"—i.e., teaching ethics across the curriculum¹⁸—but another unique contribution was in *mentoring* by the pervasive method. Remedying pervasive inequities endured by women was a hallmark of her signature mentoring, though she readily took scholars and students of all genders and sexualities under her wing. As just one example of the legacy of her mentorship, a Westlaw search revealed 137 authors of law review articles

15. *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130, 141 (1872).

16. RHODE, *supra* note 12, at 21.

17. As an example of the breadth of Deborah's scholarly pursuits, see DEBORAH L. RHODE, *IN THE INTERESTS OF JUSTICE: REFORMING THE LEGAL PROFESSION* (2000); DEBORAH L. RHODE, *THE TROUBLE WITH LAWYERS* (2015) [hereinafter RHODE, *THE TROUBLE WITH LAWYERS*]; DEBORAH L. RHODE, *CHEATING: ETHICS IN EVERYDAY LIFE* (2018); DEBORAH L. RHODE, *SPEAKING OF SEX: THE DENIAL OF GENDER INEQUALITY* (1997); DEBORAH L. RHODE, *WOMEN AND LEADERSHIP* (2017); DEBORAH L. RHODE, *AMBITION: FOR WHAT?* (2021); DEBORAH L. RHODE, *JUSTICE AND GENDER: SEX DISCRIMINATION AND THE LAW* (1989); DEBORAH L. RHODE, *LAWYERS AS LEADERS* (2013) [hereinafter RHODE, *LAWYERS AS LEADERS*]; DEBORAH L. RHODE, *ADULTERY: INFIDELITY AND THE LAW* (2016); DEBORAH L. RHODE, DAVID LUBAN, SCOTT L. CUMMINGS & NORA FREEMAN ENGSTROM, *LEGAL ETHICS* (8th ed. 2020); DEBORAH L. RHODE, *THE BEAUTY BIAS: THE INJUSTICE OF APPEARANCE IN LIFE AND LAW* (2010); DEBORAH L. RHODE, *IN PURSUIT OF KNOWLEDGE: SCHOLARS, STATUS, AND ACADEMIC CULTURE* (2006); DEBORAH L. RHODE, *ACCESS TO JUSTICE* (2004); DEBORAH L. RHODE, *WHAT WOMEN WANT: AN AGENDA FOR THE WOMEN'S MOVEMENT* (2014); DEBORAH L. RHODE, *CHARACTER: WHAT IT MEANS AND WHY IT MATTERS* (2019) [hereinafter RHODE, *CHARACTER*].

18. See Susan D. Carle, *Professional Legal Ethics: Critical Interrogations Book Review*, 17 GEO. J. LEGAL ETHICS 165, 173 (2003) (noting Rhode "coin[ed] the term 'ethics by the pervasive method'" (citing DEBORAH L. RHODE, *PROFESSIONAL RESPONSIBILITY: ETHICS BY THE PERVASIVE METHOD* (1994))).

thanking her.¹⁹ “I never talked in law school in a big class,” she confessed in a 2015 C-SPAN interview.²⁰ I did not speak in my large law school classes either, but as an academic, Deborah’s words helped me form my own words, both as a legal ethicist and as a feminist. Her mentorship amplified her voice through the voices of countless others, including mine.

Deborah’s mentorship style was blunt. She called the shots with constructive criticism that was often eased by humor and dry wit. She offered her undivided attention during walks, over meals, and on phone calls, but she also knew when it was time for a conversation to end. It always felt a bit too abrupt, not unlike her death.

Deborah knew how to mentor, at least in part, because of Supreme Court justice Thurgood Marshall. His mentorship during the 1978 term, when she served as his clerk, defined much of her own career as well as her ability to carve out careers for others. Law students and young lawyers are regularly advised to find mentors who can help them navigate their entry to and ascension within the legal profession. That pursuit proves challenging for most. As Deborah herself acknowledged, “many lawyers lack adequate mentoring and leadership development,” and this is especially true for women and minorities.²¹ Moreover, even for those who find mentors, studies show that formal mentoring programs do not provide the same benefits as informal mentorship, which is the rarest form.²² Numerous barriers to meaningful mentorship exist—although the rewards are immeasurable for those who receive it. Justice Marshall’s legacy lived on in Deborah. A photograph she took of him embracing Justice William Brennan, Jr. as they walked through an archway of the U.S. Supreme Court building now hangs at the entrance of my home. Their legacy now lives on through me.

This Essay, written as part of the *Fordham Law Review* colloquium in Deborah’s memory, argues that the untold stories of the first women and minority lawyers are an unrealized, valuable source of informal mentorship. It also lays the groundwork for formalizing mentorship as an ethical obligation of leaders in the legal profession and beyond.

Part I explores the mentoring power of collective untold stories from those historically excluded from the legal profession. It uses Justice Marshall’s mentorship as a case study and focuses both on his law clerks, like Deborah Rhode, and his coworkers, like Judge Constance Baker Motley, who began her legal career at the NAACP and became the first Black female federal court judge. This part emphasizes the importance of capturing forgotten stories from those who entered forbidden spheres of professional life, and it

19. The Westlaw search was performed on August 23, 2022, and results are on file with the author.

20. *Q&A with Deborah Rhode*, C-SPAN (July 28, 2015), <https://www.c-span.org/video/?327346-1/qa-deborah-rhode> [<https://perma.cc/EZ33-JURT>].

21. Deborah L. Rhode, *Leadership in Law*, 69 STAN. L. REV. 1603, 1627 (2017).

22. *See, e.g., id.* at 1627–28 (“The problem is compounded by some leaders’ lack of skills and comfort in coaching those of a different race, ethnicity, or sex. Although increasing numbers of legal workplaces have responded by creating formal mentoring programs, these initiatives often lack effective oversight and reward structures.” (footnote omitted)).

calls for more scholars to contribute to the conversation. It also conveys the need to understand the stories of “firsts” in the profession within their shared context rather than in isolation. Of course, these mentors from the past should be a *supplement*—and not a *substitute*—for personal, one-on-one mentoring by leaders today. Part II calls for ethical mentoring in workplace and professional relationships. This part defines ethical mentoring, explains why mentoring is important—not only to individuals, but also to the profession and society—and provides an overview of best practices. Mentoring matters both because mentors open pathways to career advancement and, equally importantly, mentors become role models for how to live one’s life. Part III makes the case for professional conduct rules to formalize the ethical obligation of lawyers as leaders to mentor others, and it suggests guidance for doing so. Although this Essay focuses on the ethics of mentoring in the legal profession, the conclusions drawn here resonate more broadly in academia, business, medicine, politics, the sciences, and other fields.

I. MENTORSHIP FROM HISTORY

The concept of a mentor, as discussed here, draws in part from a definition adopted by legal and business scholars: “Mentors are typically defined as individuals with advanced experience and knowledge who are committed to providing support for the purpose of increasing career advancement of junior organizational members or their protégés.”²³ According to the *Harvard Business Review*, mentorship “is a relationship between someone sharing knowledge and providing guidance (the mentor) and someone learning from that person’s experience and example (the mentee).”²⁴ The forms of mentorship contemplated here are broader, however, encompassing what I call “inadvertent mentors.” These may be individuals who do not necessarily hold a formal commitment to supporting career advancement yet do so through their one-on-one encouragement—whether through informal or strategic relationships or through the legacy they leave behind.

This Essay—perhaps somewhat controversially—advances a model of mentorship in which the mentor and mentee never meet in real time. Mentoring can come through autobiographies, biographies, oral histories, archives, and other historical sources, as well as through connections linking mentees together. Although not typically conceptualized as mentorship, these legacy tools should be viewed as relevant sources for offering the same sort of self-affirming and self-empowering dynamics that are found in the best of mentoring relationships. They also serve as mechanisms for diagnosing flawed mentoring and enhancing mentoring outcomes.

23. Theresa M. Beiner, *Legal Mentoring*, 57 U. LOUISVILLE L. REV. 329, 330 (2019) (quoting Rajashi Ghosh & Thomas G. Reio, Jr., *Career Benefits Associated with Mentoring for Mentors: A Meta-Analysis*, 83 J. VOCATIONAL BEHAV. 106, 107 (2013)).

24. Janice Omadeke, *What’s the Difference Between a Mentor and a Sponsor?*, ASCEND (Oct. 20, 2021), <https://hbr.org/2021/10/whats-the-difference-between-a-mentor-and-a-sponsor> [https://perma.cc/X5P6-TD7H].

My own encounter with “mentoring from the past” first emerged while engaged in research about women shortlisted for the Supreme Court before Justice Sandra Day O’Connor became the first female justice. One of those women is Professor Soia Mentschikoff. She was the first female law professor at Harvard Law School and the University of Chicago Law School at a time when most law schools did not even admit women law students, let alone hire them as faculty.²⁵ As a law student, I regularly walked by a larger-than-life-sized portrait of a grey-haired, stern-looking woman in a light purple suit. She was the only woman on a wall of men. She was also the only woman on the faculty for many years, but I did not know that at the time. A decade after graduating from law school, I found myself in the Joseph Regenstein Library at the University of Chicago Law School, rolling up my sleeves and digging through Mentschikoff’s personal papers. I sifted through, one by one, the index cards she meticulously prepared before teaching her classes—the question she planned to ask an unsuspecting student written on one side and the response she expected written on the back. I learned about her relationship with the prominent legal scholar Karl Llewellyn that was sparked while she worked at a desk placed in his office at Columbia Law School when both served as reporters for the American Law Institute’s Uniform Commercial Code project. The relationship evolved into a sixteen-year marriage ending with his death. I read their love notes, his requests for her help with things like obtaining a passport, and the condolence letters from friends and family after he passed. Mentschikoff’s archives also included letters exchanged with former students that offered advice about their careers and their personal lives.²⁶

I never had the good fortune to meet Mentschikoff in person. She passed away in 1984 when I was just nine years old. Yet, over the course of my career in the legal academy, Mentschikoff has gone from a painting on the wall to a mentor in my personal and professional life. No one told me I might find a mentor by getting to know a dead woman. But I did. From Mentschikoff’s archives, I found career advice, wisdom about relationships, and lessons on how to engage in structural reform to remedy inequality.

Women are regularly told to find a mentor if they want to “get ahead.” I struggled with that early in my career, in part because it was difficult to find someone willing to reveal the challenges of navigating one’s personal and professional life in a vulnerable and honest way. There was also no obvious model for the generation of women like me who entered professional life to chart our own course—benefitting from the first wave of women in the workforce yet still enduring bias and discrimination in much more subtle forms. Those excluded from positions of power often suppress the desire to speak out for fear of retribution and instead try to conform, even at the

25. See George Volsky, *Soia Mentschikoff, Professor and Ex-Law Dean, Dies at 69*, N.Y. TIMES (June 19, 1984), <https://www.nytimes.com/1984/06/19/obituaries/soia-mentschikoff-professor-and-exlaw-dean-dies-at-69.html> [<https://perma.cc/N7L6-B7ZQ>].

26. See *Guide to the Soia Mentschikoff Papers 1913–1987*, U. CHI. LIBR., <https://www.lib.uchicago.edu/e/src/findingaids/view.php?eadid=ICU.SPCL.MENTSCHIKOFF> [<https://perma.cc/BLL2-QKY8>] (last visited Feb. 6, 2023).

expense of their health and well-being. The complexities are, at times, more easily revealed and discussed through history.

Uncovering the stories of those who navigated challenges before us, including their own paths of mentorship, can instruct and inspire. Deborah's own early mentoring offers an example. In describing what makes a great mentor, she wrote that "Charles Houston, the Dean of Howard Law School and head of the NAACP legal office in the 1930s and 1940s, nurtured the careers of many civil rights leaders, including Thurgood Marshall, who in turn did the same for others."²⁷ Deborah was one of those "others" who Justice Marshall mentored and inspired. He hired Deborah and a second female law clerk "at a time when a number of Supreme Court justices were still hiring no female clerks."²⁸ Justice Marshall's mentoring of women in particular has made him what Professor Rangita de Silva de Alwis calls "one of history's great allies."²⁹ She explains:

He hired Constance Baker Motley to head the National Association for the Advancement of Colored People (NAACP), and she went on to become the first Black woman to serve on the Federal Judiciary. His clerk Deborah Rhode became the second tenured woman at Stanford. Other clerks like Martha Minow and Elena Kagan went on to become deans of Harvard Law School. The latter went on to become a Supreme Court Justice.³⁰

At the same time, Justice Marshall was not a perfect mentor. Deborah recognized this, and called it out in her reflections on serving as his law clerk:

[D]espite Marshall's strong support for affirmative action in his judicial rulings, it was not much reflected in his own employment practices. Of the twenty-eight clerks over his first ten years, only one was African American (his goddaughter). In the 1980s, about 15 percent were minorities, but almost all were from the top of their class at elite law schools. None came from Howard, his own alma mater, or other predominantly black institutions. Yet if Marshall was reluctant to give special preferences to underrepresented groups, he was equally careful not to perpetuate their disadvantages. His chambers was the first to have two women clerks, when some other justices had still never hired even one.³¹

Consider also Justice Marshall's mentorship of Judge Motley. Although he guided her ascendance within the NAACP, sexism tinged his mentorship, keeping her from taking over for him as general counsel when he was appointed to the Supreme Court.³² Judge Motley should have long been a

27. Rhode, *supra* note 21, at 1627.

28. RHODE, CHARACTER, *supra* note 17, at 197.

29. Rangita de Silva de Alwis, *Addressing Allyship in a Time of a "Thousand Papercuts": A Study of the Surveys on Allyship, Bias, and "Stereotype-Threat" Conducted by the Women, Law, and Leadership Class at the University of Pennsylvania Law School in 2020*, 19 HASTINGS RACE & POVERTY L.J. 63, 74 (2021).

30. *Id.*

31. Deborah L. Rhode, *Thurgood Marshall and His Clerks*, in IN CHAMBERS: STORIES OF SUPREME COURT LAW CLERKS AND THEIR JUSTICES 314, 318 (Todd C. Peppers & Artemus Ward eds., 2012) (footnote omitted).

32. TOMIKO BROWN-NAGIN, CIVIL RIGHTS QUEEN: CONSTANCE BAKER MOTLEY AND THE STRUGGLE FOR EQUALITY (2022).

household name. The first Black woman appointed to a federal judgeship, her career began with arguing ten cases and winning nine in the Supreme Court³³—an incredible feat for any advocate but especially for one who overcame numerous barriers of discrimination. Each case was designed to desegregate the South and champion civil rights at a time when professional spaces regularly prohibited women and minorities.

Two decades after Judge Motley's initial appearance arguing before the Supreme Court in 1961, Justice Sandra Day O'Connor became the nation's first female justice.³⁴ Even today—more than half a century after Judge Motley stood at the lectern—a female Supreme Court advocate is rare. During the 2020 term, men advocated before the Supreme Court in 82 percent of cases.³⁵ Over sixty years after Judge Motley climbed the courthouse steps to argue her case, a Black woman finally joined the robed justices on the other side of the bench, with Justice Ketanji Brown Jackson hearing her first case as a Supreme Court justice on October 3, 2022.³⁶ (In an incredible coincidence, Judge Motley and Justice Jackson share the same birthdate, September 14, born forty-nine years apart.)³⁷

Judge Motley's life made national headlines in 2022 thanks to the fortuitously timed debut of Professor Tomiko Brown-Nagin's³⁸ biography, *Civil Rights Queen: Constance Baker Motley and the Struggle for Equality*, which hit the shelves as President Joe Biden launched his search for the nation's first Black female justice. The book methodically documents Judge Motley's childhood, education, and career as background for her personal and professional pursuits that fundamentally reshaped concepts of equality and justice in this nation.³⁹ Brown-Nagin frames her exploration of Judge Motley around James Baldwin's famous inquiry: what is the price of the

33. That single loss, *Swain v. Alabama*, 380 U.S. 202 (1965), was overturned by the Supreme Court twenty-three years later in *Batson v. Kentucky*, 476 U.S. 79 (1986).

34. See *Sandra Day O'Connor*, SANDRA DAY O'CONNOR INST. FOR AM. DEMOCRACY, <https://oconnorinstitute.org/civic-programs/oconnor-history/sandra-day-oconnor-policy-archives-research-library/biography/> [https://perma.cc/8RSV-MMFB] (last visited Feb. 6, 2023).

35. See Kimberly Strawbridge Robinson, *Men Repeat at Lectern—Firms, U.S. Drive Supreme Court Gender Gap*, BLOOMBERG L. (May 10, 2021, 4:45 AM), <https://news.bloomberglaw.com/us-law-week/men-repeat-at-lectern-firms-u-s-drive-supreme-court-gender-gap> [https://perma.cc/GK4M-PUDQ].

36. See Josh Gerstein, *Ketanji Brown Jackson Grabs the Spotlight in First Supreme Court Session*, POLITICO (Oct. 3, 2022, 7:12 PM), <https://www.politico.com/news/2022/10/03/ketanji-brown-jackson-grabs-the-spotlight-in-first-supreme-court-session-00060143> [https://perma.cc/P8AX-BS9N].

37. See Nora McGreevy, *What to Know About Judge Ketanji Brown Jackson's Historic Nomination to the Supreme Court*, SMITHSONIAN MAG. (Mar. 1, 2022), <https://www.smithsonianmag.com/smart-news/judge-ketanji-brown-jackson-could-make-history-as-the-first-black-woman-supreme-court-justice-180979644/> [https://perma.cc/SE33-GJM7].

38. Professor Tomiko Brown-Nagin is the dean of the Harvard Radcliffe Institute for Advance Study, the Daniel P.S. Paul Professor of Constitutional Law at Harvard Law School, and a professor of history at Harvard University. See *Tomiko Brown-Nagin*, HARV. RADCLIFFE INST., <https://www.radcliffe.harvard.edu/people/tomiko-brown-nagin-dean> [https://perma.cc/WY6J-JYKZ] (last visited Feb. 6, 2023).

39. See generally BROWN-NAGIN, *supra* note 32.

ticket?⁴⁰ Judge Motley paid a price at every step as she gained power in roles previously forbidden for women and minorities; sometimes her pursuit proved elusive. Even so, Motley's life bears witness to an overwhelming collection of historic moments and experiences in the pursuit of civil rights.

Brown-Nagin's biography exemplifies the ability of history to offer mentor-like guidance. From Judge Motley's role litigating landmark civil rights cases (she described the Mississippi audience who arrived to watch her courtroom argument as "a circus"⁴¹) to navigating the work-life balance that still plagues parents ("I do not think that a woman should drown her talents . . . when someone else can do a better job in cooking and cleaning . . . pay[] a housekeeper"⁴²), the book pieces together wisdom still very much needed today—through vital records, archival papers, news accounts, and obscure journals, among a wide range of primary source documents. One of the most haunting moments in the book comes when Judge Motley packed up her three-year-old toddler and husband and embarked on a seventeen-hour drive from New York to Tallahassee, Florida, where she would then challenge the University of Florida College of Law's exclusion of minorities before the Supreme Court of Florida.⁴³ They stopped in South Carolina to fill up their car with gas, and the station attendant refused to let her young son use the restroom because of his race.⁴⁴ Brown-Nagin recounted the incident: "[It] infuriated Motley and only strengthened her resolve to combat racism and segregation. It also taught her a lesson. 'We learned to ask to use the restroom first; if the answer was yes, we would purchase gas; if the answer was no, we would go to the next gas station.'"⁴⁵ Brown-Nagin portrays Judge Motley for all that she was as a lawyer, a judge, a mother, and more.

When Justice Marshall left the NAACP Legal Defense Fund to join the Supreme Court, he alone selected his successor as general counsel.⁴⁶ Judge Motley found out that her "beloved mentor had passed her over for the promotion of a lifetime" when he named Jack Greenberg.⁴⁷ The decision was controversial and had been made behind closed doors. Judge Motley described it as "strange," given that Justice Marshall had been "a symbol of Black achievement," and Greenberg was "a dispassionate white man without a natural constituency in the Black community."⁴⁸ Judge Motley was more than qualified for the job: at that point, she was in her fifteenth year at the NAACP and had argued many federal court cases.⁴⁹ She later reflected that her mentor overlooked her for the role because of her gender: in Judge

40. *See generally* JAMES BALDWIN, *THE PRICE OF THE TICKET* (1985).

41. BROWN-NAGIN, *supra* note 32, at 71.

42. *Id.* at 89.

43. *Id.* at 93–94.

44. *Id.*

45. *Id.* at 94.

46. *Id.* at 129.

47. *Id.* at 130.

48. *Id.* at 132.

49. *Id.* at 128.

Motley's words, Justice Marshall "had difficulty with the idea of a woman in a leadership role in a male world."⁵⁰

Brown-Nagin reveals a dynamic familiar to many mentees: "In public, she expressed gratitude and admiration for Marshall Yet Thurgood Marshall—the same man whom Motley praised for giving her a big break at a time when law offices systematically excluded women—was also responsible for the biggest setback of her career."⁵¹ Only in Judge Motley's biography, published thirty-seven years after the offense, did she publicly reveal her anger. Brown-Nagin's analysis is telling and is a prime example of how histories, autobiographies, and biographies are the sources that offer the fullest picture for mentoring:

Motley's decision to raise questions about Marshall's succession decision in her autobiography, after years of remaining silent about the gender discrimination she had faced, spoke volumes. She felt strongly that Marshall's choice merited public scrutiny. His passing her over for the promotion struck her as manifestly unfair. The normally stoic Motley was hurt, and for the first time, she let it show.⁵²

Civil Rights Queen memorializes Judge Motley's legacy, and those who read this biography may very well find her to be a mentor. Brown-Nagin notes: "Motley mentored a new generation of lawyers. She hired women and people of color as her clerks."⁵³ In turn, the book will mentor generations to come. In this way, Brown-Nagin's assessment of Judge Motley's legacy is somewhat shortsighted: "[D]espite all she achieved, Motley has mostly been defined by Thurgood Marshall's mentorship."⁵⁴ Brown-Nagin does not seem to realize that by uncovering and unveiling the full history, she has redefined Judge Motley not by Justice Marshall's mentorship but by her own lens.

Understanding Judge Motley through Brown-Nagin provides mentorship for navigating the challenges that Judge Motley faced and allows for reflection about the ways her mentors aided her but also held her back. The biography succeeds in providing a comprehensive description of Judge Motley's life, but it neglects parallel pursuits of Black women to its detriment. With any biography or historical account, an author must make calculated and sometimes difficult decisions about what to include and what to omit. Somewhat paradoxically, in bringing to life the lesser-known Judge Motley without exploring her counterparts, the book risks compromising its ambition of painting a more accurate picture of American history by perpetuating the omission of other deserving but overlooked stories.

These overlooked stories represent another important component of finding mentorship in history. As one example, Judge Amalya L. Kearsse was

50. *Id.* at 136 (quoting CONSTANCE BAKER MOTLEY, *EQUAL JUSTICE UNDER LAW: AN AUTOBIOGRAPHY* 151 (1998)).

51. *Id.*

52. *Id.*

53. *Id.* at 265.

54. *Id.* at 7.

the first Black woman to become a federal appellate court judge, appointed by President Jimmy Carter to the U.S. Court of Appeals for the Second Circuit in 1979.⁵⁵ That seat should have gone to Judge Motley, according to Brown-Nagin.⁵⁶ Yet Judge Kearshe gets no mention in the nearly 500 pages of *Civil Rights Queen*, except for a brief acknowledgement in a footnote that appears in the epilogue.⁵⁷ Judge Kearshe is marginalized, quite literally.

Judge Kearshe graduated cum laude from the University of Michigan Law School in 1962, and became the first Black female partner at the New York law firm Hughes Hubbard & Reed.⁵⁸ President Carter's appointment made her not only the first woman to sit on the Second Circuit, but also the second African American following Justice Marshall.⁵⁹ President Ronald Reagan shortlisted her for the seat that was ultimately filled by Justice O'Connor as the first woman on the Supreme Court in 1981, and again for the seat that went to Justice Anthony Kennedy in 1988 (after nominees Judge Robert Bork tanked in the Senate⁶⁰ and Judge Douglas Ginsburg withdrew⁶¹). Presidents George H.W. Bush⁶² and Bill Clinton later considered her for their short lists as well.⁶³

Other Black female lawyer contemporaries of Judge Motley's include Jewel Lafontant, who argued and won a case before the Supreme Court in 1963.⁶⁴ She served many years as an assistant U.S. Attorney for the Northern District of Illinois after being the first Black woman to graduate from the University of Chicago Law School in 1946⁶⁵—the same year that Judge Motley graduated from Columbia Law School. President Richard Nixon was reportedly intrigued by the possibility of nominating either Lafontant or Judge Motley to the Court, though he never placed either woman on an official short list.⁶⁶ He did, however, eventually appoint Lafontant to the

55. See JEFFERSON & JOHNSON, *supra* note 2, at 77.

56. See BROWN-NAGIN, *supra* note 32, at 346, 441 n.2.

57. See *id.* at 441.

58. See JEFFERSON & JOHNSON, *supra* note 2, at 75.

59. See Candice Norwood, *41 Years Before Ketanji Brown Jackson, Amalya Lyle Kearshe Was Considered for the Supreme Court*, 19TH NEWS (Mar. 2, 2022, 4:29 PM), <https://19thnews.org/2022/03/amalya-lyle-kearse-first-black-woman-shortlisted-supreme-court/> [<https://perma.cc/MPX9-3JTU>].

60. See Edward Walsh & Ruth Marcus, *Bork Rejected for High Court*, WASH. POST (Oct. 24, 1987), <https://www.washingtonpost.com/archive/politics/1987/10/24/bork-rejected-for-high-court/514f34f9-10d7-4ca5-aa21-d96274657854> [<https://perma.cc/S953-ZLHA>].

61. See Steven V. Roberts, *Ginsburg Withdraws Name As Supreme Court Nominee, Citing Marijuana 'Clamor'*, N.Y. TIMES (Nov. 8, 1987), <https://www.nytimes.com/1987/11/08/us/ginsburg-withdraws-name-as-supreme-court-nominee-citing-marijuana-clamor.html> [<https://perma.cc/S928-4XAF>].

62. See Jon O. Newman, *A Replacement for Thomas*, N.Y. TIMES (Oct. 10, 1991), <https://www.nytimes.com/1991/10/10/opinion/a-replacement-for-thomas.html> [<https://perma.cc/WU4V-XMUD>].

63. See Jared Council, *Meet the Black Woman Considered—and Passed Over—for Four Supreme Court Nominations*, FORBES (Feb. 26, 2022, 6:30 AM), <https://www.forbes.com/sites/jaredcouncil/2022/02/26/meet-the-black-women-consideredand-passed-overfor-supreme-court-nominations/?sh=3d3b4a2a5f41> [<https://perma.cc/5XCR-Q4C8>].

64. See JEFFERSON & JOHNSON, *supra* note 2, at 41.

65. See *id.*

66. See *id.*

U.S. Department of Justice as the deputy solicitor general in 1973—the first Black woman to hold the job.⁶⁷

In 1965, one year before appointing Judge Motley, President Lyndon B. Johnson made Patricia Roberts Harris—who graduated from George Washington University Law School in 1960—the first Black female U.S. ambassador.⁶⁸ She would go on to be the first Black woman to serve in a presidential cabinet under President Carter in the late 1970s as the secretary for the U.S. Department of Housing and Urban Development, and then as the secretary for the U.S. Department of Education. She was also the first African American dean of a U.S. law school at Howard University School of Law.⁶⁹ Both Judge Motley and Roberts appeared on a list from the National Women’s Political Caucus recommending ten potential Supreme Court nominees for President Nixon’s consideration in 1971.⁷⁰

Barbara Jordan became the first post-Reconstruction African American state senator in Texas in 1966—the same year Judge Motley took the bench—and was elected to the U.S. House of Representatives in 1972.⁷¹ Her name found its way to President Reagan in a telegram from the president of Delta Sigma Theta, alongside Lafontant’s and Judge Motley’s, in consideration for the seat that was ultimately filled by Justice O’Connor.⁷² None of these women—Lafontant, Harris, or Jordan—even make it into a footnote of the *Civil Rights Queen*. To be sure, Judge Motley is deservedly the star of her own biography. But excluding others engaged in similar efforts to attain powerful roles in a profession hostile to women and minorities ignores significant lessons relevant to the inequalities that endure today, lessons that bear on mentorship via legacy.

Situating Judge Motley’s life within the critical context of these additional narratives uncovers intersectional complexities unique to Black women navigating the pipeline to positions of leadership and power in several ways. First, locating Judge Motley’s story within this larger framework offers a crucial counternarrative to the dominant history of women’s entrance into professional life that is focused almost entirely on white women. Judge Motley resisted the label of feminist; her understandable rejection of feminism bears on modern dynamics in which Black women remain

67. *See id.*

68. *See Patricia Roberts Harris: Ambassador to Luxembourg*, NAT’L MUSEUM OF AM. DIPL., <https://diplomacy.state.gov/encyclopedia/patricia-roberts-harris-ambassador/> [https://perma.cc/C25J-85CV] (last visited Feb. 6, 2023).

69. *See* JEFFERSON & JOHNSON, *supra* note 2, at 45.

70. *See 10 Women Named as Caucus Choices for Court Seats*, N.Y. TIMES (Sept. 28, 1971), <https://www.nytimes.com/1971/09/28/archives/10-women-named-as-caucus-choices-for-court-seats.html> [https://perma.cc/2SEV-22HY].

71. *See* KATHERINE TATE, *BLACK FACES IN THE MIRROR: AFRICAN AMERICANS AND THEIR REPRESENTATIVES IN THE U.S. CONGRESS* 55 (2018).

72. *See* Letter from Fred Fielding, Couns. to the President, the White House, to Mona H. Bailey, Nat’l President, Delta Sigma Theta Sorority (July 30, 1981) (on file with the Ronald Reagan Presidential Library).

excluded from roles that white feminists have claimed.⁷³ Second, at a time when the teaching of racial injustice and critical race theory is increasingly politicized (and even suppressed in some circles), the untold accounts of Black women pursuing legal careers at the same time as Judge Motley need documentation and amplification. Third, the collective history of Judges Motley and Kearse, as well as Lafontant, Harris, Jordan, and others, provides essential context for understanding the significance of long overdue milestones like Justice Ketanji Brown Jackson becoming the nation's first African American female member of the Supreme Court.

There is profound mentoring power in collective narratives, as well as in individual stories. Judge Motley herself said: "We will not be leaving racism behind The question, therefore, is clear: What do we do about it? The answer can only be found in the history of what we have done."⁷⁴ Uncovering, memorializing, and revising these histories should be an ongoing process. Scholars have called for a "constellation" of mentors from which one may "draw on a broad and diverse range of individuals for mentoring support during their work lives."⁷⁵ This constellation should include mentors who can remain "alive in our heads," even if they are no longer with us and even if we have never met.

II. ETHICAL MENTORING

Mentoring from the past, of course, is not sufficient. It is not meant to be a substitute for real-world mentoring relationships in the present, especially mentoring from leaders. As Deborah argued, mentorship should be an obligation for all in leadership. Her research documents the fact that leaders who mentor in a "coaching" role, i.e., helping "employees identify their unique strengths and weaknesses and tie them to their personal career aspirations . . . [.] have been responsible for some of the legal profession's greatest achievements."⁷⁶ Indeed, according to Deborah, "[f]ailure to develop subordinates has been identified as one of the 'fatal flaws' of unsuccessful leaders."⁷⁷ Part II defines ethical mentoring, champions its importance for leaders, and suggests best practices.

A. *The Meaning of Ethical Mentoring*

Let's begin by discussing what ethical mentoring is *not*. Many forms of mentoring take difficult, if not destructive, turns. These experiences can

73. See, e.g., Kim McLarin, *Can Black Women and White Women Be True Friends?*, WASH. POST (Mar. 29, 2019, 12:15 AM), <https://www.washingtonpost.com/nation/2019/03/29/can-black-women-white-women-be-true-friends/> [<https://perma.cc/6TDG-7PFN>] ("There have been 41 white female governors . . . but not a single black female one White women hold 4.4 percent of CEO positions, but black women hold 0.2 percent.").

74. MOTLEY, *supra* note 50, at 5.

75. Fiona M. Kay & Jean E. Wallace, *Is More Truly Merrier?: Mentoring and the Practice of Law*, 47 CAN. REV. SOCIO. 1, 21 (2010).

76. Rhode, *supra* note 21, at 1627 (quoting Daniel Goleman, *Leadership That Gets Results*, HARV. BUS. REV., Mar.–Apr. 2000, at 78, 87).

77. *Id.* at 1628.

range from stress-inducing torment⁷⁸ to discrimination⁷⁹ to theft of ideas⁸⁰ to sexual assault.⁸¹ Professors Dennis Moberg and Manuel Velasquez explain: “Although mentors are often heralded as virtuous agents of essential continuity, mentoring commonly results in serious dysfunctions. Not only do mentors too often exclude people different from themselves, but also the people they mentor are frequently abused in the process.”⁸² According to one study, more than half of former protégés reported experiencing “at least one negative mentoring relationship.”⁸³ Moberg and Velasquez’s study elaborates:

Mistreatment reported by protégés includes tyrannical and manipulative behavior such as revenge, political sabotage, and harassment. Similarly, some mentors report instances of dirty tricks and backstabbing by opportunistic protégés. Horror stories like these are clearly problematic for the victims of such ill treatment, and they are also destructive of . . . an individual’s career aspirations⁸⁴

These stories also keep some individuals from seeking out mentors in the first place, fearful that the relationship will result in more harm than good. (Finding mentorship in books is one way to avoid these negative dynamics, to be sure.)

Yale Law School Professors Amy Chua and Jed Rubenfeld—once known for their effective mentorship of students, especially those seeking Supreme Court clerkships—made headlines when students complained about some of their guidance. They advised students that a “certain look” was required to clerk for Justice Brett Kavanaugh, who, at the time, served on the U.S. Court of Appeals for the District of Columbia Circuit.⁸⁵ According to media

78. Joelle K. Jay, *How to Know If You Have a Mentor or a Tormentor*, FORBES (July 22, 2021, 7:20 AM), <https://www.forbes.com/sites/forbescoachescouncil/2021/07/22/how-to-know-if-you-have-a-mentor-or-tormentor/> [https://perma.cc/7MN2-NYS8] (“Sometimes mentors go too far and actually move you away from your goals, becoming what we might call tormentors. Tormentors, consciously or unconsciously, take advantage of the mentoring relationship and may stress you out more than they lift you up.”).

79. See, e.g., Marcia Myers, *Researcher Wins Her Suit Over Denial of ‘Mentoring’*, BALTIMORE SUN (April 2, 1994), <https://www.baltimoresun.com/news/bs-xpm-1994-04-02-1994092004-story.html> [https://perma.cc/D9EJ-DU3F].

80. A jury awarded Carolyn Phinney, a research associate at the University of Michigan, more than \$1 million in damages after her mentor stole her research. See *Phinney v. Perlmutter*, 564 N.W.2d 532, 541 (Mich. Ct. App. 1997); see also Thomas Bartlett & Scott Smallwood, *Mentor vs. Protégé*, CHRON. HIGHER EDUC. (Dec. 17, 2004), <https://www.chronicle.com/article/mentor-vs-protaga/> [https://perma.cc/S3X2-ESG5] (listing examples of mentors plagiarizing the work of their mentees).

81. See, e.g., Tim Evans, Joe Guilan, Gina Kaufman, Marisa Kwiatkowski, Matt Mencarini & Mark Alesia, *How Larry Nassar Abused Hundreds of Gymnasts and Eluded Justice for Decades*, INDYSTAR, <https://www.indystar.com/story/news/2018/03/08/larry-nassar-sexually-abused-gymnasts-michigan-state-university-usa-gymnastics/339051002/> [https://perma.cc/NLN4-PR5Z] (Apr. 4, 2018, 12:59 PM).

82. Dennis J. Moberg & Manuel Velasquez, *The Ethics of Mentoring*, 14 BUS. ETHICS Q. 1, 95 (2004).

83. *Id.* at 97.

84. *Id.* at 96.

85. Betty Cracker, *Tiger Clerk-Model Pipeline*, BALLOON JUICE BLOG (Sept. 20, 2018, 12:19 PM), <https://www.balloon-juice.com/2018/09/20/tiger-clerk-model-pipeline/>

reports, Chua “privately told a group of law students last year that it was ‘not an accident’ that Kavanaugh’s female law clerks all ‘looked like models’ and would provide advice to students about their physical appearance if they wanted to work for him.”⁸⁶ While Chua and Rubinfeld denied giving this advice,⁸⁷ both were disciplined by Yale. Chua was removed from serving as an advisor to first-year students, and Rubinfeld was placed on leave for two years, with a permanent prohibition on teaching small groups or required courses because of his misconduct.⁸⁸

Some mentors, even with good intentions, simply give terrible advice. Deborah Rhode in her book *Lawyers as Leaders*, in a section on mentoring and advice, cited the advice that Judge Motley received from some of her mentors as an example: “[N]o one thought that [becoming a lawyer] was a good idea,” and “[Judge Motley’s] first employer after graduating from college, a female government worker, told her that going to law school would be a ‘complete waste of time’ because ‘women don’t get anywhere in the law.’”⁸⁹ Decades later, I received similarly awful and sexist advice from the chair of my pre-tenure committee as a junior law professor at Michigan State University College of Law. After noting that my husband at the time had a well-paying job elsewhere in the university, the chair told me that pursuing tenure was too stressful for a woman, especially one like me with two young children, and he cautioned against it. Like Judge Motley, I rejected that advice and, fortunately, found mentors to help me, not hold me back.

Other mentors, often similarly well intentioned, cause harm by exclusion. They may “endorse equal opportunity in principle” but “fall short in practice; they support those who seem most similar in backgrounds, experiences, and values.”⁹⁰ Studies reveal that male mentorship of women leads to more promotions but still lower compensation.⁹¹ Deborah’s research documents

[<https://perma.cc/EH39-Y8YU>]; see also Leah M. Litman & Deeva Shah, *On Sexual Harassment in the Judiciary*, 115 NW. U. L. REV. 599 (2020) (discussing the influence of Chua and Rubinfeld on clerkship hiring for Yale students).

86. Stephanie Kirchaessner & Jessica Glenza, ‘No Accident’ Brett Kavanaugh’s Female Law Clerks ‘Looked Like Models,’ *Yale Professor Told Students*, GUARDIAN (Sept. 20, 2018, 10:16 AM), <https://www.theguardian.com/us-news/2018/sep/20/brett-kavanaugh-supreme-court-yale-amy-chua> [<https://perma.cc/JJW2-3RHF>].

87. See Eugene Volokh, *Yale Law Prof. Amy Chua’s Statement on Her Advice to Clerkship Applicants*, VOLOKH CONSPIRACY (Sept. 22, 2018, 1:29 PM), <https://reason.com/2018/09/22/yale-law-prof-amy-chuas-statement-on-her/> [<https://perma.cc/G6NF-WMXP>].

88. See Colleen Flaherty, *Yale Law Professor and Title IX Critic Suspended in Title IX Case*, INSIDE HIGHER ED (Aug. 28, 2020), <https://www.insidehighered.com/quicktakes/2020/08/28/yale-law-professor-and-title-ix-critic-suspended-title-ix-case> [<https://perma.cc/5B9K-FXYS>].

89. RHODE, *LAWYERS AS LEADERS*, *supra* note 17, at 37 (second alteration in original) (quoting CONSTANCE BAKER MOTLEY, *EQUAL JUSTICE UNDER LAW: AN AUTOBIOGRAPHY* 41, 56 (1998)).

90. RHODE, *supra* note 11, at 16.

91. See, e.g., Payal Kumar & Stacy Blake-Beard, *What Good Is Bad Mentorship?: Protégé’s Perception of Negative Mentoring Experiences*, 48 INDIAN J. INDUS. REL. 79, 87 (2012); see also M. Isabel Medina, Jennifer Rosato Perea, Elena Maria Marty-Nelson & Sudha Setty, *Roundtable on Intersectionality and Strengths and Challenges in Leadership*, 23 U. PA. J.L. & SOC. CHANGE 363, 383 (2020) (“Leadership in the legal academy, like leadership in law

that it is “not only men who are responsible for these patterns of exclusion.”⁹² She found that “surveys reveal frustration with some senior women who believe that if they managed without special help, why can’t everyone else” These women’s mindsets “may be rewarded by the special power, visibility, and status that come with being one of the few women at the top.”⁹³ This is a dynamic very familiar to those of us who entered professional life in the late 1990s and after.

Mentorship can be fraught with mental health issues, overwork, and a combination of advantages and disadvantages in the same relationship.⁹⁴ It can compromise ethics, as Professor Leslie C. Levin found in her study on professional development for solo and small firm practitioners:

Not surprisingly, however, not all of the mentoring reported by these lawyers would be considered ethical. A few of the lawyers described experiences that suggested that they had encountered questionable ethical mentoring or modeling in early practice. For example, one lawyer recounted stories about an early employer, a sole principal, from whom he “learned how to break every rule in the universe.” Another lawyer, who had worked in a large Manhattan firm, recalled how a partner mentored him in unethical billing practices.⁹⁵

Failed mentorships are not necessarily abusive but can also cause harm. One study demonstrated as much:

Our study provided unique details on the characteristics of failed mentoring relationships, including lack of communication, of experienced and knowledgeable mentors, and of commitment to the relationship. We found that competition between mentors and mentees, however, contributes more to a failed relationship. . . . Of particular concern is how common the participants in our study perceived these toxic relationships to be, especially given that mentors often serve as role models for their mentees.

. . . .

firms and various other corporate contexts, remains largely white and male. Women of color are, unsurprisingly, represented at lower rates than men of color and white women. It is essential that women of color be willing to rely on good mentors who may not necessarily share our life experiences, history, or experiences, but who offer valuable guidance and insight nonetheless.” (footnotes omitted).

92. RHODE, *supra* note 11, at 16.

93. *Id.*

94. See, e.g., Jen Heemstra (@jenheemstra), TWITTER (July 11, 2019, 8:11 AM), <https://twitter.com/jenheemstra/status/1149305299074863105> [https://perma.cc/Y83T-UP8U] (“Abusive mentoring practices and overwork do not ‘build character’ in graduate students, they destroy lives.”); Julie Novkov (@NovkovJulie), TWITTER (Feb. 8, 2022, 8:28 PM), <https://twitter.com/NovkovJulie/status/1491222529939492865> [https://perma.cc/H6G2-SSD6] (“Just because someone is a great colleague among peers and has strong mentoring relationships does not mean it’s impossible for them also to be abusive.”).

95. Leslie C. Levin, *Preliminary Reflections on the Professional Development of Solo and Small Law Firm Practitioners*, 70 *FORDHAM L. REV.* 847, 890 (2001) (footnote omitted) (quoting attorney practicing in five-lawyer firm in New York).

Several participants in our study observed or experienced failed mentoring relationships, which have potentially significant consequences.⁹⁶

The ideal mentor-mentee relationship is mutually symbiotic—i.e., both participants benefit. For the mentor, rewards include legacy-building and the development of one's own leadership and communication skills. For the mentee, rewards include increased confidence and knowledge, networking opportunities and connections, and professional development opportunities, as well as personal and professional growth. Ethical mentoring is more than simply offering workplace training (though, historically, the apprenticeship model for training new lawyers “was a part of law practice for centuries” and a “method of mentoring” that fell out of favor only “with the rise of the modern law school.”)⁹⁷ Ideally, ethical mentors are “exceptional leaders”: “[They often] stand up for their mentees and support them when they are experiencing the most challenging moments. They also encourage and push their mentees to take on bigger challenges. True mentors show a genuine interest in and concern for others.”⁹⁸

Because mentorship “falls outside the formal system of rules and controls,” Moberg and Velasquez contend that it is “important that such roles come with clear ethical parameters”; without these, “moral ambiguity and ethical abuse are more likely.”⁹⁹ Mentoring is as much about the individual one-on-one relationship as it is about developing ethical practices of a professional community. As Judge Patrick Schiltz explains, “whether law is practiced ethically in any particular community depends not upon the community's formal rules, but upon its culture.”¹⁰⁰ That culture, according to Judge Schiltz, “does not reflect ‘big’ decisions that members of the community make about ‘big’ problems, as much as it reflects the dozens of ordinary, mundane decisions that every attorney makes—and makes intuitively—every day.”¹⁰¹ The mentorship that an attorney receives is the ultimate force behind these decisions. “In sum, conduct is influenced by culture, culture by intuition, and intuition by mentoring.”¹⁰²

Moberg and Velasquez conceive of mentorship as “a quasi-professional role.”¹⁰³ It is different from a standard workplace relationship in that mentorship “requires an intimate relationship between the parties, because mentors must understand their protégés well enough to be able to provide the moral coherence wisdom requires, and because by expressing wisdom

96. Sharon E. Straus, Mallory O. Johnson, Christine Marquez & Mitchell D. Feldman, *Characteristics of Successful and Failed Mentoring Relationships: A Qualitative Study Across Two Academic Health Centers*, 88 ACAD. MED. 82, 88 (2013).

97. Beiner, *supra* note 23, at 330–31.

98. Marino, *supra* note 5, at 748.

99. Moberg & Velasquez, *supra* note 82, at 116.

100. Patrick J. Schiltz, *Legal Ethics in Decline: The Elite Law Firm, the Elite Law School, and the Moral Formation of the Novice Attorney*, 82 MINN. L. REV. 705, 713 (1998).

101. *Id.*

102. *Id.*

103. Moberg & Velasquez, *supra* note 82, at 99.

mentors reveal themselves.”¹⁰⁴ They break down the role of a mentor in three ways:

First, the role of mentor can be defined in terms of a service relationship that one person, the mentor has toward another person, the protégé: the mentor, as we have seen, provides knowledge, wisdom, and developmental support in the interests of the protégé. Secondly, like the professions, the mentoring relationship is characterized by power distance. The greater power of the mentor over the protégé derives from several sources: the mentor’s greater experience and knowledge, the mentor’s senior standing in the organization, and, often, the mentor’s superior formal authority relative to the protégé’s. Thirdly, the role of mentor has [the following] characteristics[:]. . . (1) [A]lthough the role of mentor need not involve formal training, mentors must go through some kind of extensive learning process in order to be able to provide the learning and wisdom expected of their role, (2) such learning, even when heavily experiential, must nevertheless involve an intellectual component since it must be communicable to the protégé in an intelligible way, and (3) the service mentors provide is important to society insofar as it enables organizations to transfer learning to new generations of members.¹⁰⁵

In short, “the mentor provides the protégé with the benefits of knowledge, wisdom, and developmental support” in order to “transfer learning to new generations.”¹⁰⁶ Professors Neil Hamilton and Lisa Montpetit Brabbit identify four functions of the mentoring relationship, including (1) the “career mentoring function” that “directly aides the protégé’s career advancement”; (2) the “psychosocial mentoring function” that “build[s] the protégé’s self-confidence and sense of self-worth”; (3) the “role-modeling mentoring function” that allows for development through observation and discussion; and (4) the “professionalism mentoring function” that is important “in a peer-review profession” like law, “where there is an unwritten social contract whereby society grants to practitioners rights of autonomy and self-regulation in return for the profession’s commitment to the principles of professionalism, including peer review.”¹⁰⁷ Moberg and Velasquez also ascribe specific duties to mentorship derived from “the ethical principles of utility, rights, justice, and caring,”¹⁰⁸ many of which will be familiar to lawyers because they are duties owed to clients: “[B]eneficence, nonmaleficence, autonomy, confidentiality, fairness, loyalty, and concern.”¹⁰⁹ Because of the power differences inherent in a mentorship role, they conclude that the “locus of responsibility for meeting these obligations rests largely with the mentor.”¹¹⁰

104. *Id.* at 98–99.

105. *Id.* at 99–100.

106. *Id.* at 100.

107. Neil Hamilton & Lisa Montpetit Brabbit, *Fostering Professionalism Through Mentoring*, 57 J. LEGAL EDUC. 102, 107–09 (2007).

108. Moberg & Velasquez, *supra* note 82, at 113.

109. *Id.* at 102.

110. *Id.* at 113.

B. *The Importance of Ethical Mentoring*

Although empirical studies caution against “overestim[ing] the potential effect of mentoring,”¹¹¹ we know that mentoring is an invaluable, albeit immeasurable, resource for ascension into positions of leadership and power, especially for those previously excluded.¹¹² The advantages of mentorship in the form of career rewards are well documented by empirical research.¹¹³ These benefits include “higher compensation, more promotions, greater career satisfaction, commitment, and optimism that they will advance further.”¹¹⁴ By contrast, the absence of mentorship “when striving for leadership” means “women and minority lawyers may take themselves out of the running for such roles fearing a lack of support.”¹¹⁵

Formal mentoring programs do not necessarily produce the best results. Deborah’s research revealed that, although more organizations have implemented formal mentoring programs, the programs do not always have proper training, rewards, or oversight.¹¹⁶ Formal programs also cannot replace relationships that “develop naturally and that yield not simply advisors but sponsors—individuals who act as advocates and are in positions to provide opportunities.”¹¹⁷ Indeed, participants in one study by the American Bar Association (ABA) noted that female mentors may have “good intentions” but often also have competing work and family commitments or “don’t have a lot of power so they can’t really help you.”¹¹⁸ Professor

111. Lillian T. Eby, Tammy D. Allen, Sarah C. Evans, Thomas Ng & David L. DuBois, *Does Mentoring Matter?: A Multidisciplinary Meta-Analysis Comparing Mentored and Non-Mentored Individuals*, 72 J. VOCATIONAL BEHAV. 254, 264 (2008) (“We are not suggesting that mentoring does not have value—the evidence presented here suggests that it may. However, we believe the results underscore the need to temper what are sometimes seemingly unrealistic expectations about what mentoring can offer to protégés, institutions, and society at large.”).

112. See, e.g., John D. Kammeyer-Mueller & Timothy A. Judge, *A Quantitative Review of Mentoring Research: Test of a Model*, 72 J. VOCATIONAL BEHAV. 269, 277 (2008) (finding that “mentoring remains an important predictor of many career outcomes”); Justin W. Carter & Carolyn M. Youssef-Morgan, *The Positive Psychology of Mentoring: A Longitudinal Analysis of Psychological Capital Development and Performance in a Formal Mentoring Program*, 30 HUM. RES. DEV. Q. 383, 401 (2019) (“Mentoring . . . can benefit mentors, protégés, and organizations through its recognized career and psychosocial functions, as well as its performance impact. Mentoring can influence protégés [sic] performance and success directly through interaction and exchange between mentors and protégés.”).

113. See Fiona M. Kay & Jean E. Wallace, *Mentors as Social Capital: Gender, Mentors, and Career Rewards in Law Practice*, 79 SOC. INQUIRY 418, 418 (2009) (“The careers of professionals are undoubtedly enriched through the developmental assistance offered by dedicated mentors. A diverse array of benefits from mentoring has been documented in the research literature . . .”).

114. Yvonne M. Dutton, Margaret Ryznar & Lea Shaver, *Advancing Faculty Diversity Through Self-Directed Mentoring*, 25 DUKE J. GENDER L. & POL’Y 55, 60 (2017).

115. Susan G. Manch, *Learning to Lead: Creating A Leadership Development Program for Your Law Firm*, LAW PRAC., May–June 2011, at 53, 57.

116. See RHODE, THE TROUBLE WITH LAWYERS, *supra* note 17, at 69.

117. *Id.*

118. *Id.* at 69–70 (quoting JANET E. GANS EPNER, ABA COMM’N ON WOMEN IN THE PRO., VISIBLE INVISIBILITY: WOMEN OF COLOR IN LAW FIRMS 14 (2006)); see also Joselynn Fountain

Theresa Beiner offers several suggestions for effective mentoring.¹¹⁹ First, although “studies suggest that formal mentoring programs are not as effective as informal mentoring, it is important that firms create voluntary formal mentoring programs.”¹²⁰ Second, she encourages “cross-gender and cross race mentoring relationships.”¹²¹ Third, “formal mentoring programs should include training, and mentors and protégés should know what the expectations are for the relationships.”¹²² The fourth recommendation from Beiner is that successful mentors find “common interests and values” with their mentees beyond the workplace connection.¹²³ Finally, she acknowledges “the benefit [of forming] multiple mentoring relationships” through “developmental network[s]” or “constellation[s].” These networks can include “mentors who provide career support (exposure, ‘visibility, sponsorship, and protection’) as well as psychosocial support (‘friendship, counseling, acceptance and confirmation, and sharing beyond work’).”¹²⁴ Interestingly, the clinical setting in law schools can be a place for best practices in ethical mentoring to emerge:

Clinical supervision provides the time and the opportunity for practical ethical mentoring. It allows students to discuss ethical conflicts with experienced and skilled practitioners who usually have formed and maintained a variety of connections and networks with the legal community which assist them in navigating the ethical norms of the profession.¹²⁵

The most effective kind of mentoring—informal, organic mentorship—is also the most difficult to cultivate, incentivize, and regulate in any uniform way.¹²⁶ For example, in legal academia, a study found that “law faculty protégés are substantially more likely to characterize the mentoring they received as *effective* when it was informal (81%) rather than formal (56%).”¹²⁷ “[This study] mirrors a broader trend documented in the mentoring literature: mentees receiving informal mentoring report better satisfaction and outcomes than those receiving formal mentoring. Fortunately, these two forms of mentoring are not mutually exclusive, and a combination of formal and informal mentoring approaches is likely to be most effective.”¹²⁸

Professors Jen Heemstra from Washington University in St. Louis, Missouri, and Neil Garg from UCLA—both chairs of the chemistry department at their respective institutions—founded the organization

& Kathryn E. Newcomer, *Developing and Sustaining Effective Faculty Mentoring Programs*, 22 J. PUB. AFFS. EDUC. 483, 500 (2016).

119. See Beiner, *supra* note 23, at 344–50.

120. *Id.* at 347 (footnote omitted).

121. *Id.* at 349.

122. *Id.*

123. *Id.*

124. *Id.* at 350.

125. Kirsten Edwards, *Found! The Lost Lawyer*, 70 FORDHAM L. REV. 37, 67 (2001).

126. See RHODE, *supra* note 11, at 6 (“An equally persistent problem is inadequate access to informal networks of mentoring, contacts, and client development.”).

127. Dutton et al., *supra* note 114, at 60.

128. *Id.* (footnote omitted).

#MentorFirst “with the goal of eradicating negative environments in academic research laboratories and instead promoting best mentoring practices that foster individual growth and research success.”¹²⁹ The two professors, who both serve as leaders and mentors in their roles as department chairs, created the organization because although “mentoring comes first” for them, they acknowledge that they “received relatively little formal training around how to be good mentors.”¹³⁰ They sought input from their lab members, who “suggested that, in addition to focusing on professional development, faculty should be clear in setting and communicating expectations, listen to and remain open to feedback, and consistently convey the importance of self-care and well-being.”¹³¹ According to Heemstra and Garg, these “efforts can empower students, promote creative thinking, and ultimately lead to higher research productivity.”¹³² They apply their training as chemists to mentoring:

Similar to planning an experiment, we can identify the desired mentoring outcome, then work backward to figure out the system or action needed to achieve that goal. For example, if we want to support professional development as mentors, we can set aside time during group meetings to offer instruction on these topics, and we can schedule regular one-on-one meetings with each of our group members to work together on individual development plans.¹³³

Heemstra and Garg have formed a community of scholars who pledge to prioritize ethical mentoring in their work and share best practices.

Every industry and institution needs a #MentorFirst effort. For the legal profession, mentorship should be a professional responsibility, formalized within the code of legal ethics.

III. MENTORSHIP AS PROFESSIONAL RESPONSIBILITY

Mentorship is regularly encouraged in legal education and practice, but no corresponding ethical obligation can be found in the ABA’s Model Rules of Professional Conduct (the “Model Rules”). The closest guidance is located in Model Rule 5.1(b): “A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.”¹³⁴ Furthermore, Model Rule 5.1(c) incentivizes senior lawyers to oversee the work of junior lawyers by imputing responsibility for conduct that is “order[ed] or . . . ratifie[d].”¹³⁵ That rule also imputes responsibility if the senior lawyer knows about the

129. Jen Heemstra & Neil Garg, *About #MentorFirst*, MENTORFIRST, <https://mentorfirst.org/about> [<https://perma.cc/9C7Z-D9MX>] (last visited Feb. 6, 2023).

130. Jen Heemstra & Neil Garg, *Putting Mentoring First: When Faculty Focus on Their Students, Everybody Wins*, CHEM. & ENG’G NEWS (Sept. 12, 2020), <https://cen.acs.org/careers/employment/Putting-mentoring-first/98/i35> [<https://perma.cc/MUA2-F4AT>].

131. *Id.*

132. *Id.*

133. *Id.*

134. MODEL RULES OF PRO. CONDUCT r. 5.1(b) (AM. BAR ASS’N 2019).

135. *Id.* r. 5.1(c).

conduct and does not take “reasonable remedial action” so that negative consequences can be “avoided or mitigated.”¹³⁶ Model Rule 5.3(b) places a similar obligation on lawyers who have “direct supervisory authority” over the work of nonlawyers.¹³⁷ Another potential source is found in the duty of diligence, governed by Model Rule 1.3, which encourages sole practitioners to plan for another lawyer to handle client matters in the event of death or disability.¹³⁸ But none of these provisions fully encompass true mentorship, at least not in the form contemplated here.

There is a place for a rule governing mentorship within the legal profession even though it is not directly related to the lawyer’s relationship with their client or the practice of law. For example, the preamble to the Model Rules describes the lawyer’s special role as a public citizen whose aspirational goals—including pro bono assistance—extend beyond the duties owed to clients.¹³⁹ A commitment to mentorship within the Model Rules is similar in some ways to the aspirational obligation for lawyers to provide free legal services pursuant to Model Rule 6.1, “Voluntary Pro Bono Publico Service.”¹⁴⁰ While voluntary, the symbolic role played by the rule has led many states to incentivize pro bono work. For example, some bar associations and licensing authorities request pro bono reporting as part of the bar preadmission process or the annual licensure renewal process.¹⁴¹ New York requires pro bono work for admission to the bar.¹⁴² Including the pro bono rule as a component of the lawyer’s professional obligations raises awareness of the value of this service and, hopefully, increases the likelihood that a lawyer will participate.

An explicit duty of mentorship in the Model Rules could similarly clarify standards and increase engagement.¹⁴³ For example, in 2012, comment 8 to Model Rule 1.1, governing a lawyer’s duty of competence, was amended to include the following recommendation: “To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and

136. *Id.*

137. *Id.* r. 5.3(b) (“[A] lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person’s conduct is compatible with the professional obligations of the lawyer.”).

138. *See id.* r. 1.3, cmt. 5 (“To prevent neglect of client matters in the event of a sole practitioner’s death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer’s death or disability, and determine whether there is a need for immediate protective action.”).

139. *See id.* r. 6.5.

140. *See id.* r. 6.1.

141. *See, e.g., Bar Pre-Admission Pro Bono*, AM. BAR ASS’N, https://www.americanbar.org/groups/probono_public_service/policy/bar_pre_admission_pro_bono/ [https://perma.cc/T7CL-S8JK] (last visited Feb. 6, 2023).

142. *See* N.Y. COMP. CODES R. & REGS. tit. 22, § 520.16(a) (2015) (“Every applicant admitted to the New York State bar . . . shall complete at least 50 hours of qualifying pro bono service prior to filing an application for admission”).

143. *See, e.g.,* Jan Salisbury, *Emotional Intelligence in Law Practice*, THE ADVOCATE, Jan. 2010, at 38, 41 (noting that mentors should be trained and skilled in both coaching of others and emotional intelligence).

its practice, including the benefits and risks associated with relevant technology”¹⁴⁴ As of early 2022, forty American jurisdictions had adopted a similarly worded provision or had adopted comment 8’s revised language verbatim.¹⁴⁵ The duty of competence could be expanded via the comments to encompass mentorship. Some jurisdictions mandate mentoring in the context of lawyer discipline and supervision. For example, in *In re Lobello*,¹⁴⁶ after pleading guilty to violating Nevada Rule of Professional Conduct 8.4(b), the State Bar of Nevada issued a mandate that the lawyer “be enrolled in a mentoring program . . . for three years,” in addition to other disciplinary measures, including retaking and passing the Multistate Professional Responsibility Exam, completing twelve hours of continuing legal education, and a two-year suspension.¹⁴⁷

Many state bar associations have mentoring programs, although “little is known about whether and the extent to which these programs actually work in providing adequate mentoring relationships for new lawyers.”¹⁴⁸ Numerous law schools have also joined the mentoring bandwagon by offering organized programs,¹⁴⁹ but as is the case with bar associations, more empirical data is needed to assess the benefits of these programs, beyond mere speculation that law schools’ awareness of the need for mentoring can help students and new lawyers.¹⁵⁰ The ABA amended their Standards and Rules of Procedure for Approval of Law Schools in 2022 “to require law schools to include the development of professional identity as part of the law school curriculum.”¹⁵¹ The new definition of professional identity in ABA Standard 303 provides:

144. MODEL RULES OF PRO. CONDUCT r. 1.1, cmt. 8 (AM. BAR ASS’N 2022).

145. For an ongoing update of jurisdictions adopting comment 8 or similar revisions, see Robert J. Ambrogi, *Tech Competence*, LAWSTATES, <https://www.lawnext.com/tech-competence> [<https://perma.cc/WVN2-DGCQ>] (last visited Feb. 6, 2023).

146. No. 58394, BAR COUNSEL REP., Feb. 2013, at 52.

147. *See id.* at 52.

148. *See* Beiner, *supra* note 23, at 333. These states include

Arizona, Connecticut, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania (sponsored by the PBA Minority Bar Committee), Rhode Island (Rhode Island Women’s Bar Association program), South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, and Virginia (resources for new lawyers).

Id. at 332–33.

149. Law schools with mentoring programs include Baylor University School of Law, Harvard Law School, Lewis and Clark Law School, Stanford Law School, University of Arkansas at Little Rock, University of Chicago School of Law, University of Colorado Boulder, University of Denver Sturm College of Law, University of Houston Law Center, University of St. Thomas, University of Texas School of Law, and University of Washington School of Law.

150. *See* Deborah L. Rhode, *Preparing Leaders: The Evolution of a Field and the Stresses of Leadership*, 58 SANTA CLARA L. REV. 411, 415 (2019) (“Law students can also benefit through increased awareness of the need for sponsorship and mentoring.”).

151. *See* Leah Teague, *Growing Number of Leadership Programs and Courses Supports Professional Identity Formation*, 62 SANTA CLARA L. REV. 149, 158 (2022).

Professional identity focuses on what it means to be a lawyer and the special obligations lawyers have to their clients and society. The development of professional identity should involve an intentional exploration of the values, guiding principles, and well-being practices considered foundational to successful legal practice. Because developing a professional identity requires reflection and growth over time, students should have frequent opportunities for such development during each year of law school and in a variety of courses and co-curricular and professional development activities.¹⁵²

The requirements of this obligation could be fulfilled in a number of ways, one of which includes ethical mentoring.

CONCLUSION

“A good mentor hopes you will move on. A great mentor knows you will.”¹⁵³ Deborah Rhode was a great mentor. Those are not her words, although she surely would have loved hearing them, and I have no doubt the quote would have ended up in a future law review article or book of hers if she were still writing.

Those are the words of Higgins consoling Phoebe in the season finale of the Emmy Award–winning show *Ted Lasso*. Deborah loved great television, often weaving it into her scholarly pursuits and regularly exchanging recommendations with me along with good books and films. Many times since her passing, I have started to write her an email about something I know would make her laugh or think or reflect, only to realize that, although her legacy lives on in my mind, she is not here to hear from me anymore. But she leaves behind the kind of legacy that all mentors should aspire to—a generation of diverse scholars dedicated to her wide-ranging intellectual pursuits and on-the-ground efforts for reform. Because of her mentorship, her writing and ideas live on in me, the scholars who joined in the Fordham colloquium honoring her legacy, and the countless others who will cite, interpret, analyze, critique, and build on Deborah’s work in the future.

Deborah Rhode’s mentorship calls us to fight inequity with straight talk, humor, hard work, and vulnerability. The future of feminism, without her in our world, depends on all of us deliberately cultivating networks of mentors to carry on her legacy and, eventually, our own. How, exactly, can we do this in her absence? Well, as always, Deborah gave us the words: “What will get me through this is family and friends like you. I still have work I love, books I want to write, classes I like to teach and most of all, you.”¹⁵⁴ This line, written at a time of her own personal heartbreak, has become a

152. Memorandum from Am. Bar Ass’n Standards Comm. to Council 1, 3 (Aug. 16, 2021), <https://taxprof.typepad.com/files/aba-council.pdf> [<https://perma.cc/7S8F-ESNS>].

153. *Ted Lasso: Inverting the Pyramid of Success* (Apple TV+ broadcast Oct. 8, 2021).

154. Email from Deborah Rhode, Professor of L., Stanford L. Sch., to Renee Knake Jefferson, Professor of L., Univ. of Hous. L. Ctr., and Michele DeStefano, Professor of L., Univ. of Mia. Sch. of L. (June 25, 2020) (on file with author).

mantra to heal mine. Writing this piece is one more step forward along the path she paved.

Now, more than ever, we must find mentors in the histories of those who came before us, and the profession must make mentoring a personal and ethical obligation. Future scholarship should further explore the power of mentorship from the grave, uncovering and documenting the untold stories of women like Judge Constance Baker Motley and Professor Deborah Rhode, along with their contemporaries and those before them. And the legal profession should adopt formal ethical duties to guide mentorship in the present and leave a legacy in the future.