

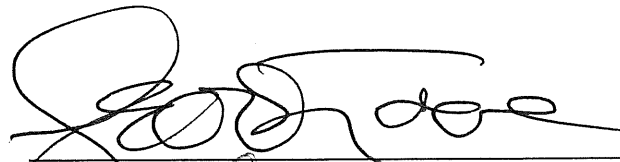
The Supreme Court of South Carolina

RE: Extension of Lawyer Mentoring Second Pilot Program

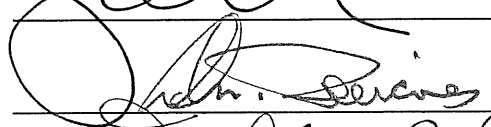
ORDER

By Order dated December 2, 2008, the Court adopted the Lawyer Mentoring Second Pilot Program, which was recommended by the Chief Justice's Commission on the Profession. The Program is scheduled to end on December 31, 2011. After study, the Chief Justice's Commission on the Profession has recommended extending the Program to April 1, 2012. We grant the request and extend the Second Pilot Program to April 1, 2012. Participation is mandatory for all persons admitted to the South Carolina Bar on or before April 1, 2012, who meet the definition of a "qualifying lawyer" under Section 3 of the Second Pilot Program.

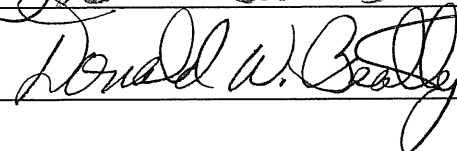
IT IS SO ORDERED.



C.J.



J.



J.

John Little J.
Raymond L. Hunt J.

Columbia, South Carolina

December 1, 2010

The Supreme Court of South Carolina

RE: Lawyer Mentoring Second Pilot Program

ORDER

By Order dated December 2, 2008, the Court adopted the Lawyer Mentoring Second Pilot Program, which was recommended by the Chief Justice's Commission on the Profession. Originally, the Program was to be administered by the South Carolina Bar. However, we order that the program be administered by the Commission on Continuing Legal Education and Specialization, as set forth in the attachment to this Order.

IT IS SO ORDERED.

s/Jean H. Toal C.J.

s/John H. Waller, Jr. J.

s/Costa M. Pleicones J.

s/Donald W. Beatty J.

s/John W. Kittredge J.

Columbia, South Carolina
July 23, 2009

LAWYER MENTORING SECOND PILOT PROGRAM

1. DURATION OF PROGRAM

The second pilot program will run from March 2009 until December 31, 2011 and include all qualifying lawyers admitted to the Bar between March 1, 2009, and January 1, 2011. The Program shall be administered by the Commission on Continuing Legal Education and Specialization.

2. MANDATORY PARTICIPATION

The second pilot program is mandatory for all qualifying lawyers. Unless participation is delayed under Section 3 below, all lawyers must complete the mentoring program within the first full calendar year after admission to the South Carolina Bar.

3. QUALIFYING LAWYER DEFINED

A qualifying lawyer is any lawyer admitted to the South Carolina Bar during the prescribed period if that lawyer (1) is a resident of the State of South Carolina or practices law in an office located in South Carolina on more than a temporary basis; and (2) has not previously practiced law actively in another jurisdiction for more than two years.

Special Circumstances:

a) A qualifying lawyer who is employed as a non-permanent, full-time clerk to a state or federal judge during the first year of admission to the South Carolina Bar may elect to participate in the mentoring program after the completion of his or her clerkship.

b) A qualifying lawyer who is not engaged in the representation of clients nor any other form of the active practice of law may request a waiver of this requirement by certifying that he or she is not engaged in the active practice of law in South Carolina and does not intend to do so for a period of at least two years. If that lawyer later begins to actively practice law in South Carolina, he or she must then notify the Commission on Continuing Legal Education and Specialization and participate in the mentoring program for one year after beginning to actively practice law. [This last sentence will not apply to lawyers who begin to actively practice law in South Carolina after January 1, 2011, unless the mentoring program is made permanent.]

c) A qualifying lawyer who begins the mentoring program, but, prior to the completion of the program, moves his or her residency out of the state and no longer practices regularly in the state, is not required to complete the mentoring program. The new lawyer must provide notice to the Commission on Continuing Legal Education and Specialization of his or her move from the state as the basis for not completing the program. The new lawyer's license to practice law shall not be affected by the failure to complete the program in this circumstance. If that lawyer subsequently returns to South Carolina prior to having been engaged in the active practice of law as a member of another bar for at least two years, however, the new lawyer may be required to complete the mentoring program within the first full calendar year after returning to the state. [This last sentence will not apply to lawyers who return to the state after January 1, 2011, unless the mentoring program is made permanent.]

4. PURPOSE OF PROGRAM

The purpose of the mentoring program is to provide assistance to the new lawyer in the following respects:

- a) The mentor should assist the new lawyer in developing an understanding of how law is practiced in a manner consistent with the duties, responsibilities, and expectations that accompany membership in the legal profession. The mentor should provide guidance or introduce the new lawyers to others who can provide guidance as to proper law practice management, including the handling of funds, even if the new lawyer is not currently in a setting that requires the use of those practices. Guidance should be given not only as to a lawyer's ethical duties, but also as to the development of a higher sense of professionalism based upon internalized principles of appropriate behavior consistent with the ideals of the profession.
- b) The mentor should assist the new lawyer in developing specific professional skills and habits necessary to gain and maintain competency in the law throughout one's career and should assist the new lawyer in developing a network of other persons from whom the new lawyer may seek personal or professional advice or counsel when appropriate or necessary throughout their career. While a strong mentoring relationship (particularly if the mentor and new lawyer are in the same firm or office) may also include specific advice to or training of a new lawyer regarding substantive aspects of the law, such substantive legal training should not be required of a mentor in this program.
- c) The mentor should assist the new lawyer in identifying and developing specific professional skills and habits necessary to create and maintain professional relationships based upon mutual respect between the lawyer and client; the lawyer and other parties and their counsel; the lawyer and the court, including its staff; the lawyer and others working in his or her office, including both lawyers and staff; and the lawyer and the public. The mentor should assist the new lawyer in understanding the appropriate boundaries between advocacy and overzealous or uncivil behavior and in developing appropriate methods of responding to inappropriate behavior by others.
- d) The mentor should introduce the new lawyer to others in the lawyer's local or regional legal community and encourage the new lawyer to become an active part of that community.

5. STRUCTURE OF PROGRAM

Mentoring shall be made available through either individual or group mentoring. Unless a different mentoring plan is approved under Section 6, each qualifying new lawyer is required to complete the mentoring tasks set forth in a standard mentoring plan prepared by the Commission on Continuing Legal Education and Specialization and approved by the Court. The standard plan may include a recommended schedule for completing the tasks, but that actual order and timing of completion of the tasks shall be within the discretion of the participants, provided that the full plan is completed as required in Section 2 above. In addition to completing the specific required tasks, it should be expected that, in an individual mentoring arrangement, the mentor and new lawyer will consult throughout the calendar year as either may deem necessary or appropriate.

The mentor and new lawyer may choose the method of communication that best suits their needs. However, if a mentor and new lawyer do not otherwise have regular in-person contact, they should schedule at least some periodic in-person discussions throughout the

mentoring period. Each person should be cognizant of demands on the other's schedule and attempt to find a mutually acceptable time for these meetings. If there is a recurrent failure by either party to make time available for this purpose, or if other difficulties arise which cannot be resolved by the parties and which threaten the timely and effective completion of the mentoring program, the parties to the relationship (or either of them) should advise the Commission on Continuing Legal Education and Specialization of the situation and request the assistance of that office in resolving the matter.

a) Individual Mentoring.

Most new lawyers will have an individual mentor approved by the Commission on Continuing Legal Education and Specialization. Preference should be given to the appointment of a mentor selected by the new lawyer, who may be, but is not required to be, a lawyer working in the same firm or office as the new lawyer.

If a new lawyer does not select a qualified mentor, then one of the following options will apply:

1) if the new lawyer is employed and another lawyer in the same firm or office could serve as a mentor, the Commission on Continuing Legal Education and Specialization shall contact the firm or office and seek the voluntary agreement of a qualified lawyer in the firm or office to serve as the new lawyer's mentor;

2) if the new lawyer wishes to have an individual mentor and either no mentor is obtained under option (1) or the new lawyer is not employed in a firm or office able to supply a mentor, then the Commission on Continuing Legal Education and Specialization shall seek to recruit a qualified individual mentor from among the members of the South Carolina Bar. In this event, a reasonable effort should be made to designate a mentor from the same or a nearby geographic area with experience in a practice setting similar to that of the new lawyer; or

3) the new lawyer shall be assigned to participate in group mentoring.

b) Group Mentoring.

The Commission on Continuing Legal Education and Specialization will develop a program of group mentoring for those new lawyers not assigned an individual mentor. A group mentoring program should have some element of live contact with members of the mentoring group, but it may be a combination of live contact and electronic or other forms of distance mentoring as may be deemed sufficient by the Commission on Continuing Legal Education and Specialization. The preferred ratio of new lawyers to mentors in a group mentoring program shall be no greater than 3 to 1.

6. CERTIFICATION OF INTERNAL PROGRAMS

A law firm or office (including, but not limited to, governmental agencies, corporate legal departments, state and local prosecutors, and public defenders) which has an internal mentoring program in place that it believes achieves all of the purposes of this program may apply to the Commission on Continuing Legal Education and Specialization to have its mentoring plan certified as compliant with the mentoring obligation under the pilot program. The application for certification should include a detailed description of the internal program and a detailed showing of how each of the purposes of this program will be achieved under

the internal program. If a program is certified, completion of that program by a qualifying new lawyer should be deemed to satisfy the mentoring requirement. The new lawyer and the lawyer responsible for the certified program should be required to file a statement for each new lawyer verifying that the new lawyer has completed all requirements of the program. Once certified, a program should remain certified throughout the duration of the pilot program unless it is materially altered.

7. GENERAL QUALIFICATIONS OF MENTORS

Mentors must be active members of the South Carolina Bar, or persons who have taken retired or inactive status within the preceding two years. Mentors must have at least five [5] years experience in the active practice of law. It is preferable that mentors have experience with the court system, although it is understood that not all mentors will have litigation experience. A lawyer without such litigation experience may nevertheless be an appropriate mentor if that lawyer has otherwise developed an understanding of appropriate behavior in a lawyer's relationship with the court.

Mentors should display, through their own conduct, an understanding of and commitment to ethical responsibilities and the prevailing expectations with regard to a lawyer's appropriate professional behavior. A mentor must have a good reputation for professional behavior and must have not been publicly reprimanded in any jurisdiction within the past 10 years or suspended or disbarred from the practice of law at any time.

Mentors should be able to assist the newer lawyer in developing a style of lawyering that is compatible both with professional expectations and with the personality of the newer lawyer.

8. APPOINTMENT OF MENTORS; EDUCATION AND SUPPORT OF MENTORS

A lawyer may serve as a mentor for purposes of this program only if first approved by the Commission on Continuing Legal Education and Specialization. The prospective mentor must submit an application to the Commission on Continuing Legal Education and Specialization in an approved form certifying that the lawyer meets the experience requirements for a mentor and has not been publicly reprimanded within 10 years, suspended, or disbarred from the practice of law.

Upon determining that a mentor applicant meets the threshold qualifications, the Commission on Continuing Legal Education and Specialization may conduct such further investigation of a prospective mentor's qualifications and reputation for professional behavior as it may deem appropriate. The Commission on Continuing Legal Education and Specialization has authority to appoint qualified lawyers as mentors or, in its discretion, to decline to appoint an applicant to serve as a mentor under this program.

An appointment shall qualify a lawyer to serve as a mentor in this program for five years, unless earlier removed as a mentor. A lawyer may be appointed to multiple consecutive terms as a qualified mentor. If at any time a lawyer appointed as a mentor is publicly reprimanded, suspended, or disbarred in any jurisdiction, the lawyer shall be removed immediately as an approved mentor. If the lawyer is serving as a mentor at the time that his or her name is removed from the list of approved mentors, the Commission on Continuing Legal Education and Specialization shall immediately appoint a new mentor for the lawyer being mentored.

A lawyer appointed as a mentor is not required to attend a training session, but will be provided access to materials gathered or prepared by the Commission on Continuing Legal Education and Specialization that will assist the mentor in carrying out his or her responsibilities. The Commission on Continuing Legal Education and Specialization will provide at least annually a voluntary mentor orientation program that will qualify for ethics MCLE credit. Mentors are encouraged to contact other mentors to discuss issues, the most effective approaches to be used in working with new lawyers, the most effective means of resolving problems that are encountered in the relationship, or other concerns that arise during the mentoring relationship.

9. MIGRATION OF A MENTOR OR A NEW LAWYER

From time to time, either a mentor or a new lawyer may change jobs during the mentoring year. It is expected that, whenever possible, the mentoring relationship, once established, will be maintained despite such a move. When maintenance of the relationship is not possible because one of the parties to the relationship has moved to a distant location or because of other extraordinary circumstances, the mentor or new lawyer should notify the Commission on Continuing Legal Education and Specialization, and that office may assign a substitute mentor or take such other measures as are appropriate.

10. ADDRESSING SITUATIONS IN WHICH MENTOR IS IN POSITION OF AUTHORITY REGARDING THE NEW LAWYER

If a mentor participates in or has responsibility for any performance evaluations of the new lawyer being mentored, the mentor and new lawyer should set forth clearly at the outset of the relationship how information learned by the mentor during the mentoring relationship might be used in that evaluation process. If the role of the mentor as a supervisor or evaluator may conflict with the new lawyer's need for advice in some situations, the mentor should assist the new lawyer in making contacts with other lawyers who could provide advice in those situations.

11. CERTIFICATION OF PARTICIPATION; SANCTION FOR FAILURE TO COMPLETE

At the end of the first full calendar year after a new member is admitted to the Bar, if the new lawyer has completed all requirements of the mentoring program, he or she must file with the Commission on Continuing Legal Education and Specialization a document signed by the mentor certifying such completion. If the new lawyer has not completed all requirements of the mentoring program by that time or is otherwise unable to obtain a certificate from the mentor, the new lawyer shall report the specific reasons that a certificate has not been filed. The Commission on Continuing Legal Education and Specialization may, without requiring court approval, grant such additional time as is appropriate to file the certificate, or may recommend to the Court that other appropriate action be ordered.

Failure to complete all elements of the proposed mentoring plan during the pilot program will not result in sanction of the participants, provided that the explanatory certificate set forth above is completed and filed in a timely manner.

12. ADVICE REGARDING SPECIFIC LEGAL ISSUES

In fulfilling his or her responsibilities as a mentor, a mentor may provide general advice and guidance to the new lawyer on how to resolve substantive or procedural legal issues.

However, it is not the purpose of the mentoring program to provide specific legal advice to the new lawyer or to provide the new lawyer with co-counsel in a legal matter.

When a mentor is associated with the same law firm or office as the new lawyer, the mentoring relationship does not preclude the mentor from assisting the new lawyer in resolving a specific substantive or procedural legal issue. The extent to which such advice or supervision occurs should be determined by the policies of the law firm or office.

When a mentor is not associated with the same firm or office as the new lawyer, the mentor should instruct the new lawyer at the outset of the relationship about the duty of the new lawyer not to share with the mentor confidential information about any representation. If a new lawyer needs advice about a particular situation, the mentor may discuss with the new lawyer the general area of law at issue, without reference to the facts of a specific matter, and may direct the new lawyer to resources that may assist the new lawyer in finding the necessary information. **By virtue of acting as a mentor, the mentor does not undertake to represent the client of the new lawyer or assume any responsibility for the quality or timeliness of the work on a matter being handled by the new lawyer. The lawyer being mentored remains solely responsible for the client's matter.** If a mentor does consult with the new lawyer about a specific legal matter, however, both the mentor and the new lawyer must keep in mind that the same professional duties apply as would apply whenever two lawyers not in the same firm consult about a matter.

When appropriate, the mentor should assist the new lawyer in obtaining specific legal advice as may be necessary or appropriate with regard to the establishment or management of a law office.

13. SATISFACTION OF MCLE REQUIREMENTS

During any year in which a lawyer completes a full year as a mentor for one or more new lawyers, the mentor shall be deemed to have completed 4 hours of CLE credit, including two hours of ethics CLE. The mentor should not receive additional CLE credit for mentoring more than one lawyer in the same year.