

Diversity in Legal Education and The Legal Profession: A Symposium Honoring Indiana Chief Justice Randall Shepard

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THE ICLEO MENTORING LEGACY OF CHIEF JUSTICE RANDALL SHEPARD: AN ESSAY

María Pabón López*

I. INTRODUCTION

Former Indiana Chief Justice Randall Shepard has had an incomparable impact on the advancement of the legal profession in the United States. I am pleased to contribute to this issue of the *Valparaiso University Law Review*, which pays tribute to his legacy. In this Essay, I reflect on his role of mentoring minority and underrepresented law students from an up close and personal view.

This Essay starts by reviewing Chief Justice Shepard's extensive accomplishments, including the creation of the Indiana Conference on Legal Education Opportunity ("ICLEO").¹ This sets the stage for the rest of the Essay, which focuses on the ICLEO program and the mentoring inheritance Chief Justice Shepard put in place.² Next, this Essay turns etymological and mythological. I discuss the word mentor from its Greek Homeric origins to its current contemporary use.³ I note how Chief Justice Shepard became a modern day Mentor, in a legendary sense, because of his actions relating to ICLEO, as well as his many other efforts relating to diversity in the legal profession.⁴ The Essay then examines the research that identifies the great necessity for mentoring among people of color and women attorneys.⁵ This Essay explains how well Chief Justice Shepard's actions in the creation of ICLEO fit these needs.⁶ The Essay also reviews Chief Justice Shepard's views regarding legal professionalism and the need for the judiciary's involvement in

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¹ See *infra* Part II (overviewing Justice Shepard's numerous accomplishments, including ICLEO).

² See *infra* Parts III-IV (explaining the origin of mentorship and the need for mentors in the legal community).

³ See *infra* Part III (discussing the origins of the word mentor).

⁴ See *infra* Part IV (highlighting Justice Shepard's mentorship through the ICLEO program).

⁵ See *infra* text accompanying notes 46-48 (identifying the necessity for women and minorities to receive mentorship in the legal community).

⁶ See *infra* text accompanying notes 49-57 (listing Justice Shepard's recommendations for judges when mentoring young legal professionals and law students).

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mentoring.⁷ Finally, I conclude this Essay by showing how Chief Justice Shepard's creation, ICLEO, is a system where mentoring happens naturally, while also addressing the needs identified.⁸ I show that this system of mentoring, which starts with the ICLEO program, is passed on to others and is a benefit for all.⁹

II. CHIEF JUSTICE RANDALL SHEPARD'S LIFE ACCOMPLISHMENTS AND THE ICLEO PROGRAM

By necessity, this is a brief overview of Chief Justice Shepard's outstanding life accomplishments, focusing mainly on those that will elucidate his mentoring legacy. It is unquestionable that "Chief Justice Shepard is a unique individual in the firmament of the American legal profession."¹⁰ Chief Justice Shepard joined the Indiana Supreme Court at age thirty-eight and became the youngest Chief Justice of Indiana, as well as the youngest state chief justice in the country, when he was elevated to that position at age forty.¹¹ Additionally, he has been an abundant writer and scholar, having penned a substantial number of majority opinions, as well as numerous law review and bar journal articles.¹² As a legal scholar, he has written on topics of professionalism and legal education—both areas where he has been a leader as a past Chair of the American Bar Association's Section of Legal Education and

⁷ See *infra* text accompanying notes 49–57 (discussing how judges can shape the professionalism of the legal community by mentoring law students).

⁸ See *infra* Part IV (reviewing how ICLEO fosters mentorship throughout the legal profession).

⁹ See *infra* Part IV (explaining how the ICLEO program has led to other forms of mentorship for minority students).

¹⁰ James P. White, *Randall T. Shepard: A Tribute*, 45 IND. L. REV. 593, 593 (2012). This is the most apt description I have read of the former Chief Justice, written by Professor of Law Emeritus, James P. White, former consultant to the Section of the Legal Education and Admission to the Bar of the American Bar Association. Professor White has been a dear advisor and friend.

¹¹ *Judicial Poll to Be Conducted Electronically*, RES GESTAE, July–Aug. 2008, at 7, 7; *Justice Randall Terry Shepard*, COURTS.IN.GOV, <http://www.in.gov/judiciary/citc/2828.htm> (last visited Oct. 6, 2013). Justice Shepard was appointed to the Indiana Supreme Court in 1985 and served as an Associate Justice for eighteen months before becoming Chief Justice in 1987. *Id.* As well as being the youngest Chief Justice, he is also the longest serving Chief Justice of the Indiana Supreme Court. Brent E. Dickson, *A Tribute to Randall T. Shepard: Justice, Indiana Supreme Court, 1985–2012, Chief Justice of Indiana, 1987–2012*, 45 IND. L. REV. 585, 585 n.4 (2012).

¹² Dickson, *supra* note 11, at 586. Justice Shepard has authored more than "917 majority opinions which have been cited more than 729 times by appellate courts of other states." *Id.* He has also published "more than sixty-five law review articles in thirty different law journals." White, *supra* note 10, at 596.

Admissions to the Bar,¹³ and as current Chair of the recently created American Bar Association's Task Force on the Future of Legal Education.¹⁴

Justice Shepard was instrumental in the creation of ICLEO in 1997, the first state program of its kind.¹⁵ Its goals are to "assist minority, low-income, or educationally disadvantaged college graduates" attending law school and entering the legal profession.¹⁶ The ICLEO program aids the students in numerous ways. First, it provides a "boot camp" for admitted law students, where they can experience what law school will be like and learn various substantive areas of the law.¹⁷ Second, it provides financial support, as students who become certified as ICLEO fellows receive stipends during law school.¹⁸ Finally, it provides students with networking opportunities and preparation for the bar exam.¹⁹

The ICLEO program has been remarkably successful. Since its inception, over 450 law students have completed the program and thus have been certified as ICLEO fellows.²⁰ More than 300 law students who participated in the program went on to graduate from an Indiana law school, yielding a success rate of 87%.²¹ The mentoring aspect of ICLEO is evidenced by the overall assistance provided to the fellows during their law school careers, as well as the networking opportunities created for them.

¹³ White, *supra* note 10, at 596.

¹⁴ Task Force on the Future of Legal Education, AM. B. ASS'N, http://www.americanbar.org/groups/professional_responsibility/taskforceonthefutureoflegaleducation.html (last visited Aug. 8, 2013).

¹⁵ Randall T. Shepard, *Elements of Modern Court Reform*, 45 IND. L. REV. 897, 906 (2012); see Kevin Brown, *Tribute to Randall Shepard*, 48 VAL. U. L. REV. 585, 587 (2014) (indicating that Justice Shepard was the driving force behind ICLEO).

¹⁶ Shepard, *supra* note 15, at 906.

¹⁷ Susanah M. Mead, *A Tribute to Professor Mary Mitchell*, 44 IND. L. REV. 659, 663 (2011).

¹⁸ Shepard, *supra* note 15, at 906; *Indiana CLEO: About*, COURTS.IN.GOV, <http://www.in.gov/judiciary/cleo/2403.htm> (last visited Sept. 27, 2013).

¹⁹ Shepard, *supra* note 15, at 906; see Randall T. Shepard, *Building Indiana's Legal Profession*, 34 IND. L. REV. 529, 532 (2001) (recognizing that ICLEO also covered the cost of a professional bar review course); see also Mead, *supra* note 17, at 663 (illustrating the relationships ICLEO students create, which eventually develop into their network).

²⁰ Shepard, *supra* note 15, at 906.

²¹ *Id.* See generally Michael Hunter Schwartz, *50 More Years of CLEO Scholars: The Past, the Present, and a Vision for the Future*, 48 VAL. U. L. REV. 621 (2014) (discussing the success of the national CLEO and ICLEO programs, but urging the legal community to do more to help minority law students).

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ICLEO also helped to establish the Gateway to Diversity program.²² Gateway to Diversity is a joint effort between the Indiana State Bar Association's Committee for Diversity in the Legal Profession and the ICLEO program.²³ It pairs "first and second-year minority and otherwise disadvantaged law students" with legal summer employment.²⁴ The goal of the program is to increase the diversity of law students in Indiana's legal community.²⁵ The Gateway to Diversity program is also available to rising second and third-year Indiana law students who are either ICLEO fellows or minority students.²⁶ The program also has other benefits:

In addition to exposing Fellows to invaluable work experience, the Gateway Program lays the groundwork for talented students to remain in Indiana and bolsters the expertise of [its] own legal communities. The Gateway Program increases the likelihood that ICLEO Fellows who have Indiana work experience under their belts will keep their talents and skills within . . . [the] state.²⁷

The Gateway to Diversity program is a great vehicle for cultivating long-lasting mentee/mentor relationships. Giving law students the opportunity to work closely with local practitioners certainly fosters the most beneficial type of mentoring relationships—informal relationships where the mentor chooses his or her protégé.

III. THE ORIGIN OF THE WORD MENTOR AND THE CONTEMPORARY USAGE OF MENTOR

Homer first used the word mentor in Greek literature in his classic work, *The Odyssey*.²⁸ Mentor was a wise friend and trusted advisor of Odysseus.²⁹ When Odysseus left for Troy, he left Mentor in charge of his

²² Robyn Rucker, *ICLEO: Gateway to Diversity, Summer Employment Program*, IND. COURTTIMES (Sept. 13, 2010), <http://indianacourts.us/times/2010/09/icleo-gateway-to-diversity/>.

²³ *Id.*

²⁴ James E. Bourne, *Diversity, Kids, Bricks and Mortar: But First, Pride and Humility*, RES GESTAE, Nov. 2002, at 5, 5; Terry Tolliver, *Clerkship Employers Needed for Diversity Program*, RES GESTAE, Nov. 2004, at 38, 38.

²⁵ See Bourne, *supra* note 24, at 5 (discussing efforts to increase diversity within the Indiana legal profession).

²⁶ Tolliver, *supra* note 24, at 38.

²⁷ Rucker, *supra* note 22.

²⁸ HOMER, *THE ODYSSEY* 22 (Edward McCrorie trans., 2004).

²⁹ See *id.* (describing Mentor as an old friend of Odysseus).

household, to look after his wife Penelope and his young son Telemachus.³⁰ Mentor was also charged with overseeing Telemachus's education.³¹ During the long years Odysseus was away, Mentor was present in Telemachus's life, counseling him and helping him grow into a young adult.³² Telemachus became "a sober, discreet young man, steady and prudent and dependable."³³

Moreover, the story continues when the goddess Athena visited Telemachus, disguising herself as Mentor to remain hidden from Penelope's suitors.³⁴ Under this guise, Athena, as Mentor, counseled Telemachus when he despaired.³⁵ "[S]he spoke good words of comfort and courage to him."³⁶ Thus, the term mentor, as it is known today, developed from Telemachus's relationship with Mentor and from Athena's counseling of Telemachus.³⁷ Mentor means to advise, train, or counsel.³⁸ The first known usage of the word was in 1616.³⁹

The original story of Mentor fell out of popular usage for many years. In this Essay, I seek to bring back its original meaning and show how Chief Justice Shepard has acted as a mentor to minorities and others underrepresented in the legal profession by creating ICLEO. The idea of a mentor in his case harkens back to Homer's original view – as one who advises, trains, and helps one succeed.⁴⁰

Chief Justice Shepard has been available for minority and underrepresented law students, as Mentor was for Telemachus. In contrast to Odysseus, who was absent because he was away at war, in the case of minority parents, they are unable to assist their sons and daughters because often they do not have the cultural capital to guide them.⁴¹ Many times, minority and underrepresented law students are the first ones in their families to attend college, even law school. ICLEO

³⁰ See *id.* (leaving Mentor in charge of Odysseus's home).

³¹ See *id.* at 3–66 (including instances of Mentor's guidance of Telemachus).

³² *Id.*

³³ EDITH HAMILTON, MYTHOLOGY 295 (reprint 1943) (1942).

³⁴ HOMER, *supra* note 28, at 23. The suitors sought to marry Penelope because they thought Odysseus was dead. *Id.* at 18–19.

³⁵ HAMILTON, *supra* note 33, at 296.

³⁶ *Id.*

³⁷ See WEBSTER'S NEW COLLEGE DICTIONARY 701 (3d ed. 2008) (indicating the word mentor originated from the character by the same name in *The Odyssey*).

³⁸ See *id.* (defining mentor as "[a] wise and trusted teacher or counselor").

³⁹ *Mentor*, MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/mentor> (last visited Sept. 16, 2013).

⁴⁰ See *supra* text accompanying notes 30–32 (explaining that Mentor looked after Odysseus's house and family, and educated Odysseus's son).

⁴¹ See HOMER, *supra* note 28, at 20 (indicating that Odysseus would be off at war for twenty years).

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acts as an educational bridge to law school, to assist where the parents quite often cannot.

Chief Justice Shepard, in his creation of ICLEO, further embodies the aspect of Mentor who then advised Telemachus when he was a young adult and was in despair.⁴² When law school life becomes difficult, it is easy for any law student to get discouraged. This is especially true for those who are the first ones in their families to attend law school, whose background has not fully prepared them for the intense rigor of law school. The network ICLEO offers to the law students most definitely assists them in making it through law school.⁴³ This is evidenced by the success of the ICLEO program discussed above.⁴⁴

IV. THE NEED FOR MENTORING OF MINORITY ATTORNEYS AND LAW STUDENTS

There is much scholarship on how important mentors are for minorities and women; and how mentorship programs can create “pipelines” to success.⁴⁵ One scholar notes a “[l]ack of mentoring is one of the biggest barriers to advancement. You don’t “climb” to the top—you’re coached, counseled, pushed and supported into senior ranks.”⁴⁶ It is especially important to implement mentoring programs for minorities, because they continue to be underrepresented in the legal profession. Furthermore, minority women continue to encounter the

⁴² See *supra* text accompanying note 35 (indicating that Athena, as Mentor, provided advice to Telemachus when he was in despair). See generally Andrew R. Klein, *Justice Shepard and Diversity in the Legal Profession: The Legacy of ICLEO*, 48 VAL. U. L. REV. 599 (2014) (discussing the importance of mentors and role models in the legal profession).

⁴³ See *supra* text accompanying note 19 (discussing the network available to law students involved with ICLEO).

⁴⁴ See *supra* text accompanying notes 20-21 (discussing the success of the ICLEO program).

⁴⁵ See SHERYL SANDBERG & NELL SCOVELL, *LEAN IN: WOMEN, WORK AND THE WILL TO LEAD* 64-76 (2013) (discussing the importance of mentorship for career progression); Laura M. Padilla, *A Gendered Update on Women Law Deans: Who, Where, Why, and Why Not?*, 15 AM. U. J. GENDER SOC. POL’Y & L. 443, 476, 532 (2007) (explaining the importance of mentorship for women deans); Pamela J. Smith, *The Tyrannies of Silence of the Untenured Professors of Color*, 33 U.C. DAVIS L. REV. 1105, 1129-33 (2000) [hereinafter Smith, *The Tyrannies of Silence*] (concluding that senior professors of color must be willing to mentor junior professors of color); see also Pamela J. Smith, *Failing to Mentor Sapphire: The Actionability of Blocking Black Women from Initiating Mentoring Relationships*, 10 UCLA WOMEN’S L.J. 373, 376-79 (2000) [hereinafter Smith, *Failing to Mentor*] (providing an overview of the difficulty African-American women face in finding a mentor in the legal profession).

⁴⁶ Smith, *Failing to Mentor*, *supra* note 45, at 376 (citing Tamina Davar, *Sister Stats: Two New Studies Yield Some Controversial and Eye-Opening Findings About Asian American Business Owners and Corporate Managers*, A. MAG., Nov. 10, 1998, at 42).

glass ceiling. Women and minorities have been entering all aspects of the working world for decades, but the glass ceiling still persists and those groups have great difficulty in reaching the top positions in their respective fields.⁴⁷ Building on these concepts, data shows that minority students have been, and are, grossly underrepresented in law schools.⁴⁸

In my experience, Justice Shepard has acted as Mentor, as evidenced by his focus on helping minorities and other disadvantaged individuals succeed. Yet, this is not his only focus; even while creating ICLEO and working with programs that foster mentorships, Chief Justice Shepard strongly encouraged judges to interact more with young law students to help them develop their professionalism.⁴⁹ He notes that this can be accomplished in a variety of ways, such as by teaching law school courses.⁵⁰

Chief Justice Shepard believes it is important for judges to teach law students because they exercise real responsibility every day; therefore, their insights “reveal much of what is proper and good about the practice of law.”⁵¹ Judges should also volunteer to speak at their local law schools.⁵² “The more that judges reach law students and demystify the practice of law, assuring them that there is [sic] plenty of opportunities for good lawyers who work hard and play by the rules, the more likely students are to aspire to higher levels of practice and professionalism.”⁵³

⁴⁷ See generally Debra E. Meyerson & Joyce K. Fletcher, *A Modest Manifesto for Shattering the Glass Ceiling*, HARV. BUS. REV., Jan.-Feb. 2000, at 127 (discussing the glass ceiling corporate women still face in the new millennium).

⁴⁸ See DATA: *Admitted Applicants by Ethnic and Gender Group*, LSAC, <http://www.lsac.org/lisacresources/data/ethnic-gender-admits> (last visited Sept. 16, 2013) (indicating the low amount of minority students admitted into law schools from 2010 through 2012); DATA: *Applicants by Ethnic and Gender Group*, LSAC, <http://www.lsac.org/lisacresources/data/ethnic-gender-applicants> (last visited Sept. 16, 2013) (identifying the low amount of minorities that applied for law school from 2010 through 2012); see also Jonathan Feingold & Doug Souza, *Measuring the Racial Unevenness of Law School*, 15 BERKELEY J. AFR.-AM. L. & POL'Y 71, 84 (2013) (listing factors that impact the racial climate of college campuses). See generally David Kow, *The (Un)compelling Interest for Underrepresented Minority Students: Enhancing the Education of White Students Underexposed to Racial Diversity*, 20 BERKELEY LA RAZA L.J. 157 (2010) (providing background on the underrepresentation of minorities in law school and the educational benefits of racial diversity).

⁴⁹ See Randall T. Shepard, *What Judges Can Do About Legal Professionalism*, 32 WAKE FOREST L. REV. 621, 626-27 (1997) (urging judges to interact with law students by volunteering to speak at nearby law schools).

⁵⁰ *Id.* at 627.

⁵¹ *Id.*

⁵² *Id.* at 626.

⁵³ *Id.* at 627.

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In addition to creating broad-based mentoring programs and encouraging judges to interact more with law students, Chief Justice Shepard is committed to being a mentor himself.⁵⁴ He believes that judges should give students opportunities to see how judgeships operate, in the form of summer clerkships and internships.⁵⁵ This request of Chief Justice Shepard shows how important he views mentoring young lawyers to help them develop “professional excellence and integrity, which in turn will be passed on to the academy and the bar.”⁵⁶ Although this involves some exertion on the judges’ part, which will be very much appreciated, it is also cost effective, as the financial expenditure is small.⁵⁷

V. CONCLUSION

Part of the concept of mentoring is the idea of “paying it forward.” Once you have been a mentee, you are much more inclined to become a mentor. There is no doubt Justice Shepard’s mentoring has spread to others. For instance, as a faculty participant in ICLEO while I was a professor at the Indiana University McKinney School of Law, I was able to mentor ICLEO students. It was an honor to do so, and I have most definitely been able to pass it on. I have created and expanded various programs at Loyola University College of Law New Orleans, where I am now dean, that are geared towards mentoring and assisting law students.

All first-year law students are assigned a faculty member who provides them with advice and counseling regarding the law program. Each student is also assigned an upper-class mentor. These programs were already in existence when I arrived, and I support them. What I have created is a program to mentor incoming international LL.M. students. They are all assigned a faculty mentor and receive special introductions around the College of Law in addition to assistance navigating the city of New Orleans. All of these students are invited to attend tutorials. Loyola also provides one-on-one support to these international students from a recent law graduate. They are assisted with various stages of law school, ranging from: outlining; issue spotting; how to best organize an exam; and assistance with their various writing requirements. This is in preparation for the difficult and often

⁵⁴ See *id.* (advising judges to provide students internships and summer clerkships to allow the students to work closely with judges).

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

despair-inducing experience attending a U.S. law school can be for lawyers from abroad.

Chief Justice Shepard envisioned and brought to fruition ICLEO, a program that fosters mentorships of minority and disadvantaged students. His reach extends from developing broad-based mentoring programs to being a mentor himself. Justice Shepard has had a profound impact on me as a legal scholar and administrator. My various interactions with him have led me to “pay it forward” by creating mentoring programs at Loyola University College of Law and becoming a mentor myself. Chief Justice Shepard has done a great service for the legal community as a whole and especially for minority law students through ICLEO. We have been fortunate to be the beneficiaries of his legendary vision and leadership. This is the mentoring legacy Chief Justice Shepard has left through ICLEO.⁵⁸

⁵⁸ There is another legacy—that of ICLEO law graduates becoming Indiana state court judges.

[I]n 2009, Rudolph Pyle III, a member of [the] inaugural 1997 class, was appointed as judge in the Madison Circuit Court—and re-elected to that position in 2010. He was the first Indiana CLEO graduate to become a judge in a court of record. The first CLEO judge in any court was Eduardo Fontanez, who became judge in the East Chicago City Court in 2003.

Shepard, *supra* note 15, at 906-07. Further, in 2012, Judge Kenya Jones was added to the judiciary, another graduate of the 1997 inaugural class. *Id.* at 907.