

KEN ROBERTS, MY LEGAL MENTOR

By Daniel S. Harris

I recently received a mass E-mail from the State Bar of Nevada. At the top of the E-mail there was a picture with words at the top that read, “Who mentored you when you were a new lawyer?” Beneath the words it showed the word “mentor” in a circle, surrounded by eight boxes with words inside. Going clockwise, the words were: 1. Role Model; 2. Values; 3. Inspire; 4. Leader; 5. Listen; 6. Wise; 7. Ethical; and 8. Integrity. Upon seeing all of this, I could think of one person who completely fit that description, Kenneth Roberts, of the law firm Dempsey, Roberts & Smith.

The day I started working at Dempsey, Roberts & Smith (DRS), July 17, 2000, was one of the most fortunate days of my life. I had passed the Nevada Bar less than a year before. Although I had done some legal work, none of it had really been my niche. At DRS I would be working mostly with Ken doing Family Law. Although I had no experience in that area, Ken was eager to train me. He is the greatest boss I have ever had in my life.

When I first started Ken gave me reading assignments to learn family law, and then he had me go over with him any questions I had. There was never a dumb question. Ken was always encouraging and supporting. He never belittled any of his employees.

Ken had a sign on his desk that said, “Suffering is Optional.” His philosophy was that when a bad situation happens, we can either choose to let it bother us and make ourselves suffer, or we can choose to not focus on it and not make ourselves suffer.

As anyone who practices family knows, it is a highly contentious field. Nevertheless, in the six years that I worked with Ken, I never saw him get angry with or antagonize the opposing attorney. In fact, even when an opposing party was representing themselves, Ken always showed them complete respect.

DRS did not pay as much as other firms, but that was because they didn’t expect people to work eighty hours a week. We were expected to leave at a reasonable time and spend time with our families. Weekend work was something that was expected once in a while, not on a regular basis. When I started at DRS I had a one year old, and my second child was born during the period I worked there. I never felt that the job took me away from my children.

For the first full trial in which I was involved I came with Ken and assisted him. While preparing for the trial, I presented him with what I thought he should use as his opening argument. Ken complimented me on it, and then informed me that I would be the one making that argument. He had me split the questioning and cross-examination during the trial. At the end of the trial the judge pretty much split the baby down the middle, as often happens in family law trials. As we rode back to the office, Ken gave me two pieces of advice: First, he warned

me that I would most likely berate myself later when I thought of the 10% of the points that I forgot to make; but I should keep in mind the 90% of the points that I had remembered. Second, when I got back to the office get something sweet to eat and take a break because a trial is exhausting. Keep in mind that as I was an Associate, Ken was paying me for this break that he was instructing me to take.

When I did my first trial on my own I was expecting to lose as the facts were against my client, but my goal was to lessen her loss. However, at the end of the day I came back to the office to report that I had won the trial. Ken was of course very pleased and proud. Nevertheless, as always he had good advice. He told me that there will be times when I work just as hard and make just as good arguments and lose anyway. When that happens I can't berate myself.

When people question the ethics of attorneys, I frequently tell them the story of a client who came to me for an uncontested divorce. At DRS, for an uncontested divorce we would prepare the documents for the spouse who retained us, and prepare Pro Per documents for the other spouse (along with a Waiver of Representation of Counsel acknowledging that we were representing the other side and had prepared all the documents). The client explained that he and his wife were divorcing for financial reasons. Although the divorce would give him just about everything, he assured me that he would still take care of his wife. I was young and naïve at the time, and so I believed him. Later the wife called me and my paralegal, Natalie, and told us that she would not sign the documents. That was fine with me and Natalie, as we had done our job. Then the wife called us back and told us that her husband was forcing her to sign the documents, and he wouldn't even let her read them before signing them, and she did not know what would happen to her. Natalie and I felt terrible, but the husband was still our client. We didn't think that there was anything we could do for the wife, but we asked Ken anyway. Ken told us that we would be giving the husband a full refund of his retainer, as we were ethically prohibited from filing the divorce documents. Ken explained that the documents the wife would be signing contained statements to the effect that she had read and agreed to the documents, but we knew that in fact she had not; therefore if we submitted the divorce papers we would be knowingly submitting legal documents with false statements which we are prohibited from doing. You have to take into account that Natalie and I got paid for our work; it was Ken and the other partners who not only made no profit, but were out of pocket for paying employees.

As much as this is about Ken, it must be mentioned that Ken chose partners Joseph Dempsey and Billy Smith, Jr. who had the exact same values. The firm frequently had Pro Bono cases. All of the partners were very supportive of all of the employees, and had their doors open and were approachable. When a desperate potential client came in whose world was turned upside down in one night (her ex-husband is doing a minimum of 30 years for what he did to the children), Joseph Dempsey agreed to take a lien against her home in lieu of a retainer, knowing that the firm might never see the money. The client cried again for the first time in months, as half-a-dozen other attorneys had refused to take her case without money for a retainer.

When I left the firm because of a potential partner opportunity with someone else (which led to me going out on my own), I explained to Ken, “You’ve been like a father to me, but there comes a time when every bird must fly the nest.” I still feel that way about Ken. I kept in touch with Ken after leaving DRS and would stop in to visit when I was in the area. Last July my family and I moved to Pennsylvania. Before leaving we stopped at DRS and had lunch with Ken and Natalie. It was surreal stopping and saying good-bye to a law firm that I had left five years before. Nevertheless that spoke for the incredible relationship I had with my mentor, Ken Roberts.