

Associates Career Development

An ALM Publication

WWW.NYLJ.COM

MONDAY, JUNE 7, 2010



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WHETHER LEGAL MARKETS are dynamic and robust or tenuous and tentative, associates of color will typically confront unique and more daunting career challenges than their white counterparts. And, even though no racial and/or ethnic group was left unscathed during the most recent economic downturn, recent quantitative and anecdotal data strongly suggest that associates of color suffered disproportionately in comparison to their peers.

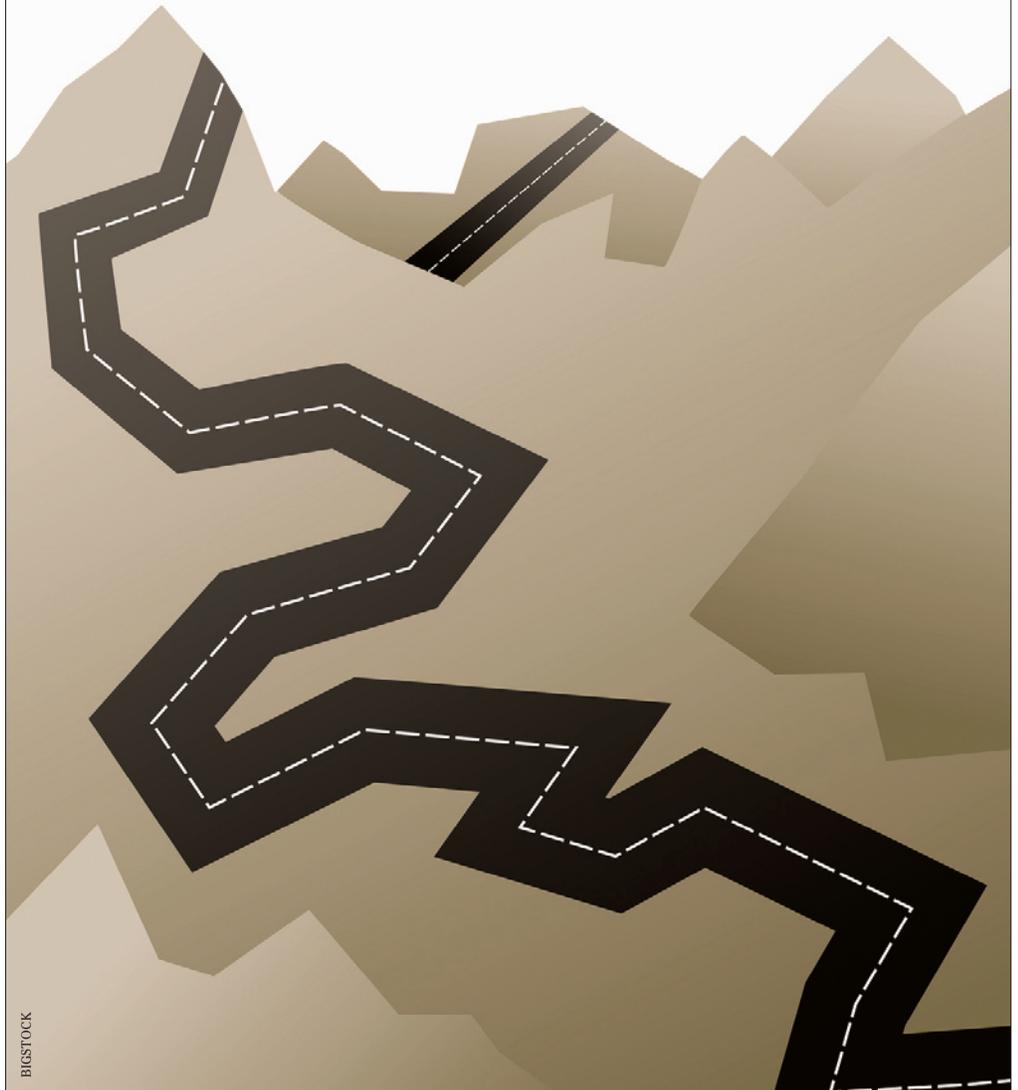
The numerical data were confirmed when the *Minority Law Journal* conducted its 2009 *Minority Experience Study*, which included responses from *The American Lawyer's Midlevel Associates* survey conducted in the spring of 2009. The *American Lawyer* survey covered 6,101 third-, fourth-, and fifth-year associates at 165 law firms and included 4,592 whites, 556 Asian-Americans, 211 Latinos, and 169 African-Americans.

The survey results revealed that associates of color were particularly anxious about the fate of their careers and generally posted fewer billable hours than their white counterparts. For example, the average hours billed in 2008 was 1,862 for African-American mid-levels, 1,925 for Asian-Americans, 1,965 for Latinos, and 1,976 for whites. At the time of the survey, projected billables for 2009 were just under 1,825 hours for Asian-Americans and African-Americans, about 1,840 for Latinos, and approximately 1,890 for whites.¹

When markets are shrinking, billable hours may be used by law firms as a gauge to determine

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Rocky Diversity Road Requires Different Approach



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the associates who remain with the firm and those who are eventually eliminated. Further, uncharacteristically low billable hours may be associated with poor performance whereas higher billables may be qualitatively valued as merit. Some may argue that establishing associate value based upon billables is a dubious and questionable method, particularly when access to assignments is strongly linked to relationships with senior associates and partners rather than merit.

No matter which theory is to your liking, the reality is that associates of color were posting lower billable hours, which led to an increased likelihood that their positions would be eliminated particularly when legal markets were faced with unprecedented economic challenges. This concern is confirmed anecdotally by the overwhelming number of outstanding Asian-American, Latino and African-American associates who were laid off, and are still searching for opportunities, many of whom possessed exceptional educational credentials: Top 10 law schools, Ivy League undergraduate degrees, and solid grade point averages. Further, many of these associates hailed from outstanding corporate departments of stellar international law firms and received excellent reviews yet they are still struggling to find a place to land.

Even when legal markets were seemingly bursting at the seams and law firms were on a non-stop hiring frenzy, associates of color nevertheless faced tremendous pressures and in several instances, the hiring bonanza embraced some but clearly not all.

For example, the 2004 and 2006 Diversity Benchmarking Reports of the New York City Bar, demonstrate that from 2004 through 2006, associates of color increased at signatory law firms (those that have signed on to the Association's Statement of Diversity Principles) by a mere .2 percent from 21.1 percent to 21.3 percent.²

While it's better to experience a modest, infinitesimal increase than a decrease of any kind, .2 percent is not an impressive number particularly since legal hiring was on a tremendous upswing. (Trust me, back then, if you could spell the word "corporate" you had an offer.)

Even more alarming is that during this same period of fast-paced hiring, the numbers of African-American associates actually decreased from 5.1 percent to 4.7 percent.³ The unspoken and alarming truth is that African-American representation has declined overall, both in law schools and as a percentage of law firm associates.

A January 2010 New York Times article pointed out that from 1993 through 2008, the percentage of African-American law students declined from 7.8 percent to 7.3 percent of all law students.⁴ This

decrease is especially disturbing since during the same period, 3,000 first-year law school seats were added, African-American applicants had actually improved their admissions test scores and grade point averages, yet fewer were being admitted and a smaller percentage is currently enrolled than were attending law school in 1993.

In fact, the Times article also included data captured in a study by Columbia University Professor Conrad Johnson, which disclosed that from 2003 to 2008, 61 percent of African-American applicants were denied acceptance at law schools to which they applied. So even during the so-called economic boom when there was plenty of pie to go around, some were getting extra slices while others were left with slivers and crumbs.

The only good billable hour is a paid billable hour, so don't be naïve enough to believe that just because you worked extremely hard on a particular project and billed numerous hours, that each hour was of equal value to the firm.

Now that legal hiring is beginning to resuscitate once again, associates of color need to think strategically about the new opportunities that lie ahead. Clearly, there is an uptick in the market for lateral associates, particularly in bankruptcy, health care, intellectual property, employment and litigation. Even some of the corporate practices are gradually showing healthy signs of recovery (versus the tepid and oh-so-timid appearances of 2009).

While advice is abundant on the dos, don'ts, ifs, buts, whys and wherefores, here's the real challenge: associates are squarely in a 21st century law firm economy but are stagnating with a 20th century law firm mentality. Associates of color in particular, must recalibrate their career strategies and shed antiquated notions of merit in order to successfully adapt to an evolved (and evolving) law firm model that will continually require greater efficiency, innovation and productivity from its members and associates.

Looking to a New Landscape

Now, I don't want to give the wrong impression that law firms have undergone dramatic changes and are no longer recognizable; that's hardly the case. Consistent with past history, the firms have been comparatively slow to adapt to marketplace dynamics.

Notwithstanding, today's law firm is decidedly different from those of yore. And, my sense is that the new law firm landscape will present excellent opportunities for skilled associates of color who possess exceptional interpersonal skills and business acumen. But in order to reap the rewards of this changing model, associates must be willing to take a different, if not unorthodox, approach to navigating the objective and subjective terrain of this emerging law firm model.

The suggestions below in some ways may echo what has been stated in the past, but much of what is discussed will represent a significant departure from previous recommendations, and in some cases, may run counter to prevailing theories. It's different, and necessarily so, in order for associates of color to survive and thrive in a 21st century law firm economy.

Working Hard Means Working Smart

Or, don't give 100 percent when 80 percent will do.

What's in a billable hour? Absolutely nothing if it is deeply discounted and your firm isn't compensated for the time. Or, in other words, the only good billable hour is a paid billable hour. Furthermore, while most firms still embrace the concept of the billable hour in some form or another, the 21st century law firm model will most likely include additional methods for measuring how clients compensate the firm for its work.

So, don't be naïve enough to believe that just because you worked extremely hard on a particular project and billed numerous hours, that each hour was of equal value to the firm (or the client for that matter). It is therefore absolutely essential that you fully embrace that every law firm is a business, specifically, a partnership, and understand further how your performance relates to the firm's profits.

In other words, develop a solid appreciation of your true value and understand that billing hours is clearly important but being efficient will increasingly make you the "go-to associate." Efficiency includes managing support staff effectively, exploiting existing law firm knowledge and avoiding redundancies.

Corporate clients scrutinize law firm bills with a fine tooth comb. And, they tend to closely analyze the hours billed by junior and mid-level associates more so than partners because they are well aware that they are paying for unskilled to semi-skilled talent so they want to be doubly sure that they are not overpaying for attorneys in training. Over time, law firm efficiency will eventually begin to trump hours billed; be prepared to accommodate this transformation.

Also, as you become more agile in your practice area please remember that you don't need to give 100 percent to every task required of you. Your goal is to deliver consistent, excellent and desired results, not devote countless hours to tasks that, at this stage of your career, should be deliverable with greater efficiency.

While many of us have been taught that we need to give 100 percent all of the time, that approach does not always work and can frequently backfire. In some instances, 80 percent effort (and even less) will yield the desired result. Consequently, you now have additional time to allocate to other matters that ultimately leads to greater productivity.

Make Connections

Personal relationships are more important than professional excellence.

If you really want to work smart, then you also need to be assigned to quality matters. Associates of color require both professional integrity and meaningful personal relationships in order to obtain this edge.

Developing a reputation for delivering a quality work product is certainly a critical first step, but it is far more important to have decision makers on your side. All associates of color needs at least one pitch man (or woman) to throw them a few solid balls. Ultimately, it's up to you to hit a home run but you definitely need a great pitcher to begin the process (it's baseball season—I couldn't resist).

While it may appear simple and straightforward, developing these types of relationships can be extremely difficult because of perceived cultural barriers. We've heard it time and time again and it still rings true: generally, all people are more comfortable working with those with whom they seemingly share similar cultures and/or lifestyles. This concept applies to white male senior associates or partners staffing coveted litigation and/or corporate matters who are probably more at ease with their white male counterparts than the Latina or South Asian female junior associates.

While some law firms make an effort to control the way assignments are given to allow for inclusion and diversity, I think it's extremely risky for an associate of color to rely on this methodology for quality assignments for the simple reason that it doesn't work. If this was an effective solution, we wouldn't have numerous associates of color lamenting their lackluster assignments.

So what should you do? You absolutely must go beyond the professional relationship and develop a personal connection with those who can create opportunities for you to work on quality matters. This connection may come in the form of shared culinary enthusiasm, a hobby, Pilates class or

sports interest. The main objective is to establish a personal connection so that your professional peers begin to appreciate you on a different and more human level.

Be forewarned: if your colleagues know you only on a professional level and there is limited and/or no meaningful personal connection, your career opportunities will be limited and on many levels, lacking.

Being Smart vs. a Skilled Practitioner

Being smart and having excellent credentials are assets, but they are not commodities. Know the difference and don't fall into the trap of thinking that firms are paying for your intelligence. Rather, firms (and clients) are paying for your skills and continued skill development.

Focus on honing your practice skills and make an effort to broadcast your reputation both inside and outside of the firm. Associates of color in particular need to distinguish themselves from the pack.

For example, if you are a banking associate who worked on an interesting matter involving a unique tax issue, simply suggest to the partner that you prepare an article about the transaction so that it can appear in a legal publication with both you and the partner listed as authors. It's a win-win situation: you increase your exposure to the partner, your expertise is published, and you receive internal and external exposure for your efforts.

Also, while specializing is desirable, try to diversify your skills so as to increase your value and marketability. For example, in the case of the banking associate, you ideally want to be engaged in transactions that involve a variety of assets.

Finally, risk management/compliance is increasingly a vital and critical component of almost every practice area and even though in-house legal departments typically have professionals dedicated to this area, they will increasingly look to their outside counsel to provide essential compliance and risk management services. Associates of color are well served to develop skills in these areas; they are absolutely essential.

Appearance Does Matter

As soon as you walk into a room, the first attribute people will notice is your race, ethnicity or gender. Folks will look you up and down from head to toe especially as an associate of color.

So, take advantage of the spotlight and make sure that you shine. A regular exercise routine makes a tremendous difference in how you look and feel. In addition, oxygen flow to the brain helps

the mind stay sharp and focused and alleviates the inevitable stress that results from being a law firm associate of color.

While this advice may appear ridiculously obvious, it is clear that some folks are overlooking the importance of their personal appearance and are losing professional points as a result.

Keep it simple and classy. Seek the assistance of an Ann Taylor, Brooks Brothers or Barneys consultant who will gladly select the right attire for your professional wardrobe. You don't have to be a fashion plate to achieve this goal. A well-placed scarf or a really great tie is sometimes just the simple accessory required to take a basic suit to the next level.

No matter how skilled and efficient you may be, you have to inspire confidence in order to complete the package. A well-groomed associate is far better received than someone who looks a hot mess. Be sure that you are the former and not the latter.

For associates of color, a 21st century law firm economy requires retooling with a decreased focus on manufactured merit and increased focus on skill building and relationships. Good luck!



1. See *The American Lawyer*, Student Edition, Fall 2009, p. 36 et seq., <http://www.americanlawyer-digital.com/americanlawyer/se09>.

2. See page 8, 2004 Diversity Benchmarking Report; page 9, 2006 Diversity Benchmarking Report, available at <http://www.nycbar.org/Diversity/BenchmarkingReports.htm>.

3. See page 20, 2006 Diversity Benchmarking Report.

4. Tamar Lewin, "Law School Admissions Lag Among Minorities," *New York Times*, Jan. 6, 2010, available at <http://www.nytimes.com/2010/01/07/education/07law.html>.