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DIVERSITY | IN ACTION

Think Twice

There are ways to **interpret** behavior that appears to be **racist**.

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As a white male senior associate at a major New York law firm, I've encountered a rather sticky situation and I am not sure what to make of it.

First, let me say that morale among associates at our firm is at an all-time low and for the past few years it has never been that great. Turnover is high and virtually every associate that I know is seeking to leave the firm, myself included. Turnover is particularly disastrous among blacks and Latinos.

Notwithstanding, the firm made its first African-American partner recently and I've begun working with the partner on a few matters. I don't want to be viewed as prejudiced, but honestly I don't know how in the world this person made partner—this individual is completely unimpressive and the work quality, while not bad, is not so great either. At the time the attorney was made partner there were vicious rumors circulating that the firm decided to make this person a partner to polish its

diversity image and deal with some past diversity disasters. At first, I thought it was just talk but now I'm beginning to think it may be true.

Do firms make people of color partner just to improve their diversity image or because they are African-American?

Not to my knowledge.

However, race may be a contributing factor, and in the case of your firm I believe it may have swayed the pendulum significantly (more on that a bit later).

But don't be fooled. While it may be tempting to attribute the overall increased number of partners of color to law firms playing the race card, the simple truth is that law firm executive committees are comprised of sophisticated individuals who evaluate potential partners based on several criteria ranging from performance history to client interactions and every conceivable variable in between. At the end of the day, the decision to expand



partnership ranks is fundamentally based upon sound business practices.

While it is not a wholly meritorious process and can be influenced by something as fickle as marketplace conditions for a particular practice area, you can rest assured that there is not a single attorney of color who made partner solely because

he or she was African-American, Asian, Latino or some other flavor of the month.

Just in case you have any doubts, take a cold, hard look at the numbers: Overwhelmingly, year after year, most of the attorneys who make partner are white and male.

This is a consistent characteristic of the New York law firm model and, while there have been incremental changes, the trend remains substantially the same. So even though the number of partners of color has increased, the percentages remain shockingly abysmal and, in several instances are downright embarrassing.

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Given the growth of the number of diverse law students at prestigious law schools, and the enhanced and improved on-campus diversity recruitment strategies employed by law firms, it would seem that these numbers would be much better, but unfortunately, partnership opportunities for people of color remain elusive.

Here's the real deal: For the record, the specific dynamics at your firm are extremely rare and present a fascinating case study.

Associates across the board—white, black and otherwise—are miserable with a capital “M” and several are downright bitter. Attrition is at an all-time high, particularly among associates of color.

Additionally, during the past few years there appears to have been noticeable missed opportunities on the diversity front that have caused a great deal of internal chaos. While a smattering of these events was publicized, the most significant occurrences were not generally known within the legal community.

Even so, I believe your firm was acutely aware that these past situations were potentially problematic and may have been struggling with a way to resolve its dilemma.

Did the firm seize the opportunity to rectify past missteps by making one of its last surviving black associates a partner? It's possible. But keep in mind that for the one who has been crowned there were others who were beheaded. Further, know that all who bear the crown possess different credentials, so exercise caution when you try to assess a partner's abilities.

Like law firm associates, some partners are more impressive than others

irrespective of race and gender. Think about it this way: After all these years, your firm finally makes a black partner. It's not about race; it's about time.

I am a first-year Chinese-American male associate and am deeply troubled by what I consider to be racist behavior. In our department, there is a Korean-American male paralegal and it seems like everyone—from partners to senior associates—constantly gets us mixed up. I am completely baffled by this since we look absolutely nothing alike.

He's Korean and I am Chinese. He is at least 20 pounds heavier and a couple of inches taller. He's a paralegal and I'm an attorney. Even our names are completely different. It's starting to become really embarrassing. I have to correct people when they call me by his name. One partner even gave me an assignment as if I were him. What is the best way to handle the firm's inability to distinguish between us?

Don't make this a project for your “to-do” list. It's frustrating to be sure, but it hardly warrants a full-scale confrontation.

First, discard any notion that your peers and colleagues see you as you see yourself. While you may be intimately familiar with the distinctions among various people of Asian descent, many people outside of Asian communities do not possess your level of exposure. Although you may expect that your peers and colleagues should be aware of these differences, in actuality they may very well be clueless.

It's unfair to condemn these folks as racists because they can't tell the difference between you and someone else of Asian descent. They are not racist—they just

don't know any better.

Further, there is nothing to suggest that they are being mean-spirited or acting with malice. At worst, they are insensitive; at best, unexposed.

In case you haven't noticed, this type of mix-up between people of the same race is an extremely common occurrence among people of color in predominantly white circles.

So many attorneys from various racial and ethnic backgrounds have shared similar stories about co-workers who seemingly couldn't tell the difference between them. And you're right to be baffled, since in several instances the two individuals looked completely different and only had their shared race as a common feature.

If this were a police lineup, you would have every right to be gravely concerned about mistaken identity. But instead you are a first-year associate with several practice years ahead of you. Over time your colleagues will begin to appreciate the differences between you and the Korean-American paralegal. While you wait for the epiphany, go practice law! •

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