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COMMENTARY

Four Ways to Impress a Partner

BY JAY HARRINGTON

It's often said that law firm associates should treat the partners they work with as they do the clients they work for. Call it the "golden rule" for advancing in a law firm.

The problem with this advice is that there will always be an imbalance of power between client and lawyer—clients are always in control of the relationship, although their level of control varies depending on how interchangeable they view a particular lawyer's expertise relative to others. But in all instances, clients wield the power to hire or fire lawyers, which is the ultimate form of control.

While the imbalance between partner and associate is also considerable, power can become more distributed over time. As an associate advances within a firm, the power imbalance flattens. Ultimately, an associate can become a co-equal partner.

However, before an associate can become a partner, other partners must think of the associate as a partner. An associate must begin to exhibit the characteristics and behaviors of someone with an ownership stake in the firm. Accordingly, even as a young associate, the best way to impress a partner is to start acting like one. In all aspects of life, you must act "as if" you are what you hope to become.

Here are four ways associates can perform above their pay grade, and impress partners in the process.

Take Ownership

One of the best ways young associates can demonstrate value is to take ownership of all aspects of their work. Taking ownership of all you do reflects an understanding that your superiors don't want to micromanage you. They are busy and trying to keep their heads above water, too. They understand the challenges you face at this point in your career and most are willing to help. But make no mistake: From day one, they expect you to take ownership of your projects.

Taking ownership involves not merely completing the discrete task that was assigned to you (although that is the first priority). It also means thinking beyond the task and anticipating future needs. This requires having a broader view of the case or matter that you're working on, and

not wiping your hands clean once your immediate task is complete. Successful partners see around corners for clients, anticipating issues and identifying risks, and you must do that for your colleagues as well.

Be a Leader

Most young associates perceive the early years in their careers as a time to be led. That's a mistake. When partners survey the associate landscape, they're looking for leaders not followers. They know that there are only a handful of associates in each class that will be elected to join the law firm partnership and they're looking for signs of leadership ability from the get-go.

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Accordingly, it's never too early to distinguish yourself as a leader within your firm. As a lawyer fresh out of law school, this starts with taking ownership of your work. As you advance in your career, it means getting more deeply ingrained in your firm as well, by joining associate committees and volunteering to interview new job candidates.

Opportunities to demonstrate leadership also arise in the context of day-to-day work. Ask your supervisory lawyer if you can take the lead on a particular aspect of a deal or case and explain how you're going to handle it. For example, if you're working on a litigation matter involving a motion for summary judgment and get tasked with researching case law, step up and volunteer to write a few sections of the supporting brief as well. Explain that you'd like to own responsibility for both the research and the drafting, present a plan detailing how you will proceed, and then get it done.

If you're a bit further along in your career, exhibiting leadership might mean taking the deposition, cross-examining the witness, or negotiating the resolution. Whenever you're stepping up to take on a new responsibility, it should feel like a stretch because leadership almost always involves pushing past limits.

Support Marketing and Business Development

Revenue in the door is the lifeblood of every law firm. And every lawyer in a law firm can and should play a role in bringing in new business.

There was a time when law firm associates were told that keeping their heads down, billing lots of hours, and doing quality work for someone else's clients was good enough. Clients were institutional,

and business development expectations were much different.

In today's legal marketplace, that's no longer the case. The economics have changed. Firms can't freely bill for junior associate time. Gone are the days when associates inherited institutional client work as they advanced toward becoming a partner. Now, more than ever, associates must start laying a foundation for future business development very early in their careers—not after they've gained mastery of the practice of law, but at the same time.

While, for most young associates, bringing in clients during the early stages of one's career is an unrealistic expectation, every associate can play an integral role in supporting their firm's marketing and business development efforts.

You can do your part by building and nurturing a network, both online and offline, consisting of people who may ultimately become clients or referral sources. You should also focus on co-authoring thought-leadership articles with partners in your firm. The process of writing thought-leadership articles allows you to hone your expertise in different subject matters. It also helps you to develop a digital footprint, which will make you more visible when you are ready to engage in more active business development. Perhaps most important, by co-authoring articles with partners, across offices and practice areas, you will build beneficial relationships in the firm that will pay dividends down the road.

Exhibit Resilience

Many young lawyers are uncomfortable with the idea that embracing failure is a catalyst for growth. Their lives have been marked by achievement in academic environments that only reward success. They've become perfectionists who abhor the idea of failing. As a result, they shy away from risk and tend to stay in their comfort zones.

To become a partner in a law firm, however, requires a more entrepreneurial mindset. A big difference between the lawyer mindset and the entrepreneurial mindset is that successful entrepreneurs understand they need to fail their way forward, while lawyers often avoid failure at all costs.

As a young lawyer you're going to make mistakes. What's important is being prepared for the fact that if you're growing, stretching and expanding your capabilities by taking on an ever-increasing level of responsibility, you will fail from time to time. There is no way around it. Learn to be resilient in the wake of failure, rather than being paralyzed by it when it happens—or allowing it to stop you from acting in the first place.

Perspective

Championing Justice in the Courts

BY SHIRLEY TROUTMAN, TROY WEBBER, ANTHONY CANNATARO AND JOANNE WINSLOW

The Franklin H. Williams Judicial Commission and The Richard C. Failla LGBTQ Commission are both bodies created by the Chief Judge of the State of New York and are part of the structure of the Office of Court Administration, the administrative arm of the New York State Court System. Our members are judges, lawyers, advocates, and court administrators dedicated to promoting equal participation and access throughout the court system.

For the past thirty years, the FHW Commission has been steadfast in its dedication to ensuring

justice and racial and ethnic fairness in the state court system. The Failla Commission has more recently started its own journey toward ensuring equality and diversity for the LGBTQ community in the legal profession and the state court system. Although created at different times to address distinct problems and issues facing minority communities, both Commissions are dedicated to giving a voice to our communities. The FHW Commission and the Failla Commission champion the causes of fostering equality, cultural sensitivity, and increased diversity.

Dr. Martin Luther King's statement, "Injustice anywhere is a threat to justice everywhere," is still as relevant today as when he penned it in his letter from a Birmingham jail in 1963. We are all inextricably tied to the promises of the Constitution and its tenets must be applied equally to ensure justice for all. In light of the recent events laying bare the deadly effects of systemic racism and discrimination in our society, the prospect of equality goes to the very fabric of our democracy and more pointedly to the highest ideals of our courts and justice system.

Indeed, at this incredibly painful moment for all of us, we want to take this occasion to speak with one unified voice and recommit to a common set of principles that will lead us all to a better day. We hope to channel the energy created by these recent tragedies into positive momentum for continued progress in the projects of equality and justice.

We do not want to pretend that the histories or experiences of communities of color and the LGBTQ community, or even individuals within those diverse communities, are identical. However, there are significant points of connection that bind us together. The

shared goal of both the FHW and Failla Commissions is to educate and advise others on the importance of diversity in order to give all citizens of the State of New York equal access to justice. The courts and the People of the State of New York are greatly enriched when we recognize diversity because diversity reinforces the public's confidence in an impartial justice system.

The Commissions bring together stakeholders, educators, and leaders to enlighten, raise awareness, and make a difference. By using our collective voice, we are better able to establish a dialogue for

We recognize that the perception of injustice and feelings of exclusion among communities of color and members of the LGBTQ community are multi-faceted and must be addressed to ensure trust in the justice system. We are at a point where honest discourse on these issues is sorely needed.

change by making recommendations that identify where change is needed, and by working to implement that change.

For that reason, both the FHW and Failla Commissions support the proposed New York State Senate Bill S07703 which would require the collection, compilation, and annual publication of diversity statistics on the judiciary by the Chief Administrator of the New York State Courts. The judiciary should reflect the rich diversity of our state and this bill seeks to ensure that the composition of the judiciary is more transparent. Transparency will demand greater accountability by the judicial appointing authorities and encourage diversity in appointments. The passage of such a law will be a move in the right direction toward an open and inclusive justice system.

We recognize that the perception of injustice and feelings of exclusion among communities of color and members of the LGBTQ community are multi-faceted and must be addressed to ensure trust in the justice system. We are at a point where honest discourse on these issues is sorely needed.

For persons of color, we face many issues of systemic racism. Mass incarceration continues. There is a school to prison pipeline, where young people at risk are pushed from school into the juvenile justice system, and the perception that the taking of the life of a person of color will receive no justice.

For those in the LGBTQ community, discrimination and violence are still all too common, and we now find ourselves working to protect rights we have previously achieved that are being threatened anew.

As long as these issues are not discussed and addressed in a constructive manner, trust and respect in the outcome of judicial proceedings will not exist. It is incumbent that each of us in the legal community take a moment of self-reflection to consider how we can be part of the solution.

We certainly recognize that the work won't be easy, and we will not

necessarily agree on the solutions, but the work has never been more urgent. Lifting up those left behind and listening to voices previously silenced are a must. Thinking outside the box and looking for new opportunities are the order of the day. We simply cannot miss this chance to fight for a more equitable court system worthy of our highest ideals.

Our Commissions applaud Chief Judge Janet DiFiore's recent announcement to conduct an independent review of the New York State court system's response to issues of institutional racism as part of the court system's continuing efforts to ensure equal and just treatment under the law. The findings and recommendations of the evaluation, led by attorney Jeh Johnson, who served as U.S. Secretary of Homeland Security and General Counsel for the Department of Defense in the Obama administration and is currently a partner at Paul, Weiss, Rifkin, Wharton & Garrison, LLP, will be used to effect institutional change to further diversity and inclusion within the New York State court system.

The FHW and Failla Commissions must continue to work to bring about awareness and enlightenment on these issues and, even more, to make a difference. We have never been more committed to our missions of ensuring diversity and justice. Through our collective efforts, we can move toward the ideal of equal justice for all.

Justices SHIRLEY TROUTMAN and TROY K. WEBBER are co-chairs of the Franklin H. Williams Judicial Commission. Justices ANTHONY CANNATARO and JOANNE M. WINSLOW are co-chairs of the Richard C. Failla LGBTQ Commission. Drafted with assistance from attorneys MARY LYNN NICOLAS-BREWSTER, KARLENE DENNIS and MATTHEW J. SKINNER, staff of the FHW and Failla Commissions.

COMMENTARY

Social Media Use Is on the Rise. What Does This Mean for Litigation?

BY MICHAEL POSKONKA AND ALLISON OLIVER

Looking for ways to connect in the "new normal" world of COVID-19 and social distancing, Americans are spending more time online. Recent data from Kantar suggests there has been a 61% increase in social media engagement and a 37% increase in overall Facebook usage; and consumer research data published by IZEA Worldwide indicates two-thirds of those surveyed believed their social media usage would increase if they were confined to their homes. With more internet use, particularly given additional free time, chances are plaintiffs are increasing their use of social media. Defense strategies can benefit significantly from social media research—how and why does increased social media usage matter for litigation?

Publicly available social media profiles routinely offer case-relevant information on plaintiffs. What are their preferences and everyday activities? Who do they associate with? The answers to these questions can often be found on social media. Given their potentially limited in-person interactions with others at this time due to social distancing, plaintiffs may be posting online with more frequency, and

those with no prior online presence may feel compelled to start a Facebook, Instagram, Twitter or other type of social media profile.

Keeping in mind ethical and privacy considerations, social media research can provide pivotal information for cases. Litigation related to personal injury, wrongful death and domestic issues immediately come to mind; however, most cases may benefit from social media research if litigants are publicly disclosing information that does not require "friending" or "following" to view. To ensure appropriate professional conduct and use of social media, existing guidance, including information from the American Bar Association and local bar associations, should be consulted and followed at the outset of any social media investigation.

Researching litigants' social media presence may offer insight into who they are beyond discovery material or a complaint. Particularly while social distancing and stay-at-home orders are in the process of being rescinded, it may be of interest to see if plaintiffs are posting about the activities they are performing, and if these activities are in line with state and local guidelines—or perhaps are inconsistent with plaintiffs' legal claims. For example, before the current pandemic, a plaintiff in a personal injury case alleged that she was physically disabled, which would prohibit extensive travel. However, photos on Facebook told a different story, and pictured her taking several international trips during her alleged injury period. Contradictory evidence was also identified via social media in a product liability case, where the plaintiff claimed he

did not consume alcohol. Photos on the Instagram profile of a social organization that he belonged to proved otherwise; this was particularly relevant to the case, as alcohol use was a potential contributing factor to his medical condition. This type of intelligence can reveal information about a plaintiff's character and integrity, which can aid in determining an approach to settlement discussions.

Social media research related to plaintiffs' network of family and friends (including former significant others) should also be considered when developing a social media investigation strategy. Are these individuals posting about their own health, which may reveal the family health history of the plaintiff (and potential alternative causation)? Or, are they sharing posts about the plaintiff's activities and health status—particularly during the COVID-19 pandemic, if they are worried about plaintiffs engaging in behavior that puts their health at risk? In one product liability case, the plaintiff's children posted on social media about his health issues, including statements suggesting that his delay in obtaining medical treatment was a contributing factor to his rapid deterioration in health. This intelligence can be critical in settlement discussions. Public posts by friends or family members can help to develop a more comprehensive picture of a plaintiff, in particular, an individual who may not maintain a social media account.

It is also important to look beyond mainstream social media platforms and assess plaintiffs' general online pres-

JAY HARRINGTON is an executive coach and trainer for lawyers and law firms and is the author of the new book, "The Essential Associate: Step Up, Stand Out, and Rise to the Top as a Young Lawyer."