

Listening to What the Partner Doesn't Say

by Hanna L. Stotland

The Problem:

At a large national law firm, “Frank,” the chair of the litigation department, delegated responsibility for a pro bono matter to “Bob,” a mid-level associate. Frank assigned the matter to Bob as a test of Bob’s emerging case management skills. Bob did not realize it was a test. He thought that the most important thing was to win the case. In order to ensure that he did not make any mistakes on the project, Bob asked a senior associate with more litigation experience to help him on the matter. They regularly updated Frank and other partners on their progress. The two associates wrote an excellent brief and then negotiated a favorable settlement for the client. Bob expected Frank to praise him for making sure that the client got the right outcome.

Instead, Frank was disgusted with Bob. He de-staffed Bob from all his matters, telling him that he was “not partner material” and lacked confidence in himself.

Afterward, Bob spoke to his mentor about Frank’s anger and disappointment. The mentor said, “When I first found out you had brought someone else in to help you, I thought, ‘What is this young man thinking? He’s flying into the sun!’” Bob was flabbergasted. Apparently it was common knowledge around the firm that asking for help on the case was a fatal mistake. If other partners realized he was “flying into the sun,” why hadn’t anyone told him?

This pattern repeats itself at firms across the country every day. Bob made the mistake of focusing on the project Frank gave him rather than on the hidden message Frank was trying to get across. An

assignment may have many purposes beyond simply getting the work done. Bob was so concerned about winning the case that he lost sight of his real job, which was *to make Frank happy*. Frank wanted him to write the brief himself, even if he lost the case.

The most important messages to an associate are those the partner will never say out loud. For example, partners rarely say, “This assignment is a test to see whether you have the right attitude for my trial team,” even though many assignments are exactly that.

Partners will not say, “I’m worried because this case is hanging by a thread, so this is the wrong time to ask for a weekend off.”

Most importantly, they rarely say, “I think you’re about to make a big mistake that could impact your future at this firm,” even when there is time to prevent the mistake.

Associates read exactly the wrong messages into a partner’s silence. They think that the partner will tell them everything that’s important. They think that they don’t need to worry about topics that never came up in the conversation. They think that a lack of criticism means everything is all right.

In fact, the opposite is true. Contrary to associates’ fears, most partners are not sadists. They do not like being the bad guy or bearing bad news any more than other people do. So if an associate asks for an extra week to work on a project, partners are reluctant to say, “No, that is unacceptable,” even if it is in fact unacceptable. They do not want to say, “Cancel your vacation and pull an all-nighter.” Instead, they are more likely to say “I suppose that’s

all right,” and then quietly take the associate off the case.

In addition, partners may leave out crucial information because it is obvious to them. If you have been at a law firm for 20 years, it goes without saying that a partner gives work to Bob because he wants Bob, and only Bob, to do it. It is difficult for that experienced partner even to grasp how an intelligent person like Bob could be so blind — just as it is difficult for Bob to grasp why the partner didn’t just tell him what to do.

Listening for these unspoken messages is an important skill for every young lawyer, but it can be an even bigger issue for diverse associates. Partners fear that criticism directed at a female or minority associate will be misinterpreted. When partners do speak up, they’re more likely to do so with an associate they feel comfortable with (i.e., a white male). Conversely, diverse associates may find it more challenging to imagine themselves in the shoes of a white male partner and anticipate that partner’s priorities, anxieties, etc. Aware that their odds of success are longer than average, diverse associates are more likely to make the mistake of over-focusing on the assignment to the exclusion of the partner and his or her needs.

Finding a Solution:

Both law school career advisors and law firm professional development specialists should instruct students and associates in how to listen for the silent message, and what to do if they are not able to hear it. The following themes offer a framework for thinking about and hearing the silent message.

Know where you fit. The first step toward avoiding Bob’s mistake is knowing where you fit within the team. Bob failed to note the significance of the staffing of his pro bono matter, leading to his fatal error. If a matter is staffed with junior and senior partners, a senior associate, and a paralegal, Bob’s assignment-focused approach might have worked just fine. But an assignment from a senior partner to Bob alone was a clear message that Bob was supposed to be responsible.

Associates need to add unique value to each project if they hope to get more work in the future. A junior associate competing for work with cheaper paralegals and more knowledgeable senior associates must find the advantage in the combination of skills and price that he offers. The associate should ask herself, what am I going to be the master of? Perhaps it is drafting the contracts; perhaps it is researching the regulations. Everyone should be the go-to person in some area of expertise.

Get the big picture. An associate who understands the matter and its development will do a much better job of anticipating the partner’s needs. The partner may explain what the case is about, but leave out critical information. Good questions to ask include, “Where are we in discovery?” “What needs to be accomplished at this status hearing?” “What is the client’s ultimate goal?”

Knowing the big picture can help the associate make smart decisions about each assignment. For example, associates often ask how much time they should spend on a project. Unfortunately, partners are notoriously bad at estimating how long a junior’s project ought to take; they just know an overstuffed bill when they see it. But if an associate understands how the assignment fits into the big picture of the case, she can make an educated guess about how much time it deserves. For example, a partner may ask that an associate review a set of documents to confirm the partner’s suspicion that they contain nothing relevant. This is a signal that a quick scan is the right approach. Those documents deserve less time per page than an equally large set of relevant documents that need review for privilege.

Think about the partner’s needs. Partners do not get new business every day. What is more, partners cannot rotate an unlimited number of lawyers through a matter because clients do not like to see 20 different lawyers on the same bill. So an invitation to work on one project that falls in a partner’s lap on Sunday night is potentially an invitation to stay busy for the next two years. The life of a matter may be long, and it may offer benefits down the road. Associates fail to realize what they are say-

ing no to when they don't make themselves available for the unexpected all-nighter.

In school, the object is to be smart. In a law firm, it is to be smart and *productive*. Associates need to realize that they are no longer students; they are running their own businesses. Only those who make partners' lives easier will get work.

Ask the right questions. When partners are vague, associates may need to be creative in teasing information out of them. Suppose that a partner, in an attempt to be accommodating, puts no deadline on an assignment, instead saying, "Get it to me as soon as you can." This is a setup for failure. It leads an associate to think he has a lot of time to develop the assignment into a work of art. Instead of accepting an open-ended time frame, the associate should ask, "How about Thursday?" This may prompt the partner to say, "Thursday's too late; I have a conference call with the client on Wednesday."

These are but a few illustrations of the many unspoken messages that too often go unrecognized and unheeded by new associates, particularly diverse associates — sometimes becoming the difference between success and failure. With guidance from law school career advisors and law firm professional development specialists, new associates can learn to listen for the silent messages their partners are communicating and significantly improve their opportunities for thriving in their new environments.

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