



ATTORNEY SEARCH

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HOW IMPORTANT IS IT TO KNOW YOUR "SELF" BEFORE THE JOB MARKET KNOWS YOU?

It is not a mistake—quoting the word “self” in the title of this article. I put such word in quotes for a reason. “Yourself” has become a very underrated, undervalued, and perhaps misunderstood term. Taken individually, however, the words “your” and “self” hold more value, as they are both powerful terms. Together, they equal

“that one identical with you.”

*[The American Heritage Dictionary of the English Language,
Fourth Edition (Copyright 2000, Houghton Mifflin Company)]*

This article addresses the consequences faced by attorneys who enter one practice area (e.g., corporate) in the job market, only to find that their personalities lead them to surmise that they are better suited to another practice area (e.g., litigation). When faced with such challenge, attorneys generally attempt to “switch gears.” We will briefly touch upon the hurdles encountered by lawyers who wish to change their practice area at any stage in their careers. Furthermore, we will discuss how to best avoid this incredibly challenging pitfall altogether. The key is that you must clearly understand your “self,” or “that one identical with you.”

“The Call”

Every week, I wait. I wait for “The Call” that is sure to come. Sometimes, it arrives via a mid-level at a top Manhattan firm. Other times, it arrives in the form of a voice of a junior associate or even a senior partner with substantial portables. Mostly, “The Call” arrives on Monday or following a long holiday weekend. Its arrival never surprises me, as weekends and holidays often serve as mini-vacations. For many lawyers, it is a time for contemplation, thought, and/or self-evaluation. It is this quiet time that, for some practitioners, acts as a catalyst for “The Call.” During their downtime, attorneys reflect (although not all will admit it). During reflection, some practitioners find themselves thinking a random but unusually pervasive thought; namely, “How did I get here? Why did I choose this practice when I wanted to do X?” It is this professional query that we will discuss herein; it is this query that is the dialogue of “The Call.”

As I am a recruiter, “The Call” begins a conversation I absolutely dread undertaking, due to the emotion associated with the candidate caller. Generally, the person behind “The Call” is a mid-level or junior associate who finds him/herself in a practice area that he/she strongly dislikes. Usually, he/she is desperate for change. Such person seeks to switch his/her practice area and, more often than not, is willing to (i) welcome a drop in class, (ii) accept a cut in compensation, and (iii) and/or relocate in order to do so. Essentially, although he/she may not recognize it immediately, he/she is asking me to help him/her change the direction of his/her career and life. It is always a difficult conversation.

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The short answer to the question of whether switching practice areas is a possibility is and emphatic yes. However, switching practice areas beyond a first- or second-year level is *incredibly* difficult depending upon the “legal marketplace” (which term encompasses firm perceptions, peer competition, supply of job opportunities in a given regional area, and other intangible variables). This article is not intended to provide the answer to the question of how to switch practice areas (although I will provide some suggestions in Section I). Instead, this article is intended to help you avoid making “The Call” altogether during the course of your career.

I. Suggestions for Switching Practices

As a junior associate (first- to second-year level), changing your practice area is a distinct possibility where necessary. Generally speaking, most firms do not view first- or second-year associates as having specialized just yet. Hence, the option of transitioning into a different practice area (say, for example, from mergers and acquisitions into intellectual property transactional or from complex commercial litigation into ERISA work) is a possibility. The situation becomes more complicated for mid-level associates (third- through fifth-year), who are, in fact, viewed as specialists already or as practitioners having an established discipline. For partners, the situation is infinitely more complex.

Most candidates recommend two extremes that they hope might assist them in achieving their practice switch: (i) a drop in class year or (ii) a cut in compensation as incentives that might encourage firms to take them on in a new practice area. These are valid sacrifices candidates are choosing to make; however, such sacrifices are largely only meaningful to (i) smaller (and some mid-sized) firms or (ii) areas outside of major metropolitan regions like New York, Boston, Chicago, Los Angeles, etc. Smaller firms and less competitive geographic regions continue to remain willing to think outside the box. The big firms, however, continue to be conservative in their hiring and unwilling to take on candidates interested in switching practices mid term. Why? Because they can. In New York City, for example, the pool of flawless candidates is extensive. Hence, what is the incentive for a big firm to help out a candidate looking to change practice areas? There is none. It is the equivalent of searching for your perfect car, being presented with 10 perfect models, and being drawn to the 1976 AMC Hornet because it has the potential to “go fast once the engine is refurbished.” Is that a choice you would actually make? Likely not. Why would you?

So, what can you do? You can help yourself until the market is willing to help you. Once you have wholeheartedly committed to switching practice areas, consider the following: (i) focus your energies on small to mid-sized law firms; (ii) be willing to relocate where possible to less competitive markets; (iii) be willing to take a cut in class year; (iv) be willing to take a drop in compensation; (v) actively network via your city or state bar association with attorneys in the area within which you wish to practice; (vi) undertake CLE programs in your desired practice area, and add these programs to your resume; and (vii) undertake pro bono projects in your desired practice area, and add these items as well to your resume. Full commitment on your part can turn the tide for you in the marketplace.

In short, there are many things you can do to change practices where you find your current practice to be unfulfilling. The above are just a few examples. Better yet, however, you should focus on avoiding the dilemma altogether.

II. Avoiding “The Call”

Upon graduation from college, I was given a piece of advice that I have found to be useful throughout the course of my life: What is the most important thing to know? Yourself. This is easier said than done. In fact, at the time this advice was given to me, I found it to be rather pedestrian, lackluster, and useless. It wasn't until much later in my life that I understood the genius of its simplicity. Knowing yourself (or your self, as the case may be) is the foundation for all future happiness and success in life. Consequently, it is the one area of your life that will require the greatest expenditure of courage—more so than law school and more so than the bar.

Many, many, many law students do not think about themselves in conjunction with their chosen practice areas when thinking about their careers. For some reason, most forget that after they graduate, after they take the bar, after they accept an offer to join a firm or go in-house, they will have to pick a practice that suits their personality, intellect, drive, and future goals. This should be a fully thought out process, but too many underestimate the situation and its ability to color the rest of your career.

Essentially, picking a practice is like planting a tree that will serve as your sole source of sustenance for the future. If you plant the correct tree, it will serve you well throughout the course of your life. Economically, it will provide you with strong timber for sale in exchange for currency. Personally, it will provide you with leaves for warmth; limbs for rest; and fruit that sustains, refreshes, and encourages the intellect. If, on the other hand, you let the gardener suggest to you which tree to plant or merely purchase the first tree you see from the nursery window without any forethought, you will end up with a tree, of course, but said tree may only grow to three feet, bear indigestible fruit, produce weak limbs, or vacant branches. Yes, you will have a tree, but the wrong tree.

So, what can you do? Choose correctly—or at least as close to correct as you can get. How do you do that? Know thyself.

A. Transactional versus Litigation

First, practitioners generally fall into one of two groups: (i) transactional attorneys or (ii) litigation attorneys. Sometimes, the two converge in one career (i.e., labor and employment or, depending on the firm, bankruptcy practice, for example). Most of the time, however, a job will have a tendency to stray toward one of the above two extremes.

Transactional attorneys will not find themselves in the courthouse. Generally, their work is deal-driven—involving contract drafting, due diligence, ongoing negotiations, language structuring, financial matters, and deal work. On the other hand, litigators will find themselves in the courthouse. Generally, their work is driven by research and writing, analysis, fact finding, debate, and creative argument.

As a transactional attorney, the answers are often black and white or are negotiated away from the gray toward a bottom-line result universally agreed to by both parties—at least by closing if not signing. In contrast, litigation is driven by two diverse opinions racing toward a judicially established finish line. Neither one attempts to convert the other, but both do their individual part to operate—one as white and one as black—with each one spewing forth an occasional gray dilemma. Litigation does not hold a bottom line until the judge determines to end the race and pick a winner.

Obviously, the above is an oversimplification; however, it may be useful to you. It may also be useful to you to know that people are very often drawn to a certain practice area as a result of past successes or even an indisputable personality trait, which can include a past talent or personal interest, among many other factors. In my career as a lawyer and in my current career as a recruiter, I have often observed that candidates appear to naturally fall into one of the two zones—either a black and white (transactional) personality or a gray (litigation) personality. I have found that those candidates who are successful and happy as transactional attorneys favor a bottom line. They usually appreciate certainty, finality, clear definitions, and agreed-upon deal structures. Those candidates who are successful and happy as litigators tend to favor discussion and debate, creative language, amorphous concepts, and dynamic theories worth proving. Of course, you may fall into both categories; and that is okay, as the process does not end here.

Once you consider the above, you should begin rummaging through the attic of your mind to ascertain your own past successes, personality traits, and future goals. Warning: You cannot analyze one without the other two.

Past Successes, Personality Traits, and Future Goals

Okay. So, thus far, you may think you are more litigation-minded. Maybe you are feeling that transactional is in your blood. Perhaps the best way to instruct a candidate on self-evaluation is to provide an example. (Certainly, such example is not meant as a ruler against which all self-evaluation is to be measured; it is merely meant as a guide.) Allow me give you an example of my own career—wherein, I switched practices as a second-year associate.

Past Successes: Prior to law school, I was a theatre major. Considering my past, I had found success and happiness in (1) public performance and (2) creative reading, writing, and analysis. As a result, I considered myself a natural-born litigator. Focusing solely on this practice area, as a first-year lawyer, I jumped into the world of intellectual property litigation with both feet. I soon found, however, that I was unsettled and dissatisfied with my choice of practice area. I jumped into litigation because of a successful and happy past in the similar world of the theatre; however, while I accurately looked at my past successes, I failed to simultaneously fully consider my personality traits. Had I done so, my choice would have been altogether different.

Personality Traits: Personality-wise, I am nothing if not bottom-line. I like black and white, I clarify the gray, and I clean up ambiguity. I favor negotiation working toward mutual agreement and the finality of deal closing. Hence, while my past successes seemed litigation-leaning, my personality traits read transactional. In fact, what I did not realize or consider at the time was that my life in the theatre was transactional-driven. The language of plays is certain; the acting parties are in agreement; blocking is determined; opening night is certain; closing night is precise. Plays are, in effect, mini-deals that come and go in exact calendar fashion. In retrospect, both sides of me—past successes and personality traits—were transactional-driven. Realizing this, I looked toward my third tool: future goals.

Future Goals: Despite leanings toward certainty and precision, I crave flexibility and freedom. Realizing this, I knew that a position in mergers and acquisitions or securities work, which is traditionally known for high billable hours, would leave me unhappy long term. What I needed was a transactional practice that kept faith with my creative background, but still allowed for flexibility.

Considering all of the above, I made a difficult decision as a second-year associate. I switched practice areas, within my firm, from intellectual property litigation to intellectual property transactional work (i.e., licensing, outsourcing, and related contractual duties attendant to technology, patent, trademark, and copyright assets). This was not an easy decision or easy action, but it enabled me to find a career practice area that satisfied me in all ways and supported both my personality and career goals.

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III. Market Vision

The above suggestions are not merely meant to inspire or provoke deep thinking (although they may). Instead, they are meant to inform sooner rather than later. The reasons as to why a candidate chooses, is chosen for, or falls into one particular practice area over another are innumerable. Moreover, the nuances of the situation become more complex and murky where the candidate is a partner who realizes he/she is dissatisfied. This article is not meant to provide solutions to all situations; it is meant to encourage thought and to set forth the reality that choosing a practice area is important at any stage of your career. It is likely the most difficult, challenging decision you can make as an attorney who cares about his/her career and longevity as a practitioner.

Hence, know yourself before the job market knows you. The legal market can be an unforgiving bedfellow. If you let it define you, it will gladly do so. However, you cannot be successful and happy unless you fully consider how you define yourself.