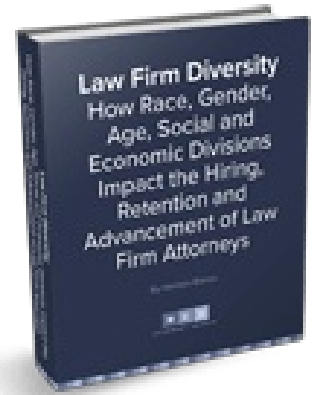


Chapter 8: Diverse Attorneys Will Still Face Challenges

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One of the criticisms leveled against law firms is that they have preconceptions about the work product of different types of attorneys. The diverse attorneys who are subject to some of the most negative stereotypes include (1) black attorneys, (2) women attorneys, and (3) gay attorneys.

Biases make people unconsciously form expectations of those they have categorized or stereotyped a certain way. The expectations are based on the category, not the unique individuals, and arise from prior experiences but also are shaped by the culture: stories, movies, books, the media. Biases are reduced or eradicated when they are exposed to examples that directly contradict those beliefs.^[1]

To close the diversity gap, law firms need to be sensitive to these preconceptions, which are the result of historical biases, lingering prejudices, and misinformation. When diverse candidates can help law firms see past preconceptions, firms are more likely to hire and retain diverse attorneys and benefit from the many advantages of having a diverse workplace.

Preconceptions About African American Attorneys

One group that suffers significantly when it comes to getting ahead in law firms is African American attorneys.^[2] Law firms and diversity leaders in law firms mentioned this group most frequently as having difficulties. These preconceptions are so often incorrect that they have become misconceptions entirely.

It is unfair and the product of racism, but the reality is that the work of black attorneys is criticized more than that of white attorneys.^[3] There is a shocking but well-known study by the leadership consulting firm Nexion, which wrote a memo and distributed the memo to sixty partners in twenty-two law firms. Half of the partners were told the memo's writer was a black man named Thomas Meyer, and the other half were told the writer was a white man named Thomas Meyer. A total of fifty-three partners finished the task of reviewing the memo. Twenty-four partners reviewed the memo written by the white man, and the other twenty-nine reviewed the memo written by the black man.^[4]

The attorneys from Nexion had inserted a total of twenty-two errors in the memo: (1) four errors of factual analysis, (2) six serious technical writing errors, (3) five factual errors, and (4) seven minor grammatical and spelling errors.

Here were the major findings of the study:^[5]

More technical and factual errors were found in the black Thomas Meyer's memo than in the white Thomas Meyer's.

The partners found an average of 5.8 of the 7 spelling and grammar errors in the black Thomas Meyer's memo; the others found an average of 2.9 of the 7 spelling and grammar errors in the white Thomas Meyer's memo.

The partners gave the memo written by the black man a rating of 3.2 out of 5.0; the partners gave the memo written by the white man a rating of 4.1 out of 5.0.

The black Thomas Meyer was criticized for being "at best" average and needing lots of improvement; the white Thomas Meyer was praised and told he had good analytic skills.

Here are some of the comments made:

White Thomas Meyer

- "generally good writer but needs to work on..."
- "has potential"
- "good analytical skills"

Black Thomas Meyer

- "needs lots of work"
- "can't believe he went to NYU"
- "average at best"

This study has been removed from Nexion's website, but it is often cited as something that shows the bias in how law firms review the work of attorneys from different backgrounds.

These preconceptions about the work quality of African American attorneys make it difficult for African American attorneys to thrive inside law firms. Many black attorneys report needing to work harder to get the best work and to get ahead.^[6] Howard University tells its students that to get ahead they need to work harder than other attorneys to make up for this disparity.

Preconceptions About Women Attorneys

Women are considered differently from how men are considered in the workplace, and this can make it difficult for women to succeed in law firms because of difficulty with generating business, finding mentors, sexual harassment, time commitments, the lack of realistic part-time options, and stereotyping about females. Although more women than men graduate from law school, fewer women make it into the upper realms of big law firm practice.

As is the case with black attorneys, dangerous preconceptions exist in law firms about women attorneys. These preconceptions are unfair and the product of sexism.

Unconscious Beliefs About Who Is in Power

In television, films, and popular culture, the people shown in powerful and professional positions--doctors, lawyers, engineers, politicians, CEOs, and judges--are more often than not white men (although this is changing).^[7] Very few shows have women in powerful positions in the lead. When most people think about these sorts of professions, men often come to mind first. For example, most congressional representatives, CEOs of *Fortune* 500 companies, college presidents, and others in power are men.^[8] When a woman holds a position or office traditionally considered in the male domain, the qualifier "woman" or "female" is usually appended to descriptions of her: a "lady doctor," a "woman attorney," a "female engineer."

The same goes for law firm partners and attorneys portrayed in the media. This creates unconscious bias about the sorts of people who should be and are in power--men. It is not easy for women to overcome this bias, and they often believe that they need to work harder than others to prove their worth and gain status.

Women Will Have Kids and Make Family a Priority over Their Careers

Women are perceived as at risk for leaving because of family priorities. Law firms assume women will either get pregnant and leave the firm or substantially "dial it back" when they have kids, decreasing their contributions to the firm.^[9] This belief, which is gradually dissipating but which is still present, often penalizes women who are competing with men for advancement in the firm. The idea is: Why should we advance her, give her the best work--and so forth--if she is going to leave or substantially cut back on work at some point soon?

These preconceptions are biases that are not always expressed but that influence the decisions of both male and female partners in law firms. The idea that women are going to leave or place family as a priority makes it more difficult for them to succeed because law firms do not trust them to do the work long term.^[10] Brande Stellings, vice president of corporate board services at Catalyst, a nonprofit focused on workplace opportunities for women, recalled conversations with partners who admitted reluctance in mentoring young women associates because they thought these lawyers were going to leave.^[11]

If Women Have Kids, They Are Not Loyal

Women are sometimes perceived as being disloyal to their law firms when they have children. In contrast, if a man has children, he often receives a raise. Law firms often do not value women having children because they believe it will lessen their commitment and take them away from work. "The prevailing view of the partners is that lawyers should be available to their clients 24 hours a day," and simply put, "the structure of the workday and the attitudes of those managing the firm are incompatible with family life."^[12]

Once a woman has children, it is expected that her priority will be her family and not the law firm. This makes it more difficult for her to get the best assignments, be put on important matters, and more.^[13] Though men also have children, there is a massive double standard that penalizes women when they have children.

If Women Are Successful, They Are Cold and Untrustworthy

Women who succeed in the practice of law are often believed to be cold and untrustworthy. Halley Bock, CEO of leadership and development training company Fierce, noted that the ruthless "ice queen" stereotype is rampant and that "a woman who shows emotion in the workplace is often cast as too fragile or unstable to lead."^[14] Instead of being nurturing, being team players, and having all the other characteristics women are believed to have, they are considered to be the exact opposite. The idea is that if a woman succeeds, she needs to be more male-like and less female-like, yet that makes her untrustworthy.

Women Are Supposed to Be Team Players and Not Go against the Grain

Law firms expect men to have certain characteristics--to be self-confident, take-charge, and aggressive. In contrast, law firms expect women to be team players.^[15] Women may be told that if they take a strong position on a legal matter with their superiors they "have a personality problem," whereas men will be thought of as having self-confidence and being aggressive. If a woman tries to act self-confident in the way that men do, she may be told that she is "uppity" and "too aggressive" and be penalized for it. In contrast, in their reviews men are often told that they need to be more aggressive.

Some women attorneys told me that men are expected to be the trial lawyers and go to court, while women are more often the brief writers. (The brief writers, incidentally, are the ones who most often win the cases because most cases are won or lost on the strength of briefs.)

Women Will Sue the Firm for Sexual Harassment

Women also are perceived as being potentially problematic because they might sue their firms for sexual harassment.

Preconceptions About LGBT Attorneys

Preconceptions about LGBT attorneys exist, and these also are unfair and the product of prejudice. Female gay attorneys are often considered to be "butch," unfeminine, and devoid of the characteristics female attorneys are expected to have. "The term butch tends to denote a degree of masculinity displayed by a female individual beyond what would be considered typical of tomboy."^[16] The overriding characteristic of the female gay attorneys is that they have a masculine presentation.

Male gay attorneys, on the other hand, are often considered to be effeminate and as having characteristics more akin to those of women or as hypermasculine.^[17] The way they talk, dress, and comport themselves is stereotyped.^[18]

These preconceptions about gay attorneys make it difficult for them to fit in at law firms because they are labeled and penalized for how they are assumed to behave.

Many gay attorneys I spoke with indicated they were more comfortable in larger cities such as New York, San Francisco, and Portland than in other cities (especially Midwestern cities). In many smaller markets, away from the coasts, gay attorneys were less likely to be understood and to fit in with law firm culture.

Regardless of the market, gay attorneys noted that they felt pressured not to be too flamboyant, not to sexualize themselves, and to "blend in" to increase their chances of getting a job or advancing in a law firm.

See also: [Leave Sex, Politics, Religion, and Social Activism out of Your Job Search and Career If You Want to Work in a Large Law Firm](#)

I have observed male gay attorneys have a difficult time getting hired. I recently represented a young white male gay attorney with a few years of experience in a hot practice area. Nothing on his rsum indicated he was gay. When I spoke with him, however, he had a style of speech that fit the stereotype for gays. He spoke about his husband frequently and named hobbies that were not traditionally masculine ones. All of this is of course fine for a person to do. But that he was so obviously gay is something that law firms would pick up quickly and probably reject.

This attorney went on over twenty interviews and did not receive a single callback. He was a graduate of a top law school and working at a major American law firm. There was no reason for him not to get at least a callback because the work that he did was very in demand. He had good experience and there was nothing wrong about his ability. Had this attorney been white, boring, and obviously masculine, I am pretty sure he would have gotten callbacks and several offers. But I'm guessing that when the law firms met him in person, they were immediately uncomfortable.

In another case, I worked with a white gay partner in a prestigious small law firm. He had a good amount of business--approaching \$1,000,000--and was eager to leave his law firm. He got in the door with numerous law firms and also got callbacks from these law firms. But after interviewing at more than fifteen firms, this attorney gave up all hope and ended up staying at his firm. He was not overtly gay, but my guess about what happened was that, when he got to the stage when law firms asked for information about his clients and billings, they quickly discovered not only that he was gay but also that he represented many gay organizations, some of which had a habit of suing big corporations and were in the public limelight in a way

that makes some audiences uncomfortable.

I believe the law firms were (1) not uncomfortable with him personally because his diversity was not too overt but (2) were uncomfortable with his representing gay organizations that were potentially threatening to the sort of clients the firms represented. I do believe he would have been hired by at least ten of the fifteen firms had he not been representing the gay clients--any other attorney in his market would have been.

In contrast to gay male attorneys who are overt about their sexuality and clients and have difficulty getting law firm jobs, I have seen the exact opposite with gay female attorneys. They have not had difficulty getting offers and jobs. They did not have the "client" issue the gay partner had, but they were upfront about being lesbians. No one seemed to care.

The only thing that I can conclude--and I may be wrong about this--is that possibly the market values the "masculine" attributes of gay women and devalues the feminine attributes of gay men. Just as firms are biased against women in many cases, they are even more biased when they believe a male exhibits female-like characteristics.

Preconceptions About Men with Middle Eastern-Sounding Names

Another group that suffers under unfair preconceptions and prejudice are men with Middle Eastern-sounding names.^[19] They often have a difficult time getting hired. I have seen this over and over again, and it is very prevalent in large legal markets. The only market where I have not seen it be much of an issue has been in the Bay Area in California.

This is not a problem for women attorneys with Middle Eastern-sounding names, for some reason. A woman with a Muslim last name and traditional headscarf does not experience the same sort of pushback as a similarly situated Muslim man. In contrast, it is often exceedingly difficult for Muslim men to get hired.

In some markets, like New York City, an attorney with a Middle Eastern name often gets no interviews whatsoever, whereas an attorney with similar qualifications gets numerous interviews. This may have something to do with stereotypes about male Middle Easterners.

Here are some examples I have run across recently:

One Middle Eastern attorney in a hot practice area was coming from a major, prestigious law firm in New York City. He had a few years of experience and was otherwise very marketable. He did not receive interviews from a single firm in New York. Had this attorney not had a Middle Eastern last name, I believe that he would have received several interviews.

I represented a Middle Eastern attorney in Texas. This attorney had a stellar background in all respects. He went to a very prestigious law school and was at a well-regarded law firm. At the same time I represented this attorney, I also represented a white attorney in the same practice area from a large law firm who had recently lost his position and was unemployed--he was fired because he was not coming into work enough and had low hours. Incredibly, the white attorney received at least five offers in Texas and the attorney with the Middle Eastern-sounding last name did not receive a single interview. I was shocked. The attorney with the Middle Eastern-sounding last name had much better qualifications, was in the same practice area, and was employed.

The Sorts of Attorneys Law Firms Avoid Hiring

My father impressed upon me that the most important thing in life was to find an employer and dedicate

yourself to that employer for the rest of your career. His way of thinking assumed that if you dedicated yourself to a job, your employer would support you and you could rely on that employer until you retired. There was a time when law firms operated that way: an attorney would join the firm after graduating from law school, and if the attorney excelled, the attorney could expect to become a partner in the law firm and be supported by the firm through retirement.

When I was entering the legal profession as an attorney, this was becoming less and less the norm. Law firms were changing. Attorneys were more like soldiers of fortune who brought their ability to work or their business to a given law firm and chose to work in the firms that paid them the most and provided the best support to accomplish their business. Because law firms want to attract and retain the most valuable partners, who bring a lot of business, they are relentless in hiring only attorneys who are the safest bets, the ones who will please and serve partners the best.

The best law firms are demanding business environments. To avoid the risk of displeasing partners, law firms avoid hiring the following types of candidates, regardless of their diversity. Because of misperceptions, prejudices, or what's proved true in the past, law firms perceive these types of candidates as unable to satisfy one of the three essential criteria: ability to do the job, ability to be managed, ability to stay long term.

Lateral Attorneys with No Law Firm Experience

The odds are that the training and ways of approaching problems lateral attorneys with no law firm experience have may not work in the law firm environment. At the entry associate level, law firms generally hire based on the attorney's qualifications and diversity.^[20] But most attorneys with otherwise acceptable qualifications but without law firm experience do not do well inside of law firms when law firms try them out.^[21] I am not sure why this is.

It could be that attorneys motivated to work in government, public interest, and other practice environments typically do not do as well in law firms because their initial career decisions did not involve working in the commercial environment of the law firm. I see this regularly. Recently, I worked with a graduate of Harvard Law School who never worked as a summer associate in a law firm and who had zero law firm experience. He had spent the first three years after law school in legal positions in government and public interest. Despite what I knew would be huge resistance from law firms, I took him on and got him an offer from a prestigious national law firm.

But before he accepted the position, he started questioning whether the firm was prestigious enough for a graduate of Harvard Law School. He wondered whether enough Harvard Law School graduates worked in the law firm and was concerned about whether he would get the right experience and more. He asked if he could expect to lateral from that firm to an even more prestigious law firm after a year or two. I told him that it was a miracle he had received an offer in the first place because he had no private sector or law firm experience at all. He was not a fit for the law firm environment.

Ultimately, this attorney let deadlines for accepting the job offer come and go and was not hired. He wasn't interested in working in a law firm. This attorney also--incredibly--did not receive any offers from law firms while he was at Harvard Law School. Law firms perceived something wrong with him, his personality, and his commitment to the practice of law firm law.

Attorneys without law firm experience most often do not have law firm experience because they did not get positions in law firms in law school or were not motivated enough to get these positions early in their careers.^[22] Law firms take this as a bad sign and a sign that these attorneys will not do the work long term.

Attorneys Not Motivated by Money

The attorney not motivated by money is likely not a best fit for a law firm. To work the hours and put up with the sort of internal competition that is common in law firms, attorneys need to be interested in money--there is no other way. Law firms use money as a carrot to motivate long hours and high performance. Law firms love it, for example, when attorneys get married, purchase homes and cars, and develop expensive tastes because this means that the attorneys will depend more and more on the firm for money.

Law firms are businesses and function based on attorneys' ability to generate money.^[23] If a law firm hopes to have long-term control over an attorney, the attorney must at least have some motivation to make money and more and more of it. The more the attorney desires money, the harder the attorney will work, the more business the attorney will generate, and the more likely the attorney will succeed inside the law firm.

The best attorneys for a law firm environment are motivated by money and often come from a background in which their families did not have a lot of money, and they wanted to be like people who did have a lot of money. These attorneys want to be something their parents were not. This is just the way it is.

There are exceptions to this, of course, and I have known excellent attorneys who were not motivated by money at all. As a general rule, though, the biggest and best law firms are demanding environments. A law firm loses control over attorneys if they are not interested in working long hours and exposing themselves to the sort of stress they experience inside law firms for money.

I recently heard about an attorney who practiced law with another attorney in downtown Los Angeles. He won a large verdict and received tens of millions of dollars in the recovery. When he received the fee, and the money had cleared, the first thing he did was quit the law firm. He was only doing the work for the money.

If money does not motivate an attorney, the attorney might be happier teaching law, working for the government, or going in-house or to an environment that is less taxing. Law firms often keep attorneys working and enthusiastic about their firms with the prospect of more and more money. The attorney who is not interested in this is an attorney who is not a good fit for a law firm.

Attorneys Not Motivated by Prestige and What Others Think of Them

Most law firm attorneys--or at least the "lifers," the ones who last--are motivated by prestige. Their prestige level, the prestige level of their current firm, the prestige level of their clients, the prestige level of their peers, and even the prestige level of the city they live in motivate them. Either attorneys buy in to this prestige business, or they do not.

Their own prestige motivates the best law firm attorneys. Attorneys are very aware of their qualifications: where they went to college, how they did in college, where they went to law school, how they did in law school, what honors they received in law school, where they have worked, and what titles they have had.^[24] All of these factors are important to most attorneys, and most law firm attorneys believe they are a "brand," of sorts, and need to protect their prestige by interviewing only with certain firms, working with only certain types of attorneys, and being around only certain types of attorneys.

When I speak with attorneys who have been practicing for a significant time--even those in their eighties--they often start the conversation by volunteering all of their accomplishments, awards, and other attributes that increase their prestige. Just look at the biographies they post on their websites. Prestige is crucial to attorneys--they are motivated by what others think of them. If they get a significant compliment from someone well known, they tend to remember it and talk about it.

If prestige does not motivate an attorney, that attorney is likely not the best hire for a law firm.^[25] The reason

is simple: law firms use money and the carrot of prestige to get attorneys to work harder and harder. Attorneys uninterested in the prestige of their job, accomplishments, and so forth are not likely to thrive in a law firm environment, where people are trying to accumulate honors constantly. *Attorneys are motivated by the prestige level of their current law firm.* The best law firm attorneys take their prestige very seriously--and nowhere does it come into play more than with the prestige level of the law firm they work at. This is one reason law firms can extract so much work from them. The largest law firms use their prestige to confer prestige on attorneys, and this serves to motivate the attorneys working there.

When I meet lawyers who work at very prestigious law firms, they are very proud of this fact. They know joining one of these firms is highly competitive and they form a lot of their professional identity around it.

With limited exceptions, if I call almost any partner or associate at a major law firm and tell them that a law firm more prestigious than their own is interested in them, they almost always agree to speak with that firm. The opposite occurs if the law firm is less prestigious.

Law firms use their prestige to both attract and retain attorneys. Attorneys who do not buy in to the idea of prestige likely will not do well in major law firms because their prestige keeps many attorneys going. *Attorneys are motivated by the prestige of their firm's clients.* Most attorneys are impressed when their firms represent large clients and famous people. Most attorneys gain a sense of importance from working at a firm that represents significant companies, groups, and people.

Most humans are tribal animals, and lawyers are no different--but some are more tribal than others. As such, the best law firm attorneys are cognizant of who their firm represents and use this information to garner prestige.^[26]

Attorneys are motivated by the prestige of the matters they work on.^[27] In addition to being motivated by the prestige level of the firm's clients, attorneys are also motivated by the prestige level of the matters they are personally working on. You can tell how motivated attorneys are based on the level of enthusiasm they show when talking about the matters they are working on. I have had conversations with attorney candidates I knew were excellent fits for law firms in which they spoke about matters with so much interest and enthusiasm it was contagious.

I recently interviewed an attorney for a legal recruiting position who was working for Gibson Dunn. He spoke with so much enthusiasm about the legal work he had been doing that I knew he would never be a good fit for legal recruiting.

Attorneys are motivated by the prestige of their peers.^[28] Attorneys are motivated by the prestige of their peers--where their peers went to law school, where they have worked in the past, and so forth. This motivation is very strong. Before they interview with any law firm, attorneys typically look up the attorneys they would be working with to get the low-down on their qualifications. Attorneys take great pride in working with groups of highly qualified attorneys because they believe this adds to their own prestige.

Attorneys are motivated by the prestige of the city they work and live in.^[29] Attorneys take the prestige of the city where they work and live very seriously. Many attorneys working in New York City, for example, would never consider working somewhere else. Attorneys typically work much harder in cities like New York than they do in other major American cities. Law firms can get so much work out of these attorneys because the prestige of the place motivates them.

Attorneys Who Distrust the Business-Facing Aspect of the Law Firm

Many young attorneys distrust the business-facing aspect of the law firm.^[30] This can come from exposure to ultra-liberal values that give them the idea that business is bad and anything seeking to make money is also suspect and bad. This sort of ideology ends up hurting law firms because the attorneys who join them then begin questioning the ethics of certain assignments, the number of hours billed, and so forth. Law firms are

wary of hiring attorneys with anticorporate values.

When I worked at Dewey Ballantine in my early years as an attorney, I witnessed the consequences of not putting your head down and doing the work you were assigned. A couple of weeks after I started at Dewey, a partner named Don Woods stopped by my office and then started giving me assignments. He was an older attorney, originally from New York, and had gone to Columbia Law School. He had a New York accent but a nice attitude and was pleasant to be around. Don gave me work to do almost the entire time I was at Dewey.

I learned that he had formerly given all his work to a Columbia grad who had graduated the same year I had. Apparently, this associate had questioned the necessity of some of the assignments, and as a consequence, Don stopped giving him work. Not only had Don stopped giving him work but also no one else in the firm would give him work either. At the time, you could type an attorney's name into the online billing system and see how many hours that person had billed. Incredibly, for a several-month stretch, this attorney did not bill any hours.

Every year as a recruiter, I encounter various attorneys who have lost jobs inside of major law firms because they questioned the wisdom of doing various assignments or accused other attorneys of overbilling. For example, I worked with a first-year attorney from a top-five law school who lost his position because he made a big stink out of doing an assignment that he thought was unnecessary. He then told other associates that he believed the young partner who assigned him the work was just trying to drive up the bill. This--true or not--was obviously none of his business; his job was to do the assignment and not question the business aspects of the firm.

Attorneys who suspect the business justification of law firm operations always end up losing their jobs. At the interview stage, law firms will do a good job of weeding out attorneys who might later make waves. Law firms exist and work to maximize profit. Partners are motivated by increasing their profits, holding onto clients, and making money consistently. Any attorney who threatens these goals will not be hired.

As touched on above, law firms hire attorneys who believe the work of the law firm is important.^[31] An attorney not motivated by the importance of a law firm's work is likely not a good fit.

Attorneys with Very Poor Law School Performance

Plenty of good attorneys out there did poorly in law school.^[32] But these attorneys typically do not get jobs in large law firms. Law school performance is an indicator of an attorney's level of motivation and aptitude for the law. Almost all law schools practice "blind grading," meaning professors are blind to whose exams they are grading. Although professors and others may have some bias about attorneys as people from different backgrounds, ethnicities, and persuasions, attorneys earn grades most often without professors knowing who they are.

First-Year Associates Looking for Jobs Before Completing Their First Year of Practice

Attorneys who lose their positions during their first year of practice or who are looking for a position before completing their first year of practice are most often not the best fit for law firms over the long term.^[33] If an attorney throws in the towel and moves on so quickly, odds are this is an indication of the attorney's level of commitment and resilience.

Being a law firm attorney requires commitment. Most first-year associates looking for a new position have a variety of complaints about their firms--and some of these make sense. Although there are exceptions, this lack of early commitment usually means the attorney does not have the constitution to succeed in the law firm environment when the going gets tough--and the going will always get tough.

One problem with attorneys looking for positions before completing their first year of practice is that they are not trained yet and do not understand what they are doing. The young attorney must be able to take orders, be managed, and have his or her work critiqued. If attorneys cannot stand to have work criticized and are not manageable early in their career, likely they will not change later either.

Attorneys Interested in Drastically Smaller or Less-Prestigious Law Firms

If an attorney is interested in moving to a drastically smaller or less-prestigious law firm than the current firm, that's usually a bad sign.^[34] It might mean the attorney is taking the first job offered or is so unhappy with the practice of law that he or she needs to make a drastic change, both of which can compromise an attorney's ability to do the job long term.

If attorneys take the first job they can get, this means they are in a bad spot and are making a change for a reason. They might have lost their current position or may be desperate for a job offer because larger, more prestigious law firms will not hire them for some reason.

Another danger, and the most significant one, is that the attorney will leave for a larger and more prestigious law firm the second an opportunity arises. Larger law firms pay more than smaller law firms, in most cases, and there is a host of reasons most attorneys prefer them. Smaller law firms that hire attorneys from larger law firms often find that these attorneys leave--quickly.

If attorneys are unhappy with working in a large firm and wish to experiment in a smaller law firm, odds are very good that they will find that the small firm environment is not much different--but the pay is less and the legal matters smaller.

Attorneys from Third- and Fourth-Tier Law Schools with Average or Below-Average Academic Performance

Attorneys who do not do well in average-to-poor law schools are a bad bet because law firms sell the quality of attorneys' minds in solving problems.^[35] Problem solving requires intelligence and a high degree of motivation--both of which law school performance tests. If an attorney did not do well in an average to poorly regarded law school, the odds are that he or she will not do well in most law firms either.

Attorneys Who Did Poorly in College

Except for science and engineering majors (where low grades and strict grading curves are often the norm), attorneys who did poorly in college are often risks for lateral hiring.^[36] College grades (like law school grades) often show attorneys' level of motivation. The ability to do well in college is often a reflection of the future attorney's desire to achieve. I have found over and over again that the best entry-level and lateral hires are attorneys with top performance in college. College shows how hard someone is willing to work for an extended period and how likely he or she is to be passionate about a given subject, the major.

Entry-Level Attorneys Who Did Not Summer in a Law Firm

Larger law firms typically use the summer associate programs as a testing ground for future hires.^[37] They expect attorneys to summer in law firms because it shows a level of motivation to work in a law firm and the ability to get a legal job. If an attorney does not work for a law firm during the attorney's first or second year of law school and, instead, takes a position with a nonprofit, a public interest organization, or a type of business other than a law firm, the odds are the attorney is not interested in working in a law firm.

Attorneys Who Have Been Involved in Lawsuits against Previous Employers

If an attorney was involved in a lawsuit against a previous employer, law firms take this as a bad sign. Law firms avoid people who raise trouble because they will find themselves on the receiving end of trouble in the future.

Attorneys Who Have Had Too Many Jobs in the Past (or Who Switch Jobs Frequently)

Attorneys who have had too many jobs or who switch jobs frequently will likely do the same thing with new employers, compromising their ability to do the work long term. There are attorneys who settle in and make things work and those who do not. Attorneys who move frequently between firms do so because they get into trouble or realize there is no upward mobility at their current law firm. Law firms view the following reasons attorneys move between firms unfavorably:^[38]

Inability to get along with peers. Attorneys might move around because of issues with peers, and these issues surface at each firm they join.

Does not have the business represented. Partners may jump between firms for years representing they have a certain amount of business they do not. Law firms quickly find out when new partners do not bring the business represented.

Poor supervisory abilities. Some attorneys move between firms because they have very poor supervisory abilities.

Issues with work quality. Many attorneys are pushed out of firms because they have issues with their work quality.

Inability to be trusted. Some attorneys create problems in law firms because they have issues with trust. They may not be able to be trusted about their hours or with client information, and other attorneys may not trust them.

Substance abuse problems. Many attorneys lose their positions as a result of issues with substances.

Issues getting work from others. Some attorneys may lose their positions because they have problems getting work from others. They might have poor work quality or personality issues, or they fail to aggressively seek out work. Law firms want attorneys who can "create work" and find work to do.

Consistent billing irregularities. Attorneys who have irregularities with their billing may be let go or may not be given work. Law firms need to trust the hours attorneys bill are not overinflated or unaccounted for.

Inconsistent face time in the office. Attorneys who are not seen in the office enough may lose their positions. Most law firms consider face time in the office as important and necessary. When attorneys are not available to receive assignments and take feedback from other attorneys, it creates issues.

Regardless of the reason the attorney hops between firms, law firms think that what happened in the past is likely to repeat in the future. Law firms are looking for attorneys with a stable employment history. In the world of law firm hiring, the past is the best predictor of what is likely to happen in the future.

Attorneys Who Are Currently Unemployed

If an attorney is currently unemployed, this is a very, very bad sign. The legal profession expects attorneys--especially those working inside of law firms--to consider their career as the most important thing in the world to them. Unemployed attorneys are viewed as not committed enough to their legal career or as flawed in whatever way might have gotten them fired. Many otherwise excellent attorneys make the mistake of leaving their law firms--for valid reasons--without another job lined up. Law firms do not believe they can afford to take chances on attorneys who do this.

Attorneys Who Do Not Seem to Take Their Careers Seriously

In job interviews, attorneys say various things, with their words and their r&e

