THE NEW ASSOCIATE GAME

Steven C. Bennett

I. INTRODUCTION

You have graduated from law school. You have taken the bar examination. You are ready to start your professional career at a law firm. What do you do now? Work hard, certainly. Try to learn, of course. Gain some experience, hopefully. But to what end? What is it that you are trying to accomplish? What is the object of this game? How do you “win” the game?

These questions are not answered by rote. There is no single “brass ring” that everyone can or should reach out to grab. There are, however, some guidelines. The game is not entirely random. In fact, new lawyers have been playing this game for years. More experienced lawyers know how they survived the game. As a result of surviving the game, moreover, they have some expectations of how the next generation of new lawyers should behave. It is, therefore, worth your while to study some of the rules of this game. Once you understand those rules, you can begin to refine the way you play your individual version of the game.

This Article is meant as an introduction to rules for new associates in law firms. It is not meant as a comprehensive handbook for all legal positions. Nor is it meant to address the circumstances of every lawyer, in every law firm, in every area of practice. Even with those limitations, I believe that there are some universal aspects of the enculturation of new lawyers. When studied and understood, these universal rules can help new lawyers mature and prosper in professional development.

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A. Cultivate a Good Reputation

The key to professional development, in my opinion, is reputation. Your goal, throughout your career, is to establish and enhance your reputation. The process is never-ending. Every lawyer, every day, adds to, or detracts from (in some ways) his or her reputation.

Reputation begins at the most basic level. The staff at your firm will come to think of you as a “nice” person, or someone who is difficult. Your secretary will talk to other secretaries, who will form similar impressions. These impressions matter. At the crunch point (when your word processing or copying needs to get done, for example) you would prefer that an ally does your work, rather than someone who does not know or care about you, or worse yet, someone who thinks you are a jerk.

Reputation quickly expands to the other lawyers for whom you work. They talk to each other. They ask who is dependable, hard-working and capable. You want your name to be mentioned on the “short list” of that company.

Ultimately, reputation extends to clients. In many instances, clients have choices, even within your firm, of the lawyers doing their work. Again, if a client has a problem, you want to be mentioned as a candidate to assist in doing the work (in your practice area). Similarly, when a senior lawyer in your firm tells a client that you are working on a project, you should hope that the client knows that you are a valuable addition to the team (either as a result of the client’s prior experience, or because the senior lawyer holds you in high regard).

How do you build a good reputation? Most important, in my view, is to recognize the needs of senior lawyers (and clients) and to match those needs against your strengths and weaknesses. If you were the lawyer who supervises your work, what are four or five things you would say are your strengths? The words may vary, but they generally should include words like: dependable, hard-working, organized, clear thinking, careful, and enthusiastic. Notice that these words have very little to do with the substantive knowledge you may have. Senior lawyers do not expect you to have complete mastery of subjects on which they have spent years developing expertise. They do expect you to learn from your experiences and to demonstrate a genuine interest in improving your skills.

On the other side of the ledger, if you were criticizing your perfor-
mance, what words might you use? If the converse of any of the positive words mentioned above (irresponsible, lazy, sloppy, confused, careless, or lackluster) appear in your characterization, you have a reputation problem, which you need to work (very hard) at correcting.

What can you do? First, abandon any sense of entitlement to a good reputation. Your fabulous resume got you in the door at your law firm. It matters very little thereafter. Senior lawyers and clients generally care about how you perform, not where you come from. You have to work at developing your reputation, from the ground up. It is hard work, and there will be setbacks. Do not despair. Do not ignore the task. Get going, today, and keep at it.

Second, treat every assignment as a career maker. No senior lawyer (and certainly no client) wants to think of his work as unimportant. Strive to make your work product on every task as good as it can be. Your question to yourself, on any given task is: "would I stake my reputation on this work?"

Finally, look for the confluence of work you like to do and work that is likely to be valued by senior lawyers and clients. It matters little if you have a strong interest and aptitude for criminal law if your firm does no work (and has no clients) in that area. Conversely, it ultimately will not help you to develop a specialty that your firm considers vital if you do not enjoy the work. A good reputation is not the sole aim of your professional life. It is, however, the natural by-product of a satisfying, challenging and active career.

B. Develop "Repeat Business"

For most new lawyers in most firms, there is some system for assigning work. Frequently, there is an assigning partner, or a new associate group coordinator, whose responsibility is to find you (and other new associates) work. This person should be considered a resource, not a substitute for selling yourself to senior lawyers (and ultimately clients).

Your goal should be to develop "repeat business" in areas of practice you find interesting, and with lawyers and clients you find enjoyable. A large part of the experience in the first few years of practice at a law firm involves a mutual process by which you try to find out what you like, and senior lawyers and clients find out about your capabilities. You can approach the process passively or with an eye toward actively choosing your own career path.

The passive approach essentially means that someone else (usually
the assigning partner or new associate coordinator) will make choices for you. They will refer requests for assistance from senior lawyers and clients to you. In most instances, unless you have too much to do already, you will have little choice but to agree to do the work. Although the assigning lawyers probably will have some knowledge of your ability and inclination, they cannot possibly know as much about what you like and dislike as you do. As a result, there will often be projects for which you feel little connection or interest. Worse yet, because you find little interest in the project, you may find yourself doing less than your best work. Your reputation, unfortunately, may suffer.

The more active approach is preferable. The essence of this approach is to recognize that you need to create a demand for your services. You need to establish yourself as a “go to” player, someone to whom seniors lawyers will look to staff their projects, even if the assigning lawyer does not intervene on your behalf. The more demand there is for your services, the more you can choose the projects on which you work (and the more ability you have to fend off work that you do not prefer, with the completely legitimate excuse that you are just too busy with other work).

How do you do that? In reality, this question is nothing more than “how do I build a good reputation?” There are, however, a few things that I think are crucial to developing “repeat business.” First, and this may seem ironic, work as hard as possible on tasks that you dislike. Give senior lawyers the impression that you are a “can do” person, even on mundane, boring tasks. Give them a reason to think that, if they help develop your skills (and allow you to work with their clients), they can expect that you will perform as well on more difficult, interesting tasks as you do on the most basic.

Second, within the area of your ability, make sure that you are adding value. When the senior lawyers says, “we need twenty copies of this document, bound, with blue covers,” know precisely how to do that, with few additional questions asked. When the product comes back, make sure that it is perfect. Be a stickler for detail. Do not assume that the senior lawyer will fix a problem if you ignore it. If you are fully conversant with all the essential systems of your office (telephone, fax, photocopies, computers, library), senior lawyers can count on you to “sweat the details.” You will be perceived to add value to their teams, and you will more likely get repeat business.

Finally, each time you have an opportunity to say, in substance, that you like a particular kind of work, or like working with a particular law-
yer, say it. Say it because you mean it, of course. But say it also because it is a sure way to convey your enthusiasm, and to increase the likelihood that you will get more work that you find rewarding. You can express your enthusiasm in other ways as well. When you get calls from senior lawyers who have projects or areas of practice you find interesting, run, do not walk to their offices, and offer to help in any way you can. When a senior lawyer lets you work directly with a client on a task that you find interesting, do your very best work, and always ask if there is anything more you can do to help.

C. Treat Supervising Lawyers as Your First Clients

At the earliest stage of your career, your direct contact with clients outside the firm is likely to be limited. In effect, your clients are the senior lawyers in your firm. The senior lawyers, in giving you assignments, are also giving you an opportunity to try out skills that you will eventually use when working directly with clients.

One of the principal skills that clients seek from their lawyers is problem solving ability. Clients come to their lawyers with specific problems, generally, questions about how they should best proceed in a given situation. Lawyers analyze the facts and applicable law and, using their best judgment, provide a recommended course of action. Even if the client does not accept every part of the lawyers recommendation, the client will generally appreciate prompt, specific advice on how to deal with the problem.

Similarly, the new associate, confronted with a question from a senior lawyer, should view the exercise as one of problem solving. The first issue is how quickly the problem must be solved. Many assignments for new associates involve library research. Such assignments can be bounded by a specific time frame or essentially unlimited in scope. Thus, the first thing you should determine is how soon the senior lawyer wants an answer. Your awareness of the time frame should provide you with an understanding of how much detail the senior lawyer expects in response to the questions. Make every effort to abide by that time frame. Nothing can be as annoying to a senior lawyer as when a junior lawyer is given a specific research assignment with a specific time frame for completion, and does not report back to the senior lawyer prior to expiration of the deadline.

The deadline may also have a financial component. For example, the
client may not wish to spend a large amount of money on researching the finer points of law surrounding the question. Under those circumstances, the senior lawyer may become particularly irritated to discover that you have spent hours of time on expensive electronic research when a twenty minute review of a major treatise would give the essential answer.

The same goes for communicating the answer. Depending on the time frame and the budget for the project, the senior lawyer may simply want an oral report summarizing the essential answer. Some lawyers, however, under some circumstances may wish to have a more detailed memorandum explaining the nuances of the answer and the sources of research for the answer. You should determine, by asking the senior lawyer in advance, what form and what length of answer is requested.

If at any point in the course of your work on the project you become uncertain about whether you are following the instructions from a senior lawyer correctly, you should not hesitate to return to the senior lawyer for further direction. If there is any way to compound the problem of spending excessive time and resources on a project, it is surely to produce useless work product, which the senior lawyer must simply discard. Better to make yourself something of a pest with repeated questions than to wander aimlessly around a problem that you do not fully understand. Most senior lawyers are aware that the complicated legal problems they often confront require a certain amount of direction and supervision to answer properly.

As you become familiar with the working style of the senior lawyers in your firm, you will become more confident in going back to them for advice at critical junctures in the course of a project. This is the essence of the professional development process. Indeed, as you gain experience, you will become ever more aware of the importance of review with fellow lawyers and clients on key points of strategy.

D. Earn the Right to Choose Your Work

Your skill set when you arrive at your new firm is most likely very generalized. Even though law school may have involved specific substantive courses, in large measure what you bring to the firm at the earliest point is the ability to research, write and spend long hours reviewing documents. Part of the process of enculturation at the firm is a demonstration of your willingness to perform even these mundane tasks.

Your goal, however, is to demonstrate to senior lawyers that you are
interested in learning the practical aspects of practice in a particular area. Assuming that you have such an interest, there are several different ways to demonstrate that you are ready to move on to more substantive work.

First, as mentioned above, you should be as direct as possible in telling senior attorneys where your interests lie. When you work on a project that you find rewarding, tell the senior lawyer precisely that. Second, even if you are assigned mundane tasks, if you find the area of the project or case interesting, do not confine yourself to the mundane. Even if the work cannot be billed to a client, for example, you may want to do some extracurricular reading of treatises or journals in the area of the project. As you learn about the background of the project, you may also want to do some extracurricular reading pertaining to the particular client. All of this work will help you to have a free and more productive discussion with senior lawyers concerning the project and the substantive area. As they begin to see you as a knowledgeable and enthusiastic colleague, they will more likely share their experience in the substantive areas and with the particular client. Your knowledge, experience and confidence will further grow.

Another effective way to demonstrate enthusiasm and to approximate the role of the senior lawyers to which you aspire is to attempt to formulate solutions to the problems confronting senior lawyers. That is, as you understand the project or problem presented by the client, think about what solution you would recommend if you were the senior attorney. By discussing the proposed solution with the senior attorney, if you have done your homework, you may find that the proposed solution is helpful to the senior lawyer. Even if it is not, the fact that you have attempted to formulate a solution may impress the senior lawyer with your enthusiasm and dedication. Ultimately, your goal is to have the senior lawyer view you as a person that is worth investing some amount of time in training and promoting so that you can assist in future projects more effectively and independently.

E. Become a Valued Team Member

A large part of the professional process at major law firms is the creation of practice teams for particular substantive areas and for particular cases or projects. As a new associate, your goal should be to determine which of these teams involve areas of practice and lawyers in which you are interested.

This focus on teams may be foreign to your experience from law
school and even from summer associate experiences. Law school courses lack continuity in the sense that courses have beginning and ending points. So, too, for summer associate experiences. Because you are at the firm for a limited period of time, the kinds of work assignments that you receive are also limited in scope and essentially individual rather than team experiences.

When you arrive at a firm more or less on a permanent basis, however, the professional enculturation process begins. Despite the large number of lawyers in this country and perhaps in the metropolitan area where you work, in reality you probably only work with a small number of lawyers at your firm. Depending on your practice area, even your local legal community may be small. This focus on practice teams and community should reinforce the notion of reputation as a critical element for success. Your goal is to become a valued member of each practice team to which you belong. As senior lawyers and clients form new practice teams for new assignments, your goal is to be a valued addition to any such team.

Despite your junior status, moreover, senior lawyers and clients will respect your demonstrated ability to assemble and effectively manage a team of administrative staff, such as secretaries and paralegals. The more you can demonstrate your ability to pay attention to details and take whatever steps are necessary to complete the project effectively and on time, the more likely the senior lawyers and clients will want to add you to their practice teams.

F. Make "Face Time" With Supervising Lawyers

The opposite of team participation, of course, is isolation. Unfortunately, the great temptation when you get to a new firm is to spend too much of your time in your individual office. You may think that staying in your office gives other lawyers the impression that you are hard working. You may also simply be intimidated by the senior lawyers walking the halls. You may even think that by staying in your office, you can avoid being noticed and avoid undesirable work. All of these are false assumptions.

Your goal should be, as much as possible, to have direct face-to-face communication with as many senior lawyers and clients as possible, especially those involved in practice areas and projects of interest to you. You should make it a priority to spend some part of every day outside
your office. If that involves nothing more than a quick turn around the halls of your firm, so be it. A great likelihood is that somewhere in the process of such a stroll you will encounter a senior lawyer with whom you are working. These encounters offer opportunities to discuss the status of any projects on which you are working. Such encounters can help keep senior lawyers aware of your work and help convince them of your enthusiasm and interest in their work.

Similarly, when you get a phone call from senior attorneys asking you to come to their offices to discuss a project, do not hesitate to do so. Always bring along at least a pad and pencil to write down any significant facts gained in the discussion and to make note of any assignments that the senior attorney may give you.

You should also expect that any discussion with a senior attorney may be interrupted by phone calls, or visits from other lawyers or even clients. Do not leave the office of the senior attorney until you are told to do so. During the downtime in the course of a meeting with the senior attorney, do something productive. Many new associates routinely bring extra work or reading material with them when they go to a senior lawyer’s office. To the extent that it does not involve intrusion on the senior lawyer’s privacy, moreover, you should listen carefully to how the senior lawyer deals with other lawyers and clients. This is part of the enculturation process. As you learn what is standard practice for a senior attorney, you may also want to spend some time studying the contents of the senior lawyer’s office. Take a look at the books the lawyer has in the practice area in which you are interested. You may want to consider getting copies of these books for your extracurricular reading. You may also want to note the senior lawyer’s social interests. Again, the more interest you show in other lawyers and clients, the more likely they will respond to you and help you to learn and foster your career.

Conversely, you should take every precaution not to become known as a “stealth” associate. When you have completed an assignment for a senior attorney, call the attorney to find out when you can best come by to report on your progress. Do not simply leave results of your work on a lawyer’s desk or chair. The face-to-face meeting with a senior lawyer is a critical opportunity to demonstrate your interest in the project and to correct any mistakes that may have occurred in the course of your work. Indeed, this may be the only opportunity you have to solicit vital feedback on your progress.
G. Take Responsibility for Your Mistakes

Everyone makes mistakes. Your goal as a new associate is to recognize your mistakes as early as possible and to correct them before they become larger problems. Do not run away from your mistakes, and do not blame others for your mistakes. View your mistakes as what they can be in the way of learning opportunities.

Remember also that senior attorneys may judge you more by your reaction to the mistakes than by the mistakes themselves. If you do try to run away from mistakes or to blame others for mistakes, senior attorneys will get the impression that you are not trustworthy and not a team player. Ultimately, senior attorneys expect you to take responsibility for your mistakes because that is what they have to do. Indeed, to the extent that you become part of the management structure of a team, you are responsible for helping to prevent and manage any mistakes made by anyone on the team. Thus, just as senior lawyers must take responsibility for their failure to prevent you from making mistakes, so, too, you must take responsibility for preventing and rectifying mistakes by your subordinates, including secretaries, paralegals and other staff.

H. Demonstrate Professional Courtesy

You are being paid a substantial sum of money to perform professional tasks as an attorney. Your goal should be to earn your pay by becoming as professionally competent and effective as you can be.

Professional competence means more than simply getting a job done. Professional competence means viewing the interest of your firm as paramount. In particular, professionalism means valuing courtesy and group development over individual competition.

Law school often fosters a measure of cut-throat competition. Effective professional development requires that you temper your competitive instincts with the recognition that you are part of an organization composed of real human beings with real human needs. When you see one of your colleagues with a time crunch or a personal problem, it is your professional obligation to step in to help if you can. Similarly, if you see a subordinate attorney, paralegal, secretary or staff member who has made a mistake, it is your professional obligation to help correct the mistake and to prevent it from happening again without abusing the subordinate in the process.
I. Get a Life

Your life as a lawyer should involve more than work. Indeed, part of the process of developing as an attorney is learning how to manage your extra-professional life. Clients and senior lawyers will relate to you better if you have some sense of life beyond the walls of your firm. You also need some ability to manage the stress and long hours of professional life.

Being a professional also means having some personal interest in the lives and problems of your colleagues and clients. You will find that most people mix discussion of their business problems with their personal lives. Showing some interest in both aspects will often be a critical part of developing professional relationships.

Perhaps the prototypical example of such discussion is the evening meal following a business meeting in some distant spot. There you sit with senior lawyer, client, or both. Are you enough of a conversationalist to be engaging throughout the meal? If not, you may find that your professional relationships suffer.

J. Respect Deadlines

A key aspect of your reputation is the extent to which you are perceived as reliable. As you become part of a practice team, senior attorneys and clients will come to expect you to perform critical tasks in solving their problems. Your goal is to set reasonable expectations for such performance and to meet or exceed such expectations on a regular basis.

In that connection, one essential part of your professional development should be establishment of a reliable calendar of your business and personal activities. If a senior lawyer or client asks you to meet a specific deadline for completing a task, you need to be able to evaluate the extent of the demand being made on your time and determine whether that deadline is reasonable. You also need to be able to evaluate any resource constraints that may limit your ability to perform on time. Ultimately, part of the judgment for which clients and senior lawyers value your services is the ability to look ahead at the steps required to complete a project and to anticipate potential problems and ensure that the steps are completed in a timely fashion.
K. Communicate

There is a temptation, as a junior lawyer, to view your services as a fungible commodity. On that view, essentially all you need to do is put in the minimum number of hours. Other than that, you can come and go as you please.

That view is dead wrong. If you wish to be part of a team, you need to make sure that you are in regular communication with other members of the team. If you are going to be away from your office and out of communication even if for a short period of time, there should be some way for senior lawyers and clients to find you. In general, all you need to do is keep your secretary informed of your location and your schedule. Similarly, if you leave a telephone message with a senior lawyer or client, make sure to leave your telephone number, and note any extended period when you will not be available to take a return call. If you will be unavailable for an extended period of time, you also should make sure to inform senior lawyers of your absence, and make sure that a replacement attorney is taking responsibility for any task assigned to you and will know how to communicate with you while you are away.

Communication also means that whenever you find that two projects impose conflicting demands on your time, you keep track of the conflicts and report to senior lawyers and clients about your time constraints. You are responsible for such communication because senior lawyers and clients most likely will not otherwise know about such constraints.

L. Seek Opportunities for Professional Growth

Part of the process of professional enculturation is seeking out, wherever possible, practical experiences in your chosen substantive area of practice. In a litigation context, for example, writing a section of a brief is preferable to writing an office memorandum in that the brief-writing experience is closer to the practical problem. On that same view, writing the entire brief is preferable to writing a section, and arguing the motion as well as writing the brief is even further along the path of skill development.

These practical experiences should be a critical part of your own measure of your experience at your firm. These experiences will also be a measure by which you are judged by senior attorneys and clients. That is, the more that senior attorneys and clients see that you are capable of
performing more demanding tasks, the more likely it is that you will get interesting and challenging work.

Not all your experiences will involve progress in your skill set. You need to be aware that even modest expansion of your experience is desirable for a new associate. At very least, the issue deserves your attention. You might develop your own personal measure of your experiences. How many strategy meetings have you participated in with senior lawyers? How many meetings with clients? How many meetings outside of your office? With litigators, how many experiences in courts? All of these are learning opportunities, and your goal should be to have as many of them as possible.

Again, the essential part of your strategy is convincing senior lawyers and clients that you can add value in a situation. Even if it involves carrying the bags, arranging for transportation, getting copies made, finding lunch or other mundane tasks, you should grab for any opportunity to be of service in order to justify your participation in these experiences and to maximize the chances that you will have further growth opportunities.

A word about notes. In most settings, even if you are not conducting a meeting or participating in a court proceeding directly, you can serve a valid function as a note-taker. Unless you are told not to do by a senior lawyer or client, you should assign yourself the task of note-taking in any such setting. After any such meeting or proceeding, you should ask the senior lawyer and client whether they would like a written summary of the events for their files.

You should also recognize that your role may include contacts with people outside the firm, including clients, lawyers, judges and their staff. Part of your function is to serve as a representative of the firm. You should always view your role as demonstrating the professional competence and integrity of the firm.

M. Let Your Office Help You

As a new associate you will spend an enormous amount of time in your office. You should view your office as a tool. It is a tool for organizing critical information that you will use in your daily practice. It is also a tool for communicating with senior lawyers and clients who come in contact with you.

Begin by developing some form of filing system. You do not want to have piles of papers strewn about your office. In such an environment,
your secretary would never be able to help organize your materials. Senior lawyers will never be able to find materials in your office when you are absent. The impression that your office conveys, moreover, will be one of disorganization. Given your junior status, of course, you want to convey precisely the opposite message. Senior lawyers and clients may count on you to keep materials organized so that they can focus on the more significant aspects of the case or project.

Your office, however, can and should be an extension of your own personality. You should feel free to decorate your office with items of personal interest. The impression such decoration gives senior lawyers and clients is that you are more than a temporary visitor at the firm. You will appear to be someone who is comfortable in the firm setting and who intends to grow and flourish in that setting.

Finally, you should spend some time accumulating a library of critical volumes in your practice area. Keep in mind the volumes that you frequently refer to in doing research in the library. These are candidates for inclusion in your private library. Such materials can help you practice more efficiently. The appearance of such materials on book shelves in your wall also gives the impression to senior lawyers and clients that you have dedicated yourself to mastering your given practice area.

N. Relax

Your first years in professional life are certainly important. They are, however, a starting point, not an ending point. The process of professional development is just that, a process, and it takes time.

Although you should always try your hardest, recognize that no single project, and no single mistake, will make or break your career. Do not become discouraged if there are setbacks along the road. Just as the dieter should not give up his dieting just because he has fallen prey to some tempting morsels at a single dinner, so you should not be diverted from your planned development, even if it is not always smooth, and the benefits (and reputation) immediately apparent.

Indeed, in the often highly-charged atmosphere of a busy law firm, any feedback (let alone positive feedback) from supervising lawyers is often sorely lacking. Solicit feedback where you can. If it does not come, however, mark your own progress. Talk to your fellow new associates. Share experiences so that the group as a whole can develop.

Above all else, be a good friend to yourself. When you succeed,
celebrate. When there are setbacks, console yourself, and take action to try to avoid the problem in the future.

II. CONCLUSION

These rules, as noted, are far from complete or universally applicable. It is my hope that you will spend some time thinking about your professional development, and formulating rules that work best for you.

Be of good cheer. You mastered the language and methods of law in school. Now, master the profession itself. Good luck.