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Issue #63
Getting Credit Where Credit is Due

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Behold the turtle. He makes progress only when he sticks his neck out.
- James B. Conant

WHO IS GETTING CREDIT?

Karen* had been working for two years to develop a relationship with the general counsel of a private equity group. A non-equity partner in the Washington, D.C. office and a member of her firm's investment management group, she needed the support of a male partner in the firm's New York office due to his expertise in a small aspect of a much larger matter she hoped to bring in to the firm. Her colleague in New York agreed to participate in a conference call. When the general counsel called to tell her he wanted her to move forward with the work and to have her manage the relationship, Karen went to open the matter. To her surprise, the partner in New York had already opened it himself and had taken 100 percent of the origination credit.

GENDER DISPARITY IN COMPENSATION

The issue of the distribution of origination credit is a hot topic this year, particularly in light of the ABA's Presidential Task Force on Gender Equity. The gender disparity in compensation has been well established, as has the difficulty women attorneys face in receiving credit for their client--and matter--origination efforts. A survey of 700 women attorneys indicated that most had not received credit for their contributions to client development, and one third had been bullied and intimidated out of their claims to such credit. [1]

BACKLASH

Psychological research suggests that the contributions of women to pitch teams are easy to overlook--the assumption that the credit should go to the men involved is an automatic, gender-biased attribution. [2] It has also been demonstrated that women are less likely to negotiate on their own behalf and, when they do, are more likely to elicit negative reactions. Traditional gender role expectations dictate that women should be warm and "communal." As a result, women who attempt to negotiate on their own behalf often face a backlash of criticism for being too selfish and aggressive. [3] It's no wonder that women often lack confidence about negotiating for the credit they deserve. Not only are they less likely to have been socialized to advocate for themselves and to have less practice than their male counterparts, they also have good reason to expect negative reactions.

It's important to note in this context that negative reactions from negotiation partners do not necessarily mean that women won't get what they want. Instead they may have to trade being liked for being successful in the negotiation. This is no small matter in a law firm. For example, Beth, a regulatory attorney and a non-equity partner in a large firm, was upset that the litigation partner she'd brought in to help advise a client she'd cultivated had opened a new matter assigning himself full credit without any discussion with her. As a new partner in the firm, Beth was only beginning to build her own book of business. Also, as a salaried partner, her compensation was largely determined by the number of hours she billed. She needed all the work she could get. The litigator was a powerful rainmaker in a position to give and withhold opportunities for work and access to clients. If Beth challenged his hoarding of credit in this situation, would he be angry enough to "blacklist" her from other chances she needed to meet her billable requirements and grow her practice?

DO YOUR ASSUMPTIONS GET IN YOUR WAY?

Women indeed face a minefield when they consider asking for what they want. However, looking at it in an all-or-nothing way makes a challenging situation seem impossible. Is it the end of your career to have a powerful male partner angry at you? Is it a disaster to be called aggressive or selfish? If someone at your firm doesn't think you're "nice," is that necessarily a bad thing? Of course, the answer to all of these questions is that it depends upon the specifics of the situation. As in all conflict situations, some battles are worth fighting and others are not. However, in my experience as an executive/business development coach for women attorneys, it's all too easy for a woman to assume that negative reactions from others spell career catastrophe. Given that assumption, it makes sense to avoid conflict about credit.

DEMONSTRATE CONFIDENCE

But what if that assumption is wrong? What if those negative reactions are just ways men have learned to control women and hold on to what they have? To take it even further, what if constructively engaging in conflict actually helps advance your career? Obviously, if you get what you want your compensation will benefit. But consider the possibility that you may earn more respect if you are assertive and unwilling to back down easily. The other side of this difficult are assertive and unwilling to back down easily. The other side of this difficult dilemma is that women are all too often criticized for lacking confidence and therefore viewed as not "tough enough" to be an effective lawyer. Perhaps negotiating for the credit you've earned and refusing to be intimidated by anger and name-calling actually demonstrates competence and earns you greater respect.

I've often discussed this conundrum with Kathleen, a litigation partner in a large firm. A male colleague arranged a meeting with her client unbeknownst to her. When she found out she marched into his office, stood eyeball to eyeball with him and told him that if he ever did this again she'd have his head. Certainly Kathleen's style is not right for everyone, but it illustrates the range of possibilities available when faced with a male colleague's efforts to take away clients or credit.

IT'S NOT AS SIMPLE AS "LEANING IN"

The issue of getting the credit you deserve is not simple, and facile advice like "advocate for yourself" is not particularly helpful. I combed the Internet looking for concrete suggestions about what women can do to get the origination credit they deserve. Although there is ample information about negotiation in general, I found little specific and useful help regarding this particular dilemma. Like the "lean in" message dominating the conversation these days, telling women to advocate for themselves suggests that the problem belongs only to the women who are losing out. If only you'd "ask for it," you'd get the credit and compensation you deserve.

WHO IS ON THE COMPENSATION COMMITTEE?

In fact, compensation and credit inequities are embedded within organizations dominated by white men, with women largely absent from committees making compensation decisions. Women also face these issues within a larger social context of gendered assumptions about how women do and should behave. There can be real costs associated with advocating for yourself and you can pay a very high price if you don't. However, there are many things you can do to tip the scales a bit more to your advantage. Here are a dozen of them:

A DOZEN WAYS TO TIP THE SCALES IN YOUR FAVOR

1. UNDERSTAND YOUR FIRM'S COMPENSATION SYSTEM

I'm often surprised at how little some of my coaching clients know about the actual workings of their firm's compensation system. Often, firms have multiple forms of credit as well as rules for determining its assignment. You need to know how credit is determined for bringing in business from new clients, as well as new matters from existing clients. Does the attorney who originally brought the client to the firm retain credit in perpetuity? Or is credit transferred to the person who in fact has been managing the relationship? Does your firm's compensation system allow credit sharing? If so, how is the allocation of credit determined? You should know if your firm has an appeals process to address perceived inequities in the allocation of credit.

To the extent to which you work in a firm with a transparent compensation process, this information should be relatively easy to obtain. But even where the process is unclear, there are people with the information you need. In one firm where I coach all new women partners, a woman with a long history at the firm participates in the coaching sessions to make sure that her colleagues understand the intricacies of the credit system. Her insider knowledge has enabled many of the group's participants to avoid unfair treatment in the credit assignment process.

At a recent firm retreat I was facilitating, a senior woman partner helped a junior colleague who assumed she could receive no credit for a very sizeable transaction she'd just brought into the firm because a male partner had done a small amount of business many years before with this client. The senior partner told her younger colleague to simply open up the matter with a variant of the client company's name. Given the limited kinds of credit in this firm's system, this was a necessary and successful way to get the credit she deserved.

If you can't get the information you need in a straightforward manner, find a senior colleague who can fill you in. It is essential for you to have this information and to understand the more nuanced ways in which you can make the system work for you.

The process of getting the credit you deserve starts long before you find yourself needing to negotiate a specific conflict situation.

2. CULTIVATE A SPONSOR

The power to negotiate credit successfully comes from a variety of sources. The first is to establish yourself within your practice group. Doing great work is necessary, but it is not sufficient to accomplish this. You'll need to earn respect and trust by making your work great and being willing to go the extra mile to be visible to powerful decision makers. Becoming the "go to" lawyer in a niche area not yet owned by anyone else in the practice increases your visibility and value. Establishing yourself as trustworthy and becoming indispensable to a senior partner positions you to be entrusted with responsibility for a significant client. Once you have the advocacy of such a sponsor, he or she is likely to introduce you to clients and share credit with you. You're far better positioned to negotiate for credit in the future if you already have some of your own client relationships as well as a champion to fight for you, should that become necessary.

When you position yourself in this manner, you'll also have an easier time maintaining a leadership position when you originate new business. When your practice group is used to seeing you lead significant client relationships, your leadership in the future is challenged less often.

3. DESENSITIZE YOURSELF TO RISK

Asking for what you want takes courage. If you wait until you feel comfortable, you'll never take action. I often ask my coaching clients, "What would you do if you were 10 times bolder?"

You'll have an easier time asking for the credit you deserve if you've intentionally avoided playing it safe before that time. Work at taking small, successively increasing risks. Ask for stretch assignments; speak up at meetings; say something about which you're less than 100 percent certain. Few of us ever reach a point of complete confidence. Instead, we get more used to taking action and tolerating the discomfort because we're doing it in the service of something that is meaningful and important to us.

4. REMEMBER THAT EVERYTHING IS NEGOTIABLE

Just because someone else has taken unilateral action or said "no" the first time you asked doesn't mean you can't negotiate. I often tell clients that "no" is just the beginning of the conversation. Everything is negotiable.

Beth, a litigation partner in a midsize firm, had collaborated with a male colleague in courting a client. When the work finally came in, her colleague opened the matter and assigned himself full credit. Beth blamed herself for failing to discuss credit issues in advance and assumed she'd blown her chance. As her coach, I challenged her to initiate a discussion about sharing the credit. To her surprise, her colleague apologized and offered to split credit 50/50.

Of course, it's not always that easy but as Babe Ruth said, "Never let the fear of striking out get in your way."

5. PRACTICE, PRACTICE, PRACTICE

Negotiating is a skill and, like any skill, it takes a lot of practice to master. Even if you're a master advocate for others, the dynamics of advocating on your own behalf are somewhat different. Look for every opportunity to practice self-advocacy, both at work and at home. Start with low stakes situations. Negotiating is easiest when you care little about the relationship. For instance, try negotiating for a better price on a product. And don't let the outcome define success. In any negotiation, you can only influence, not control, the other party's decision. Just because the other person said "no" doesn't mean you failed. The point is to try to become acquainted with resistance and to learn from your experiences.

6. NEGOTIATE IN ADVANCE

Although you can certainly negotiate after the fact, you may be able to save yourself time and angst by negotiating in advance.

Kayla, a real estate partner in a large firm, had been developing a relationship with a major developer for months. He asked her to bring in a team of lawyers from her firm to meet with several of the legal team at his company. Kayla carefully selected colleagues with the requisite expertise. She was particularly concerned about Carl, her tax partner. He had a reputation for aggressively taking over client meetings and allocating all credit to himself. Kayla met with her team before the client meeting. In addition to planning the pitch, she laid out her expectations about how credit would be divided should the pitch be successful. Looking Carl straight in the eyes, she asked for his agreement. He consented and things proceeded smoothly.

7. ASSUME THE BEST INTENTIONS

When you discover that you've been unfairly denied credit, it's easy to assume the offending party intended to cheat you. Although sometimes that may be the case, it isn't always. Often senior male rainmakers are used to opening their own matters and taking the credit they believe they deserve because they've in fact been out there making rain.
Assuming the worst will lead to righteous indignation and, while this may fuel assertiveness, it's likely to interfere with the kind of strategic planning needed to negotiate effectively. When it comes to the actual negotiation, you want to be able to maintain emotional neutrality. Anger usually elicits defensiveness rather than cooperation.

8. EVALUATE POTENTIAL GAINS AND LOSSES

There's rarely much to lose by asking, as long as you do it in a non-adversarial manner. Asking to discuss credit allocation, inquiring about how the initial decision was reached, and taking a problem-solving approach are unlikely to result in severe repercussions to your reputation or relationship. The more challenging question is how far to push the negotiation. You'll need to decide based upon a number of factors: the importance of the relationship to you, both personally and professionally; the quality of the relationship; your relative power; what you have to trade; the importance of winning this particular battle; and the other resources at your disposal including your champion and your firm's appeal process.

Just make sure you consider what you stand to lose if you don't ask. Leaving others with the impression that they can take what's rightly yours without hearing a peep from you is dangerous and can hurt your career far more than broaching the subject in an appropriate manner.

9. EXPECT PUSHBACK

Rarely do things go as easily as in the example of Beth above. When you tell a colleague that you would like to reexamine the distribution of credit, you're likely to meet with some initial defensiveness. Sometimes this is simply a reflection of the individual's embarrassment about having made a mistake. At other times, it's a reflection of the surprise of someone who obviously underestimated your assertiveness. Of course, there are also those particularly difficult circumstances when your negotiating partner is someone who expects to get his way no matter what.

It's important to be psychologically prepared for pushback. You'll need to have done your negotiation preparation, including determining your desired done your negotiation preparation, including determining your desired outcome, as well as what you're willing to settle for and at what point you'll walk away. Presumably, you've also taken the time to consider the interests of the other person.

This kind of planning is cognitive. It's also particularly important to be emotionally prepared. Expect to feel and tolerate discomfort. Act "as if" you felt confident. Expecting too much of yourself will only lead you to be upset with yourself for feeling emotions. When this happens, no one is on your side.

Don't let a "no" or a more direct challenge intimidate you. Be prepared to listen and work to understand the other person's perspective. Remember the old "sticks and stones" adage and move past the sting of accusations so you can ask your negotiating partner to further explain his objections. Let your opponent see that you're not willing to back down easily. Often, this is all it takes to enable you to reach a compromise.

10. REMEMBER YOUR SOURCES OF INFLUENCE

Women are often reluctant to ask for their fair share of credit because of concerns about risking the relationship. Remember that, for many of your colleagues, preserving their relationship with you is also important-at least for practical reasons. Your colleague may not want to risk alienating you if you have unique expertise, access to clients, a strong relationship with a shared client, or a powerful sponsor.

Another source of influence is appealing to his sense of fairness. Sometimes simply asking your colleague what he would do if he were in your shoes is all it takes to elicit a little generosity. Most people prefer agreements that satisfy both parties.

Don't be fooled by bluster. Yes, there are real bullies in the world who could care less about how you or anyone else feels. But they are not in the majority. Much of what you're likely to encounter that will make you want to back off are simply negotiating tactics that have often worked for the other person, particularly with women.

Finally, consider your client as a potential source of influence. Sarah was infuriated when she discovered that the head of her practice group gathered several other male colleagues and arranged a visit, behind her back, with one of her long-standing clients. She appealed to the firm's managing partner to no avail. Then she received a call from her client, a female general counsel. She told Sarah that she found the visit offensive and would take her work away from the firm if not for her relationship with Sarah.

Make sure you thoroughly assess all of your potential sources of influences

before you throw in the towel.

11. ACT WITH POWER

Powerful people take up space. They speak in complete, direct sentences and maintain eye contact. What's perhaps even more important is that people who maintain eye contact. What's perhaps even more important is that people who engage in this kind of body language for just a few minutes actually come to feel more powerful.

Of course, as a woman facing the double bind, you'll also have to be likeable. You can smile and yield space, but only after making your point and waiting for an answer. Communicating your wish for a win-win solution and showing empathy for the other person's position also increase your likeability.

12. NEVER GIVE UP

You're not going to win every battle. The most important outcome is how good you'll feel about yourself for at least trying. Never asking, never risking leads not only to never getting what you want, it also leaves you feeling powerless. As my friend and colleague, Pat Gillette, partner at Orrick, likes to remind us, "No one gives you power--you have to take it."
So, the next time you fail to receive the credit you're due, ask for it. Whether you get it or not, you've moved one step forward.

*All names and other identifying information have been changed to protect confidentiality.

NOTES:

1. New Millennium, Same Glass Ceiling? The Impact of Law Firm Compensation Systems of Women, by Joan C. Williams and Veta T. Richardson, July 2010.
2. No Credit Where Credit is Due: Attributional Rationalization of Women's Success in Male-Female Teams, Madeline E. Heilman and Michelle C. Haynes, Journal of Applied Psychology, Vol. 90, No. 5, 2005.
3. Disruptions in Women's Self-Promotion: The Backlash Avoidance Model, Corinne A. Moss-Racusin and Laurie A. Rudman, Psychology of Women Quarterly, 2010.

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