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For Attys Of Color, There's Not Enough Help On The Way Up

By Rachel Rippetoe

Law360 (August 26, 2022, 4:38 PM EDT) -- When Joan Haratani was a young lawyer, there was a white partner at her old law firm who would drop in to her office every year on the same day, Dec. 7, the anniversary of the Japanese attack on Pearl Harbor.

He'd shut the door and say, "Joanie, I just want to remind you, today's Pearl Harbor," Haratani recalled to Law360. She has since become a litigation partner at a different firm, Morgan Lewis & Bockius LLP.

This kind of harassment hit hard for Haratani, whose parents and grandparents had been shipped to internment camps during World War II because they were Japanese. They were bused to horse racing stalls where they would live while the camps were being constructed, she said. Her father, her aunt and her uncle would also all eventually become American soldiers in the war.

When she was young, Haratani said, racist comments like these were motivating.

"Every year he did that, I would think to myself, you son of a gun, I'm going to make partner here," she said. "I think he single-handedly is the reason I'm in the law because it pissed me off so much."

Then Haratani did make partner. Pearl Harbor Day came back around, and the same attorney entered her office to remind her of the anniversary and, in effect, remind her that she was still an outsider.

Lawyers of color who rise to a higher rank, a partner or a federal trial attorney, can find themselves without company. Law360 Pulse's diversity snapshot this month showed that only 11.8% of partners were not white. And overall, lawyers of color made up only 19.6% of firm headcounts in 2021.

Law360 Pulse spoke with several partners and attorneys of color, who said that it's already hard being a lawyer, but being one of less than 12% adds an extra burden. Lawyers of color have more to navigate than their white counterparts: an elevated imposter syndrome, a lack of connection to their mostly white elders and mentors, microaggression and a responsibility to mentor other lawyers of color and bring them up through the ranks.

It's no wonder, then, that many lawyers of color decide private practice in particular isn't worth it, often before they ever make it to partner. Among firms that responded to Law360's diversity survey, 27% of the lawyers who left in 2021 were attorneys of color.

"If you're in an environment where there aren't many of you, you don't have someone telling you you're

going to be fine, or you're going to succeed," Quyen Ta, a partner at King & Spalding LLP, told Law360 Pulse. "So it's always like swimming upstream, because you're already having a battle in your mind that you don't belong."

A Different Starting Block

The first steps on the way to partnership can often involve prestigious law schools and clerkships, but the current generation of underrepresented leaders had to overcome hurdles from the get-go.

Ta pointed out that nonwhite attorneys often find a class divide along with race. At King & Spalding, she is co-chair of the first-generation professionals group, and she said that the lawyers of color at the firm and first-generation lawyers often overlap.

Being the first member of her family to go to college had its challenges. "I didn't grow up with anyone who even knew a lawyer," Ta said.

Jessica Valenzuela, a partner at Gibson Dunn & Crutcher LLP, said coming from a blue collar family shaped her experience in law school and beyond. Valenzuela grew up in a small agricultural town in Southern California. She was one of five children her father supported through farming avocado and citrus orchards. Neither of her parents went to college.

So Valenzuela, and Ta as well, were paving their own paths as they entered law school, with no map for how to get to where they wanted to go.

"I really did pursue a career in law almost completely blind to what that entailed," Valenzuela said. "I didn't understand law firms as an industry. I thought being a lawyer was what I saw on TV, and what I read about in books."

Dena Robinson, a trial attorney in the U.S. Department of Justice's Civil Rights Division, told Law360 Pulse that as a Black gay woman, law school in particular could silence you.

"It was alienating and isolating in some ways," Robinson said. "I always said that my first year of law school was probably the most quiet that I've ever been in my life."

It seemed that many of Robinson's classmates had lawyers in their family, knew what it meant to outline for an exam, knew the answers when they were cold-called in class. She felt behind. Valenzuela and Ta had similar experiences.

"I was surprised at how much everybody around me seemed to know what they were doing," Valenzuela said. "I didn't have resources at home to help guide me through the process. So everything I did was self-directed. And I kind of had to learn on my own."

For Asian American lawyers, Haratani said there is a unique set of challenges. The myth of the model minority can weigh heavy, especially on first-generation Asian lawyers whose parents would rather they be doctors or professors. There's a lot of pressure, especially on first-born sons, to succeed in the right way, she said.

"You're supposed to be an engineer or a doctor, something kind of quiet and polite and clean," Haratani said. "Some people see lawyers as just those scoundrels who are so loud and so rude and obnoxious."

And they say, 'I didn't raise my son to be that way.'"

Bijal Vakil, a partner at Allen & Overy LLP, told Law360 Pulse that in some ways, the qualities of a successful litigator run precisely counter to how he was raised as an Asian man.

"I would say the model minority myth of an Asian person, who is supposed to sit back, be quiet, be humble, not speak up, and sit in the back of the room, goes absolutely against everything it takes to be a successful litigator or rainmaker," he said. "You're directly at odds with what you've been taught from ages 1 through 18. That's hard to unlearn."

Robinson said she often felt herself toning down the "Blackness" of her résumé when she was applying for clerkships. She removed her participation in the Black Student Union, and any work she had done that related to race.

"And then I was like, 'What am I doing?'" she said. "This is who I am. I can't pretend I'm not Black."

Valenzuela said that as a young associate, she didn't work with many female attorneys, let alone partners of color.

It wasn't that her white colleagues were unwelcoming. "I had great mentors, and people who really gave me fantastic opportunities to learn and to grow as a lawyer," she said. "But I do think from a mental health perspective, there's a lot to be said for shared experiences, and being understood in a way that people who don't share the same background just can't."

The View From Higher Up

Partners of color already make up a small percentage of the overall legal landscape, and equity partners make up an even smaller fraction. Law360 Pulse's diversity snapshot showed that only 10.7% of equity partners are lawyers of color. The BigLaw firm with the highest proportion of minority equity partners in 2021, Morrison Foerster LLP, still had only 21% equity lawyers of color.

While the data wasn't broken down by gender, Ta imagines that she is in an even smaller minority as a woman of color equity partner with her own practice and book of business. It's not easy to be one of the few women who look like her who make it to this level of success, she said.

"Because there aren't that many of you, you feel the added pressure of performing, of not failing," she said. "Even though you're successful, that pressure doesn't go away."

There's something exhausting about having to exist in law as a person of color, Robinson said. It's not tiring to be Black, but it's tiring to have to navigate these largely white spaces that weren't made for you. It can be hard to show up to work and be your authentic self, she said.

Robinson said that when she is the only Black woman in a workplace, she can often feel a responsibility to positively represent her entire race.

"It's not fair, but I know that if I go into a workplace, and I make a misstep, or I make a mistake, I'm not sure that that same workplace would ever hire another Black woman again, you know, or a Black person, period," she said. "And I don't think that white attorneys necessarily carry that same burden."

Vakil said the resources thin out as an attorney's career progresses.

"It is really hard to find mentors and sponsors when you reach a certain level, and no one talks about that," he said.

In some ways, Haratani said, she envies the younger women of color at her law firm because they have people like her and Ta and Valenzuela to look up to. They have a vision for what their future could look like. For older lawyers like her who came up with no blueprint and no one to pave the way, she still has a difficult time looking forward to what's next.

"I mean, it's frustrating, honestly, because I thought when I got to this point in life, there would be more representation of women and minorities and LGBTQ people who are now in positions of power as partners, CLOs and CEOs," she said.

This disparity can feel especially frustrating for a partner of color or a lawyer of color who has reached a certain level of success. Kimya Forouzan, a legislative counsel for nonprofit Compassion & Choices, told Law360 that the onus for building up racial equity in the legal industry often falls on lawyers of color themselves. So when the legal industry continues to fall behind other industries in its representation, it can feel almost like a personal attack.

"It feels like you're doing so much, and you're spending so much time, but the persistent problems kind of remain," she said. "And that can just be exhausting and hard on your mental health."

Robinson said it can be conflicting to work in law as a Black woman, knowing that the legal system has "played a monumental role in perpetuating and cementing white supremacy in this country." Practicing "radical lawyering" can help dismantle some of these systems and structures, Robinson said, but many still have a gnawing sense of guilt.

"One of the things I struggled with throughout law school was a feeling of complicity, knowing that I was getting ready to step into an institution that has been so harmful to Black people in this country," she said. "And so I spent a lot of law school really trying to reckon with that. And I felt a lot of anger, because I don't think that law schools do a great job of teaching law students about the role that lawyers played in getting us to the place that we're in now."

Struggling with this kind of pressure, along with the pressure to make it easier for other people of color to enter the legal industry, can sometimes feel like a second job.

"You definitely have to do more," Ta said. "You're expected to be on this and this committee and recruit, and you're not getting paid for that. Sometimes I just want to be a person doing my job."

The Second Job: Mentorship

Valenzuela said she became a mentor as soon as she entered law school. She'd go back to her undergraduate college at Stanford and talk to Latina college students. And then when she was an associate at a law firm, she went back to law school and worked with affinity groups there.

She said she's always seen it as a responsibility to impart knowledge and give advice, because she knows how important it is for other, younger Latina lawyers to see women like herself succeed.

"It both creates an immense amount of pressure, but I think it's also very rewarding and exhilarating," she said.

The attorneys who spoke with Law360 Pulse all said that they find joy in mentorship, but there are often moments where it can feel like an added burden.

It really can be a full time job to champion racial equity work, and for lawyers in private practice especially, this is rarely something that factors into measuring their value.

"I think it has a huge impact on people, because they're doing more labor and more work to get those things done," Forouzan said. "At times, they might not be supported by the institution they're working in. It can be a really heavy mental load to carry."

Ta said she sees mentorship as paying it forward. Trailblazing Asian Americans like Haratani helped pave the way for her, and so she gains a sense of joy and fulfillment helping other attorneys in the same way.

"When I had just made partner and was feeling like I'm never going to have any clients, I went and talked to [Haratani] and she helped me think through that," Ta said. "All these people who helped me, they didn't need to help me, but they probably helped prevent a mental health crisis because they gave me their story."

Closing the Gap

The best solution, Ta said, is to bring white lawyers into the fold of diversity and inclusion work as often as possible. She said she intentionally brought on a white male senior partner to co-chair her firm's first-generation professionals group, because it helps to have someone else share in the process of building diversity.

"The way to resolve it is to bring everyone into the fold," she said. "Like this is not my issue. This is all of our issues as an institution."

But white lawyers and top leadership have to do more than get involved with recruitment; they have to start viewing lawyers of color as people with their own unique backgrounds and perspectives that should be celebrated, not homogenized, Robinson said.

The legal industry went through somewhat of a reckoning in the summer of 2020, when the COVID-19 pandemic was raging and protesters were covering the streets over the police killing of George Floyd. At that point, "everyone and their mother" wanted to implement some kind of diversity, equity and inclusion program, Robinson said.

But two years later, she said it's telling that the percentages of minority top partners at law firms have gone up only a bit. While law firms rush to recruit more lawyers of color, they're not thinking systemically, about who their clients are, or their vendors, or about how they could play an active role in making the world better for people of color.

"I still feel to a certain extent that it was all pretty performative," she said. "A lot of organizations want to bring in all of these marginalized people, and want to figure out how to retain them, but then the underlying structure itself doesn't change, the work doesn't change."

It's hard to go to work when terrible things are happening to people of color in the world, like police murdering Black men or Asian women getting attacked outside their apartment buildings, all the lawyers told Law360. Robinson said she often has to remind co-workers that while she might be an accomplished attorney inside courtroom walls, when she's outside, people and the police don't see her as Dena Robinson, the attorney. They see Dena, the Black woman.

"Navigating these institutions sometimes feels like you lose an aspect of your humanity in some ways, because it's just kind of invisible in the workplace," she said. "A part of bringing your fullest, most authentic self to the workplace is being recognized in your glory for all of who you are. But also, when things are happening outside in the world, people need to actively talk about it."

Haratani said she knows there are some lawyers who will never give her the respect she deserves, but she's always let it fuel her instead of hold her back. "A good dose of anger" is important to success sometimes, she says.

For every racist joke, she says she's also had mentors, including white men, who saw something in her and believed in her. But it's not enough to make it this far, she said. You have to have unrelenting faith in yourself.

"I deserve to be here. I deserve to advocate for my client and I will do the best job possible," she said. "Believing that takes a lot of persistence and self-belief."

--Editing by Brian Baresch.