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Business of Law

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Overcoming Adversity

"Failure is success if we learn from it."
Malcolm Forbes

True adversity, outside the context of a deal or case, is a foe with which many lawyers are not intimately familiar. After all, most have been blessed intellectually, have excelled in school, and, through hard work, have done quite well in their legal careers. The recession has brought misfortune into greater focus, at least a bit more often, which was evidenced by recent discussions with two rather accomplished attorneys who were dealing with setbacks in disparate ways.

The first lawyer was a transactional partner who perennially was among his firm's top rainmakers. As with many business lawyers, the economic meltdown had put a dent in his originations. But, an opportunity to handle a rare big M&A matter offered the chance to make up most of those lost fees. Despite pulling out all the stops, and making a presentation that he was quite proud of, the work went elsewhere. The partner was morose and openly acknowledged that he just couldn't shake the disappointment that seemingly hung over him like a black cloud for the past month.

The second lawyer was a general counsel who was days away from losing her job. The lawyer's company has been reeling and, rather than risk going down with the ship, the general counsel accepted a modest severance package. Even though those dollars were highly likely to be exhausted well before she might find a comparable job, the soon-to-be ex-GC was remarkably upbeat. She viewed this as a learning opportunity and noted that she would never again overlook a few cautionary flags that popped up during the recruitment process. She was determined to find a new job and assured me it would happen.

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Such variant reactions can be more complex than appear on the surface, as finances or any number of personal or professional issues can ratchet up the consequences of a setback. Nevertheless, after having personally ridden the waves that have been created in the wake of adverse events, and having talked to hundreds of other lawyers who similarly have overcome challenges at various stages of their careers, patterns do emerge. This article draws on those experiences in offering some suggestions as to how to deal with adversity.

Stay Under Control

Adversity, especially when it arrives in the form of a crushing defeat, can trigger some raw emotions. Unlike the football player who can vent by hitting his opponent even harder, a lawyer has to handle the situation with aplomb. Be gracious to all who are involved, whether it is an adversary who makes your skin crawl or the messenger who delivered the disappointing news. Being down for a short time is understandable, and human, but allowing it to become part of you.

Others in your organization, especially younger lawyers who look up to you, and staff whose careers may be tied to you, are closely monitoring your reactions. Although the loss may hurt, you should know, deep down, that it likely is not career-threatening. Others may not realize this and can be unduly concerned—if not scared—especially in these perilous times. You owe it to them to keep that proverbial stiff upper lip.

Conduct a Post-Mortem

Although it may be painful to review what happened, assiduously doing so can pay significant benefits. For example, if you walk through each stage, you may be surprised to find that there were some steps that were skipped or not performed to a level that you had assumed was the case. If this involved a client pitch, or a memo that you submitted in support of your bid for a promotion, another look at the document, far removed from the crucible in which it was created, may reveal some information that you just didn't, or couldn't see at the time.

Additionally, if there is an opportunity to talk with the decision maker, you should do it. Just as a trial lawyer, especially one who has lost a case, rarely foregoes a chance to interview jurors after a verdict, you, too, should better understand what drove the decision. For example, if a client elected to go with a smaller firm, you may have mistakenly believed that it was driven by cost. I was surprised, during my in house career, that more outside counsel did not seek this type

of feedback, as, without it, they likely may have taken subsequent actions that were based on false assumptions.

What Lessons Have Been Learned?

Forbes, like other successful individuals, understood that adversity often produces a wealth of lessons, which, if learned, can turn a short-term setback into a long-term prescription for success. The only way to benefit from that phenomenon is to critically examine why you didn't win this time.

Thus, once the facts have been gathered, it is now time to soberly assess what you could have done differently and to appropriately modify behavior going forward. You should invite other team members to participate in this exercise, as they not only can provide additional insights, but their involvement is empowering and helps tie them to your new procedures or future initiatives. Sometimes, there may have been nothing you could have done, which is a lesson of its own and should hopefully enable you to bounce back quicker.

In some cases, the "big lesson" is one that could change your life and thus is one for which you will ultimately be quite grateful. Perhaps you have been passed over for partner again and now, after some soul searching, realize it is not something that you truly wanted. Sure, it was the next logical step in your career, but maybe it was one that you really didn't pursue with the type of fervor that you had at other stages of your life. Critical introspection may finally open your eyes to a more fulfilling and inspiring path that better meshes with your skills and desires, which, but for the setback, you may have never pursued.

Regroup and Revitalize

In order to prepare yourself for future success, you have to rebound from this setback. Interestingly, many partners have told me how disappointed they were to lose a key client at various stages of their career, especially since they thought it could seriously imperil the practice they had worked so hard to build. As their careers progressed, they learned that although some clients stayed with them for many years, the names ended up changing much more frequently than they ever could have imagined.

One partner, for example, recounted losing a client that devastated him, only to get a new one, just a month later that became a much bigger business source for him. The fascinating twist is that he could not have taken on this new client if he had not lost the other one, as a clear conflict would have existed.

It thus is vital that you “clear your head” so that you can keep this setback in perspective. You also need to stoke your inner fires, so that you have the courage, energy, and strength to venture back into the fray and not just play it safe. Consequently, do what it takes to get yourself balanced and ready, whether that entails a weekend yoga immersion, a sinful chocolate binge, going to a movie with your spouse, digging up some old motivational songs (that are played at excessive decibel levels, of course), or a long walk on the beach—you know what works best to heal your psyche.

While you are exploring your “inner Rocky” to get those juices flowing again, think about your past successes. One trait that is shared by the most successful lawyers with whom I have worked is that they know that they are going to succeed in the future—period. They may not be 100% sure how it will happen, but they do not lose sight of their past victories and firmly believe that history will repeat itself, as it has done throughout their career.

Make a Decision and Do It

It would be quite a waste to have gone through this process and not to act on what you have learned. Trepidation about getting back into the mix, particularly when that entails making the changes you realize are necessary, is entirely understandable. Unless the setback is a career ender (and if that is the case, you probably wouldn't be reading this article), you now know that no matter how crippling this development may have seemed, you survived.

You will be much wiser going forward and should be poised to succeed yet again. Don't fear going for it again:

*“If you wait for the perfect moment when all is safe
and assured, it may never arrive. Mountains will not be climbed,
races won, or lasting happiness achieved.”*

Maurice Chevalier

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