



THE NEW ELLIS GROUP

Monday Monday

Connecting the Dots with Karen Kaplowitz



*Helping you create and reinforce the habits of successful career building,
gleaned from my work as a business development strategist, trainer and coach*

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Avoiding Exploitation of Diverse Lawyers. We all know that there is pressure on law firms to diversify because of growing demands by clients, like the corporate members of the Leadership Council on Legal Diversity. That pressure is particularly acute for lawyers of color and shows up in reports by lawyers of color that they are being recruited more aggressively. Lawyers of color also report that they are being listed more frequently on RFPs and in beauty contests which require diversity. Especially when firms don't have many diverse lawyers to go around, however, the diverse lawyers who are listed on proposals are not necessarily invited to work on the matters or given any credit for the use of their names. Some companies, led by Walmart, are cracking down on such "pitch and switch" tactics, by monitoring the actual hourly billings of the lawyers involved in proposals. But how should the diverse lawyer who is called on to lend his or her name to RFPs respond? Consider these options:

- Request a role in preparing for and presenting the pitch
- Seek out an active role on the client team that will provide the services
- Request allocation of at least part of the origination credit
- Refuse to participate in "pitch and switch" situations
- Request that the firm institute a policy against "pitch and switch" tactics

Example: The lone partner of color in an office was embarrassed when he attended a conference and ran into an in-house lawyer that he knew who commented on his being part of a proposal that was under consideration. When the in-house lawyer said that he assumed he would see him at the pitch meeting, the lawyer could not respond because he did not know anything about having been included in the proposal.

When he returned to the office, the partner in charge of the proposal quickly invited him to attend the pitch meeting. When he inquired, he learned that his firm had included his name on some other proposals he did not know about to meet client diversity requirements. In those instances, he had not been invited to attend pitches or to work on the matters and he did not receive any origination credit or compensation. Although the lawyer felt used, he tried to approach the issue in a constructive fashion. He asked firm management to inform him in all situations in which his name was included in proposals. He asked that the firm include his name only on proposals for matters in which he would have a real role in the work. He also shared information with the firm about instances in which major companies had barred firms from participating in RFPs or had taken work away from firms who used "pitch and switch" tactics. When teams on which he was involved got new business, he made a point of thanking everyone for the opportunity to help generate business for the firm. He also encouraged the firm to hire more diverse lawyers.

If your firm has relied on "pitch and switch" tactics because of insufficient diverse talent to meet client demands, are you taking steps to recognize the contributions of existing diverse lawyers to keep them from leaving the firm and actively recruiting others? In the meantime, should you encourage your firm to adopt a policy against "pitch and switch" tactics even though the firm may miss some business opportunities until it beefs up its diverse ranks?