

## SKIT

### 3 Scenarios

#### **The First Mentor – Mentee Meeting: Employment Advise**

D: I understand that you are with the Barn, Storm and Burn firm

L: No, actually, I decided to accept a job at the JR Corrupther firm. It was a unique opportunity as I am first woman lawyer at the firm.

D: The Corrupther Firm, really, ah well, ah that's great. They must have offered you a great salary to work there?

L: What they pay me? Is that really important? I am just proud that they are finally trying to bring some women on their team.

D: Well, I know how much they offered the last associate they hired a couple of years ago and I am just wondering what the going rate is for someone like you.<sup>I</sup> mean, you don't have to tell me if you don't want to...but I am just curious

L: No, no, I don't mind, they started me at \$55,000 with some benefits and some incentives to make some extra bonuses.

D: Really, well they must have gone through some financial problems as the last one they hired, I think his name was John Orator, started at \$80K with lots of benefits. Is he still there?

L: They started Orator at 80,000? Why would they do that? He went to Lewis and Clark<sup>had</sup> mediocre grades and didn't even pass the bar the first time around. I graduated from Harvard Law summa cum laude, was on law review<sup>and</sup> took and passed both the California and Oregon bars. How could they pay him more than me?

D: Wow, that is a huge difference but who knows, maybe it is because you are a woman. I am not sure how to say this politely but as your mentor, I know you count on me for sage advice, so I have to tell you that the people over at Corrupther haven't got the most stellar reputation in the community when it comes to having a lot of respect for diversity and equality in their workplace

L: They don't? You mean they are discriminating against me because I am a woman? They are paying me less than Orator just because I am a woman?

D: Well, let's not get ahead of ourselves, you know, it ~~is~~ mostly rumor but if I had known you were looking at a move over to Corrupther, I would have definitely tried to

convince you to look elsewhere but, hey, now that you are there, I guess you will have to make the best of it. I am sure that if you work hard, build your client base and get along with everyone, you will be able to find another firm that you can work for in a couple of years.

L: What do you mean mostly rumor and why a couple of years?

D: Well, look, I don't want to discourage you, especially now that you are there but, really, did you not wonder why you are the only woman attorney in a labor firm that represents companies whose managers violate policies against workplace harassment? I wouldn't worry too much about it but I would be careful if Corrupter asks you go with him on an out of town trial or work late after everyone has gone home.

L: But going on those out of town trials and working late is what can get me ahead and recognized as top-flight lawyer. How can I just give up those chances based on rumor? What if he thinks I am not going with him, or staying late at work, because I don't have confidence in myself or don't want to put in the extra effort to excel? Then I will never get ahead. Are you saying I should just leave now?

D: No, I am definitely not saying that you should leave now. This profession looks with a very skeptical eye on those who bounce around from firm to firm so if I were you, and this gets back to the 2 year timeframe, I would say that leaving now might do you more harm than good. Look I understand that it puts you in a difficult situation as you have to choose between career advancement and putting yourself in an uncomfortable situation.

L: Put myself in an uncomfortable situation? What do you mean? Why do I have to be concerned about putting myself into a position that might become uncomfortable?

D: Look sure, in a perfect world, your sex would not matter but everyone has implicit bias of some kind and, at that firm, it just seems that they treat their female employees condescendingly and with a lack of respect. However, maybe it will be different for you because you are an attorney instead of just a female staff person.

L. But what if it is not, what if the salary they paid me is just an indication of how they feel about women in the workplace compared to men?

D. Ok, again, let's just not get too far ahead of ourselves. I am here as your mentor to help you anticipate some of the bad stuff that might be out there, help you make wise choices, help you identify your career goals, help you develop in your career and advise you on how to make this transition into a potentially tough workplace as good as it can be for you. I am also here for you just in case something happens, not that anything will happen but with simple precautions, such as not going with Corrupter on out of town trials, you should be fine. However, if anything odd comes up, please come to me, especially if you think that they are asking you to do something unethical.

L: Unethical? They discriminate and they're ethical? What makes you say that they would they ask me to do something unethical?

D: Well again, the rumors over the years are that they have some, well, let's just call them questionable billing practices. In addition, they hired a lawyer who used to work for us who we let go under a confidentiality agreement so I cannot really talk about it, but let's just say, I am not sure whether or not he has changed his ways. But I want to emphasize, no one has filed a formal complaint with the Bar against them. Although, I think that they have paid off some people to avoid formal complaints and there may have even been some PLF involvement but I can check that out for you. Again, I want to emphasize that there is not anything proven as to them being dishonest.

L: Dishonest? Who said that they were dishonest? How can I stay there and not get tainted by their reputation?

D: Hold on, lawyers are not going to judge you poorly just because you work for that firm but, the reality is that some folks in the community may view you skeptically at first and you may have to "prove up" your credibility within the community despite being an associate of JR's.

L: But wait, when I studied the Rules of Professional Conduct for the Bar Exam, it was clear that if someone asks me to do something unethical, I have to report that person to the Bar. Are you saying I have to do that? Is there an anonymous way to report them? How could I report my own firm to the Bar? I would lose my job and who would hire me if I turned in a lawyer from my own firm to the Bar?

D: Whoa, whoa, now hold on a minute. Reports to the bar have to be for a violation that raises a **substantial question** about the lawyer's ethics, honesty or fitness. So that is a pretty high bar as far as I am concerned. Look I have had my own personal challenges with the ethics code over the years but certainly never done anything that would rise to the level of raising a substantial question about my fitness, honesty or ethics. So let's just say this, if something happens then you should come to me first and we will discuss it and then can decide what is the appropriate course of action. If necessary, I could always see if I could make the report to the bar for you, unless of course, if something happens to you by our former associate and, if that happens, the terms of the confidentiality agreement would prevent me from taking any action. Also, we should probably be careful if it involves some case we have in common.

L: Case you have in common? What does that mean?

D: Oh, I thought you knew, I bring righteous sexual discrimination actions against employers on behalf of those who have been wronged by those employers and Corrupter has been on the other side of those cases, which, as you might guess, gives me a little personal insight into his ethics.

L: This is not good, not good at all. I haven't told Mr. Corrupter that you are my mentor yet. What is he going to say when he finds out that the mentor assigned to me by the OSB is someone who is regularly opposing counsel? What if I have to work on a case where you represent the plaintiff, are we going to have to suspend my mentor program while the case is pending?

D: It should not be a problem. He can't oppose the Bar placing you with a competent and well respected attorney for your required mentor program and, if somehow we end up on opposite sides of the same case, we can figure out something when the issue presents itself. As long as we don't have cases together, I do not see any problem in talking to you about your cases and how you are handling your clients.

L: But, by talking to you about my cases and clients, won't I be giving you insight into how JR thinks and strategizes as a lawyer? Would that be a problem?

D: There is not much about what you could tell me about JR that I do not already know or understand given our history in litigation so I would not worry about that but, certainly, if I had a case involving your firm, we would have to set up one of those proverbial "Chinese walls" but that shouldn't be too big a challenge.

L: Wow, okay, I think I have enough information for one day. I cannot believe that they do not teach you how to navigate this kind of stuff in law school. I am so happy this OSB mentor program is required.

**Comment [LH1]:** You mean screen him out?  
Can you say this another way?