

NALSC® NEWS

National Association of Legal Search Consultants Newsletter

Winter/Spring 2019

"Fabulous, as always! Presentations were particularly good. Interesting and relevant new info."

"I wanted to thank you for putting on such a great conference. We had a great time meeting with NALSC members, putting faces to names and learning from the panels."

"Once again, an outstanding conference. This has become a must-attend event for nuts-and-bolts learning on legal recruiting."



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President's Message:

by Dan Binstock, Esq.

Dear NALSC® Members,

NALSC is evolving ... in a very good way. Let me explain.

NALSC continues to flourish and is reaching record numbers in terms of membership. Aside from consistently adding search firms who are recognizing the benefits of our organization, we are experiencing a surge of law firms joining as Honorary Sponsors and Supporting Members.

So how does the addition of law firms affect NALSC? I – and the Board of Directors – believe the impact is very positive. While our focus and efforts remain on serving legal search professionals, the growing addition of law firms to our conferences helps us broaden the perspectives, opinions, and networking opportunities. This, too, serves our legal search members. More and more law firms are recognizing the importance of the NALSC Code of Ethics® and place an emphasis on collaborating with NALSC member search firms. Much of this growing trust and connection is fostered from the discussions (formal and informal) and interactions (also formal and informal) with law firms at both our Fall Symposium and Annual Conference.

We all know there is nothing that can replace the value of spending time with existing and new clients “outside the office.” Search professionals benefit, as do our law firm clients, who find it so helpful to get to know us beyond simply email addresses, voices on the phone, and the in-office meetings where we are on our best behavior, dress formally, and discussions often focus on details of the firm and searches. This also applies to personal relationships with our wonderful sponsors, who provide products and services that assist us daily. Our events give us the chance to get to know each other better not only as professionals, but people. Which leads me to my next point.

Most of us became recruiters because we are people-people. While some search professionals are extroverted, many also, ironically, are introverted. But what so many NALSC recruiters share is a deep caring for people, including each other. If you are a newer member and don't yet know many members, or if you have been a long-time member and don't yet feel as connected as you would like, I encourage you to reach out and connect. These relationships are meaningful on many levels. From personal experience, I can say the friendships I've developed through NALSC have been invaluable, whether it's celebrating the excitement of a shared placement or turning to somebody for comfort during difficult life circumstances. This organization is blessed to have a stellar group of people with big hearts.



In closing, if you have not already signed up for the Annual Conference March 14th – 16th in Las Vegas, please see the below link for all the details. We have great programs lined up, and thanks to all of you who have provided meaningful feedback on prior sessions. We constantly seek to improve the content and format (for example, more mics in the audience for increased interaction, etc.). For those of you who could not attend our recent Fall Symposium at the New York offices of White & Case LLP, we are pleased to report it was a great success. Lastly, our NALSC 2019 Fall Symposium will take place on Friday, October 18th from 8am-7pm at the New York offices of Morrison & Foerster LLP. So, be sure to save the date.

Thank you for allowing me the privilege of serving as your President with assistance from the outstanding Board of Directors and invaluable Headquarters. See you in Vegas!

Best regards,

Dan Binstock – President of NALSC®

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Link to NALSC 2019 Annual Conference:
<https://www.nalsc.org/nalsc-2019-annual-conference/>

NALSC® is pleased to welcome 10 new members since the last newsletter (Fall 2018). We currently have 188 members consisting of 138 search firm members, 1 affiliate member, 10 branch office members, 4 individual members, 34 supporting members (law firms), and 1 associate member (vendor). Following is a list of recent new members and the cities and states in which they are based.

Our new Regular Firm Members, Affiliate Firms Members, and Branch Members are:

- Pollack Badawi Group LLC - Washington, DC
- Elite Laterals, LLC - White Plains, NY
- Now Hiring You, LLC - Fort Lauderdale, FL
- Warwick Place Legal, LLC - New York, NY
- JBar Group, LLC - New York, NY
- Long Ridge Partners - New York, NY
- Roman Mason & Strong - New York, NY

Our new Supporting Members (Law Firms) are:

- Kilpatrick Townsend & Stockton LLP - Atlanta, GA
- Perkins Coie LLP - New York, NY
- Snell & Wilmer - Phoenix, AZ

The Board remains at its maximum head count of 13 and includes Dan Binstock, Mitch Satalof, Nick Rumin, Valerie Fontaine, David Garber, Ken Young, Marina Sirras, Raphael Franze, Avis Caravello, Scott Love, Jane Pollard, Patrick Moya and Arthur Polott. Because we are at our maximum, there will be no election for the duration of the year.

The Executive Committee is comprised of Dan Binstock (President), Mitch Satalof (VP-Membership), Nick Rumin (VP-Long Range Planning), Valerie Fontaine (Secretary) and David Garber (Treasurer).

Current NALSC Committees include Executive, Nominations, Newsletter, Ethics, Audit/Risk, Governing Documents, Membership, and Website.

Our Executive Director, Stephanie Ankus, in association with the Board, continues to provide outreach to our entire membership, promoting the NALSC Code of Ethics and its incorporation into the everyday business model of both law firms and search firms.

As members, sponsors, event attendees, speakers, committee members, and Board Directors - we truly appreciate all of your efforts on behalf of NALSC in helping to strengthen and grow the organization.

NALSC Membership Growth

by Mitchell Satalof

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Mitch Satalof is the CEO of Juris Placements, Inc. Mitch serves on the Board of Directors for NALSC and is the Vice President of Membership.

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“The most important advice to potential women candidates is that being a good lawyer who gets good results is not enough for career security. Recruiters cannot assume that prospective women candidates have fully internalized the importance of client origination and client relationship management. Recruiters can help strengthen women candidates— and their own relationships with them— by asking focused questions.”

Advising Women Candidates

by Karen Kaplowitz

Legal recruiters have powerful messages for women candidates in 2019:

- The battle for talent in law firms has never been more intense and has caused women candidates to be valued more highly than ever before.
- Law firms which do not support strong career paths for women lawyers are at risk of losing some of their highest potential lawyers.
- Law firms which allow gender pay disparity are the most at risk of defections.
- Law firms which are hungry for growth will make recruiting women lawyers a priority.

We start from two data points. Citi Private Bank’s recent annual Client Advisory reported that, in 2017, law firms added more new equity partners from lateral hires than from internal promotions and that they expected the same for 2018. Citi called the phenomenon “*a fundamental shift* in how firms plan to drive revenue growth in the years ahead”. So, law firms are more dependent than ever on lateral recruiting.

The second data point is the persistence of gender pay disparity. In December 2018, Major, Lindsey & Africa’s annual Partner Compensation Survey reported a 53 percent disparity between male and female partner compensation. <https://www.mlaglobal.com/en/knowledge-library/research/2018-partner-compensation-report>.

MLA says that differences between men and women in originations and hourly rates may partly explain the disparity, but not all of it.

The guidance to women candidates is clear: demand for your talent is at an all-time high and a move to a new firm may be a way to correct gender pay inequity if you have not been treated fairly.

Advice for Potential Women Candidates

The most important advice to *potential* women candidates is that being a good lawyer who gets good results is not enough for career security. Recruiters cannot assume that prospective women candidates have fully internalized the importance of client origination and client relationship management. Recruiters can help strengthen women candidates— and their own relationships with them— by asking focused questions:

- Is your firm organized by client teams? Which teams are you on and what role do you play in managing the team and the client relationship? Can you volunteer for more responsibility?

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- If you are not the principal client relationship partner, are you a likely successor?
- Do you receive origination credit for clients you serve? Is the credit allocation fair? If not, is there a process to address the issue and have you taken advantage of it? If you were to move, would you take existing matters or get new matters from these clients?
- How transparent is compensation in your firm? How does your compensation compare to men with similar originations and hours? Are you staying put because you are comfortable even if you don't think you are being treated fairly?
- Are you working actively to build your practice? Do you seek out internal mentors and sponsors? Are you building external networks to meet more prospective clients through professional, business or community organizations? Are you building your brand through writing, speaking, organizations and social media? Do you use external resources like coaches?

Advice for Current Women Candidates

For current women candidates, recruiters must help them measure their value accurately. Alyson Galusha at Parker + Lynch Legal reports that women candidates tend to underestimate the value of their portable client base and other factors and that women attorneys stay put because they are comfortable and feel they are being treated "fairly." Galusha encourages women candidates to embrace change and not settle for being undervalued simply because they feel their firm has been flexible or treated them "fairly."

Valerie Fontaine of SeltzerFontaine cautions that law firms already discount what candidates project as their portable book of business so, if women underestimate their own numbers, they subject themselves to two discounts.

Joan Davison, CEO of Mestel & Company, reports that their recruiters often find that both soft skills and books of business are undervalued and poorly articulated. They emphasize to candidates to "know your value" and the importance of partnering with a knowledgeable recruiter to get a competitive advantage. Recruiters must work with each candidate to accurately assess and present their overall contribution to a potential employer.

Recruiters should ask women candidates not only for information on clients where they get credit but also clients for whom they are key members of the team even if they have not received credit. The critical question is, "do you have a shot at taking the client's work with you if you

make a move?"

Recruiters should probe beyond the information required by LPQs. Help women candidates paint a full picture of their client relationships including the specific level of the candidate's contacts; the length of the relationships; the significance of the matters the candidate has handled; and how many other people share credit.

Since many recruiters observe that women candidates undersell themselves and men oversell themselves, recruiters must be part of the process of creating a more level playing field. This is not a suggestion that recruiters encourage women to engage in puffery but a recommendation that recruiters help men and women report their books of business realistically.

If a woman candidate is considering leaving a firm where she has not been paid fairly, her recruiter must steer her to firms that at least hold themselves out as women-friendly. Are the firms recognized on the Working Mother Best Law Firms for Women list or certified by the Women in Law Empowerment Forum? Do firms have significant women in firm management and particularly in the candidate's office and practice group?

This year, more firms than ever will invest in lateral women lawyers. It is incumbent on recruiters to be well-prepared to advise women candidates and help them find the law firm homes where they will flourish.

ABOUT THE AUTHOR: Karen Kaplowitz is President of The New Ellis Group, a business development strategy and coaching firm which she founded in 1997. She has helped hundreds of partners in law firms in the US and the UK to build their practices. She also specializes in helping lateral partners make successful transitions to their new firms. Karen was named one of Lawdragon's Global 100 – Leading Consultants and Strategists to the Legal Profession in 2018. Karen is also an adviser to the Working Mother Best Law Firms for Women Initiative.

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Planning NALSC's Future

By Nick Rumin, VP – Long Range Planning

As NALSC continues to grow and prosper, it is timely that we consider what our organization will look like in coming years, and the steps needed to realize this vision.

The NALSC Board of Directors is responsible for planning for the future of the organization. Long range planning allows the Board to more purposefully exercise (per our Bylaws) “... supervision, control, and direction of the affairs of the Association... (and the determination) of its policies.” To this end, the Board sets priorities which are ultimately directed by the NALSC Statement of Purposes, set out in Article II of our Bylaws, which include:

1. To further professionalism in legal search consulting and to promote the highest standards of legal search services to attorneys as employers and candidates;
2. To provide members and others with opportunities for dialogue, education, advancement, and improvement of all aspects of legal recruiting through meetings, seminars, communications, publications and other programs and activities;
3. To articulate and advocate the needs and interests of the legal recruitment industry and to foster goodwill between the profession and its various clients and publics; and
4. To promulgate policies and conduct activities to help solve common problems for the betterment of all those individuals or firms involved in some aspect of the legal search consulting industry; (...)

Over the past few years, the Board has prioritized the work of revising and updating our Bylaws and the *NALSC Code of Ethics*. This effort included, at its conclusion, the revision of our logo, website, newsletters, and brand identity. We have also worked on increasing the size of

our organization – and this has included a successful and ongoing effort to increase the number and involvement in our organization of the law firms and vendors who are our Sponsors and Honorary Members. We have made it a special priority to upgrade our conference and symposium programming and are currently exploring new educational opportunities to assist our membership in working more effectively for our clients. Much of this work – particularly as to programming/education and the growth of our organization – is ongoing.

We have also focused energies on supporting our Executive Office – and particularly our talented Executive Director in Stephanie Ankus, whose hard work, ability and enthusiasm have been so critical to the success of our organization thus far.

Ultimately, our Board is focused on how NALSC can continue to provide value to its members and, for this, we need your input as well. What would you like NALSC to look like five years from now?

Members who are interested in contributing ideas to help the Board in this process are encouraged to direct these ideas to the attention of Nick Rumin, VP – Long Range Planning, at nrumin@ruminsearch.com.



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Recent Litigation

Editor's note: As promised in the Fall 2018 NALSC newsletter, below is an update on the Manatt lawsuit and the NALSC Board of Directors response.

In Law Firm Battles Over Placement Fees, 2 Courts Side With Recruiters

By Christine Simmons

Oct. 08, 2018 | [New York Law Journal](#)

The recent decisions show that courts are continuing to enforce recruiter contracts with firms, even if they are oral or do not include a signature.

Taking legal recruiters to court is a risky proposition for law firms, as evidenced by a pair of recent court decisions in which judges have awarded payments to recruiters after firms initially refused to pay their placement fees.

On Sept. 27, a New York federal judge ordered midsize firm Meltzer, Lippe, Goldstein & Breitstone to pay a judgment that will total about \$500,000 to recruiter James Malfetti of Management Recruiters of Union County, New Jersey, which had introduced a health care group to the Long Island-based firm.

The next day, on Sept. 28, a California appellate court upheld a \$335,000 jury verdict against Manatt, Phelps &

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Phillips in favor of Gregg Ziskind, a legal recruiter at Gregg Ziskind & Associates, on his breach of oral contract claim.

While litigation between law firms and recruiters is nothing new, the recent decisions show that courts are continuing to enforce recruiter contracts with firms, even if those contracts are oral or do not include a signature.

“If the court finds there is a valid contract, the courts will enforce it,” said Marina Bogorad, a partner at Gerard Fox Law who represented Ziskind on appeal.

Oftentimes, such disputes don’t even go to trial. Last month, Simpson Thacher & Bartlett settled a recruiter’s suit that claimed the firm failed to pay a placement fee for recruiting a former Sullivan & Cromwell partner. The attorney for the recruiter, Boston Executive Search Associates, said the action was “settled on confidential terms.”

No Required Signature

In the New York case, Meltzer Lippe had asked Joshua Ben-Asher, a recruiter at Malfetti’s agency, in 2015 to search for a health care boutique or department to add to the Mineola, New York-based firm. Under the parties’ fee agreement, Meltzer Lippe would pay 25 percent of the placed attorney’s first-year base compensation, while there was a separate group fee schedule for placing at least two attorneys from the same firm.

According to a decision by U.S. District Judge Denis Hurley of the Eastern District of New York, Ben-Asher introduced Kern Augustine Conroy & Schoppmann, a health care law firm with its main office in New Jersey and a second office in Westbury, New York, to Meltzer Lippe. Meltzer Lippe initially met in November 2015 with Kern Augustine’s sole shareholder, Michael Schoppmann, who planned to leave and wished to sell the firm.

Ultimately, Meltzer Lippe determined that, as a New York limited liability partnership, it was prohibited by New Jersey statute from owning Kern Augustine, a New Jersey professional corporation, Hurley said in his decision. David Heymann, Meltzer Lippe’s managing partner and an attorney admitted in New Jersey, bought Schoppmann’s shares of Kern Augustine for \$40,000.

The deal closed in February 2016 and all 13 Kern Augustine attorneys, whose salaries totaled nearly \$2.1 million, stayed. The firm announced it had “formed an alliance” with Meltzer Lippe. The firms’ attorneys were introduced to each other and encouraged to collaborate and to refer business to each other, Hurley said.

“While litigation between law firms and recruiters is nothing new, the recent decisions show that courts are continuing to enforce recruiter contracts with firms, even if those contracts are oral or do not include a signature.”

Meltzer Lippe suggested to Ben-Asher that the firm pay him as a “business broker,” as the Kern Augustine deal was a sale, not a placement, and that an appropriate “business broker” fee might be 8 percent to 10 percent of the purchase price.

But Ben-Asher told the firm he was not a “business broker” and that Management Recruiters’ fee would be determined under the “group placements” provision in the fee agreement.

In his Sept. 27 decision in the dispute, Hurley said evidence establishes there was an enforceable contract—the fee agreement—between Meltzer Lippe and Management Recruiters. Under the fee agreement, Heymann’s acquisition of Kern Augustine and its law practice was a “group placement” with Meltzer Lippe or an affiliate, obligating Meltzer Lippe to pay the placement fee, the judge ruled.

While Meltzer Lippe argued its CFO did not sign the fee agreement, Hurley said there was no requirement for the CFO to sign it for it to be held enforceable. The judge noted that the CFO worked with Ben-Asher on various attorney searches resulting in Meltzer Lippe hiring two attorney candidates, and that Meltzer Lippe accepted its invoices and paid the placement fees under the fee agreement, without objection.

Hurley said also the fee agreement expressly contemplated that Management Recruiters might place a group of attorneys from the same law firm, including through an “affiliate,” rather than hiring them directly. The judge ordered that Management Recruiters is entitled to

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\$413,820, as well as interest from March 2016.

Management Recruiters' attorney, Randall Rasey, a commercial litigation partner at Barton LLP in New York, said that with interest, the judgment totals about \$500,000. "If there's a lesson to be learned, it's to write a tight contract," Rasey said.

In an interview, Heymann called the dispute with the recruiter "a unique circumstance" for the firm. In the end, Meltzer Lippe's managing partner said no attorneys with Kern Augustine, which ceased operations last year, remained working with Meltzer Lippe. "We feel that the case was wrongfully decided, and we're assessing our options," he said.

'Substantial Evidence'

In the California case involving Manatt Phelps, the court affirmed a 2017 jury verdict for breach of an oral contract.

That dispute dates back to 2013, when at the request of Manatt Phelps partner Barbara Polsky, Ziskind approached Donna Wilson, then a partner at Buckley Sandler, to determine whether she would like to move her practice to the firm. Ultimately, Manatt Phelps hired Wilson and her "right-hand man," former Buckley Sandler counsel John McGuinness. (In June, Manatt Phelps named Wilson as its next managing partner.)

Manatt Phelps didn't compensate Ziskind but paid Roberta "Bobbie" McMorrow, a legal recruiter not associated with Ziskind's firm, about \$335,000 for placing the attorneys. Manatt Phelps claimed that Ziskind had to obtain Wilson's consent to work with him as a condition for the formation of a contract between the firm and the recruiter, and when she did not give her consent, "the contract ceased to exist."

But the California Court of Appeal, in its Sept. 28 decision, said there "is substantial evidence that Wilson's consent was not a condition" for the formation of a contract. The appeals court also said there was "substantial evidence" that Manatt Phelps prevented, hindered or unfairly interfered with Ziskind's ability to perform under the contract.

"When Polsky learned that Manatt had hired Wilson, she displayed a guilty conscience—she believed Ziskind would be hurt that Wilson had been placed at Manatt by someone else," the appeals court said. "When Polsky informed Ziskind of Wilson's hiring at Manatt through another recruiter, she said it was her fault, further displaying a guilty conscience."

Roman Silberfeld and Bernice Conn, a pair of Robins

Kaplan partners representing Manatt Phelps, did not return an email seeking comment.

Bogorad, the lawyer for Ziskind, said the total award with interest is about \$385,000. She said it was "baffling" that Manatt Phelps chose to litigate for five years against a semiretired legal recruiter now in his mid-70s.

ABOUT THE AUTHOR: Christine Simmons writes about the New York legal community and the business of law. Email her at csimmons@alm.com and find her on Twitter @chlsimmons

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NALSC® Statement Regarding Recent Manatt/\$335,000 Recruiter Fee

October 11, 2018

By now, you may have read in the press articles about [Gregg Ziskind & Assocs. v. Manatt, Phelps & Phillips LLP](#) in the California Court of Appeals ("Manatt Case") which drew headlines for awarding a legal recruiter \$335,000. Because this case discussed the NALSC Code of Ethics® and certain wording of the decision could be taken out of context without a close look at the opinion, we wish to provide a brief clarification.

The NALSC Board of Directors would like to remind our membership of Article II, Section 3, of the NALSC Code of Ethics, which states: "Candidates shall be submitted to employers only with the candidates' express prior consent." We understand that the decision in the Manatt Case could be read by some as potentially creating an exception to this rule in the case when a recruiter performs a targeted search for a law firm. This is decidedly not the case. Consent must be obtained from candidates in every instance.

Why is there potential confusion? There was a

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portion of the opinion discussing expert testimony that “the consent requirement in the NALSC ethics code did not apply to a targeted search” and that the jury could consider testimony that “the prior consent of a candidate is not required when a recruiter performs a targeted search for a law firm.” These statements regarding prior consent and a targeted search appeared in the section of the opinion analyzing a raised argument of whether candidate consent was required for there to be a *contract between the search firm and the law firm*. Of course, a contract between the search firm and law firm is an entirely different issue than candidate consent for purposes of being submitted to an employer. However, viewing the above quoted statements outside the context of the full opinion could incorrectly suggest otherwise.

Takeaways:

1. The presence of a targeted search (between the employer and a search firm) does not somehow eliminate or circumvent the requirement of candidate consent for a submission to a prospective employer under the NALSC Code of Ethics.

2. As a best practice, agreements between our members and their clients should contain language expressly addressing when a fee would be payable including, for example, clarifying that a fee is payable only where an introduction of a candidate is made with the candidate’s express prior consent.
3. We wish to make clear that any published or unpublished statements or opinions of individual or groups of NALSC members or non-members regarding the application of the Code of Ethics are the personal opinions of those expressing those views and, in the absence of an express decision by the NALSC Board of Directors, are not the view of NALSC and are not binding on NALSC or any of its members.

Thank you for reading this notice. If you have any questions about the above, please feel free to contact: NALSC President, Dan Binstock at (202) 559-0472/dbinstock@g-s.com; or NALSC Chair of Ethics, Avis Caravello at (415) 979-0200/acaravello@aviscaravello.com.

NALSC / Sirras Family Scholarship Update

NALSC established the NALSC/Sirras Family Scholarship in 2016 in honor of the contributions to the organization by long-time Board member and Past President Marina Sirras and her husband, Jim. The NALSC/Sirras Family Scholarship recently made a one-time gift to Fordham Law School for the purpose of funding a summer public interest fellowship. It is the intent and goal to renew this gift annually, so long as funding is available.

The fellowship is administered through Fordham Law School's Public Interest Resource Center (PIRC), the home of student-run organizations involved in public interest work. Approximately 150 Fordham Law School students participate in public interest fellowships annually yet funding typically is available for 90 or so, leaving approximately 40% without financial assistance.

The NALSC/Sirras Family Scholarship will help offset this difference by only one student per year, but the benefit to that student can make a huge difference and

underscores the importance of our philanthropy. The chosen recipient is invited to NALSC’s 2019 Fall Symposium on October 18 at the New York offices of Morrison & Foerster and will be honored during the luncheon.



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The Recruiter's Bookshelf

By Raphael Franze
featuring guest author Ameer McKim

INFLUENCE: THE PSYCHOLOGY OF PERSUASION

by Robert Cialdini

Robert Cialdini's landmark book *Influence: The Psychology of Persuasion* (along with the subsequent expanded textbook version, *Influence: Science and Practice*) sets out to explain his scientifically grounded evidence on how compliance – getting a person to go along with another – really works. In his research across a broad spectrum of “compliance professionals” (described by Cialdini as anyone whose business it is to make others comply, whether it be a pastor or street hustler, restaurant server or legal recruiter), Cialdini encountered literally thousands of different tactics and techniques. He was, however, surprised to discover that only six universal principles served as the basis for the behaviors adopted by the vast majority of effective compliance professionals:

- Reciprocity – The desire to give back to someone who has given something to us;
- Commitment – The desire to be consistent in one's behavior and to want it in others;
- Liking – The tendency to agree with those that we like;
- Social Proof – Looking to others similar to oneself in making a decision;
- Scarcity – The tendency to want things when they become less available; and
- Authority – The tendency to respond favorably towards those who appear to be an authority.

The first four principles listed above are most effective when practiced in tandem with other principles. Scarcity and authority, however, have been shown to more frequently solicit a desired action on their own. While each of these principles can be used to either noble or nefarious ends – a detective's approach vs. a smuggler's approach, as Cialdini describes them – the book highlights how each principle is used and perceived differently based on the approach taken.

Reading this book as an external recruiter, the examples of how I use these principles and could incorporate them more into my work is immediately evident. In the case of reciprocity, providing more content on my LinkedIn page (both shared and self-authored) becomes a clear strategy in the hopes of connecting more readily with prospects who chose to read it and find it helpful (much in the same way as a free sample at a grocery store is

used to increase the purchasing of a product). The principle of commitment can be used effectively in cold calling when attempting to have a conversation with someone whose standard response is “I'm busy – call me next week” by committing them to a specific day and time and following it up with a scheduling e-mail. The liking principle serves as a reminder to find commonalities going into a call and to be ready with a quip and a compliment, while social proof reinforces the wisdom in expanding my LinkedIn presence and in asking for recommendations from past placements.

As for the two more prominent principles, scarcity is a very real factor in the recruiting process and a recruiter's ability to present proof to that effect can go a long way towards enlightening candidates and clients to the realities of their respective situations. Whether it be emphasizing to a client the dearth of qualified prospects that meet a set of specifications or informing a hesitant prospect of an increase in competition for a single opening, understanding and actively utilizing the scarcity principle has helped me personally make strides towards being seen as a legal search consultant in the truest sense and in yielding the influence that such perception affords.

Finally, the principle of authority often comes into play when a recruiter attempts to exhibit their knowledge and credibility for the purpose of influencing a prospective candidate or client's behavior. Both mentioning personal

“...only six universal principles served as the basis for the behaviors adopted by the vast majority of effective ‘compliance’ professionals: Reciprocity, Commitment, Liking, Social Proof, Scarcity and Authority.”

experience as a former member of the applicable profession or detailing a feature of one's specific recruiting practice (based on geography, professional specialty, position type, etc.) are basic attempts at displaying authority that may persuade the subject to actively work with a recruiter. While this authority is likely to grow if the recruiter can deliver, coming up short over time on such promise of authority can have the adverse effect of losing influence regardless of how effectively the other principles are leveraged. Therefore, being able to highlight one's authority authentically is vital in tempering expectations and maintaining a good reputation and long-term success.

Amee's Take

After reading *Influence*, I began to notice the tools of compliance at work in the world around me in myriad ways. The man who holds the door to the train station open for busy commuters with one hand while holding his cup asking for money in the other (reciprocity); the child who begs his parent to "promise" after the parent has already agreed to the child's latest request (commitment); the Amazon reviews my husband insists on reading before making even a small purchase (social proof); the use of attractive models for most every commercial on TV (liking); the panic I feel when I see that there are only "2 tickets left at this price" on Travelocity (scarcity). The list is endless and compliance tools are at work all around us.

Although anyone can benefit from reading, understanding, and applying the "tools of compliance" that Cialdini outlines in this book, the framework presented is particularly helpful to those whose jobs include recruiting lawyers on behalf of a law firm. Although in-house recruiters do not typically cold call candidates (the ultimate in persuasive outreach), our days are nonetheless filled with cajoling various constituents to respond or comply with requests or procedures or convincing students, associates, and partner candidates that they should select our firm for their professional home. Add in the fact that we are dealing with lawyers, some of the most exacting, cynical, competitive, and (often) pessimistic professionals out there, and the challenges internal recruiters face daily are many.

In this book, you will learn, in a detailed and thoughtful way and through excellent stories and examples, the tools of compliance that Cialdini has uncovered in his research. Some of his research was conducted "undercover" as he partici-

pated in various sales training programs; other times, he conducted experiments or collated the results of experiments conducted by other researchers. He further details how all of these tools work – largely because we all rely on necessary mental shortcuts and stereotypes to sift quickly through the mountains of information and data that come at us at all times. Lawyers are no exception and adding these tools to our arsenal can only help navigate the tricky waters we sometimes face in our jobs.

Recognizing when these tactics are in play will allow us to avoid blindly falling into compliance "traps." The candidate who leverages an offer to obtain another offer from an additional firm is capitalizing on both the principles of scarcity and social proof. The candidate who would love to consider your firm but is on a short time frame and needs you to abbreviate your process – scarcity at its best. The name-dropping candidates are tapping into the principles of liking and social proof. Candidates who insist on the partner title or a leadership position upon joining a firm are banking that the concept of authority will hold sway with their clients. Once you are knowledgeable about these principles, you can educate the decision makers at your firm about tactics that candidates may employ to influence a selection decision.

In addition to avoiding compliance traps that take advantage of the unwary, Cialdini's framework allows you to invoke such tools to become more effective at persuading those around you, whether it be a non-responsive partner or a candidate who is on the fence or countless other situations we face daily. If you are seeking a powerful and fascinating read that will provide you with persuasion tools that you can use in your professional – and personal – lives, Cialdini's *Influence* fits the bill.

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Are You Prepared? Dealing with GDPR-like Rules Spreading Across the Nation

By Mark Sangster, eSentire, December 21, 2018 , [LegalTech News](#)

While implementation for the new California privacy law is more than one year away, companies should be planning their compliance efforts now, given the timeline and economic ramifications of the law.

California's Consumer Privacy Act, signed into law earlier this year, follows a growing line of consumer privacy laws, such as the European General Data Protection Regulations (GDPR), Canadian Breach of Security Safeguards Regulations of the Personal Information Protection and Electronic Documents Act (PIPEDA), and related New York Department of Financial Services Cybersecurity Rules and Regulations (NYCRR 500).

As New York's NYCRR 500 regulations serve as the gold standard for cybersecurity protocols, California's CCPA will likely serve as the U.S. standard for privacy. Like its European GDPR counterpart, California's privacy act establishes consumer rights and corporate responsibilities, which will be enforced with penalties up to \$7,500 per violation.

As motivation for the law, the California Act notably cites the tens of millions of people whose personal data was misused by the data mining firm Cambridge Analytica, a greater desire to heighten data privacy controls and transparency of data practices, and the people's desire for privacy and more control over their information. The Act provides specific provisions:

- Full disclosure regarding the collection of personal information, including details of the collected information, sources, the purpose, whether the data is disclosed or sold to another party, and if so, the third party's details.
- An opt-out right to prevent a business from selling their personal information to third parties.
- The right to be deleted (like with GDPR's right to be forgotten).
- The right to equal service and pricing, even if the individual exercises their rights under the Act (the net neutrality of privacy).

The Act mandates traceable transparency of consumer data collection, use, distribution, and the GDPR-like right to be forgotten. These requirements must be made public through general policy, by specific request, and cannot form the basis of bias or discrimination on the part of the business. A company cannot tie goods or services to the ability to resell consumer information or offer discounts or other incentives in exchange for this ability. This moves consumer privacy rights from the domain of often ignored fine print to the front page.

The Act, which comes into effect on Jan. 1, 2020, could have a serious impact on the economic models of many companies collecting and reselling data to other parties. Transparency in data movement and resale will open the eyes of consumers who, until now, blindly agree to user contracts and never question why an app on their phone needs access to their location, contacts, or other services.

The Act is similar in a way to the Fair Credit Reporting Act (FCRA) that enforced transparency in consumer credit reporting and gave people the ability to correct errors. Until the FCRA, credit reporting was a dark venture between agencies and banks, with little to no opportunity for consumers to understand how the ratings were determined, distributed or used.

"...many companies will ignore the Act assuming it doesn't affect them, only to discover that it does."

Companies will likely have to expend significant resources to move toward compliance.

Opt-out and opt-in mechanisms differ slightly between CCPA and GDPR and require multiple mechanisms. It could lead to confusion both on the company side and for the consumer. While the law is more than one year away, companies should be planning their compliance efforts now, given the timeline and economic ramifications of the law.

Like privacy and security legislation before it, many companies will ignore the Act assuming it doesn't affect them, only to discover that it does. Moreover, many companies may opt to sit back and wait for enforcement actions to hone their cost versus benefits model.

But like other laws, ignorance is no excuse. As we've experi-

Continued on page 13

enced with data breaches, organizations that aren't prepared and then experience a business altering event will likely take far too long to discover the breach, struggle to resolve the issue and end up fined under the new Act. It's not a new story. We've seen it before with other privacy laws like HIPAA — reviewing the public resolutions and penalties reads like a who's who of cyber sinners. With privacy, the finger pointing throughout the data transfer chain could become dizzying and cause protracted investigations and actions.

So, what should organizations do to prepare for these new regulations?

First, acknowledge that your business is affected because you do control assets (data, records, banking information, etc.). Conduct an assessment to determine what information is collected, for what purpose, and where it moves. Minimize what's collected and start building the opt-in/out mechanisms and procedures to respond to specific consumer inquiries.

Consumer privacy has become a main stage topic, which means similar legislation will appear in other

states, further confusing what is already compliance nightmare for national companies.

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Hailing from Austin, Texas, the Live Music Capital of the World and the location of the most recent and very fun NALSC Spring Conference, is Jane Pollard. Jane is the Managing Principal of Momentum Search Partners and one of the newest additions to the NALSC Board of Directors.

Originally from the Pine Woods of Southern Arkansas with family roots there going back several generations, Jane grew up with a well-rounded set of interests in music, the arts, and sports. She also developed into an avid horsewoman in the Western riding style (NOTE: to my fellow city slickers out there, the Western riding style evolved from the ranching traditions brought to the Americas by Spanish Conquistadors to meet the working needs of cowboys in the American West). While Jane has exchanged her horse for a lower-maintenance road bike, she remains an enthusiastic consumer of music, the arts, and sports.

Growing up in a family of doctors and with her father (an anesthesiologist himself) encouraging her to follow the same path, Jane's affinity for numbers over blood led her away from medicine and towards studying accounting at the University of Arkansas at Fayetteville. A CPA by the age of 21, Jane's first job out of college was with an estate planning, probate, and tax lawyer in Fayetteville. It was in this position that Jane gained her first expo-

Member Profile: New Board Member, Jane Pollard, Esq.

Managing Principal,
Momentum Search Partners
(Austin, TX)

By Raphael Franze, Esq.



sure to the legal profession and found the attorneys she befriended to be interesting, intelligent and outgoing.

In time, Jane's interest in accounting waned and, while she was uncertain about her next career move, she took inspiration from a magazine article that suggested "if you don't know what to do as a career, look around at the people you like and consider that field." With such inspiration, Jane took the leap of faith to enroll in law school and, while considering a number of schools on both coasts, ultimately chose the University of Texas at Austin to be close to family in Arkansas (particularly her mother, who was dealing with terminal cancer at the time). Jane's goal upon completion of law school was to return to Fayetteville (where all three of her siblings still reside) and eventually teach law there. Life, as it's prone to do though, made other plans.

While at UT, Jane met the man who would become her future husband, Bill Pollard. With Bill being a native of the area and having deep family roots there, it became apparent to Jane that her future was to be in Austin and not in Fayetteville. (NOTE: Jane remains a big fan of her college town in the beautiful Ozark Mountains and, if you're ever in the area, recommends visiting the amazing American art collection and taking in the unique architecture of the Crystal Bridges Art Museum in nearby Bentonville). Jane also discovered that, while she did not deem herself eccentric enough to become a law professor, she took to her studies very well; she served on the Texas Law Review and graduated with honors before starting her career as a litigator with Thompson & Knight.

As she and Bill started their family, Jane began pondering other options in the legal profession that could offer a better work/life balance. She met with Mary Alice Kuykendall, a former law firm recruiter and friend who was then at an outside legal search firm. While Jane did not go into the meeting with an eye towards becoming a recruiter, their conversation did result in Jane switching careers and joining that very firm. Nineteen years and a search firm later, Jane and Mary Alice still remain friends and colleagues today at Momentum.

After an initial transition period that left Jane wondering "Why did I do this?" it is safe to say that Jane took to legal recruiting quite nicely. Following ten years as a top producer for the firm and its acquisition by a large recruiting conglomerate, Jane co-founded Momentum Search Partners with Jennifer Nelson, a long-time friend with a background in the legal industry. Eight years later, Momentum has grown to six recruiters in three cities, placing both lawyers and legal staff in law firms and in-house legal departments throughout Texas. In addition to managing the firm, Jane still runs a recruiting desk with a focus on placing in-house talent and fostering Momentum's continuing relationships with its boutique law firm clien-

tele.

As both an active recruiter and a manager of a recruiting firm with almost two decades on the job, Jane has done a lot and seen a lot. Her favorite aspects of the profession are helping candidates make wise career decisions and positive transitions while also developing true partnering relationships with her clients through the hiring process. One aspect of her work that Jane has tried to improve upon over time is staying in touch with placed candidates; with the advent of social media, she has found it easier to do so and it has led to many of these candidates becoming excellent referral sources and even clients. Jane's managerial role offers up the most challenging aspect of her work, specifically finding and training recruiters (an inexact science, to be sure).

Jane's approach to legal recruiting abides by the philosophy that it is a profession that rewards patience and requires the planting of many seeds that will never sprout; it is in seeing which seeds do sprout, though, that she derives the most fun and fulfillment in her work. Her favorite expressions relating to the business include the following:

- Legal recruiting is a marathon, not a sprint (in other words, pace yourself to prevent burn-out);
- Pigs get fat but hogs get slaughtered (and you don't have to be an Arkansas Razorback to get that one);
- A placement will never change your life but any damage to your reputation will (no explanation required).

In her personal time, Jane enjoys movies, traveling, gardening, and bridge with her husband Bill (who is a business attorney). She also engages in a variety of physical activities to stay fit and healthy (including the aforementioned road biking, as well as Pilates and walking with friends). For the past 25 years, Jane has been in two different book clubs with each meeting on a monthly basis; it is also through these clubs that Jane has developed some of her most treasured friendships. With two books a month accumulating over time, Jane's list of favorites has grown quite long but she remains open to finding those potential hidden gems as a result of exchanging book suggestions at NALSC events and other venues. Jane has also remained close with several childhood friends going back as far as kindergarten; while these friends have spread throughout the country, Jane cherishes staying in contact and traveling with them periodically.

Despite recently joining our Board of Directors, Jane has been active in NALSC for the entirety of her legal recruiting career. Having attended many a conference/symposium over the years, she still finds that she learns something new or gets inspired in different and exciting ways every time she attends. The next time you attend and have not already done so, be sure to introduce yourself to Jane (and don't forget to bring a good book suggestion)!

Member Profile: New Board Member, Arthur Polott

Founder,
Gateway Legal Placements, LLC
(Washington, DC)

By Raphael Franze, Esq.



Coming to us from Washington, DC (by way of a lot of other places) is Arthur Polott, Founder of Gateway Legal Placements, LLC. Arthur is a welcome recent addition to the NALSC Board of Directors and has been a member of the organization since 2008.

Although he spent his formative years in Houston, Arthur's story begins literally half a world away in Moscow. A decade before the fall of the Soviet Union, Arthur's parents made the decision in September of 1976 to uproot the family from their familiar life in Russia in the hopes of a better life elsewhere. Six-year-old Arthur and his family would then spend the following three months in Italy awaiting permission to enter the United States. The first few months in the country were spent in Chicago before Arthur's father (a mechanical engineer with a PhD equivalent) found work in his field in Buffalo. A few years would pass before the family would ultimately settle in rapidly growing (and far more temperate) Houston.

Arthur's childhood was an active one: his many sporting interests included soccer, racquetball, volleyball, basketball, and football. His intellect was not to be outdone, though, as he also enjoyed and excelled at chess.

Upon graduating from high school, Arthur stayed in Texas

to attend the University of Texas at Austin. Majoring in government, he was an engaged student who truly enjoyed the interplay of policy and practice. Among his many activities at UT, Arthur was an At Large Representative in the student government while also serving as a Resident Assistant to the Texas Longhorns football team.

(NOTE: During Arthur's four years at UT, the Longhorns went 4-0 against their heated rival Oklahoma Sooners in the infamous Red River Rivalry dating back to 1900 between the two schools. While seldom acknowledged for his part in this winning tradition, we here at NALSC News recognize Arthur for his efforts in getting his residents ready for the big game. A tip of the ten-gallon hat to you, sir!)

Upon graduating college, Arthur took a position as a Legal Assistant Clerk at Baker Botts. It was there that he recognized the law as a viable option for him. After a year at Baker Botts, Arthur matriculated at Case Western Reserve University School of Law in Cleveland.

During his three years at Case Western Reserve, Arthur was a mentor to its large and active foreign student LL.M. program as well as President of the SBA Student Government. He also spent a month studying in his native Russia through Case Western's collaboration with St. Petersburg State University School of Law (if you haven't experienced the White Nights of a St Petersburg summer, Arthur would highly recommend doing so).

For the four years that followed law school, Arthur returned to Houston to settle into his new life as a litigator. In the winter of 2000, romance turned his attention to our nation's capital and a conversation with a local recruiter that started with an inquiry about litigation opportunities ended with a desire to pursue something completely different. Not eager to continue billing hours (let alone working inflexibly long ones), Arthur soon joined the very recruiting firm he reached out to and would spend the next seven years as a top producer there before starting Gateway Legal Placements in 2007. Nearly twelve years have passed since Arthur went on his own and he considers the advice to do so to be the best advice he's received in his career.

(NOTE: The romance that led Arthur to Washington and into the legal recruiting profession progressed into a marriage that will be celebrating its 18th anniversary on March 18th – the Monday following our Spring Conference in Las Vegas. Be sure to congratulate them when you see him!)

In his practice, Arthur works with a diverse set of candidates and clientele and views this diversity as a vital part of his success. Working with AmLaw 100/200 firms as well as local firms, boutiques, and legal departments in corporations, Arthur leverages all of these categories through working splits with other NALSC members. The camaraderie and

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flexibility that such partnerships provide him are aspects of his work that Arthur truly enjoys and appreciates.

Like many of us who got our start before smartphones and other helpful innovations, Arthur has an old-school approach to his desk but continues to work towards adopting newer technologies that make his efforts more fruitful and enjoyable. In fact, Arthur's advice to those starting out today would be to have an open attitude towards technology and to specifically invest in a modern user-friendly candidate management system. As for his approach to the inevitable disappointments in recruiting, Arthur understands that his clients and candidates are doing their best in their decision-making on behalf of their colleagues, families, and careers and that maintaining an outward mindset will serve him well in the long term (as for the short term, an occasional scotch never hurt).

Arthur enjoys spending personal time with his wife (a partner at Morgan Lewis) as well as his two adolescent sons, whom he coaches in basketball during the winter and actively supports in baseball throughout the spring, summer, and fall; he also plays basketball himself and can hold his own at the poker table. Arthur also is active in his community, serving on the Regional Board of the Anti-Defamation League and, starting this July, as the Chair of the Bender Jewish Community Center of Greater Washington.

What are Arthur's other interests? Arthur loves to travel both within the US and internationally. His favorite

destinations include New Zealand, Prague, Israel, and Costa Rica. In April, he's taking his family to Iceland.

Favorite TV Shows:

- Game of Thrones
- Homeland
- Breaking Bad
- Ozark
- The West Wing

Favorite Movies:

- Most anything by Steven Spielberg, especially *Lincoln*
- Christopher Nolan's *Batman* trilogy

Most Influential Books:

- *Lincoln on Leadership* (gifted to Arthur by a judge he clerked for)
- *A Backpack, A Bear and Eight Crates of Vodka* (crystalized for Arthur the sacrifices his parents made for him and his brother in moving them from Russia to the United States)

EDITOR'S NOTE: I first met Arthur in 2011, three years before joining NALSC, at a Case Western Reserve law school reunion (I was there celebrating my 10th year, Arthur his 15th). Introduced in the buffet line by a classmate of his after I told her I was a legal recruiter, Arthur's first question to me was "Are you a member of NALSC?" A champion of the organization indeed, that Arthur Polott!!!

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