

# NALSC® NEWS

National Association of Legal Search Consultants Newsletter

Winter 2024

## PRIOR EVENT TESTIMONIALS

*"It's always fabulous to gather with colleagues and clients. I appreciate the opportunity to learn from and exchange ideas with those at the top of our profession."*

*"The speakers were dynamic and relevant and shared on-point insights, timely data, and 'real experiences.' The breaks were filled with exceptional conversations and relationship-building."*

*"Overall, it was a fantastic event! It exceeded our expectations. We enjoyed all the panelists which were informative and interesting plus we loved networking with so many talented recruiters and executives."*

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**2024 Annual Conference**  
February 29 - March 2  
The Pendry, San Diego

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# President's Message

by Mitch Satalof

## ABOUT THE AUTHOR:

Mitch Satalof is the President of NALSC. Mitch is also CEO of Juris Placements, Inc.

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Dear NALSC Members,

It is with great pride (and emotions) that I write my last message to the NALSC Community as President of our organization. It's remarkable how far we've come in the past few years with the new initiatives we've undertaken. I'm going to miss my almost daily interactions with Headquarters; however, I'm certain that I leave this position with the organization in good hands. The Board, along with Executive Director Stephanie Ankus and part-time consultants Valerie Fontaine and Alice Perez, play a vital role in leading NALSC on this upward trajectory. I'm justifiably optimistic about NALSC's continuing growth and increasing influence within the legal search community and the legal recruiting profession as a whole. Fair warning, I'll remain attached to the NALSC Board of Directors as Immediate Past President and serving in this new role.

The past year was another banner year for NALSC. In this newsletter, you'll read about the progress we've made as an organization and the exciting initiatives we've instituted during the past few years. My personal pet project, of which I am particularly proud, was the creation and roll-out of the Universal Lateral Partner Questionnaire (U-LPQ) which has taken wing and continues to soar as more law firms are signing on regularly as endorsers willing to accept the U-LPQ during the normal course of partner placements. While search firm and law firm utilization of the U-LPQ is a work in progress, we will continue our outreach, building consensus to acceptance of the U-LPQ both as a practical and educational tool in partner placement. Our conflicts form that accompanies the U-LPQ is becoming a standard for many.

The organization has grown dramatically in terms of membership numbers among both search firms and law firm supporting members as well as sponsors. We continue our growth with sell-out capacity crowds at our Conferences and Symposia, robust participation in our online programs such as Recruiter Roundtables, Office Hours, and NALSC Presents, Recruiter Stories podcasts, social media presence, and our brand awareness campaign. Our exciting new Belonging and Inclusion Committee is gaining momentum and is open to participation by all NALSC members.

It's election time again. Although several long-time and valued members of our Board of Directors termed off in spring 2023 (Board members serve three-year terms with a limit of two consecutive terms), our new Board members already have begun bringing fresh ideas and energy to the organization. Several more of our most valued Board Members (mentioned later) will be terming out at our upcoming Annual Meeting on March 1st at the San Diego Conference when the newly elected Board Members will be announced. There are eight open seats on the Board this year. The ballot with names and bios of candidates has been sent to all members and an "Office Hours" Zoom session is scheduled for January 24th at 1pm ET when candidates for a Board seat will have the opportunity to introduce themselves and answer questions. The deadline to return completed ballots is Friday, February 12th and I would ask that in order to be fully informed as to the talent and potential of our new Board, you hold your vote until you have had the chance to get a full feel for the candidates vying for these

positions. Note that you can vote for up to eight candidates but only one ballot per search firm is allowable.

The NALSC Bylaws contain term limits for both Board Members and Officers so that the organization can benefit from fresh ideas and perspectives. This is why, in the recent past, we've expanded our supporting committees, some ad hoc, as a runway for future Board members. We encourage you to think about whether you would like to become more involved by serving on one of our ad hoc committees. Ask any Board member for details.

We are excited to announce that NALSC's membership grew by 14% from December 2022 to December 2023. Just since our last newsletter in September 2023, NALSC gained 10 new search firm members and six new law firm supporting members as our total membership hits an all-time high of 278—217 search firm members, 60 supporting members (law firms), and one associate member (vendor)—record numbers that are increasing virtually every day. We at NALSC also appreciate our growing number of corporate sponsors, who provide the legal search community with such valuable goods and services. You should know that it is now mandatory that, prior to joining our organization, new search firm members must read and commit to abiding by both the NALSC Code of Ethics © and the newly added NALSC Code of Conduct.

Our Fall Symposium last October 20th in NYC sold out— and was another home run for NALSC. Attendees had this to say:

- "I am still awestruck by all the brilliant minds in one room."
- "As always, it was a great day. Turnout was super strong and it was so nice to see everyone and network with one another and the law firms. The panels were thoughtful and very professional in delivery. The food and drinks were abundant and high quality. Everything ran smoothly."
- "Another fantastic event! I personally appreciate the thoughtfulness and hard work that goes into building a program of value for us. I love seeing year after year how much NALSC has grown and continues to be so important to the industry."

A huge thank you to Latham & Watkins for so generously hosting us in their beautifully remodeled offices and to all of NALSC's sponsors for supporting this wonderful Symposium!

We have another blockbuster event happening in just a few short weeks. Registration is strong for the 2024 NALSC Annual Conference on Feb. 29-March 2, at the Pendry Hotel in San Diego. We're reaching capacity for the conference itself and soon will be taking names for a waiting list. The hotel discount block is sold out but know that there are many other lodging options nearby if you opt not to stay at the Pendry. Don't miss out!

Here's what you can expect at the Conference:

- "The Four Great Truths" Opening speaker: Rob Mosley - Managing Partner of Learning & Development at Next Level Exchange - In a highly interactive session filled with practical takeaways, we'll learn where 'what is smart' meets 'what is right' in our industry. Learn how to better anticipate and understand how candidates and clients think when they are making important decisions around the value we bring to them.
- "Stats and Trends: Partner Hires, Evolving Global Lateral Market, Hot/Not Practice Areas, and More"—Patrick Fuller, Chief Strategist, Legal at ALM Intelligence, will discuss statistics while Antony Cooke, Head of Product of Partners at Chambers and Partners, will cover global trends such as: The state of the legal talent market 2024. What matters the most to the legal industry?
- "Recruiter Guilt Trips" - A panel of inside and outside recruiters and industry experts discuss questions such as: What things do we feel badly about and how do we handle it? How could we handle it better?
- Concurrent Breakout Sessions - "Cold Calling Bootcamp," "For Owners Only: Brainstorming on How to Hire Star Recruiters," "Hot Topics in Partner Recruiting," "Cybersecurity & Data Privacy for Recruiters," and

**"Integration of Laterals for Recruiting Success."**

- Keynote Presentation - Legal Industry Influencer Alex Su, Esq. will share anecdotes from his career in law & technology and provide specific strategies for using LinkedIn to make more placements with minimum time and effort.
- "Trends in Diversity Recruiting" - This team of experienced thought leaders in the legal recruiting and DEI space will share their expertise on trends in diversity, equity, inclusion, belonging and well-being in the legal industry. They will provide practical tips for sourcing, presenting and recruiting top talent and leaning into courageous conversations and inspired actions during these challenging times.
- "The Unvarnished Truth: Building Client Relationships at the Top Level" - In a fast-paced, interactive session, law firm managing partners and legal industry leaders will provide insider tips on how we can best work with our clients at the highest levels. Audience members are encouraged to ask the panelists questions via our roving microphone.
- Interactive Roundtable Discussions feature a variety of hot topics in legal recruiting as well as multiple Meet Our Law Firm Clients Roundtables.
- The Breakfast Town Hall Meeting will provide a recap of sessions and a forum to discuss controversial comments and unresolved issues from the conference as well as market conditions and challenges facing the legal recruiting profession.

See the agenda, details, and registration information on our website at <https://www.nalsc.org/2024-annual-conference/>.

These sessions strive to maximize audience interaction and provide practical takeaways, and are tailored to reflect member feedback and suggestions from past events. As always, the Conference program incorporates plenty of "schmoozing" time to visit sponsors via exhibit booths, reconnect with colleagues, meet new members, and network with clients. Don't miss Games Night in the Leopard Solutions Hospitality Suite and our Networking Reception sponsored by Chambers followed by a Celebratory Dinner sponsored by ALM, both at LAVO Italian Restaurant in San Diego's exciting Gaslamp District. We look forward to seeing everyone there!

We're continuing to spread the news about NALSC and the value of our organization via our successful and ongoing brand awareness campaign in addition to releasing new episodes of our podcasts assisted by NALSC Director Emeritus Scott Love as well as gold sponsor Chambers Associate.

NALSC is growing by leaps and bounds!

Our enhanced brand awareness campaign continues to generate considerable interest and recognition of our overall organization and the "NALSC Community" within it. By monitoring metrics and broadening our scope we are effectively creating even greater visibility and brand recognition for NALSC. The Board and Headquarters are pleased that this communications-based campaign is yielding such successful results.

#### New Members

From December 2022 to December 2023 membership increased by 14%. Since our September 2023 newsletter, NALSC gained 10 new search firm members and 6 new law firm supporting members. With total membership at an all-time high of 278, we currently have 217 search firm members, 60 supporting members (law firms), and 1 associate member (vendor). The following is a list of recent new members and links to their profiles in the Searchable NALSC Membership Directory which can be found on our website at <https://www.nalsc.org/members/>.

They can be accessed here: <https://www.nalsc.org/podcasts/>.

Once again, I'd like to encourage our membership to add the NALSC logo (which you can get from headquarters) to your email signature, with a line that reads: **"(This search firm) is a proud member of NALSC and is accountable to the NALSC Code of Ethics®."** I've added the **NALSC Code of Conduct** to my signature as well. Members also may incorporate the NALSC logo into their websites and LinkedIn profiles.

Kudos to the NALSC Newsletter Committee chaired by Natalie Thorsen Harris, assisted by former Newsletter editor Valerie Fontaine, along with the excellent contributions of committee members Jordan Abshire, Cheryl Brown, and Melissa Peters. NALSC's exceptional and informative semi-annual Newsletters are extremely well-received and can be accessed through the NALSC website at <https://www.nalsc.org/newsletters/>.

Apologies for making a long newsletter article even longer, but I cannot leave my place on the Board without thanking those outgoing Board members who have worked alongside me and our amazing headquarters team:

Cheryl Brown, Patrick Moya, Jane Pollard, Arthur Polott and Kathy Richardson.

You are and will remain my personal friends for life.

For the past few years as President of NALSC, it has been my privilege and honor to work alongside many of the search firms and law firms that comprise the NALSC Community, all of whom play and will continue to play an essential role in NALSC's growth and success. In closing, I wish to extend special thanks to our entire membership who continue to make NALSC the special organization that it is today.

Best regards to all, **Mitch Satalof** - President of NALSC®

## NALSC Membership Growth

by Arthur Polott, Esq.



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New Members from Sept 2023 to Dec 2023 are:

#### Search firms

- Loop Legal Search - <https://www.nalsc.org/user/looplegalsearch/>
- Kettle Drum Executive Search Group - <https://www.nalsc.org/user/kettledrum/>
- Zerega Consulting - <https://www.nalsc.org/user/zeregaconsulting/>
- Oak Ridge Legal Search LLC - <https://www.nalsc.org/user/oakridgelegalsearch/>
- FrancisLorraine - <https://www.nalsc.org/user/francislorraine/>
- LHI Executive Search - <https://www.nalsc.org/user/lhiexecutivesearch/>
- R. L. Barclay & Associates - <https://www.nalsc.org/user/rlbarclayassoc/>
- Legally Elevated - <https://www.nalsc.org/user/legallyelevated/>
- Baretz+Brunelle-Talent Intelligence & Acquisitions (TIA) Division - <https://www.nalsc.org/user/baretzbrunelletia/>
- Futures Legal Search - <https://www.nalsc.org/user/futureslegalsearch/>

#### Law Firms

- Nutter McClennon & Fish LLP - <https://www.nalsc.org/user/nutter/>
- Cox, Castle & Nicholson LLP - <https://www.nalsc.org/user/coxcastle/>
- Baker Botts LLP - <https://www.nalsc.org/user/bakerbotts/>
- Fenwick & West LLP - <https://www.nalsc.org/user/fenwickandwest/>
- Oberman Law Firm - <https://www.nalsc.org/user/obermanlaw/>
- Potomac Law Group, PLLC - <https://www.nalsc.org/user/potomaclawgroup/>

We want to recognize and welcome each of our new search firm and law firm members. We look forward to meeting, exchanging ideas, collaborating, learning from, and building relationships with each of them and hope to see both old and new members in San Diego for the 2024 Annual Conference Feb. 29-March 2. Please use that time to not only engage with industry colleagues you already know, but to also welcome these new

*“Members, sponsors, event attendees, speakers, committee members, and Board Directors each play an integral role advocating for NALSC and fostering a productive, mutually supportive, and successful organization.”*

members and sponsors. As NALSC President, Mitch Satalof, continues to communicate: “This connection between search firms and law firms is crucial to NALSC’s mission of upholding the highest of ethical standards, building relationships with clients, and improving the overall success of our industry.”

#### Election Time

The Board remains at its maximum head count of 13 and currently includes President Mitch Satalof, VP of Membership Arthur Polott, VP of Long Range Planning Patrick Moya, Secretary Cheryl T. Brown, Treasurer Jane Pollard, and Directors Dan Binstock, Mary Clare Garber, Natalie Harris, Kathryn Holt Richardson, Ross Weil, Jordan Abshire, Ethel Badawi and Melissa Peters. The Emeritus Director is Scott T. Love.

However, it is election time! Several of our Board Members are terming out as of our upcoming Annual Meeting at the San Diego Conference and others have opted not to run for additional terms, resulting in eight open seats. The ballot with the names and bios of candidates have been sent to all members. The successful candidates will be elected for a three-year term (2024-2027) to the Board of Directors. In addition, an “Office Hours” Zoom session scheduled for January 24th at 1pm ET will feature an opportunity for those running for a Board seat to articulate their interest and answer any questions members may have.

Each search firm may cast one ballot and may vote for as few as one or as many as eight of the candidates. The deadline to return completed ballots is Friday, February 12th. The new Board of Directors will be announced at the Business Meeting on Friday, March 1st at 8:15am PT during the NALSC 2024 Annual Conference at Pendry, San Diego.

#### Committees

Current NALSC Committees include Executive, Nominations, Newsletter, Ethics, Audit/Risk, Governing Documents, Long-Range Strategic Planning, Website/Social Media, Events Prep, Belonging and Inclusion, and Advisory. To see the members of these committees, see <https://www.nalsc.org/committees/>.

As an outgoing member of NALSC’s Board of Directors, I want to extend a big thank you to everyone who supports our organization! Members, sponsors, event attendees, speakers, committee members, and Board Directors each play an integral role advocating for NALSC and fostering a productive, mutually supportive, and successful organization. I also want to recognize Stephanie Ankus and everything HQ does behind the scenes to keep NALSC sailing smoothly and successfully forward. It has been an honor to work with you and I greatly appreciate you all!

## NALSC Long Range Planning by Patrick Moya

NALSC’s Long Range Planning (LRP) Committee plays an essential role in building the future of the “NALSC Community” while striving to provide the highest quality experience for our growing roster of members and sponsors.

This past October, NALSC returned to NYC for the first time in several years for our Fall Symposium. Generously hosted by NALSC sponsoring law firm Latham & Watkins in its beautifully revamped offices, the event sold out with record attendance! Our keynoter, Chris DeSantis, kicked off a winning event with a hilarious and highly informative presentation on

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embracing generational diversity at work, which received rave reviews. The following round tables, breakouts, and plenary sessions were packed with educational, interesting, and relevant takeaways to increase our members' recruiting success. And, as always, our breaks, lunch, and cocktail party hummed with networking opportunities and friendly camaraderie among colleagues and friends.

*"We are proud of the dramatic advances made by NALSC over the past several years and, as an organization, look forward to continuing growth and influence in the legal profession."*

Right around the corner is the 2024 NALSC Annual Conference on Feb. 29-March 2, at the Pendry Hotel in the exciting Gaslamp District of San Diego. The LRP Committee helps evaluate prior event surveys and set future event agendas, such as for this upcoming Conference, with legal recruiting topics that you, our audience, want to hear. See the agenda, details, and registration on our website at <https://www.nalsc.org/2024-annual-conference/>. The hotel block is sold out, but there are many other lodging options nearby. Don't miss out! We are reaching capacity for the conference itself and soon will be taking names for a waiting list.

The LRP also plans and presents virtual programs periodically through-

out the year to keep us updated on trends and developments affecting legal recruiting. The most recent sessions of our extremely popular Recruiter Roundtable series provided a forum for lively discussions of hot topics and sensitive issues in legal recruiting. In these sessions, search firm members break into affinity groups based on the focus of their businesses (associate, partner, or in-house recruiting) to discuss specific topics and share recruiting questions and advice—similar to Mastermind Groups. We also provide Recruiter Roundtables geared towards our law firm members. All of our past programs have been very well attended with open, frank, and robust conversations. The LRP Committee continues to schedule Recruiter Roundtables with a variety of moderators and guest speakers so be on the lookout for scheduling announcements.

The Committee also oversees the organization's public relations campaign to promote our brand and the NALSC Code of Ethics® within the legal community, as well as to increase membership expansion and retention, and increase law firm sponsorships on a nationwide basis. Our digital footprint also continues to grow via frequent podcasts, testimonials, advertising, media briefings, bylined articles, press releases, event marketing, social media promotion, expert commentary, and targeted messaging to key industry leaders. As reported elsewhere in this newsletter, the public roll-out of the Universal Lateral Partner Questionnaire (U-LPQ) is garnering media attention and industry acceptance and our membership and sponsorship numbers have risen dramatically.

We are proud of the dramatic advances made by NALSC over the past several years and, as an organization, look forward to continuing growth and influence in the legal profession. As my tenure on the NALSC Board comes to an end due to term limits, I want to acknowledge the work of our Long Range Planning Committee chaired by Ross Weil and including committee members Mary Clare Garber, Arthur Polott, and Kathy Richardson, with whom it has been my privilege to serve.

## NALSC is on the Move

By Kathy Richardson, Esq.

NALSC on the move, and we need your participation!

NALSC continues to raise its profile in the broader legal community through its ongoing brand awareness campaign, the public roll-out of the Universal Lateral Partner Questionnaire (U-LPQ), podcasts, and its social media presence, but we need your help with all these efforts to boost results.

### Read all about it!

Last year, NALSC began sending out press releases about the new U-LPQ and its potential to streamline and boost lateral partner hiring. Immediately, Law360 Pulse and Law.com responded with interviews and articles in their publications. The U-LPQ also has been promoted through regular LinkedIn postings and through direct outreach to law firms across the country. As a result, the list of law firms that will accept the U-LPQ as part of their lateral recruitment process grows almost daily.

The U-LPQ is featured on our website at <https://www.nalsc.org/u-lpq-information/> where you can get more information via the FAQ page and access downloadable forms ready for use by your candidates and clients. Be sure to use the forms yourselves, talk to your clients about its advantages, and like and comment on the social media posts which increases their reach. And shoot us an email at [info@nalsc.org](mailto:info@nalsc.org) to let us

know about your success stories when using the U-LPQ!

### Listen up!

There's no substitute for continuing to learn from the best—our NALSC colleagues and friends. Our podcasts feature our members and industry experts with the latest information for our legal recruiting profession.

The latest don't-miss episode of "Recruiter Stories," the official podcast of NALSC, features interviews by our Board Member Emeritus, Scott Love, with 2024 Annual Conference opening speaker Rob Mosley (Managing Partner of Learning & Development at Next Level Exchange) and Keynote Presenter and Legal Industry Influencer Alex Su, Esq. These two highly sought-after speakers preview the insights they will share at the Conference.

Opening speaker Rob Mosley reveals how we can better anticipate and understand how candidates and clients think when they are making important decisions around the value we bring to them and how to connect with them in a way that maximizes success. Keynote Presenter Alex Su, Esq. shares anecdotes from his career in law & technology and provide specific strategies to maximize your social media efforts to create authentic and effective content that gets you in front of your intended audience to drive business results.

Listen now! <https://buff.ly/3H3INkm>

The next episodes of Recruiter Stories will introduce more speakers

from our upcoming Annual Conference and provide teasers of the valuable information they will discuss in their in-person presentations. More episodes are due out before the Conference, so stay tuned!!

Gold sponsor Chambers Associate generously hosts another series of podcasts for NALSC and our niche industry, as well. We're delighted that both of these podcast series are extremely well-received. Would you like to suggest one of our members or an industry speaker for an upcoming podcast? Please let us know at [info@nalsc.org](mailto:info@nalsc.org).

You can access new episodes (and previous podcasts) for both podcast series via <https://www.nalsc.org/podcasts/>.

#### Please click!

NALSC's social media campaign is an integral part of the initiative to increase our organization's brand awareness, social media presence, and visibility within the broader legal community. Metrics continue to reflect considerable progress, in addition to driving record numbers of new search firm and law firm sponsoring members to our organization. To maximize this effort we need your participation!

Please be sure to CONNECT with and FOLLOW NALSC and our Executive Director, Stephanie Ankus, on LinkedIn. Also, please LIKE, COMMENT on, and SHARE our frequent informative LinkedIn posts about various industry topics. You can be a force multiplier with just a few clicks. (BONUS: Those quick and easy clicks increase your own social media visibility at the same time, as well.) This is a win/win for everyone!

We also encourage our membership to add the NALSC logo (which you can get from headquarters) to your website and email signature, with a line that reads: ***"(This search firm) is a proud member of NALSC and is accountable to the NALSC Code of Ethics®."***

#### Two heads are better than one!

Don't forget that NALSC members have access to ShareServ, which allows you to partner with other NALSC members across the country to find just the right lawyer candidate and just the right legal job opportunity to make a great match.

ShareServ is a powerful tool available to all NALSC Regular Members or NALSC Affiliate Members whereby you can submit and/or receive postings from fellow NALSC Regular Members or NALSC Affiliate Members seeking assistance in filling positions with specific parameters or placing a specific candidate on a shared fee basis. The shared fee amount is negotiated directly between the parties. This is a huge advantage for candidates and employers, as well as for the legal recruiters who are members of NALSC.

Access ShareServ on our website at <https://www.nalsc.org/shareserv/>.

*"When we work together, we can raise the profile of not only NALSC and the legal recruiting profession, but that of our own search firms, as well."*

#### Thank you

With all of the above initiatives, when we work together, we can raise the profile of not only NALSC and the legal recruiting profession, but that of our own search firms, as well.

It has been a pleasure to work with Website/Social Media Committee members Patrick Moya, Jordan Abshire, Natalie Thorsen Harris, Scott Love and NALSC Headquarters on these projects.

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## Advisory Committee Update

The mission of the Advisory Committee, comprised of ten representatives of NALSC's law firm supporting members, is to provide expertise to the NALSC Board of Directors on how NALSC can best meet the needs of its law firm members, and how law firm members can best contribute to the overall success of NALSC.

Currently, the Advisory Committee is assisting with the roll-out of NALSC's long-awaited U-LPQ (Universal LPQ) to their firms and the legal community as a whole. Along with Headquarters, the Committee is helping to create an online "NALSC Presents" program regarding the benefits and usage of the U-LPQ which is scheduled for Wednesday, March 20th at noon PT for Northern California's Bay Area Legal Recruitment Association ("BALRA"), Los Angeles Area Legal Recruitment Association (LAALRA), and the NALSC membership as a whole. The program also can be made available to legal recruitment organizations across

the country.

The Committee also assists with developing our Symposium and Annual Conference agenda programs in addition to providing suggestions for event locations, podcasts/article topics, potential speakers, and possible new initiatives such as the creation of regional events. As a liaison between law firms and search firms, the Committee also provides strategic thinking on trends in the profession and suggestions to refine legal recruiting best practices.

Many thanks to our Advisory Committee and its Chair, Carmen Kelley, Global Director Lateral Attorney Recruiting at Morrison & Foerster and Co-Chair, Shannon Davis, Chief Legal Recruiting & Integration Officer at Mintz, for their perspectives and contributions to NALSC's ongoing initiatives moving forward.

# NALSC DEI Initiatives

by Patrick Moya

We have listened and heard you that diversity, equity, and inclusion (DEI) are pivotal aspects, issues, and topics of concern for the professionals belonging to the NALSC Community. Recognizing the power that hiring decisions have, particularly for laterals at all levels, NALSC is taking a proactive stance in shaping the narrative of DEI within our organization. To that end, we are taking the following initiatives:

We have selected a top diversity consultant to gain insights and best practices to navigate the challenges that can arise in the recruitment process. The Board, including both incoming and outgoing members, will receive DEI training to better serve our membership and the community at large. This collaboration demonstrates NALSC's commitment to not only meeting but exceeding industry standards in promoting diversity and inclusion.

*"Recognizing the power that hiring decisions have, particularly for laterals at all levels, NALSC is taking a proactive stance in shaping the narrative of DEI within our organization."*

With the guidance of this DEI consultant and to ensure that our efforts are comprehensive and inclusive, we are actively soliciting feedback from law firms, search firms, and the legal industry. We are engaging in open dialogues, conducting thorough research, and benchmarking against industry best practices. This approach allows us to refine our goals as we progress, ensuring that NALSC remains dynamic and responsive to the evolving landscape of DEI in legal recruitment.

In addition, as reported in the past newsletter, the Board has created an ad hoc committee, the Belonging and Inclusion Committee, to address DEI issues related to recruiting. The establishment of this committee signifies our unwavering commitment to fostering an inclusive workplace by providing guidelines for attorney search professionals. By strategically guiding hiring decisions, we aim to set a new standard for diversity and inclusion within our organization and the broader legal profession.

The NALSC members leading these initiatives include Kathy Richardson, Patrick Moya, Arthur Polott, Natalie Thorsen Harris, Mitch Satalof, and Dan Binstock. The Belonging and Inclusion Committee is open to participation by all NALSC members. Please contact Headquarters at [info@nalsc.org](mailto:info@nalsc.org) if you are interested in participating.

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## Important Changes to NALSC Code of Ethics®

by Dan Binstock, Esq.

There's been a consistent and growing problem in our industry that needs to be addressed: search firms contacting potential candidates under misleading pretenses.

This plays out in various ways, but the most common being, "X firm specifically asked me to call you" when this was not the case. In some instances, the search firms have no relationship with the firms they purport to represent.

Based on the stories I hear, the search firms engaging in misleading outreach are not members of NALSC, and increasingly often are from overseas. However, when bad actors lie to lure candidates into discussions, it harms the profession as a whole for obvious reasons.

Honest recruiters are tired of hearing about this, law firms are frustrated by the various problems this creates, and candidates feel deceived

when they learn the truth and become skeptical of recruiters as a whole.

As the first step in addressing this problem, NALSC has updated the Code of Ethics. In Article 2, "Relations with Candidates," we changed Paragraph 1 as follows (changes in **bold**):

Information provided to **potential candidates during outreach or candidates during the recruiting process** shall be the most accurate information known to the search firm.

In Article 4, "General", we changed Paragraph 1 as follows:

No member shall **knowingly** make any false or deceptive ~~claims~~ **representations** in any **outreach or recruiting**, or in any advertising, promotion or public relations materials.



Here are the benefits of these changes:

As to Article 2, it makes crystal clear that accurate and honest information applies during outreach as well as the recruiting process itself (previously, “candidates” in Article 2 could have been interpreted to mean that it applied only to attorneys with whom the recruiter was engaged in a recruiting relationship).

As to Article 4, it makes clear that false or deceptive representations also apply to the outreach and recruiting process, not just advertising, promotion, or public relations.

If you have any questions about these changes or otherwise, please feel free to contact Ethics Chair, Dan Binstock, at (202) 559-0472.



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## Only NALSC Members are Bound by the NALSC Code of Ethics®

by Valerie Fontaine, Esq.

One of NALSC’s foundational purposes is to raise the ethics and professionalism of the legal search profession, and that is accomplished primarily through the promulgation and enforcement of the NALSC Code of Ethics®. Increasingly, law firms include compliance with the NALSC Code of Ethics in their agreements with search firms as a requirement for doing business together, demonstrating their growing demand for heightened ethical behavior by search firms. We were pleased to see that some AmLaw 100 law firms have begun taking it a step further by sending a copy of the NALSC Code of Ethics to search firms along with their contract renewals for 2024.

### Important Clarifications

One important point needs clarification: Technically, only NALSC members are bound by the NALSC Code of Ethics.

A NALSC Code of Ethics complaint can be filed only against NALSC search firm members who agree, as a condition of membership in the association, to subject themselves to the Code’s enforcement mechanism. A complaint cannot be filed against a non-member who violates its provisions even if that non-member search firm signed an agreement with a law firm to abide by the provisions of the Code, because that non-member has not agreed to be bound by the Code’s enforcement process.

Moreover, if a search firm, NALSC member or not, signs a law firm’s fee agreement which requires following the NALSC Code of Ethics, and then breaches that agreement by violating the Code, the NALSC enforcement mechanism does not take the place of nor supersede contractual causes of action appropriate for civil litigation. Law firms certainly can pursue those claims through judicial means. Note, also, that NALSC cannot enforce contracts; it can only determine whether the Code of Ethics has been violated by a NALSC member, and, if so, apply an appropriate sanction for the violation.

### The Code’s Enforcement Procedures

If a NALSC member search firm potentially violates the Code of Ethics, a formal and confidential complaint form can be completed online at the NALSC website. This provides an opportunity to explain the alleged facts and identify the potential violator. Any individual or entity, not just NALSC members, can file a complaint based on a potential violation of the Code.

The completed online complaint form is sent to the NALSC President and Ethics Committee Chair confidentially for an initial review to determine

whether the complaint appears to be valid and warrants further inquiry, or whether it is frivolous or contains insufficient or unreliable information.

If the Ethics Committee determines that a potential violation may have occurred, the Committee will notify both the complainant and the respondent/potential violator. The Committee then investigates the specific facts or circumstances to clarify, expand, or corroborate the information provided in the complaint.

*“Increasingly, law firms are including compliance with the NALSC Code of Ethics® in their agreements with search firms as a requirement for doing business together, demonstrating their growing demand for heightened ethical behavior by search firms.”*

After gathering the required facts, the Committee holds a telephone hearing where the parties have the right to counsel if they choose and both sides have the opportunity to present their facts and positions. The Ethics Committee then determines whether a violation occurred or whether the complaint should be dismissed. If a violation occurred, the Committee determines appropriate sanctions for the member search firm, and those can include censure, suspension, or expulsion from the association.

For further information:

- [NALSC Code of Ethics®](#) with Confidential Complaint Form
- [NALSC Bylaws \(Article IV – Code of Ethics Procedures; Sanction of Members\)](#)

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# What I'm watching for in 2024

Reprinted with Permission from [Off the Record](#) Newsletter Dec 23, 2023

*My view of the legal ecosystem, and why I'm going to pay close attention to generative AI, new Biglaw offerings, and the rise of "independent" attorneys*

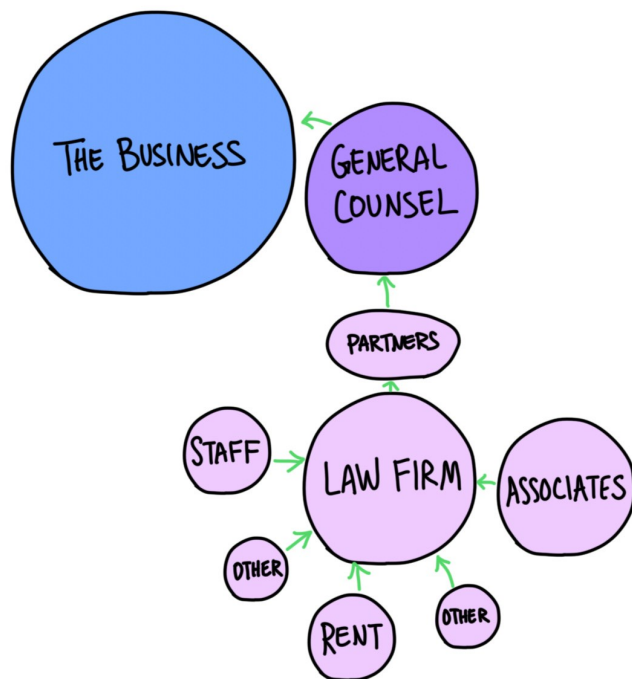
by Alex Su, Esq.

Today, instead of sharing my predictions about what's coming to the legal industry, I'll share where I think the most action will take place next year. In short, it's (1) generative AI; (2) Biglaw firms adding low-cost capabilities; and (3) strong bench talent among independent attorneys. Before I get into why, I'll share some observations on the past, and the trends I'm seeing take place right now.

Everything in this article is based on personal observations and off the record conversations from various players in the legal ecosystem. I'm sure I've gotten more than a few details wrong, but hopefully they don't change my overall conclusions. If you have a different perspective I'd love to hear from you!

## The Past: The Legal Value Chain

Historically, the legal value chain was relatively straightforward. Law firms would hire associates and staff, rent out office space, and provide a place where everyone could "process" legal work. The work would be originated by the partners, who had relationships with General Counsels who lead legal departments at big corporations.



There are probably tons of other law firm "suppliers" that I didn't include.

To be sure law firms didn't *\*always\** work this way. But some time in the mid 20th century, law firms realized that they could benefit from economies of scale, so they started to get bigger and bigger. At some point, these large firms diverged into two separate, and very different groups: [the Maroons](#) and [Grays](#) (shout out to Bruce MacEwen).

### Maroons

- Truly distinctive "destination" capability
- Price no (real) object

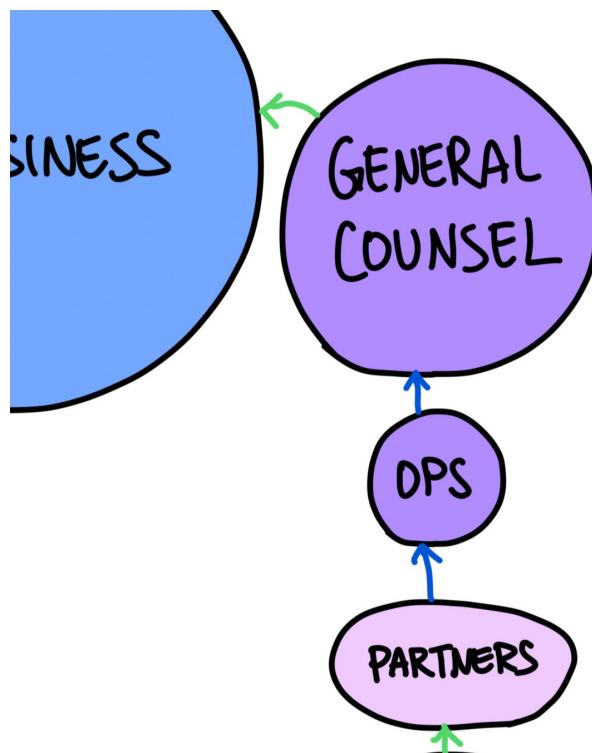
- Rarer events in corporate lifecycle with boardroom visibility

### Grays

- Efficient, predictable, reliable, transparent
- Price-sensitive, from mildly so to least-cost wins
- Mostly "run the company"—less "bet the company:" Legal services that are a cost of doing business

Today I'm going to focus exclusively on the Grays because that's where most changes are taking place. I'm aware that many firms are actually Maroon, and are *\*not\** feeling pressure, because they operate in practice areas that are price inelastic or have differentiated moats (e.g. Wachtell) Maroon firms are a much smaller group though, and have less potential for change.<sup>1</sup>

## A New Gatekeeper Emerges



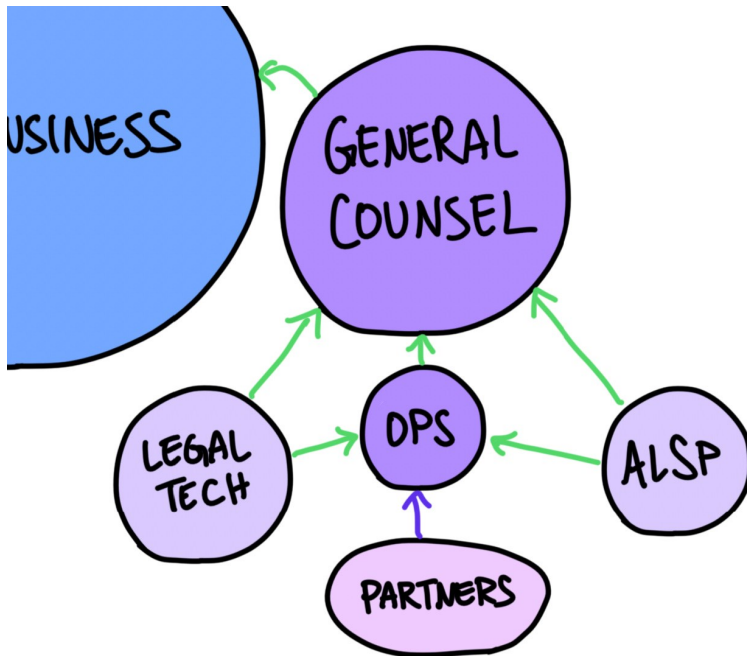
You can see how Ops stands in between the rainmakers and clients

As you can see from the image above, I've called this new intermediary "Ops" short for operations. The specific job title doesn't matter—it could be "legal ops," "legal procurement," "legal innovation" or even a regular DGC/AGC title. The point is that in recent years, a new intermediary emerged to serve as a gatekeeper between the legal buyer (GC) and the law firm partner. Importantly, this Ops person's mandate was to make sure legal departments weren't overpaying outside law firms for ordinary "run the company" matters.<sup>2</sup>

Ops disrupted the traditional law firm client acquisition model. Partners could no longer just rely on decades-long relationships formed in

law school or on the golf course to bring legal matters to the firm. Instead, they increasingly have to justify themselves in \*shudder\* business terms.<sup>3</sup>

That's not even the worst part. The Ops people aren't just bringing in competitor firms into the mix; they're also bringing in non-law firm competitors too.<sup>4</sup>



It's not just law firms serving clients any more

For example:

- Legal technology companies that had previously only served law firm clients. Like Logikcull, who started offering their e-discovery tech to GCs instead of just law firms. It's all because tech companies now have an internal champion to influence GCs. Although these startups first focused only on routine, administrative matters (like e-billing or matter management) over time they became capable enough to automate work traditionally handled by the firm (like basic e-discovery processing, contract review, etc.)<sup>5</sup>
- Alternative legal services providers (ALSPs), who could rely on lower cost human labor—lawyers, non-lawyers, outsourced talent, to get work previously done by the firm at much lower rates. ALSPs could help with first level doc review, technology implementation, and occasionally even in-house lawyer work.

Despite this trend, most legal departments still do things the traditional way. Because for the most part, they haven't added an Ops function yet. Right now the two sectors that have leaned in the most on Ops are:

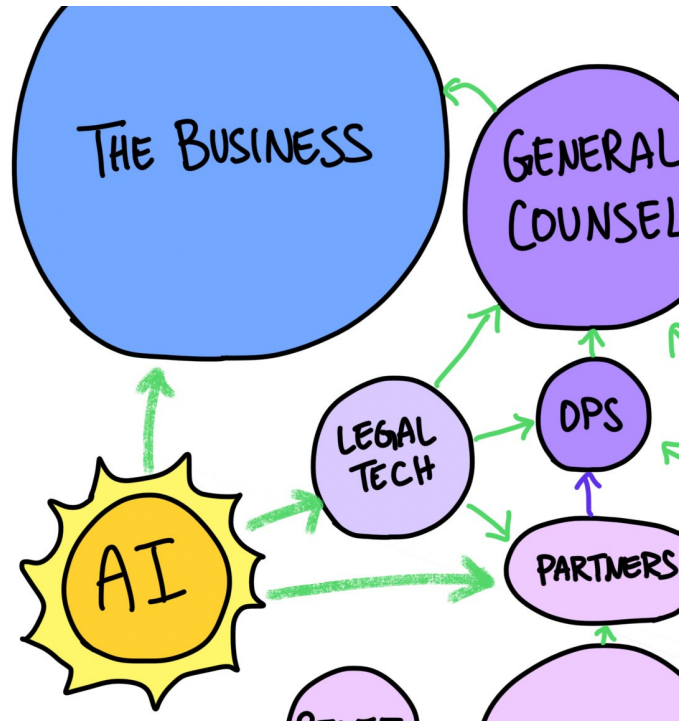
- The tech industry, because there was a cultural comfort with digital transformation and "doing things differently." Tech was the earliest mover when it came to the creation of a legal ops function, which is why most legal ops professionals work at tech companies (although it's becoming more ubiquitous in recent years)
- The insurance industry, because they have lots of experience with operational excellence stemming from their core competency in managing uncertainty & risk. Although insurance firms might not always have people with "ops" titles, they have the same mandate, which is to drive efficiency and manage outside counsel spend.<sup>6</sup>

Incidentally the heavy concentration of Ops people in tech companies

explains why there's a rumor going around that "legal ops is dying." It's actually a reflection of another trend—broad layoffs in the tech sector—which makes it look like these jobs are disappearing. When you look beyond tech, an increasing number of legal departments are bringing on Ops people—perhaps with different job titles, which makes the growth less obvious.

## The Rise of Generative AI

The big story of this year is the emergence of generative AI and its impact on all the different players in the legal ecosystem. I attempted to illustrate it visually here:



It's hard to predict where AI will have the most impact, partly because it depends on how each group reacts to it, but also because we don't understand its full capabilities yet

As you can see, generative AI has three different entry points, which I've tried to illustrate visually with the green arrows

- Law firms: The green arrow points to the partners because they're the ones who can drive AI adoption at firms, and not just because they control everything. The consensus seems to be that AI will reduce the need for associates and staff,<sup>7</sup> while preserving the partners' ability to maintain a high leverage operation. Which means they're most incentivized to bring in AI, even if it causes short term pain. If the partners can be persuaded to lean in to AI, then adoption will take place quickly.<sup>8</sup>
- Legal tech companies: This year it felt like every single legal tech company, including Ironclad (full disclosure: that's where I work) announced generative AI capabilities.<sup>9</sup> It's just table stakes these days. Legal tech companies' core competency is delivering software solutions to legal clients, and many have strong distribution channels to legal departments and law firms (e.g. Thomson Reuters, Lexis, Litera). Although many of these players may be at risk of being disrupted themselves, it doesn't seem likely at this point.
- The business: This part I have the least insight into but might have the greatest potential for impact. Many companies have

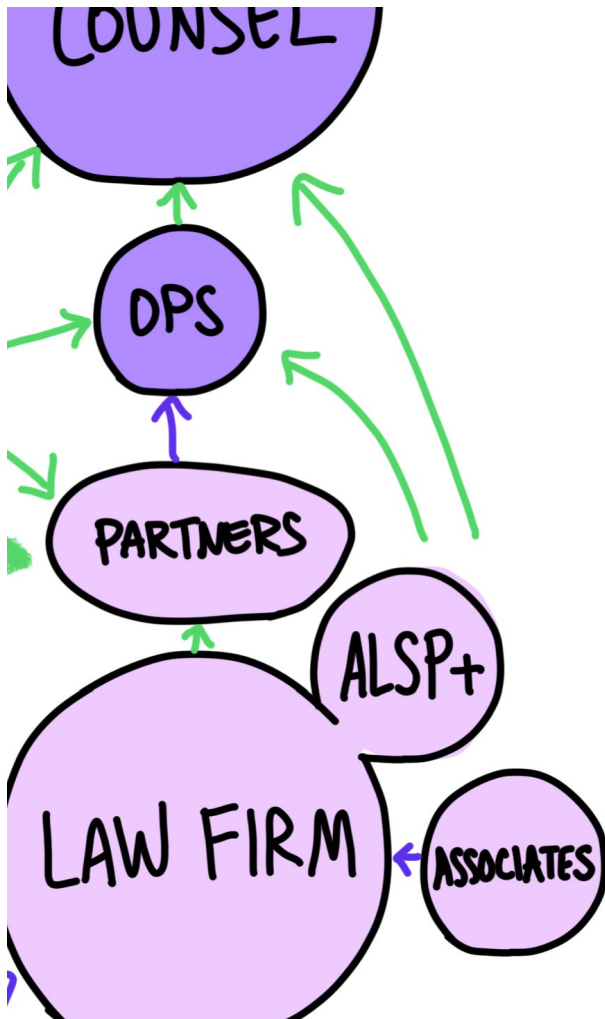
incorporated general LLMs to help with a variety of tasks. If that tech can be applied to legal work in a reliable manner, the business can strong-arm the legal department into using it. The challenge of course, is whether these general LLMs are good enough. After all, the minimum threshold for accuracy for marketing, as an example, is far lower than for legal work.

## Other Hot Spots of Activity

Looking ahead, there are two key areas that I'll be watching: (1) Law firms developing low-cost provider capabilities and (2) Increased quality of talent among independent attorneys.

### Law Firms Adding Low Cost Provider Capabilities

The diagram I used below is of ALSPs merging with law firms. I used the term "ALSP+" to include not just classic captive ALSPs, but also a variety of lower cost technology, outsourced, or automation solutions.



These new ALSP+ services are better aligned with what Ops is trying to deliver to legal departments

Law firms adding on ALSP+ capabilities isn't exactly a new thing. For example:

- Many firms have already launched captive ALSPs, e.g. [Law firm captives are on the rise & their growth has staying power](#);
- Some firms have technology consulting arms or subsidiaries, e.g. [Norton Rose Fulbright joins large law firms with new tech units](#)

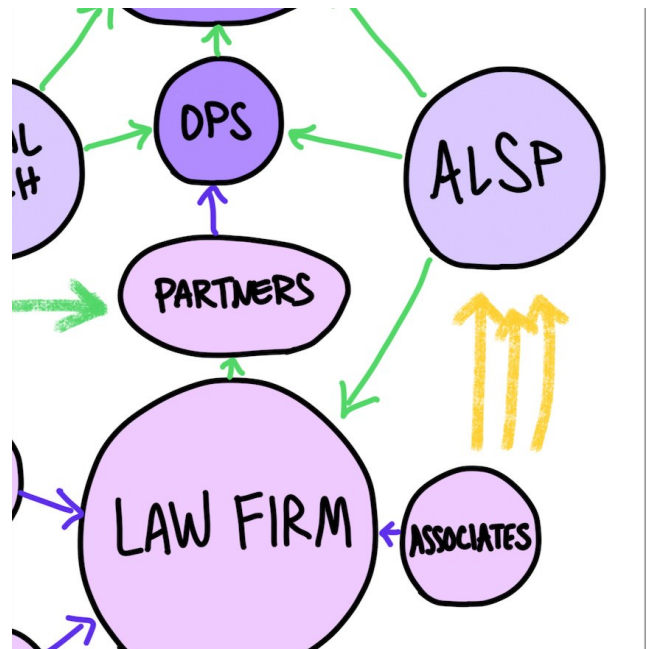
- Others have non-lawyer professionals who provide consulting services, e.g. [Why Manatt's Model for Blending Legal, Business Services Works After 15 Years](#)

While this overall trend isn't exactly new, I'm willing to bet that things will move more in this direction. Just this week, Allen & Overy [announced the creation](#) of their own internally developed contract negotiation tool. And Gunderson just [posted on LinkedIn](#) about their successful pilot of an internally built AI tool. I expect this trend to continue to accelerate, with firms launching ALSP+ initiatives to diversify revenue sources and serve clients better.<sup>10</sup>

### Increased Quality of Talent Among Independent Attorneys

The second order effect of all these associate layoffs is that there's going to be an incredibly large pool of capable lawyers who are unaffiliated with any major law firm. The layoffs will continue, as firms struggle to forecast demand, and occasionally overhire strategically, e.g. to ensure they can support the business that lateral rainmakers bring in.

A third order effect might be that as this talent pool rises, it'll lead to explosive growth among ALSPs, and specifically, flexible talent platforms that connect these independent lawyers to clients (full disclosure: I'm an advisor for one of them, [Latitude Legal](#)). In the past, clients were hesitant to use contract attorneys because of the perception that they were "low quality." Not any more. There's a supply glut of high caliber laid-off associates who are interested in practicing law in a non traditional way.



These newly independent lawyers will have unprecedented opportunities. In addition to working as a highly compensated contract attorney, they can also open solo shops or join smaller, more entrepreneurial firms.<sup>11</sup> The rise of social media during the pandemic has added another dimension of change, because it's leveled the playing field for client acquisition.<sup>12</sup> If you're good at your craft, and feel stifled by bureaucratic firms, there's never been a better time to go solo.



## Conclusion

If you made it all the way to the end, congrats! This post was kind of a stream of consciousness of everything I've been seeing play out in the legal ecosystem. I know many of you have a closer view of some of these developments and I would love to hear from you if I'm mistaken about something or if I'm over-generalizing.

<sup>1</sup> To learn more about what makes Maroon firms different, check out my deep dive on Wachtell in [Sell Outcomes, Not Hours](#)

<sup>2</sup> Ops people have been around for a while. In recent years, they're getting more effective in part because of the growth of niche communities where they can meet each other and share best practices. Major conferences include CLOC, Legal Operators, Legal Ops.com and Buying Legal Council. The growth of these conferences is a reflection of the growth in ops roles.

<sup>3</sup> Software has accelerated this dynamic too. There are tech companies like Brightflag, Pursuit, and others that provide data and analytics on outside counsel spend. Just this week Priori announced the launch of Scout, which supposedly [uses AI and data](#) to "empower companies to find the best legal talent for their need at that moment with minimal friction."

<sup>4</sup> There's also the possibility that legal departments will do more of the work themselves. See e.g. [Cost-Cutting Clients Look To Bring More Work In-House Next Year](#)

<sup>5</sup> Eventually the market realized that you could build a successful legal tech company by targeting in-house exclusively, based on the success of companies like Ironclad. That spawned a whole bunch of new startups that came up with all sorts of products to serve in-house lawyers instead of law firms.

<sup>6</sup> The operational efficiency of insurance clients led to enormous downward price pressure on insurance focused law firms.

<sup>7</sup> See this guest post by Cece Xie, [AI Will Invert The Biglaw Pyramid](#)

<sup>8</sup> Just this week, Allen & Overy announced the launch of their AI contract

negotiation tool, and Gunderson announced their successful pilot of developing their own AI tool. Interest in technology has moved far more quickly with AI than previous disruptive technologies, like the cloud.

<sup>9</sup> Contracts technology represents an important strategic point in the ecosystem because it not only impacts law firms and corporate legal, it also can impact the business itself. As I wrote earlier this year in [Problems Worth Solving, Part 1](#): "...contract bottlenecks create real operational friction (and costs) for the organization at whole. Sales can't close deals fast as they should and vendors auto-renew by accident, creating unforeseen costs. These are organizational problems that need to be solved."

<sup>10</sup> If you'd like to read more about the dynamics driving this push to offer low cost services, check out [Your Margin Is My Opportunity](#)

<sup>11</sup> There's a huge gap in the market due to lawyers credentialism' "blind spot." I wrote about this in [Past Performance Is No Guarantee Of Future Results](#): "...if you can get past your "overvaluing past performance" blinders, you can make aggressive moves that your competitors can't, and exploit existing business opportunities in the market."

<sup>12</sup> To learn more, check out this article published a week ago from ALM international called [The Fast \(and Strange\) Rise of the Legal Influencer](#)



### ABOUT THE AUTHOR:

Alex Su, Esq. is a legal industry influencer and creator of the Newsletter Off the Record. Alex will also be the Keynote Speaker at the upcoming NALSC 2024 Annual Conference.

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## The Impact of AI on Legal Recruiting: What Recruiters Should Know

By Alex Young, Chief Strategist at Legal Recruiter Directory

In the ever-evolving world of legal recruiting, Artificial Intelligence (AI) stands as a transformative force, reshaping how recruiters source, evaluate, and connect with top legal talent. This cutting-edge technology is revolutionizing recruitment processes, bringing with it unique benefits and challenges. Learning to leverage AI effectively can help you stay at the forefront of innovation in legal recruitment and talent acquisition.

### How Recruitment is Using Artificial Intelligence

Artificial Intelligence (AI) has revolutionized the landscape of legal recruitment, streamlining processes and enhancing efficiency in several key areas:

- **Resume Screening:** AI algorithms have transformed the task of resume screening, a cornerstone of recruitment. These advanced systems can swiftly analyze vast numbers of resumes, identifying key skills, experiences, and qualifications that align with specific job requirements. This technology lessens the time spent on manual screening, allowing recruiters to focus on more strategic aspects of their role.

- **Appointment and Interview Scheduling:** AI-driven tools are now adept at managing the logistics of recruitment, particularly in scheduling appointments and interviews. These systems can coordinate calendars, send reminders, and even reschedule meetings, reducing administrative burdens and improving the overall efficiency of the recruitment process.
- **Anonymization and Diversity Hiring:** AI is playing a crucial role in promoting diversity in the legal industry. Through anonymization features, AI tools can screen resumes and applications without revealing candidates' personal information, such as names, gender, or ethnicity. This approach helps mitigate unconscious biases in the early stages of recruitment, ensuring a fairer, more diverse hiring process.

### Pitfalls We Need to Watch out for

While AI brings transformative advantages to legal recruiting, there are

Continued on page 13

potential pitfalls that recruiters must be vigilant about to ensure the technology is used effectively and ethically:

- **Bias Generated from Using Algorithms:** One of the key concerns with AI in recruitment is the [potential for algorithmic bias](#). If an AI system is trained on historical data that contains biases, it can inadvertently perpetuate or amplify these biases in its decision-making process. This could lead to unfair candidate screening and selection, undermining efforts to promote diversity and inclusivity in hiring.
- **Detachment from the Decision-making Process:** The automation capabilities of AI can lead recruiters to become overly reliant on technology, resulting in a detachment from the decision-making process. It's crucial for recruiters to remember that AI is a tool to aid human decision-making, not replace it. Maintaining a balance between AI-driven insights and human judgment is essential for a holistic and effective recruitment strategy.
- **Trusting AI Too Much, Too Soon:** While AI in legal recruiting is advancing rapidly, it's important to approach its adoption with a level of caution. Blindly trusting AI without fully understanding its mechanisms, limitations, and the context of its applications can lead to errors and inefficiencies. Recruiters should adopt AI incrementally, continually evaluate its effectiveness, and ensure they have a thorough understanding of how AI tools work and the implications of their use.

Navigating these pitfalls requires a thoughtful and informed approach to integrating AI into recruitment processes. By being aware of these challenges, recruiters can harness the power of AI responsibly and effectively, enhancing their recruitment practices while maintaining ethical standards and human oversight.

#### Striking a Balance Between AI and Recruiters

Incorporating Artificial Intelligence (AI) into legal recruiting doesn't mean replacing the human touch that's crucial in the hiring process. Instead, it's about finding the right balance between technological efficiency and human insight. Here are ways to achieve this harmony:

- **Establish Manual Reviews at Key Points in the Process:** While AI can significantly streamline the recruitment process, it's essential to incorporate manual reviews at critical stages. This could include a human evaluation of shortlisted candidates or a review of AI-generated recommendations before final decisions are made. These checkpoints ensure that the recruitment process benefits from both AI efficiency and human judgment, particularly in understanding nuances and subtleties that AI might overlook.
- **Measure and Assess Performance Regularly:** Regularly evaluating the performance of AI tools is vital. This involves assessing how well the AI is aligning with recruitment goals, the quality of candidates sourced, and the efficiency of the process. By continuously measuring AI's performance, recruiters can make informed adjustments to strategies, ensuring that the technology is being used optimally and complementing their efforts.
- **Be Aware of the Data AI is Using and How:** Understanding the data that feeds AI algorithms is crucial. Recruiters should be aware of what data is being used, how it's being analyzed, and the basis on which AI makes decisions. This knowledge is crucial for ensuring that the AI operates without inherent biases and aligns with the ethical standards of the recruitment process.

*"It's crucial for recruiters to remember that AI is a tool to aid human decision-making, not replace it. Maintaining a balance between AI-driven insights and human judgment is essential for a holistic and effective recruitment strategy."*

Striking a balance between AI and human recruiters involves leveraging technology to enhance efficiency while maintaining human oversight to ensure fairness, accuracy, and ethical recruiting practices. This balanced approach leads to more effective, nuanced, and ethical recruitment outcomes.

#### ABOUT THE AUTHOR:



Alex Young is the Chief Strategist at Legal Recruiter Directory. The Legal Recruiter Directory is a premier resource and pivotal connection point in the legal recruitment industry. Proudly serving as a sponsor of the National Association of Legal Search Consultants (NALSC), the directory is committed to upholding the highest standards of professionalism and ethics in legal recruiting.

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# Ethical Obligations Regarding Lateral Attorney Departures

By Tina B. Solis, Esq. and Christina E. Kurow, Esq.

Legal recruiting professionals, both in law firms and in search firms, must be aware of the ethical obligations of attorneys departing and joining law firms, both for themselves and so that they can advise their candidates. These obligations vary across the country, and the ABA and various states and municipalities have issued guidance covering their jurisdictions. Most recently, the NY City Bar Association issued an opinion on the subject, largely following the roadmap provided by the ABA. We analyze the NY City Bar Association opinion below with the expectation that most jurisdictions will focus on similar issues when analyzing a lateral's departure process.

In December 2019, the American Bar Association published Formal Opinion 489 ("ABA Opinion 489")—a game-changing opinion that clarified the ethical duties of attorneys and law firms related to the lateral attorney-departure process. ABA Opinion 489 provided a roadmap for practitioners and firms to ethically navigate the competing interests inherent in the lateral attorney departure process, including: (1) attorneys' right to practice law, (2) clients' right to their choice of counsel, and (3) law firms' obligations to properly transition client matters. The opinion provided helpful guidance on issues ranging from the enforceability of attorney fixed notice periods to attorneys communicating with clients, as well as their partners, associates, and staff pre-departure.

While ABA Opinion 489 provided significant guidance regarding the lateral attorney departure process, it is not controlling. Instead, state-specific laws, cases interpreting those laws, rules of professional conduct, and bar opinions control for each state. The laws, rules, and bar opinions vary from state to state. For example, Florida and Virginia have adopted specific ethical rules addressing attorney departures.<sup>1</sup> Other states have not yet done so. The New York City Bar Association, however, recently issued a comprehensive opinion, which largely mirrors the guidance set forth in ABA Opinion 489.

In June 2023, the New York City Bar Association issued Formal Opinion 2023-1 ("New York Opinion"), which provides state-specific guidance for addressing the ethical issues that often arise in the lateral attorney departure process. The New York Opinion provides New York practitioners, among other things, with guidance on how communications with clients should be handled, notice requirements should be addressed, and client files should be transferred. Generally consistent with ABA Opinion 489, the New York Opinion reinforces the importance of the clients' right to choice of counsel and attorneys' right to practice law. Below is an overview of key takeaways from the New York Opinion, which New York practitioners contemplating a lateral move, as well as law firms, and recruiters should keep in mind.

## 1. Notice Periods Must be Addressed on a Case-by-Case Basis

As with ABA Opinion 489, the New York Opinion states that fixed notice provisions should be addressed on a case-by-case basis and provides that attorney notice provisions must be reasonable to be enforceable. Such provisions cannot be used to improperly interfere with a departing attorney's ability to compete or punish an attorney for leaving the firm pursuant to New York Rule of Professional Conduct 5.6.<sup>2</sup>

The New York Opinion specifies that all circumstances relevant to the

departure must be taken into account in determining the enforceability of notice provisions, including: (1) the firm's need for the departing attorney to complete administrative tasks, such as notifying clients, sending invoices, and transitioning files; (2) the client's right to the attorney of their choice; and (3) the attorney's right to autonomy and mobility.<sup>3</sup> The opinion recommends these concerns are best determined by the firm and departing attorney after assessing the particular circumstances of the attorney's departure.<sup>4</sup>

But the New York Opinion also notes that absent unusual circumstances, firms cannot require the immediate departure of an attorney after notice is given.<sup>5</sup> Rather, departing attorneys must be given the opportunity to address all legitimate concerns related to their transition, including tending to client matters and meeting deadlines. In short, what constitutes a "reasonable" notice period will depend on a variety of factors that must be analyzed on a case-by-case basis.

## 2. Attorney Communications with Clients

The New York Opinion clarified that, in line with ABA Opinion 489, attorneys should provide notice of their departure to the firm first, then to the client. The opinion noted how the New York Court of Appeals in *Graubard v. Moskovitz*, held that *ideally* attorneys would not notify clients of the upcoming departure until after they provided notice to the firm—leaving open the possibility that pre-notice solicitation could be legally permissible in some cases.<sup>6</sup> The New York Opinion states that while New York Rule of Professional Conduct 1.4 requires attorneys to "promptly inform the client" of any "material developments in the matter," this obligation can likely be fulfilled *after* the attorney provides notice to the firm of their departure.<sup>7</sup> Accordingly, "absent unique circumstances" the New York Opinion provides that attorneys should not inform clients of their intention to change firms without first providing notice to the firm.<sup>8</sup>

*"In addition to ethical rules, it is critical to consult state-specific laws related to attorney departures, including, but not limited to, fiduciary obligations, contractual commitments, and trade secret law, as well as the departing attorney's employment and partnership agreements."*

Like ABA Opinion 489, the New York Opinion stresses that the preferred but not required course of action is for the law firm and departing attorney to jointly provide notice to the client of the attorney's impending departure.<sup>9</sup> But if either the law firm or departing attorney decline to send the notice jointly, it is not a violation of the rules for the law firm or

*Continued on page 15*



departing attorney to unilaterally provide the client with notice.<sup>10</sup>

### 3. Attorney Recruitment of Attorneys and Staff

Another issue addressed by the New York Opinion is when a departing attorney may reach out to other attorneys and staff about their decision to leave and begin recruiting. The opinion concludes that from an ethical standpoint, attorneys should refrain from communicating their departure and recruiting others at the firm until after the firm is informed of their departure.<sup>11</sup> The reasoning being that before the firm has notice of the departure, the departing attorney would have an unfair advantage over the firm with respect to recruiting others. Ultimately, unless a departing attorney can point to some aspect of a client's choice of counsel to justify pre-notice solicitation, the firm should be notified of the departure before the departing attorney recruits other attorneys or staff.<sup>12</sup>

Once a departing attorney provides notice to the firm, however, the balance shifts. According to the New York Opinion, the playing field at that point is even with respect to recruitment considering both the departing attorney and firm are aware of the impending departure.<sup>13</sup> The opinion notes that solicitation of attorneys or staff after notice is provided may facilitate a client's choice of counsel because knowing who from the team is also leaving may be relevant to a client's decision whether to transition its matters to the attorney at her new firm or stay with the current firm.<sup>14</sup> Whether firm restrictions on solicitation pre-departure will be upheld depends on the circumstances, and specifically, whether they are being used simply to give the current firm an unfair advantage.<sup>15</sup>

### 4. Firms Cannot Restrict Access to Departing Attorneys During Transition Period

The New York Opinion provides that firms cannot interfere with a departing attorney's obligations to competently represent clients under Rule of Professional Conduct 5.6.<sup>16</sup> Thus, as with ABA Opinion 489, denying full access to office and computer systems, files, staff, and other firm resources essential to the departing attorney's representation of clients would violate Rule 5.6 and the client's right to choice of counsel.

Overall, the New York Opinion provides New York practitioners and law firms with clarity around the attorney departure process and also serves as a reminder that each state's rules must be consulted when addressing a lateral attorney departure. In addition to ethical rules, it is critical to consult state-specific laws related to attorney departures, including, but not limited to, fiduciary obligations, contractual commitments, and trade secret law, as well as the departing attorney's employment and partnership agreements. It is always prudent to consult legal counsel early on in the process well before resignation or notice of withdrawal is provided to the firm to ensure a smooth transition and head off any potentially thorny ethical and other issues that may arise. Recruiters working with New York practitioners should be aware of these developments and encourage their candidates to seek counsel in connection with a lateral move to avoid running afoul of these ethical and fiduciary obligations.

<sup>1</sup> See Fl. Rule of Prof'l Conduct 4-5.8 ("Absent a specific agreement otherwise, a lawyer who is leaving a law firm may not unilaterally contact those clients of the law firm for purposes of notifying them about the anticipated departure or to solicit representation of the clients unless the lawyer has approached an authorized representative of the law firm and attempted to negotiate a joint communication to the clients concerning the lawyer leaving the law firm and bona fide negotiations have been unsuccessful."); Va. Rule of Prof'l Conduct 5:8 ("Neither a lawyer who is leaving a law firm nor

other lawyers in the firm shall unilaterally contact clients of the law firm for purposes of notifying them about the anticipated departure or to solicit representation of the clients unless the lawyer and an authorized representative of the law firm have conferred or attempted to confer and have been unable to agree on a joint communication to the clients concerning the lawyer leaving the law firm.").

<sup>2</sup> NY City Bar Formal Op. 2023-1 at 9-10.

<sup>3</sup> *Id.* at 10.

<sup>4</sup> *Id.* at 11.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 5 (citing *Graubard Mollen Dannett & Horowitz v. Moskovitz*, 86 N.Y.2d 112, 653 N.E.2d 1179 (1995)).

<sup>7</sup> *Id.* (citing NY Rule of Prof'l Conduct 1.4, Cmt. [7A]).

<sup>8</sup> *Id.* at 6.

<sup>9</sup> *Id.* at 12.

<sup>10</sup> *Id.* In contrast to the New York Opinion preferring joint communications, the Florida and Virginia Rules of Professional Conduct require good faith negotiations between the departing attorney and law firm before unilateral communications may be sent to clients. See Fl. Rule of Prof'l Conduct 4-5.8; Va. Rule of Prof'l Conduct 5:8.

<sup>11</sup> NY City Bar Formal Op. 2023-1 at 7. The New York Opinion noted that in *Gibbs v. Breed, Abbott & Morgan*, 271 A.D.2d 180, 188 (1st Dep't 2000), the court held pre-departure solicitation of partners was permissible, but solicitation of associates and staff was not. The court in *Gibbs*, however, applied law related to fiduciary obligations among partners, not the Code of Professional Responsibility.

<sup>12</sup> NY City Bar Formal Op. 2023-1 at 7. In contrast, under Illinois law, a departing attorney may not solicit associates or staff until after their departure. *Dowd and Dowd, Ltd. v. Gleason*, 352 Ill. App. 3d 365, 377 (1st Dist. 2004).

<sup>13</sup> NY City Bar Formal Op. 2023-1 at 15.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

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# Storytelling and Collaboration to Advance DEI in Lateral Recruiting

by Bahareh Samanian, Esq.

As search firm recruiters, we are uniquely situated to tell our candidate's story in a compelling way. We bring value by diving into their journey and experiences to present a full picture of what they offer as an attorney and colleague. There are specific actions we can take as search firm recruiters. This strategic approach applies to lateral attorneys at all levels across Am Law 200 firms, regional firms and boutiques, and can be most effective for counsel and junior partners building their practices. How do we promote DEI through the lateral attorney recruitment process? Here, we will explore intentional strategies for search firm and law firm recruiters to collaboratively increase diversity in lateral recruiting.

## ***Take the time to really know your candidate***

Search firm recruiters can help increase a diverse candidate's chances of being considered and ultimately hired by taking the time to learn their story. Start by engaging your candidate in a thorough intake conversation that takes you in a variety of directions. Ask questions, *actively* listen, follow up and understand their story.

Do they mention an affinity group membership on LinkedIn that was not included in their resume? Ask why. Are they the first in their family to attend college? What does this accomplishment mean to them? Did family obligations require them to scale back their practice or leave altogether and now they are trying to reenter? What do they see as their biggest challenge in making this transition?

Are they downplaying the size of their book of business? Why? Could they increase their billing rate? Are there elements of their personal story that highlight their work ethic and ability to generate business? Do they have a record of business generation without receiving adequate credit?

After you learn your candidate's story, you can shape it in a way that will increase their attractiveness to a law firm. Doing so enables you to identify their key talking points with the firm. If relevant to the candidacy, you can also use this information to begin sketching out a business plan early in the process.

## ***Identify firms that would be an excellent match***

When identify firms, the magic happens when you dig deeper into the matchmaking. Naturally, we look for a good fit in terms of a firm's practice area and substantive needs, but we can push into other key factors and metrics.

Increasing opportunity at law firms ultimately starts with leadership. What does the executive committee and other members of firm leadership look like? Is it diverse? What is their story? Are they "lifers" or have they moved around and understand what it means to be a lateral? What are their backgrounds? Does this firm have a record of supporting and promoting attorneys from diverse backgrounds?

Many of us have access to incredible research tools that provide helpful information in a matter of seconds. Use them. Look at the firm's hiring and attrition trends. What is the demographic makeup? By researching the firms, practice groups, and leadership, you will have more insightful information to provide to your candidate regarding the firm's DEI progress.

## ***"No Need" – How to move beyond or at least unpack***

Now that you have thoroughly interviewed your candidate and researched and identified the right firms, you are eager to begin the process of introducing your candidate. You send your inquiry out and are quickly met with a "thank you - sorry, no need" email response from a law firm. What does this mean, really?

Law firm recruiters are busy – many of you (including yours truly) know this firsthand as you have made the switch from inside to outside search firm recruiting. The law firm recruiter may have briefly glanced at your blind inquiry or submission. They are looking for something specific your candidate lacks on paper. While diversity may be important in their recruiting efforts, it just is not a match on paper for this particular candidate.

*"Great things can happen for diverse candidates when search firm recruiters strategically partner with law firm recruiters."*

What do you do? Pick up the phone and politely press to learn more, especially if there is an existing relationship with the recruiting professional at the firm. Find out where the firm can be flexible in their hiring criteria or, if the criteria is rigid, ask what they need so you can get past the "no need" next time. Explain your candidate's drivers in making the move, why it makes sense for the firm to speak with them, and provide important background and context.

We are the storytellers bringing candidates to life. Paper submissions and email communications alone are not enough. Use this conversation with the law firm recruiter to discuss how this particular "non-traditional" candidate presents an *opportunity* for the firm and not a risk; challenge the bias that "traditional" candidates are often viewed as investment hires (when they do not have a book of business) and "non-traditional" candidates can be viewed as risky hires (when they also do not have a book of business). Use this conversation to revisit and unpack this institutionalized gatekeeping that can sideline "non-traditional" candidates.

## ***Practice relationship-based recruiting***

Great things can happen for diverse candidates when search firm recruiters strategically partner with law firm recruiters. We are not in a transactional business. We are in the business of people and relationships. Recruiting in a transactional way causes us to lose the essence of what we are all here to do, and that is to invest in people. You cannot see the whole person if you only see one dimension of a person.

Relationship-based recruiting is about the long game and prevails over transactional recruiting. Recall the best recruiting relationship you have and ask yourself why that is the case. It is likely because you have taken the time to build on that relationship – one where there is a strong and open line of communication. We can partner with law firm recruiting professionals to be more involved and influential in hiring decisions to make DEI progress.

Through an engaged approach, we can have important conversations that can positively impact careers and change lives. To express that there is no need

for a diverse candidate when the data shows, year after year, that law firms lack diversity, requires conversation and explanation. In certain instances, it may make sense to involve a diversity professional at the firm to advance the conversation.

#### **Continuing engagement during the interview stage**

As your candidate advances to the interview stage, continue the dialogue with the law firm recruiter. Your knowledge and insight about your candidate and what is most important to them in this lateral move will help the law firm arrange a thoughtful interview experience. The interviews should include attorneys reflective of the firm's diversity, in addition to what the practice group needs for substantive vetting. Convey to the law firm what the candidate would like to have addressed to balance vetting with selling. Can the firm identify champions and sponsors for candidates to include? Who else at the firm had a similar path to this candidate? Are they successful? Can they be a sponsor? What progress have the firm's attorney leaders and recruiting professionals made in this area? What can other firms do to learn from these firms?

The firms doing the above are doing it well. They are open to con-

versations with search firm recruiters and will say, "I like what you are doing here and thank you for bringing us diverse candidates. Let's keep at this and hopefully next time it is a match."

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## The Perils of Underselling

By Melissa A. Peters, Esq.

There has long been a feeling in our industry that lateral partners "puff" up their numbers when interviewing and completing the Lateral Partner Questionnaire (LPQ). Our law firm clients regale us with stories of how they were burned by a lateral candidate who dramatically overestimated their portable book and failed to produce even close to what had been promised. Indeed, most firms apply some inherent discount when analyzing the LPQ because of this belief that candidates consistently oversell. Recently, a Managing Partner told me that he automatically assumes that a lateral's book is 25% less than what the LPQ reflects.

Yes, there are candidates who are clearly exaggerating their numbers to get a hefty payday, but assuming that is the case can be overly applied. Many factors contribute to why a lateral's numbers do not play out in the way they expected. These include timing (how long you give the lateral to produce), the new firm's integration process, unexpected client conflicts, and the new firm's resources.

*"If your candidate is geared toward under-promising, you can proactively use the U-LPQ early in the process to help them get a handle on their real numbers."*

Lateral candidates often recognize that the market assumes a level of exaggeration to their numbers. As a result, some of those conscientious candidates try to adjust for that perception by doing the dramatic opposite of overselling which is ultimately to their detriment. Many lateral partners are uninformed about their own numbers or are afraid to oversell, so they default to under-promising.

Some lack the confidence to believe that their success will continue, hence they opt to "under-promise and overdeliver," thinking that is a sound strategy to impress the new firm. The idea is to set lower expectations and then knock it out of the park when they join the firm and perform. It is totally understandable to have that urge. If I tell my teammates that I expect to lose my tennis match but then wind up winning by a large margin, they will believe that I am even better than I originally represented. No one will be upset with me, and everyone will be pleasantly surprised by my performance and results, correct? Perhaps, but only in the short term.

The unfortunate, unspoken consequence of my under-promise is that I will get placed on a team or in a match that is not at the fair level for my game play. Over time, as I continue to overperform, I will grow frustrated that my coaches and peers do not "see" how well I am doing and do not reward me for it. In law firms, that reward comes in the form of compensation, partnership (equity), business development/speaking opportunities, practice group leadership, being sought out for key client pitches, and the like. If I am under-promising, I believe that my ultimate overperformance will somehow course-correct my original place and compensation. That is not always the case and the length of the road of overperforming can be longer than you think.

I recently worked with a partner candidate who consistently originated \$1.6M-\$1.8M annually, without fail. She was clearly a producer and did most of it with minimal support, hence, her desire to move. We spoke at length about knowing her numbers and making sure to complete the LPQ

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accurately and with confidence. She tended to doubt herself and add caveats every time she discussed her abilities, and I expected that doubt would creep into the LPQ.

When she sent me the draft LPQ, she had put \$1.5M as her “reasonable” projection and \$1.6M as her “optimistic” projection. Although she could artfully and specifically explain verbally how she knew she could grow her book on a better platform with more resources and support, her realistic projections were less than the low end of her historical production, and her optimistic projections were less than the high end of her historical production.

Why, then, make a move? If you genuinely believe that you are not going to do better, what is the allure of moving? When faced with those questions, she admitted that she was trying to under-promise to hedge. Her tactic would have led to an underwhelming offer and put her in an inaccurate light. It may have even convinced her to stay put since a low offer could underscore the already-ingrained notion in many candidates that “all law firms are the same.”

If your candidate is geared toward under-promising, you can proactively use the U-LPQ early in the process to help them get a handle on their real numbers, encouraging them to strike the right balance between “under” and “over” promising. Of course, I can envision the candidate’s pushback on requests to do even more work in this process, however, the U-LPQ will truly help them in the long run by forcing them to self-analyze their profitability. It will also help the

recruiter make better suggestions regarding firms that might be a good fit for the partner’s client base.

Knowing one’s numbers and getting in the weeds on that conversation early is a great antidote to overselling and under-promising. Specificity is a way to avoid those two extremes and many lateral partners need us to ask those tough questions early and often. Take the time, do the math with them, and push back when necessary – the partners who are truly searching for a better platform will appreciate the diligence on the front end. Those who tend to doubt themselves will be better equipped to put themselves in a good light and ultimately secure better opportunities, instead of hoping to overperform in the future and waiting for someone to notice!

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## Navigating Lateral Moves: Key Provisions in Law Firm Partnership Agreements

By Hilary P. Gerzhoy, Esq.

2023 showed no shortage of lateral partner moves and 2024 looks poised to be just as busy. For any partner who has decided to make a lateral move from one firm to another, one key initial step is to review his or her partnership agreement. These agreements are long, complex, and often the source of confusion. As an ethics lawyer who helps lawyers successfully make these transitions, below I lay out the most critical components of partnership agreements that every lateral partner should keep in mind and about which every recruiter should be aware.

As a first measure, it is important to understand the limitations of partnership agreements. Much as firms may try to act otherwise, neither lawyers nor clients are firm property. The Rules of Professional Conduct (“Rules”) provide significant protection for lawyers making lateral moves. Being armed with the knowledge of the scope of these protections is often essential for successfully navigating these moves. In my experience, the bigger the book of business the lateral partner has, the more contentious these fights can be. Firms often make assertions about what lateral partners can and cannot do that are inconsistent with the Rules. So before a lawyer even looks at her partnership agreement keep in mind: if any term within your partnership agreement conflicts with the Rules, the term is likely unenforceable as against public policy. See, e.g., *Cohen v. Lord, Day & Lord*, 550 N.E.2d 410, 410 (N.Y. 1989) (holding that a partnership agreement “which conditions payment of earned but uncollected partnership revenues” upon adherence to a non-compete provision in violation of the New York Code of Professional

Responsibility is “unenforceable . . . as against public policy”). So while we need to be mindful of all the provisions of the partnership agreement, we should not treat them as gospel where they conflict with the Rules. Having said that, here are the key provisions to be aware of:

#### Notice to Firm of Departure

Partnership agreements tend to mandate how much advanced notice of a departure an existing partner is required to provide, usually 30–60 days. In 2020, the ABA held that a firm’s fixed notice period can be unenforceable. ABA Opinion 489 states, “A lawyer who wishes to depart may not be held to a preestablished notice period particularly where, for example, the files are updated, client elections have been received, and the departing lawyer has agreed to cooperate post-departure in final billing.” ABA Comm. on Ethics & Prof’l Responsibility, Formal Op. 489 at 5 (2019). Where a fixed notice period serves to “restrict or interfere with a client’s choice of counsel” or to “hinder or unreasonably delay the diligent representation of a client,” it is unenforceable. Formal Op. 489 at 7. For example, if a firm imposes a 30-day notice period, as most do, but the lawyer’s client files are up to date and the lawyer promises to help in the transition going forward—even if that transition is not complete—the firm cannot hold the lawyer for 30 days or dock the lawyer financially.

#### Notice to Clients

Recently, I have seen partnership agreements state that a lawyer is not entitled to contact his or her clients prior to departing the firm. These pro-

*“[I]t is important to understand the limitations of partnership agreements. Much as firms may try to act otherwise, neither lawyers nor clients are firm property.”*

visions are almost always unenforceable. With some limited exceptions, a lawyer cannot contact clients in advance of informing their current firm of the departure. See, e.g., D.C. Ethics Op. 273; Pa. Bar Ass’n Comm. on Legal Ethics and Prof’l Responsibility, Joint Formal Op. 300 (2007). But, in nearly every state other than Virginia and Florida, that’s where the client notice restrictions end. After you have informed your current firm that you are leaving, you are obligated to notify your current clients of your departure. See Model Rule 1.4; see also D.C. Ethics Op. 273. While they may try, unless you are a Virginia or Florida lawyer, your current firm cannot forbid you from unilaterally contacting your current clients. Virginia and Florida are the only jurisdictions that prohibit the firm or the departing lawyer from unilaterally notifying clients absent a failed attempt to agree on a joint communication. See Virginia Rule 5.8 and Florida Rule 5.8. California strongly encourages it. See CA Ethics Op. 2020-201 (“Joint notice...is preferable to unilateral notice because it is a better way in which to protect clients’ interests. However... if the parties cannot agree on joint notice, or drafting the joint notice is being used by a party to delay formal client notification while informal notice talks have already begun, unilateral notice is ethically permissible and may be required in some circumstances.”)

Nor can the firm deny a departing lawyer access to her client files, email, voicemail, firm resources—including the ability to work with other firm lawyers—or requiring a departing lawyer to work from home.

While you might consider telling your clients about your new firm’s capabilities, note that the law is unsettled about the consequences of going beyond that to solicit the client to come with you. Some jurisdictions offer guidance or impose requirements regarding the content of your departure notice to clients. Should a client choose to follow you, make sure their decision is in writing.

## Capital Repayment

Law firm partnership agreements tend to mandate capital contributions, which represent a partner’s financial stake in the firm. Partners should be aware of the conditions under which they can withdraw their capital from the firm, as well as any potential penalties or restrictions associated with such withdrawals. For purposes of a lateral move, partners should consider how long it will take for the firm to repay your capital contribution and under what circumstances they can withhold payments.

## Non-Compete and Non-Solicitation Clauses

Finally, partners contemplating a lateral move should review any non-compete or non-solicitation clauses in their current partnership agreement. These clauses may restrict a departing partner’s ability to practice law within a specific geographic area or solicit clients and employees from the former firm. Negotiating the terms of these restrictive covenants with the new firm is crucial to avoid conflicts and legal disputes. Partners should seek legal advice to ensure that any limitations imposed by these clauses are enforceable and align with the legal landscape in their jurisdiction.

Making a lateral move to another law firm is a significant decision that involves careful consideration. Examining the key provisions in law firm partnership agreements is a crucial step in this process, as it directly impacts your finances, client relationships, and overall professional experience. Partners should approach the negotiation of these provisions with diligence, seeking legal counsel when necessary, to ensure a smooth and successful transition to their new legal home.



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## THE RECRUITER’S BOOKSHELF: *The War of Art: Break Through the Blocks and Win Your Inner Creative Battles* by Steven Pressfield

Article by Raphael Franze, Esq.

In this issue of The Recruiter’s Bookshelf, we are featuring the Steven Pressfield book *The War of Art* (not to be confused with the Chinese military treatise *The Art of War*, although likely named with the intention of doing so). *The War of Art* is a much different book than we’ve reviewed in this space in that it reads more like a pep talk or manifesto on creativity than a more academic book on the topic. That’s not to say that it’s not insightful all the same, as Pressfield brings forth all his experience as a writer of non-fiction, histori-

cal fiction, and screenplays. Most famously, Pressfield has authored the novel and screenplay *The Legend of Bagger Vance* loosely based on the Hindu scripture *Bhagavad Gita* (a text *The War of Art* heavily draws from, as well).

Before going into greater detail about the book, I’ll say that this past calendar year was not my most productive – by certain measures, in fact, it was one of my least. Granted, it was a down year for most of the legal re-

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cruiting industry but with my area of specialization (corporate associate recruiting) hit harder than most. Upon reflection of the last twelve months, though, and despite what I rationalized was an honest effort on my part, it's now clear to me that the lack of productivity was largely self-inflicted. As that realization dawned on me, I revisited *The War of Art* (which I first read during one of my best years to help keep my momentum up) in an effort to better understand the slump in which I now found myself.

## Resistance

The central theme of *The War of Art* is the concept of Resistance, defined as the negative mental force opposing creativity and preventing us from achieving our goals. Pressfield is most intimately familiar with Resistance as a working writer but addresses it generally from the perspective of all artists. It's not lost on him, though, that anyone with an entrepreneurial bent is creating all the same and is susceptible to Resistance. As recruiters, we're creating with every prospective placement and, as such, what's popularly referred to by writers as "Writer's Block" (where the author can't seem to get the right words down on the page) can similarly manifest in recruiters in what can be called "Recruiter's Block" (where a recruiter can at best get only a negligible amount of traction from their efforts).

The book is divided into three distinct sections that address defining Resistance, combating Resistance, and operating on a higher realm beyond Resistance.

The section on defining Resistance serves mainly as a checklist that both helps to describe Resistance and to identify its many manifestations in our lives. While it's no surprise to read that Resistance is universal and is experienced by us all, Pressfield is adamant in distinguishing that it's in no way a peripheral opponent of ours but an internal one – it's self-generated and self-perpetuated and fueled solely by our own fear of it. However, while Resistance only looks to obstruct movement towards our higher selves, we therefore can use it as a compass and navigate by it. As recruiters, we see this manifest on a daily basis as we decide whether to redirect our focus for any number of reasons or stick with a well-developed and purposeful plan we brought into the day. Personally, the desire to work on this article in the middle of the workday recently was my own struggle with Resistance whenever my phone began feeling heavy (a battle of which I fought more gallantly over the course of developing this piece and embracing its subject matter).

The manifestations of Resistance that Pressfield highlights in this section are many and, for a recruiter, can easily be derived from the delayed gratification inherent in our work. After all, procrastinating for a day on starting a difficult but worthwhile search doesn't seem like a big deal if the search might not bear fruit for several weeks (let alone a payoff for several months). While one instance of procrastination may prove harmless, persistent procrastination is another matter entirely and the "immediate gratification" habits embraced during the workday in its wake (such as random social media consumption, personal calls, etc.) are themselves their own forms of Resistance.

Victimhood can be another form of Resistance that recruiters may easily be susceptible to as any bad breaks well into a recruiting process can bring them to their knees and can throw them off their game for an extended period of time if they're not careful. Rationalization is cited by Pressfield as a particularly pernicious form of Resistance, calling it "Resistance's spin doctor" presenting us with a series of plausible, rational justifications for not doing our work that

*"The central theme of The War of Art is the concept of Resistance, defined as the negative mental force opposing creativity and preventing us from achieving our goals."*

may in fact be true or legitimate – all done while leaving out the fact that plenty of people overcome them to achieve their goals.

## Combating resistance

The second section - on Combating resistance - distinguishes between the attitudes and behaviors of the professional and those of the amateur. While Pressfield acknowledges that anyone who accepts compensation for their work is a professional, he states that aspiring artists and entrepreneurs defeated by resistance share one trait: they all think like amateurs and have not yet "turned pro." Here, Pressfield provides ten principles of Turning Pro that address an individual's degree of effort and mode of thinking. As a recruiter who engages with many others in his industry, I'm adamant that every single one I've encountered has turned pro as any sustainable success in our line of work requires it.

In the face of Resistance, though, it would appear that getting acquainted (perhaps reacquainted) with these principles goes a long way to quash the Resistance one may be experiencing. Are we committing to our work all day, every day, and for the long haul, no matter what? Do we over-identify with our career? Are we maintaining a sense of humor about the work? Any number of factors, such as family life, illness, the work itself, or even recent success can throw us off our game and leave us increasingly susceptible to Resistance. Nonetheless, getting back on track and beating Resistance on any given day is solely an act of will that requires nothing more than one's commitment.

## Beyond Resistance

In the third and final section of *The War of Art*, Pressfield takes the reader on an increasingly spiritual ride by addressing creativity in a higher realm beyond Resistance. While my earlier readings of the book just glazed over this section, reading it more recently from a humbled and instructional perspective opened me up to a seemingly more enlightened approach to my work. Centered around the mantra "We have a right to our labor but not to the fruits of our labor" (from the *Bhagavad Gita* in Krishna's counseling of Arjuna), Pressfield delves into Jungian psychology, Greek mythology, ancient literature, and various schools of philosophy in highlighting the importance of discovering ourselves in such a way that enables one to nobly surrender to their work without attaching themselves to it or the results. Working in such a manner, Pressfield contends, would open one up to the positive influence of unforeseen forces – to attract and abide the advice of muses that may ultimately curry favor with the Gods, if you will.

Though Pressfield's spiritual take on creativity might not land with everybody, I believe that a recruiter's work is steeped in mystery as we attempt to create in the presence of countless factors (the majority of which we're not fully clued in on or even know to exist). Acknowledging the mystery and working more humbly and diligently to attempt to unravel it for its own sake – as opposed to freezing in an ego-driven state of "placement paralysis" after having already calculated the placement fee – seems like a more optimal and productive place from which to operate and may very well curry the favor of "The



Recruiting Gods” (or, alternatively, better align one’s efforts with those of the collective consciousness as related to those efforts).

Quirky and irreverent, while also highly philosophical and spiritually driven (at least to those ready to accept it as such), *The War of Art* is a very good read to help quickly address those challenges in one’s work that may in fact be self-imposed. When explored more deeply, it has the potential to inspire greater creative (not to mention personal and professional) exploration.



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## Using Integration Discussions During Lateral Partner Interviews

*"Firms which begin business opportunity/cross-selling discussions earlier—but not too early—see a significant net benefit in lateral partner recruiting. I also address some of the common resistance points and how to address them," Dan said.*

By Dan Binstock, Esq.

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This article discusses the various ways in which law firms can more effectively use business integration opportunity/cross-selling discussions during lateral partner interviews. In short, law firms approach this topic in different ways: some wait until there has been a clear decision to extend an offer, and some begin these discussions a bit earlier. My belief is those firms which begin business opportunity/cross-selling discussions earlier—but not too early—see a significant net benefit in lateral partner recruiting. I also address some of the common resistance points and how to address them.

### The Two Types of Integration Discussions

Generally speaking, there are two categories of integration conversations that occur between the law firm and the potential lateral partner candidate: (1) onboarding and (2) business opportunity/cross-selling integration.

1) **Onboarding:** This deals with what happens once the partner joins. The emphasis tends to be more logistical in nature, focusing on what happens over a proscribed period of time. For example, press releases, technology setup, introductions to/meetings with partners in other practice areas, introductions to/meetings with clients for cross-selling, etc.

2) **Business Opportunity/Cross-Selling Integration:** This deals with strategically “enhancing the pie” of the firm and the lateral partner in two ways. First, how the firm can help the partner grow or better capture business opportunities relating to that partner’s practice. Second, how the partner can help the firm grow or better capture business opportunities relating to other partners in the firm who could also benefit from the lateral partner’s relationships.

This article focuses largely on the timing of the business opportunity/cross-selling integration discussions.

In terms of when these conversations occur, some firms (let’s call them Group 1 firms) follow this model.

*Group 1 firms – wait until 100% likelihood that candidate will receive offer.*



Credit: Dan Binstock

Why do some firms wait until there is a decision (even if informal) that the candidate will receive an offer before really delving into business opportunity/cross-selling integration discussions? The common objections to beginning before the offer stage are:

- **Too Much, Too Soon:** Until there is a high likelihood of an offer, it “puts the cart before the horse.” For example, what would happen if the firm discussed business opportunities and cross-selling at length, only to then decide that the candidate is not an ideal mutual fit? It would appear possibly disingenuous, similar to somebody in a dating relationship wanting to look at homes, only to then decide not to want to settle down with this person.

- **Sensitive Information:** Client development and business opportunities are sensitive information to firms. Why share opportunities with a candidate if there is not yet a high likelihood of this person joining?

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Group 2 firms – wait until at least a 50-75% change the candidate will receive an offer (the assumption is that the LPQ has been completed and reviewed by the firm).

The second group of firms follows this process.



Credit: Dan Binstock

As we see here, Group 2 firms will begin business opportunity/cross-selling integration discussions earlier in the process, as soon as there is at least a 50-75% likelihood that the partner will receive an offer. As mentioned above, starting business opportunity/cross-selling discussions too soon can have potential negative consequences. However, it's my belief that the positives of starting these discussions earlier far outweigh the risks when it comes to attracting laterals, and the negative consequences can be mitigated, as discussed later.

#### **Positives of Earlier Business Opportunity Discussions (After LPQ Has Been Received)**

Once a firm believes that it may be seriously interested in a candidate—even if there is less than 100% certainty—engaging in these forward-looking discussions are a very powerful recruiting tool. The benefits are:

- It facilitates more creative brainstorming and opportunity seeking during the interview process.
- It allows the lateral partner to experience—firsthand—what it might feel like to explore business development opportunities at your firm. It's the equivalent of a "walk through" when you are considering a new home.
- It shows that you are thinking beyond "What can this candidate do for us?" It demonstrates "What can we do together?" The latter is much more compelling.
- It allows the candidate to get a clearer vision of why your firm may (or may not) be the best fit.
- It allows you to develop a deeper connection with the candidate earlier in the process, instead of waiting until the offer stage.

Examples of powerful discussion points to implement into interviews related to business development/cross-selling opportunities are:

- "Here is a representative list of our top \_\_\_\_\_ clients. Let's brainstorm possible cross-selling opportunities with any of these, and why/how?" (If your response to this question is "How can we share this? That's very confidential!" remember, you will have already received this partner's LPQ, which lays out his/her entire practice in detail.)
- "What are examples of opportunities you feel that you have not been able to fully maximize, and why?"
- "Based on your practice, we could see interesting opportunities with [insert your own clients] because [insert cross-selling details based on partner's experience]. Likewise, based on your LPQ, we also see interesting opportunities with [insert their clients] because [insert details]."
- "Are there practitioners in certain practice areas you would potentially like to meet to get a better sense of how your practice could be supported?"
- "What can we share to give you a good sense of how you can maximize your practice on our platform?"

Although there are many types of interview questions to solicit certain information, these types of reciprocal discussion points cut through the fluff and get right down to the brass tacks from a business opportunity standpoint. It provides the firm with a better sense of the candidate's needs and priorities on the business development front, and also gives the candidate a much deeper sense of what you may be able to offer. If both sides' needs are not being met, the discussions will naturally draw to a conclusion. This type of approach actually allows for a more efficient process, as opposed to having too many rounds of small talk and general questions that don't scratch below the surface.

#### **Objections to Committing 'Too Much Too Soon'**

If you are concerned about appearing as if you have committed to hiring the partner before you're ready to actually decide, there's an easy solution. Simply say: "Part of our process is to brainstorm as many cross-selling opportunities with potential lateral candidates to ensure our process is as thorough and thoughtful as possible. This is intended to give you the best sense of us, and for us to give us the best sense of your practice and whether there will ultimately be an ideal fit."

#### **Objections to Sharing Too Much Sensitive Information**

If you are concerned about sharing your firm's sensitive information, remember that the candidate has already entrusted his/her sensitive information to you through the LPQ. Showing reciprocity during the process is an important step. You can also say something to the effect of, "We treat all of the information you shared with us as confidential and we trust you will also treat our exploration of business opportunities together as confidential." This type of candor builds trust. In an overall cost/benefit analysis, firms that embrace and demonstrate reciprocity and trust during the process fare much better than those who hold things too close to the vest until it may be too late.

#### **When You Have Decided That an Offer Is Almost 100% Likely to Be Forthcoming**

In these situations, some firms have even taken things a step further by doing two things during the interview process/around the time of the offer:

- 1) Co-creating a written business plan with the prospective lateral partner.

2) Outlining the onboarding process and showing the lateral what he/she can expect on joining the firm.



Credit: Dan Binstock

When a firm and a lateral partner work together during the interview stage of the hiring process to deliberately explore business integration opportunities, it's extremely powerful. Aside from the courtship benefits, it takes the conversation from a one-dimensional interview to a three-dimensional exploration of how both sides may benefit from the joining together. And in the end, that's the ultimate goal.

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## The FAQ about the U-LPQ

By Mitch Satalof

What in the name of all that is holy were we thinking? Revolutionize the way the legal search community approaches partner placement? Dare to suggest to multimillion and even some multibillion-dollar law firms that there might be a better way? It feels like trying to build a pyramid – pushing boulders up a hill.

Why did we think the U-LPQ had any chance of making serious inroads? Well doubters, the U-LPQ is taking hold. We now can claim almost 40 AmLaw 200 firms that have endorsed the concept of being willing to accept the U-LPQ during the normal course of partner placements. While search firm and law firm utilization of the U-LPQ will remain a work in progress, we continue our outreach towards building consensus for acceptance of the U-LPQ both as a practical and educational tool in partner placement. We've also found that our conflicts form is becoming a standard for many law firms as they revamp their own processes to take advantage of a better route to determining fit.

#### Law firm concerns

It seems the most serious challenge to our premise is impression that we're expecting law firms to migrate to our LPQ in full. This simply is not the case. It's true that some law firms are modeling their LPQ to match ours – but there are many that have their individual processes in place. There also are law firms that are taking elements of our U-LPQ and incorporating them into their own version. Some law firms are pushing search firms towards utilizing the U-LPQ and directing search firms to the NALSC website to download the forms (at <https://www.nalsc.org/u-lpq-forms/>).

What we're asking our law firm clients is this: If XYZ search firm introduced a partner candidate to you and you, the law firm, would like to

*"Search firms need to begin introducing the U-LPQ early in their discussions with partner candidates. Law firms should be willing to accept U-LPQ forms when the time is right for this step in the process."*

proceed further with exploring the possibilities with this candidate, would it not serve your interests to accept a finished LPQ that provides extensive details covering 80% of what you need to know about this particular candidate? Why on earth would you not want to read the book since it's already written and ready for your review?

It's likely the law firm will have supplemental questions that require answers not covered in the U-LPQ due to state or federal laws and regulations. I can't imagine a search firm on the planet that wouldn't want to help you gather that necessary information as well.

#### Search firm concerns

And now a word to our search firm members: I know how hard it is – as does everyone in the legal community – to convince a partner candidate to sit down and fill out an LPQ. But why not start by preparing that partner for the inevitable? Why not point out that the one-time investment now possibly will eliminate having to repeat this process multiple times? Takes courage to force the issue but we need to stop fearing the prospect of losing that candidate and assure them it doesn't get any easier with any other search firm. LPQ-itis afflicts everyone. Just deal with it.

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### Bottom line

So let's get down to the message one more time. Search firms need to begin introducing the U-LPQ early in their discussions with partner candidates. Law firms should be willing to accept U-LPQ forms when the time is right for this step in the process.

For the FAQ about the U-LPQ, see our website at <https://www.nalsc.org/u-lpq-faq/>.



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This NALSC Member Profile shines the spotlight on one of our new Board of Directors members, Melissa Peters. Melissa is a seasoned and successful legal recruiter based in the greater New York City area. She has more than a decade of experience in the legal recruiting industry and an extensive record of placing law firm partners and in-house counsel. She worked as an attorney before moving into recruiting and is a former Senior Manager of Lateral Recruiting at a top AmLaw 100 global law firm. Melissa brings fantastic insight from her experience from all "sides" of legal recruitment—moving from attorney to law firm recruiter and now running her own search firm. We're excited to welcome Melissa and her important point of view and broad experience to the Board of Directors.

**Question: Where did you grow up? What were some of your interests/hobbies growing up?**

Answer: I was born in Brooklyn and we moved to Staten Island for a few years. We followed a very typical suburban migration pattern by then moving to a small town in suburban NJ, where I spent the majority of my childhood. Although I don't remember our time in Brooklyn, I have an immediate connection with people who were born there – it's like we can find each other in a crowd!

**Q: What did you study in undergraduate? Why did you select that area/what was interesting about it to you?**

A: My plan was always to become an elementary school teacher – preferably 2nd grade. I absolutely love kids and envisioned myself spending my days teaching and mentoring them. Quite a leap from that to becoming a lawyer! I wound up switching my major from Education to Psychology because I wanted to broaden my options and thought I might consider a field in psychology.

**Q: Where did you go to law school, and why?**

A: I went to William & Mary Law School, which was a great choice for me but honestly, law school was never in the plan. I didn't grow up with a family of lawyers – I never dreamt of becoming a lawyer. I went to a guest lecture at college and the speaker was a lawyer who also had majored in Psychology. I spoke with her after the lecture, and decided that law school would be a good path. Looking back, I think I didn't really know what job I wanted to do and I like academia, so going on to pursue a challenging degree seemed like a good option.

**Q: Why did you choose to become a lawyer?**

A: Everyone always says that if you are a strong writer who likes to analyze/argue, then being a lawyer is a smart step. I think I fell into that category, and I was intrigued by the law, since none of my family/friends were pursuing that route.

**Q: What did you do prior to becoming a recruiter? What did you like most/least?**

A: I practiced law for six years prior to becoming a recruiter and I struggled to like it! I was a commercial litigator, and I enjoyed the intellectual challenge of finding the right argument/counterargument and I really enjoyed my co-workers. Other than that, I didn't love it. The constant antagonistic nature of litigation started to wear on me, and the unpredictable schedule didn't help. Also, I started in BigLaw where I spent my days sitting in my office writing briefs and it was too isolating.

**Q: What led you to become a legal recruiter?**

A: Every time a legal recruiter cold-called me, I wound up chatting with them and finding myself inquiring as to how they found their career path. Many of them were former lawyers who had majored in psychology. Many of them sounded so happy with their pivot to recruiting, so it piqued my interest. I finally made the leap in the down market of 2008 and am so happy I did so.

**Q: What is the current focus of your recruiting practice?**



A: My main focus is lateral partners/partner groups in the NYC metro area. I still handle in-house placements as well.

**Q: What do you like most about your practice? What is most challenging to you?**

A: The part I like the most is the interaction with the candidates and clients. Any time that I am on the phone or in a meeting engaging with people is the highlight for me. The fun in that has not faded for me over the last 15+ years. The challenge is the lack of control over the ultimate outcome. We have all worked on deals that should have gone through but don't for some unforeseeable reason, and that is the biggest challenge. Another challenge is not getting "stale" in this business. No matter how successful you've been, you can't rely solely on existing clients. You really have to be your own battery and keep an expansive, open mind to expand your network and pivot when necessary.

*"Time + activity = sanity  
in this business."*

**Q: How have you learned to best deal with the inevitable disappointment that occur in recruiting?**

A: Time + activity = sanity in this business. That's my metric!

In the early years, I took every lost deal to heart and agonized over them. Having put in substantial time in this business to see the ups and downs and maintaining a strong focus on keeping my pipeline super-active are how I ward against getting too down over any one deal, no matter how sizeable. I have seen deals close that I thought were long shots, so I keep that in my mind as a reason to keep pushing and loading the pipeline. I'm a yoga practitioner and they always tell you to stop comparing yourself to others on their mats and just focus on your own practice and keep pushing yourself. It works in recruiting too. I get singularly focused on my recruiting practice and know that continually replenishing my pipeline is the only way to keep myself from getting too "stuck" on one lost deal.

**Q: What is the best advice you ever received about recruiting?**

A: That you must do this job authentically in your own way because that authenticity is what attracts candidates/clients to want to work with you. Trying to do this job like someone else may work for a short while, but you will burn out and not get the full satisfaction you can from being genuinely successful in your own way.

**Q: If you started your recruiting career today, what would you do differently?**

A: If I started today, I would be better at self-promotion. It's not my strong suit and it's something I have to embrace in this business. I

spent too many years doing really good work but not touting it, and I know that part of this business is letting the marketplace know that you're one of the good ones.

**Q: What is one thing that most people in NALSC would be surprised to learn about you?**

A: That my guilty pleasure is watching bad reality TV. There's something about turning on a Bravo show that switches my brain to off mode!

**Q: Favorite TV shows/movies/music**

A: My nieces would be mad at me if I didn't say that I'm a fan of Taylor Swift, which I sincerely am! Music has definitely helped keep me sane in this business. I'm very into fitness/exercise and when I've had a bad call or lost a deal, going to work out and blast music is the best remedy. TV and movies don't do it for me as much!

**Q: Most influential book(s)? Why were they influential?**

A: I don't have a book that was the most influential, but I recently read *Lessons In Chemistry* and loved it. The characters were flawed and layered, and the book has an inspirational element to it.

**Q: Other personal details (if you would like to share) such as family, important community causes, etc.**

A: Somehow my sons are now 18 and 21 years old, which is really hard to believe and accept. Our family is entering the next phase of life together and I am by far the shortest person in the house!

I like to volunteer my time to any causes that help dogs and kids in need and previously served on the Advisory Board of our local chapter of Girls on the Run. Girls on the Run is a national, non-profit organization focused on inspiring girls to build their confidence, kindness, and decision-making skills. They use fitness (running) to help instill valuable life skills, including understanding the connection between physical and emotional health. It's a great organization.



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