



## Law Firm Management

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Special Report: Retention & Recruitment Unscrambling the Poaching Phenomenon

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Law firms of all sizes face a critical threat in the form of escalating duels over top-tier talent. While the practice of lateral recruiting is not new, its agents are increasingly persistent, and the sheer volume of persuasive offers makes the work of lawyer retention more complex — and more important than ever.

Firms seeking solutions to the lawyer-poaching phenomenon would be well advised to look within their own organizations for answers, because the best way to combat the allure of competing offers is to make those offers less alluring from the start. By building a better workplace, with supportive professional development, fair compensation, strong and respected management and a positive culture, firms can insulate themselves against the powerful sway of competing opportunities.

To understand the impact and effectiveness of lateral recruiting, it is critical to understand the changing nature of law firms themselves. Lawyers and their law firms today are experiencing a radical operational and philosophical transformation.

Competition for market share in the form of talented lawyers, practice groups and rainmakers is at fever pitch. Firm clients are centralizing their procurement of legal services. Fortune 500 and 1000 clients are reducing the number of firms they will engage as outside counsel. Given the premium placed on client service and expertise, client loyalty is up for grabs. As a result, instead of multiyear strategic plans to grow business lines, law firms are utilizing mergers and lateral recruiting for an instant fix to capture clients, talent, expertise and revenue.

While competition for clients has fueled a growing lateral recruiting trade, outside business forces are giving it additional direction and motive. Lateral recruiting escalated during the 1990s when lawyers realized they could make multiples of what they earned practicing law by doing the deals instead of lawyering the deals. As the mergers and acquisitions craze morphed into the dot-com phenomenon, more and more talented lawyers were moving out of the legal profession and into the business world, and law firms had to react to close the holes in their full-service business lines. Law firms that lost high-end talent sought quick solutions to replace the experienced lawyers they lost — boosting the urge to poach.

Today, the trend continues. In the last 10 years, law firms in the AmLaw 100 have grown at a record pace. Large firms are being acquired or merged into even larger firms as law firm leaders look to capture business lines and dominate access to clients and markets. On a smaller scale, local firms are looking to shore up practice areas and enhance revenues by acquiring experienced lawyers — preferably those

with a book of business.

As a result, more and more law firms are engaging the services of recruiters to identify and bring in legal talent. In most medium to large firms, not a day goes by without one of more headhunters soliciting one or members of the legal staff via cold calls or e-mail or both. With law firms paying recruiting fees of anywhere from 15 percent to 25 percent or more of the salary paid to the lateral recruit during the first 12 months, and with experienced lawyers getting base salaries of anywhere from \$125,000 to \$400,000 or more, it is a very lucrative business for the recruiter.

So, law firms have asked, "How do we create the glue to keep our best and brightest?" Some firms have tried aggressive approaches that are designed to make it financially unattractive for lawyers to leave their firms. This punitive strategy has been less than successful, damaging firm cultures and breeding mistrust. For instance, firms that have attempted to institute noncompete agreements have not only faced legal challenges, they have faced declining morale.

Another economic penalty approach — profit sharing with a long-term vesting requirement — has proven equally damaging to the management-lawyer relationship.

Finally, the possibility of a positive work environment fades with the use of promissory notes for younger lawyers, which obligate the attorney to repay portions of their compensation or signing bonus if they leave the firm within a specified period of time.

Experience demonstrates that the true science of lawyer retention must be

practiced in a positive work environment. By creating value in the minds of the legal staff, so that they are happy and satisfied with their roles and positions, firm managers can build a strong defense against lateral recruiting. Notwithstanding rapid changes in the legal profession, the laws of human nature remain relatively intact, and human nature spurs us to resist personal change. With the right justification and support, most lawyers will not want to leave the safety of their current positions.

Four key elements define a strong firm environment that values the retention of its attorneys and staff. These elements are:

- Professional satisfaction. The environment must allow lawyers to obtain professional satisfaction, with a positively focused, ethically based and intellectually rewarding culture. To be truly satisfied, lawyers need to be intellectually challenged, mentored in the professional skills needed to zealously represent and protect our client's interests, and surrounded by a competent support system on both the legal and business side of the office.
- Fair reward. Attorneys want to be paid fairly for their efforts and want to know that their compensation and benefits packages are in step with what their peers are getting in the marketplace. The firm's compensation system needs to be fair and balanced from top to bottom.
- Strong and respected management. In any firm where management is ceded to a relatively small number, lawyers want to believe that those who have been given the responsibility to run their business will do so competently. There are many different

management styles. But those that draw from the successes of corporate America are most likely to find success in the legal community.

- Attractive firm culture. Lawyers want the personal satisfaction of enjoying their work and appreciating their workplace. If a firm has a strong sense of mission and effective leadership, a healthy culture will follow.

The answer to poaching is not what's happening outside the law firm but, instead, what's happening inside. A firm that focuses on allowing lawyers to maximize their professional development, that pays fair and market-based compensation on an across-the-board, top-down basis, that is viewed as intelligently managed with a clear and focused direction and that provides a friendly, welcoming and positively infused culture, will have created an environment that very few lawyers will want to leave.

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