



ATTORNEY SEARCH

by Jamie Bailey

Law firm recruiting managers are called upon daily to handle a myriad of responsibilities for their firms, including coordinating fall recruiting programs at law schools, planning and managing summer-associate programs, managing lateral hiring, professional development, and conducting partner and associate evaluations. Some of these professionals also handle human resources and marketing functions. These professionals are highly skilled and most often overworked.

One of the most significant challenges recruiting managers in law firms face is managing the wide variety of requests they receive from managing partners, hiring partners, and practice group chairs for highly skilled lateral lawyers at all levels. Many law firm professionals are unaware that search firms can effectively tailor a search to meet a law firm's specific hiring goals. There are a variety of ways a law firm can engage a search firm's assistance. Because all searches are not the same, it may be helpful to discuss three of the most commonly used searches—the contingency search, the exclusive search, and the retained search—and the perceived benefits and drawbacks of each.

**The Contingency Search** The contingency search is perhaps the most commonly used search in the legal industry and is most often used when law firms are searching for junior to mid-level attorneys. The payment of the fee by a law firm to a search firm is "contingent" on the law firm's hiring a candidate presented by a search firm. Here, a law firm may contact one or all of the search firms with which it works on a regular basis and ask them to assist in filling positions. These jobs may be provided directly to the search consultant, or firms may rely on search consultants to visit their websites, where jobs are posted and regularly updated.

When these searches are used depends upon the goals of the law firm. Contingency searches are used by most law firms for a variety of positions in practice areas in which they may have their strongest practices and don't have problems attracting candidates through a variety of sources.

**Benefits of a Contingency Search.** A contingency search is most effective when there is a large pool of candidates available in the marketplace. One of the most attractive features of the contingency search is that a law firm can receive a large volume of resumes from a variety of sources and a correspondingly higher number of potential candidates.

**Drawbacks of a Contingency Search.** Unfortunately, contingency searches tend to render job descriptions that are less defined. Thus, the law firm will receive an overabundance of candidates that may not be reflective what they are actually looking for. Because a contingency search is

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less focused than an exclusive or retained search (discussed later), it often results in a lack of effective and focused screening and the jobs are usually not as clearly defined and profiled. The result is that it usually takes the firm longer to find the right candidate. A successful outcome in a contingency search is much more beyond the control of the recruiter than it is in an exclusive or retained search. The overwhelming volume of resumes a law firm receives requires an enormous effort on the part of the law firm's recruiting department to screen and manage those resumes. More significant are the facts that many qualified candidates (and perhaps those a law firm would really want to target, who are not necessarily looking) may not even come across the desk of the recruiter and the attractive candidates that are being presented are most likely also being sent to other competing law firms. Although certainly effective for some types of searches, one could argue based on these drawbacks that the contingency search leaves much to be desired. Thus, a law firm may opt to engage a search firm's services for either an exclusive or a retained search.

**Exclusive Search.** A law firm may seek to engage the services of a search firm for a specified period of time, within which the search firm will have the exclusive rights to fill the position. This is most often referred to as an exclusive search arrangement. Under this arrangement, a law firm agrees to allow the search firm exclusive rights to the position for a set period of time and does not give any other search firm the right to fill the position during that time. Generally, in exchange for the exclusive right to fill the position, the search firm will agree to give the law firm exclusive rights to the candidates they present to the firm during the exclusivity period. Exclusive arrangements can run for varied periods of time and are generally negotiable. Firms may, in fact, have identified candidates already that they would like a search firm to contact on their behalf. Alternatively, firms may ask the search firm to identify viable candidates based on the criteria they give them and contact them to determine their interest. Unlike most contingency searches, the qualifications of the candidates, the goals of the practice group, and the firm's overall objectives for hiring are carefully outlined and discussed here.

**Retained Search.** One step above the exclusive search is the retained search. Clearly, essential to the success of the exclusive and/or retained search is engaging a professional and ethical search firm that is discreet and will conduct its representation in the most ethical and professional manner. Also important is defining exactly what the law firm is looking for in light of its current practice development and overall strategic-planning goals. Identifying the key attributes, experience, and skills needed in the target candidate(s) is also essential to the process; the more informed the search consultant is about these attributes, the more likely the search consultant will be able to efficiently and effectively prequalify candidates on behalf of the firm.

The retained search is the most advanced and specialized search. It is, in fact, the most aggressive search a search firm can conduct on behalf of a law firm. Here, the law firm pays the search firm an up-front retainer that is nonrefundable, but is later applied toward the overall placement fee. In return, the search firm agrees during the agreed-upon exclusive period to devote most, if not all, of its time and energy to filling the position. In a retained search, because the search firm is being paid up front, the search firm is extremely motivated and committed to focus on the search and devote its time to filling the position. Likewise, the law firm, having paid an advance, is very engaged in the process and has confidence in the search firm it engages. In contrast to the contingency search and the exclusive search, the recruiter working on retainer is feeling the pressure to deliver exactly what the firm is looking for within a specified period of time. Search consultants operating under a retainer rarely spend any time on any other searches and can often devote hundreds of hours to filling the position(s). These searches are not entered into without a strong commitment between the law firm and the search firm. Because funds are being advanced, each party is fully engaged in the process.

Key to the success of exclusive or retained searches is the law firm's willingness to supply helpful information to the search firm and set up meetings between the search consultant and relevant partners in the firm. The law firm must also be open to addressing any obstacles the search consultant brings to the law firm's attention during the search process, as well as any perceptions about the law firm that may be present in the marketplace that could impede the search firm's progress. Perhaps most important, the law firm must be realistic about its ability to attract and compensate associates and partners it intends to target.

Benefits of an exclusive/retained search. Exclusive/retained searches are very specialized because the pool of identifiable candidates is often smaller. Therefore, candidates often get the sense that they are one of only a few being targeted by a search firm. Here, search consultants are tapping into already-established relationships and will be able to provide candidates who are ready to make a move. Because the search consultant is retained by the law firm, the search shifts toward the firm and not the candidate. The search firm gains a better sense of position, job specifications, and the law firm generally through extensive discussions with the law firm's recruiting professionals, practice group management, and firm management. There is a real burden on the search firm to deliver, as it has been paid up front. There are other benefits that a law firm receives by engaging a search firm in an exclusive or retained search. They include:

- A completely client-driven focus
- Exclusivity to candidates (all candidates are solely the law firm's for the duration of the search process)
- Assistance from the search firm in creating a candidate profile
- Competitive information remains confidential
- Candidates are screened against the law firm's specifications
- The law firm has the ability to maintain anonymity throughout the screening process
- Written references and covert references are provided by the search firm, if requested
- The law firm has the ability to negotiate indirectly with candidates through the search firm
- The law firm can completely define the search to target candidates with specialized skills
- While contacting potential candidates, the search firm provides direct and personalized marketing for the law firm
- The search firm conducts original research on behalf of the law firm, targeting candidates based on a pre-established profile

**Drawbacks of an exclusive/retained search.** There are probably two primary perceived drawbacks to an exclusive or retained search. The first is obvious: the retainer. Lawyers and law firms are not accustomed to paying up front for services that have not been rendered, so selling this concept to a law firm is often difficult. However, the retainer provides the added incentive and burden for the search firm to focus, commit a significant amount of time, and deliver the best-quality candidates.

Second, the idea of allowing one search firm to have the exclusive rights to a particular search can lead a law firm to believe that it is narrowing the field of potential candidates. This fear will be alleviated when the law firm recognizes the necessity and advantage of having one reputable and focused professional in the marketplace representing its best interest.

Perhaps less obvious is the more obscure drawback that involves a law firm's ability to attract the types of associates/partners they wish to target. If a law firm does not have the ability to provide what is missing in a potential associate or partner's practice, long-term vision for his/her career, or compensation package, then the search consultant may be spinning his/her wheels. A law firm must

accurately define what it is looking for and assess whether it can, in fact, realistically live up to the claims it will be making to potential candidates.

All three searches described above can be very effective vehicles for recruiting professionals, managing partners, and hiring partners to delegate their lateral-hiring needs to search firms, thereby reducing their workload and freeing up time for their other responsibilities. Recognizing the perceived benefits and drawbacks of each type of search is of paramount importance when identifying which search might be the most effective means of successfully hiring top-quality lateral associates and partners.