



ATTORNEY SEARCH

By A. Harrison Barnes, Esq.

The benefits of a retained search

There are several methods that law firms typically use to make acquisitions at the partner level. These methods are as follows: (1) waiting for candidates to approach them (either through contingency recruiters or otherwise) or (2) retaining search firms to assist them with these acquisitions. Out of the two methods, the one means that law firms universally find to be the most effective is the retained search.

A. Law Firms May Wait for Partner-Level Candidates to Approach Them (Either Through Contingency Recruiters or Otherwise)

This is the most common way for law firms to make partner acquisitions. At most points in time, major law firms are considering a wide variety of candidates who have approached them on their own or through contingency-based recruiting firms.

1. Partner-Level Candidates Will Often Approach Law Firms without the Involvement of a Recruiting Firm

Most major law firms receive resumes on a fairly continuous basis from partner-level candidates seeking to move. These applications naturally fall into two types: (i) the sorts of resumes law firms want to see and (ii) the sorts of resumes law firms do not want to see.

The sorts of resumes law firms most often do not want to see are those that come from partner-level attorneys who are out of work for whatever reason. Many of these attorneys may have gone in-house at some point in their careers and now want to return after having lost their jobs. Other partner-level attorneys may have minimal business (or none at all) and be working at law firms that are no longer in need of service partners. There are very rare cases where law firms are interested in seeing these sorts of resumes (for example, there was a tremendous demand for corporate service partners during the period of 1998 to mid 2000); however, for the most part, law firms are not interested in these sorts of resumes.

These resumes are typically littered with statements about past accomplishments and often make references to a business plan the given partner will have that will produce results if he/she is hired. While most law firms look upon these sorts of resumes with extreme suspicion, I can tell you that I personally have seen several partners rebuild practices after a hiatus from a business- and income-producing partnership role in a law firm. This is not the norm, though.

The sorts of resumes that law firms want to see are often those that are generated by partners in their own firms. The partner may know someone at another firm who is unhappy for whatever reason or needs a better platform for his/her business. If this partner has a substantial amount of portable business, then that resume will be sure to garner the attention of a partner. There are some mid-sized to smaller law firms that are very effective in soliciting resumes directly from outstanding attorneys. This is very rare as well.

The benefits of a retained search

The reason that the most desirable attorneys do not typically contact a law firm directly is because they have too much to lose. Emailing a resume or even making a phone call sends a very clear signal of weakness to the hiring organization. It is also something that most partners with substantial portable business are very unlikely to do. Without any proactive courting, if a partner contacts a firm directly, he/she has no way of knowing how he/she will be received. He/She also may feel that he/she is risking his/her own law firm's finding out about his/her search. Accordingly, such direct contact is quite unlikely.

In many cases, a partner interested in moving may be very good friends with a partner at another firm that would be an outstanding fit for him/her. His/Her friend may never learn he/she is interested in moving at all until the move has actually occurred. Rather than risk telegraphing any weakness-or simply because it is embarrassing to do so-this partner may never telegraph his/her interest in moving. Even worse, of course, would be if the given partner telegraphed an interest in moving to his/her friend, and then the friend's firm turned him/her down. And for the record, this sort of thing happens quite often.

2. Partner-Level Candidates Will Often Approach a Law Firm Through a Contingency-Fee Recruiter

Scattered throughout major cities in the United States are numerous contingency-fee-based recruiters. These recruiters typically make their living in two major ways: (i) They cold-call attorneys and hope they find ones that are interested in moving, and (ii) they simply "lie in wait" for attorneys interested in moving. Both methods can be quite effective for the recruiter. The issue is whether or not these methods are effective for the hiring organizations.

PAGE: 2

The recruiters who spend their time cold calling may often do so quite aimlessly. This is especially the case when it comes to partner recruiting. For the most part, a partner-level attorney with a substantial book of business will be quite marketable. Law firms are, after all, businesses and need business in order to function. Certainly, things like culture and fit have places in these sorts of hiring decisions, but you need to understand that the amount of business a given partner has is of the most importance.

When cold calling/recruiting partners, recruiters will often simply call a partner to try to gauge if he/she has any interest in perhaps exploring other opportunities. In the contingency-fee environment, this is not always the most effective method for the recruiter to go about a search, and the recruiter will be missing a great number of (potentially) viable candidates.

When a recruiter calls a partner-level attorney, he/she generally has 15 seconds or less to interest the partner in speaking with him/her further. In the contingency-fee-based recruiting situation, there is not a lot the recruiter can say. For example, if he/she is calling the head of a practice group of a major law firm with \$3,000,000 in portable business, simply stating that a given law firm is seeking a partner with portable business is not really enough to start up a conversation. Of course the given law firm is seeking a partner with \$3,000,000 in portable business! Isn't every law firm!?

This recruiting method can work. The partner may get called at the right time. The given recruiter may have a particularly strong message or sales ability. The partner may have been working unsuccessfully with another recruiter. Who knows? The fact is that it can work.

The more effective type of contingency recruiting is typically built on the maintenance of substantial and meaningful relationships over a long period of time. There are several "low-key recruiters" out there who have typically done nothing but contingency-fee-based partner recruiting their entire careers. These low-key recruiters are akin to "chat boxes," and it is for that reason I call them "chat-box recruiters."

A chat-box recruiter will typically do almost no advertising and most often will simply work out of his/her house. His/Her methodology may look simple, but when you look at it in detail, it can tend to be quite complex. The chat-box recruiter will have a very good understanding of the legal market and will typically call hundreds of partners in a given city each year. He/She will impart information with each phone call, ask questions about the partner, and get a very good understanding of the partner's practice and level of business.

The chat-box recruiter almost functions like a high school or college guidance counselor in that he/she always knows what is going on with the partner's professional life. If he/she sees an article about the partner, he/she

will let the partner know he/she saw it and send him/her a congratulatory note. Unlike other recruiters, who may simply appear on the scene trying to make a quick placement, the chat-box recruiter views his/her profession as something he/she is in for the long haul. He/She does not care if he/she ever places the partner. He/She does hope, however, that he/she will at some point in the partner's career.

The benefit of what the chat-box recruiter does is build relationships. A level of trust is established over several years (or even decades) that puts the chat-box recruiter at the forefront when a partner decides he/she may be interested in moving. The chat-box recruiter also functions as a career advisor and connection for the partner to the market at most points in time. Because of this role, the chat-box recruiter is also likely to get called when the partner does contemplate a move. In addition, if the chat-box recruiter learns of a particularly good opportunity and calls the partner with this opportunity, the partner may often feel obligated to go out on the interview, even if he/she is not particularly interested in moving. A lot of placements happen (that probably should not be happening) each year in this way.

Another way that contingency-fee-based recruiters get candidates is by candidates' simply approaching them directly. This is actually more common than you might believe. If a recruiter does an outstanding job branding him/herself as a partner-level recruiter through advertising, extensive networking, and a history of high-profile placements (or combination thereof), then he/she may soon run a very successful partner-level recruiting operation with very little actual cold calling. Indeed, entire law firms or significant practice groups may approach these recruiters and recruiting firms from time to time asking the recruiter to help them move.

PAGE: 3

When a significant partner, practice group, or even law firm approaches a contingency-based recruiter, it is doing so because it needs confidentiality, research, and the expertise that the given recruiting firm can offer it. From the standpoint of the group's moving, this is often a very good choice and the way to go about the move. From the recruiting firm's standpoint, it could not be happier.

It should be obvious, however, that from a law firm's perspective, the "waiting" method of recruiting partners is not likely to be the most successful. The law firm has no guarantee that a recruiter will send it his/her best partner-level candidates. The recruiter has also not typically been briefed enough on the unique selling points of the law firm. In addition, the recruiter may have absolutely zero allegiance to the law firms he/she is presenting a given partner to. For these reasons and many more, the retained search is by far the most effective method for law firms to build their partner ranks. The retained search and its unique advantages are explored below.

B. Why a Retained Search is by Far the Most Effective Method for a Law Firm to Build Its Partner Ranks

In its most simplistic form, a retained search is nothing other than an economic exchange built upon the promise of exclusivity for a given period of time. A recruiter will typically take a set fee from a law firm in exchange for an exclusive (typically at least \$30,000). In exchange, the recruiter will agree to work on a search for the law firm for a given period of time and only refer candidates it generates while working on that search to the given law firm.

As a hypothetical, consider a firm that is looking to open a branch office in a new city. In pursuit of this goal, it may retain a recruiter by paying him/her \$50,000 to work on a search for the firm for a minimum of 16 weeks. During that period, the law firm will agree not to work with contingency recruiters for the same search, and the recruiter will agree not to refer candidates that are generated as a product of that retained search to another law firm.

The benefits of the retained search become immediately evident (1) prior to the recruiter's commencing the search, (2) when the recruiter starts recruiting for the position, and (3) when the law firm begins interviewing prospective candidates.

Step 1: Beginning the Partner Search

The second the recruiter receives the \$50,000 retainer check for the search, the benefits of the retained search begin. By paying a retainer fee to the recruiting firm, the partnership of the law firm has immediately telegraphed a message to the recruiting firm (and the candidates the recruiting firm will tell that it has been retained to fill a search) that the law firm is serious about making a lateral-partner hire.

The benefits of a retained search

Every legal recruiter out there can tell stories of partner candidates that he/she has represented being left in limbo for months-or even years-while a given law firm makes a decision of whether or not to hire them. In almost every case where there is this level of indecisiveness, the recruiter has not been working on a retained search and has, instead, been doing a contingency search.

The reason for this limbo state has to do with the fact that many law firms experience a great deal of difficulty getting management to agree to make a lateral-partner acquisition. This problem is due largely to the fact that there will be partners in the firm who are not committed to growing a certain practice area. In other cases, certain partners in a law firm may be threatened by bringing on someone that is seen as a competitor. There may be issues with how well a certain partner's clients mesh with the firm. The list is almost endless.

Recruiters and their candidates do not like this limbo state and want to avoid it. This limbo state is almost universally caused by a lack of management buy-in. If there is management buy-in, the recruiter and his/her candidates are going to be much more likely to be effective on behalf of the given law firm.

The recruiter will typically commence his/her search by meeting with the law firm he/she is doing the retained search for. When the recruiter meets with the law firm, a good recruiter will have numerous questions for the law firm. In most instances, the recruiter will try to meet with the managing partner of the law firm. Some of the more important questions the recruiter will have are:

PAGE: 4

- Why do you need to be in this city (if applicable)?
- Why do you have a need for a partner in this particular practice group?
- Who are your most significant clients in the city?
- Do you represent insureds, insurers, or tobacco companies?
- What are your partner and associate billing rates?
- How many equity and non-equity partners are in the firm?
- What are the average profits per partner?
- What is the history of your need for this particular search?
- What attorneys outside your firm have you talked to about this opening so far?
- What are the problems with your law firm that other partners in the community might know about?
- What are your strongest practice areas?

The list of potential questions that a recruiter will have for the managing partner of the law firm will, in almost all cases, mirror the exact same questions that potential candidates will have for the recruiter when the recruiter calls. If the recruiter does not know the answers to these questions, he/she will likely be faced with a very short phone call, and his/her recruiting efforts will be unsuccessful.

Most often, these questions cannot be answered by contingency-fee recruiters because they cannot have the same access to the law firm that a retained recruiter can. This is precisely the reason that most contingency-fee recruiters experience very little success in their searches.

As a recruiter, I have taken countless phone calls from law firms seeking to grow their partnership ranks. These same firms are often calling multiple recruiting firms with the exact same requests and acting as if the recruiting firms should respond with vigor to these requests-even in the absence of a retainer. This rarely happens. The reason is because the recruiter has no incentive to grill the firm about the necessary questions because knowing other recruiters are likely to be working on the same search makes him/her less inclined to be willing to devote the time and energy it takes to find a suitable partner.

What generally happens in these sorts of situations is that the law firm ends up calling a relatively unsophisticated recruiter, who ends up working on the search without a retainer. This unsophisticated recruiter makes numerous telephone calls around the city and does not have the answers to the partner's important questions and attempts to beat around the bush. The partner is poisoned against the firm because he/she has been approached in such an unprofessional manner. In addition, the partner has no sense of being special or singled out for consideration for a potential position because he/she generally is intelligent enough to understand whether or not a retained search is occurring. The search fails.

The benefits of a retained search

Prior to commencing the search, the recruiter will generally do a great deal of research on the law firm's behalf. This research is not all that complicated. The recruiter will simply use Martindale Hubbell to identify the partners from various law firms that are likely to have the qualifications that the law firm is seeking. Most recruiters do this sort of research on their own, and some of the larger recruiting firms have people that will do this for the recruiter.

This level of research does take quite a bit of time, however. A properly done research assignment will take the recruiter at least a couple of days of solid research. Because the search is retained, the recruiter is willing to spend the time doing this research. Once the research is complete, the recruiter is also likely to follow through with contacting the prospects that have been generated by the research.

Step 2: Recruiting for the Firm

Once the recruiter begins recruiting for the position, the benefits to the law firm of having done a retained search become even more profound. Here, as has already been made clear above, the recruiter is far, far more effective than he/she would be in a contingency-based situation.

The recruiter's early targets will generally be a few different types of attorneys. First, he/she will target partners at large established law firms. Second, he/she will target partners at smaller established law firms. Each recruiter has his/her own methodology; however, this is the most common retained method.

PAGE: 5

1. The recruiter will recruit from large law firms

In targeting partners at large law firm, the recruiter generally has a typical profile of the type of partner he/she would like to recruit. Most law firms will simply ask for a partner with a certain level of portable business. At most large law firms, there are 5- to 10-year partners with substantial portable business who are without substantial management clout and may indeed work harder and have more business than more senior partners and earn less than these senior partners.

The recruiter's ideal candidate is someone who is "Number 2" in his/her department and butting heads with the "Number 1" person.

Here, the recruiter is looking to exploit a "leaving home" sort of mentality among these mid-level partners. These mid-level partners may feel quite subordinate to more senior management and still feel like they are being treated like associates despite outstanding performance. By studying a given firm roster, a good recruiter can very quickly get a sense of who these people are.

When a recruiter starts making telephone calls, he/she knows he/she is going to have to kiss several frogs before finding the prince. Early calls will be focused on the 5- to 10-year partners. Most recruiters will start making their telephone calls to the very best law firms and work down from there.

The pitch the recruiter will have with these sorts of partners is likely to be quite persuasive. The recruiter will generally start the conversation by introducing him/herself to the partner and stating that he/she has been retained by the firm to assist it in making a serious strategic hire. The recruiter will then indicate that he/she believes the person is a good fit for what the firm is looking for.

At this stage-a minute or two into the conversation-the recruiter generally does not give the partner any information about the firm he/she is recruiting for. The partner will generally ask how the recruiter knew that he/she would be a good potential candidate for the law firm, and the recruiter will generally respond with something to the effect of "It's my business to know you." The early dynamic that is set up with the partner is one in which the partner is meant to feel somewhat flattered and that the call that is coming to him/her is quite serious and meaningful.

If the partner indicates preliminary interest in knowing more, the recruiter will generally try and tell the partner more about the strengths of the given firm and why it represents a significant platform for the partner. Because most early calls will be going to junior to mid-level partners, the recruiter will stress the benefits and growth potential of the law firm he/she is recruiting for offers. This call will generally stress things such as

- The strength of the firm
- The stability of the firm's clients
- The profitability of the law firm
- What the firm is missing and why this partner complements it.

There are, of course, occasions where the partner will jump right at the opportunity once the name of the firm is offered. Usually, though, in order to keep the conversation going, the recruiter will generally close by asking the given partner if he/she has any particular questions about the law firm. The recruiter will make a solid effort to answer all of the questions for the partner, but will not answer them completely. The recruiter's goal is to leave the door open for additional discussions with the partner later on. The recruiter also wants to give the partner some time to think and find fault with his/her existing firm. The recruiter will generally tell the partner that he/she will get back with him/her in a few days with a better answer to one or more of his/her questions and not even request whether or not he/she can call the partner later.

One effective tactic that many partner-level recruiters use in closing these phone calls is to ask the partner candidate one simple question: "Are you missing out on any major business at your current firm?" In fact, most partners with significant business at most law firms are missing out on major business. Perhaps their law firm does not have an IP practice for them to refer IP work to that their corporate clients are generating. In other circumstances, the law firm may not be allowing them to bring in certain business for a variety of reasons.

PAGE: 6

The important thing from the recruiter's standpoint is that he/she is making the partner aware of the limitations of his/her own firm and forcing him/her to think about this. The recruiter's goal in subsequent calls (and the current call) will be to highlight for the partner ways in which the firm he/she is recruiting for will help the partner generate additional business from existing and future clients.

In most cases, the recruiter will encounter partners who are not at all interested in moving. That is simply the nature of the business. Here, the recruiter is presented with an excellent opportunity to ask if the partner knows of anyone else who may be looking. A good recruiter will simply ask: "Whom would you call if you were I?" Partners show a surprising degree of willingness to help recruiters in this regard, and these referrals often provide the recruiter an excellent "grounded" introduction to further calls. For example, the recruiter may learn whom a given partner referred to him/her represents and aspects of his/her relationship with his/her existing law firm he/she may not like. A good recruiter will build upon this information and use every call as an intelligence-gathering mission to make each subsequent call more effective.

It goes without saying that the recruiter targeting large law firms will also target the "Number 1" partners in the same firms as well. However, from an efficiency standpoint, most of the early recruiting efforts will be geared towards the "Number 2" individuals inside the law firms. The largest issue with the "Number 1" partners in the firms is that they are less likely to be disaffected and have a desire to leave their firms. This does, of course, happen all the time, but it is less frequent.

2. The recruiter will target partners at smaller law firms

The method the recruiter will use in targeting partners at smaller law firms is quite similar to the one above. Here, however, the recruiter may make the "Number 1" partner in a given practice group his/her first priority for a phone call. The issue here will be slight differences in the pitch being used here.

A good recruiter will convey the message that the partner has reached a point where his/her head is now popping slightly out of the tent. He/She has outgrown his/her current firm. The partner has worked very hard at a small law firm and done very well for him/herself. Through his/her own efforts, he/she has groomed him/herself to go to work at a larger law firm and is at the point in his/her career where he/she is ready to take on bigger and better challenges.

One effective method the best partner-level recruiters use is to start talking in terms of the interests of a partner and his/her family. Most partners with substantial business work very hard and justify a lot of this hard work in terms of the lives they want to provide for their families. By speaking in these terms, the recruiter is able to force the partner to focus on larger issues outside him/herself and how comfortable he/she may be in his/her current firm.

Step 3: The Firm Interviews the Recruiter's Candidates

Once the law firm begins interviewing candidates, the benefits of the retained search become further amplified. In a contingency-based situation, most candidates will enter interviews with little knowledge about the law firm they are interviewing with. They will also know that their relationship with their contingency recruiter is somewhat akin to a real estate agent simply showing them a house. There are a lot of houses out there for them to look at, and the agent may know more about some house than others.

The retained recruiter has already briefed the partner candidate in great detail about the law firm and how the partner would fit in there. Because the questions have been answered, the partner has also created an idealized version of what it would mean to work at the law firm in his/her mind. The partner's thoughts of moving have also been concentrated directly on that one law firm.

When presented with a partner-level candidate through a retained search, the law firm is very likely seeing a candidate it would never see through a contingency search. The candidate is also likely to be of much higher quality. While it is not always so, it is a well-known fact that the best partner (and associate) candidates are not the ones who are actively looking for positions.

The law firm interviewing a candidate that comes through a retained search is not wasting its time. The candidate is interested. In addition, because the candidate has only been presented to it-and it only-through the retained recruiter, the candidate will not be evaluating the firm against multiple other law firms (as almost always happens with the contingency-generated candidates). The benefits to the law firm in this regard are profound. Before making an offer, a law firm may set up more than 20-30 hours worth of interviews and meetings with a potential partner candidate. If the partner is evaluating numerous potential new homes, this will be a waste of economic resources for the law firm.

PAGE: 7

C. Conclusions

The retained search is a far more effective method for law firms to recruit lateral partner talent. While many law firms are happy to wait for candidates to come to them, this is a very risky game. In the largest legal markets, there may be literally hundreds of law firms that are good potential fits for various candidates. When you are dealing with a recruiting firm on a contingency basis, you have absolutely no way of knowing which partner candidates you will see. In addition, while the retained-search method is best suited to law firms in getting the best talent, it is also the method best suited to partners in finding new law firms. Who better to convey the message of your firm's strengths than someone who will speak with every qualified attorney in your market? The retained recruiters will also be very able to answer every question about your firm and not poison the waters in the way a contingency-based recruiter might.