



ATTORNEY SEARCH

By Carey Bertolet

## Being Aware of Trailing Spouse Syndrome: How the Questions You Can't Ask May Make All the Difference

In the 1980's, the professional world was introduced to a new term of art: the so-called trailing spouse. Trailing spouse syndrome has been generally defined as the effect the relocation of one's spouse has on one's professional trajectory. More specifically, the trailing spouse subordinates his or her own career in order to allow his or her partner to advance professionally. Since many spouses and partners possess their own distinct professional identities, relocation for a new job (even with the same employer) affects not only the candidate, but the spouse as well.

### Would you abandon a successful career if your spouse received the professional chance of a lifetime?

In today's large law firm environment, trailing spouse syndrome is an increasingly relevant issue. Firms rely on relocating recruits from one city to another to staff their busier or growing offices, and while domestic transfer and relocation is common, the international relocation of lawyers is becoming increasingly abundant. When considering the needs of a trailing spouse, one cannot simply ask "is this the right job for me?" One must also ask whether the job will allow one's partner to pursue his or her career goals. A job can't just be "good enough," it has to be so good that it is also worth the sacrifices that a trailing spouse will have to make.

### Who is doing the trailing?

A 1987 *New York Times* article ("Relations; Following a Wife to a New Job," by Andree Brooks) stated that 10 to 30% of trailing spouses were husbands following their wives as they pursued new opportunities. The article seemed to suggest that the number of husbands as trailing spouses was on the rise. While current estimates of how often a woman is a trailing spouse, and whether the trailing spouse dynamic applies equally to husbands and wives, are scarce, my own anecdotal experience shows that women are more often trailing their husbands. Still, I have seen plenty of trailing husbands and plenty of trailing in same-sex relationships, which makes it difficult to identify what is "typical" in the trailing spouse world.

I have been using the phrase "trailing spouse," but as I've already mentioned, the syndrome isn't unique to married, heterosexual couples. Even so, there is evidence of gender inequality in the real-world application of trailing spouse syndrome. CNN recently addressed the issue in an article entitled "Career Couples Fight Over Who's the 'Trailing Spouse'" (June 2008). CNN cited a 2007 study that found that trailing spouses are typically women who are losing \$750 in salary in exchange for an average \$3,000 boost to the husband's income. Of the 9,000 married couples interviewed for the study, it appears that career women were the group most adversely affected. However, this study only included married couples, and trailing spouses aren't always husbands or wives – couples of every legal status and orientation deal with trailing spouse issues in individual ways. Deciding which partner in a couple will "trail" is certainly a difficult, personal discussion.

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### **When is it okay for your career to trail?**

Overall trends in trailing may tell us something about the role gender plays in our workforce, but they don't really highlight the issues professionals face when deciding whether to trail their spouses and partners. For law firms, trailing spouses are a hidden factor that may have a significant impact on their ability to recruit talented lawyers, as well as on the successful relocation of those lawyers once they have convinced their spouse or partner to trail them.

Most of us know that it is not appropriate for an employer to ask a candidate about his or her marital status during an interview. Although I would never suggest running afoul of this proscription, it is ironic that one's partner or spouse may have the final word in considering a relocation. Indeed, to the extent that a firm knows that there is a trailing spouse, recruiting efforts ought to be directed at both individuals.

### **Is the significant other on board with the relocation?**

In my experience, spouses have a great deal of influence over career decisions (as they should), even when they aren't potentially sacrificing their own careers. I once had a candidate (Steve) tell me emphatically that he was relocating to Texas from New York (names and locations have been changed in the interest of discretion). Steve told me that, among other reasons, he was anxious to relocate to be near his ailing mother. Steve interviewed, was invited to join a firm, and was thrilled to receive the offer. To everyone involved, it seemed a perfectly orchestrated lateral move. To everyone except the person that no one thought to ask: Steve's wife.

Just a few days later he reluctantly declined the firm's offer. While Steve was quite resolute about moving to Texas, it seems that Steve's wife was not at all interested in living near her mother-in-law. I can't tell you why the couple hadn't explored the issue in more detail before Steve got through the entire process (he had traveled to Texas and gone through several rounds of interviews), but I do respect the fact that Steve wouldn't make the move unless his wife agreed. Of course, the firm wasn't thrilled that Steve had represented his decision to relocate as absolute, but at the end of the day, one of the most important parties to the decision hadn't been at the interview.

I don't recommend that an employer violate the spirit of anti-discrimination laws to "cleverly" uncover a candidate's marital status. I do suggest, however, that employers think about asking those questions that will help evaluate how far along a lateral candidate is in committing to a relocation. Asking questions about whether it will be difficult to pull up roots from their present location and the time frame in which they can relocate might help identify whether anyone else will be involved in the decision to move. Sometimes, a lateral candidate will volunteer information about his or her family situation, and this should perk up an interviewer's ears. A spouse's buy-in for a relocation is important. When a spouse has his or her own career issues to address, the recruiting process becomes that much more complicated.

There are additional hurdles that are quite specific to law firms in considering trailing spouse issues. Recently, a New York lawyer whose wife also practiced in the city was offered a transfer overseas to Hong Kong. The couple had to make a decision about whether the wife could and would become the trailing spouse. The situation was particularly difficult because she was far less likely to be able to find an overseas position in her (more local) legal practice than he had been. Wisely, the firm offered an additional stipend to offset some of the salary the couple would forgo in the likely event the wife could not practice abroad. She ended up temporarily leaving the practice of law, a decision she acknowledges was very difficult to make.

By the time a couple is faced with deciding whether one of them will be a trailing spouse (and who will trail the other), each is usually established in their own individual area of specialization. As globalized as the legal profession is in some respects, there are specific hurdles that can make it very difficult to move from one jurisdiction to another as a lawyer.

A trailing partner who practices law generally deals with several significant obstacles. First, is their skill set marketable in the new location? Certain intellectual property and corporate practices are highly portable city-

to-city. But there are more state-specific practices, including certain types of litigation and trusts & estates work, which rely on state and local rules and regulations. Some practices are similar across state borders, and some are not. The relevance of the trailing spouse's skills in the new environment has a lot to do with marketability. It can also be difficult for a lawyer coming from a small urban or suburban practice to market their skills to a large city practice.

Second, can the trailing spouse become admitted to practice in the new jurisdiction? A domestic move may or may not allow for waiving in to the local bar, and there are still plenty of states with narrow or non-existent reciprocity rules. Certainly one can take a new bar exam, but willingness to do so depends on the person. Across national borders, admission to the local bar is that much more challenging, and sometimes impossible.

For international trailing, immigration may also be an issue for non-married couples or for some same-sex couples whose marriages are not recognized in the new jurisdiction. Will the trailing spouse have to be individually sponsored for a work visa abroad?

One technique I've seen employed to figure out whether these hurdles are too high to warrant trailing is for the trailing spouse to take the first stab at a new market before the other commits to a relocation or new job. If it's feasible, testing the waters on behalf of the trailing partner can shed a great deal of light on the long term prospects for both parties in their potential new home. A trailing spouse may have a better experience in a new location if his or her expectations were accurate before committing to the move.

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From the law firm's perspective, the trailing spouse situation isn't about screening candidates for the relationships they may take (or not be able to take) with them. It is not about marital status. It is about understanding that a new professional home for a candidate at a law firm will sometimes mean finding a new job for his or her partner. Accepting a position may require accord from a spouse who is relegating their own professional priorities, and law firms should appreciate the additional layer of decision-making.

Indeed, some industries are already anticipating these issues and accommodating trailing spouses and partners accordingly. I found evidence that the corporate world has been creating policies and incentives for trailing spouses since as far back as 1996. In the article "How to Help Your Trailing Spouse When Your Boss Asks You to Relocate, Cut a Deal with Enough Bucks to Take Care of Your Family's Needs," written by Marshall Loeb in the April 15, 1996 issue of *Fortune* Magazine, it was clearly demonstrated that the corporate world (Dow Chemical, Motorola) was already eyeing the trailing spouse for recruitment purposes.

Law firms should make sure that they are not the last profession to critically evaluate the need for relocation incentives that include spouses and partners. Law firms often compete with corporations and banks for the best and the brightest. They should be wary of losing their competitive edge because they are not fully considering the interests of trailing spouses and partners.

A good interviewer won't ask questions about marital status, but the best recruiters will remain ready to address and actively recruit not only their desired relocation candidate, but also the spouse or partner they haven't met. When given information about the existence of a trailing spouse, a firm may want to be ready to:

- Provide information about schools
- Refer the candidate and spouse to real estate brokers
- Provide immigration information relevant to relocating family members and loved ones
- Outline local tax obligations or advantages
- Identify ex-pat community groups (for relocation overseas)
- Have referrals for recruiters and other career advice resources in various other industries

Certainly, most of this information is also relevant to the primary candidate, but providing information about the quality of life and professional landscape in a new city to a candidate's trailing partner will help engage them in the process and encourage all parties involved to pull in the same direction. In addition to providing information, law firms may also want to consider offering benefits tailored to the trailing spouse. Can the firm help subsidize classes or courses that will help the trailing spouse's marketability? Will they pay for trailing

spouses to travel back and forth to help transition them into their new homes? Is there any way to help offset the cost to a trailing spouse who put his or her career on hold? Thoughtful consideration of the effects one lawyer's relocation may have on a spouse or partner may be the one recruitment strategy that sets them apart from other potential employers.

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