

# *What is Retained Attorney Search? Top 13 Questions and Answers About Retained Attorney Search and Legal Recruitment for Law Firms*

*By Harrison Barnes from Los Angeles Office*

*Managing Director*

**What is Retained Attorney Search?**

**Why Do Law Firms Use Retained Attorney Search?**

**What Are The Benefits of Retained Legal Search?**

**What Are The Potential Disadvantages/Risks of Retained Legal Search?**

**How Should Law Firms Choose Between Retained Legal Search and Contingent Legal Search?**

**What are the Disadvantages of Contingent Attorney Search?**

**Should A Law Firm Consider Several Legal Recruiting/Attorney Search Firms?**

**What Should A Retained Attorney Search Agreement Include?**

**How Can Law Firms Motivate and Control an Attorney Retained Search With a Legal Recruiting Firm?**

**How Can Law Firms Make A Retained Search Easier?**

**What Questions Should Be Raised With Attorney Search Firms About Their Qualifications for a Retained Attorney Search?**

**What Information Should Attorney Search Firms Present to Law Firms About Attorney Candidates?**

**What Are The Most Common Stumbling Blocks in Retained Attorney/Legal Search?**

## ***1. What is Retained Attorney Search?***

In a retained search a law firm selects one search firm for a specific assignment. The search firm is paid a portion of its fee at the beginning of the search, progress payments at defined times during the search and a completion payment after the candidate has joined the law firm.

## ***2. How Do Law Firms Use Retained Attorney Search?***

Retained search is found in many settings including o searches for partners with established practices o practice group leaders o associates in niches or general areas. It can be used for mergers or practice group acquisitions as well. It is increasingly popular for narrow band searches for highly specialized associates and partners.

## ***3. What Are The Benefits of Retained Legal Search?***

The principal benefits of retained search are focus, responsiveness, and quality that should be inherent in a retained search relationship. The law firm places its confidence in one search firm for a particular engagement and uses only that firm for a particular period of time to identify candidates. In exchange the search firm works only with one law firm on that type of engagement and does not present candidates to more than one law firm. This reciprocal exclusivity is at the core of the retained search relationship. The benefit for the firm is that the attention of the search firm is focused. The benefit for the search firm is that it has an exclusive relationship on a defined engagement for which it is paid in stages from the beginning to the conclusion of the search. This obvious economic benefit for the search firm is balanced by the quality and focus of the effort.

In a nonexclusive contingent fee setting, a lawyer is just as likely to say "gee Smith & Jones isn't what I had in mind - but can you get me into Gibson & Wilmer?" And the plain fact is that the search firm who can receive the same fee from either is likely to respond "O.K." and submit that lawyer to Gibson & Wilmer. That fact will not appear on your radar screen. What you will notice is a lack of qualified prospects and you will be left wondering why. The typical recruiter may be work with scores of firms. It is a challenge to be at the top of their list.

It is also far easier to establish credibility with top prospects when you can say credibly (and accurately), "we've been retained by Smith & Jones to identify a handful of prospects for their growing securities/international/finance practice." The lawyer receiving the call will pay more attention than he will to a call which begins with "we work with most leading Los Angeles firms.

Finally a well-honed retained search effort is less disruptive to the law firm. Partners and recruiting professionals will not be inundated by resumes from scores of search firms. They won't have to repeat for the umpteenth time the particular requirements of the search. The better a retained search firm understands your firm, its partners, its culture, and its preferences, the better able it is to meet your needs. It is as simple as that. A commitment on both sides of the table should produce higher quality results at no greater expense.

#### ***4. What Are the Perceived Disadvantages of Retained Legal Search?***

**First, law firms often reject retained search because they believe it is more expensive than contingent search.** Leading search firms will structure arrangements that are competitive for retained search clients. The corporate model of 33% commissions for placing senior executives is rarely appropriate in law firm search engagements. And law firms and search firms structure fee caps, payment schedules, and compensation formulae in a manner that is fair to the search firm and fair to the law firm.

**Second, some believe that [retained search firms](#) may be less attentive than a firm that is motivated by a contingent fee payable only when the work is completed.** A law firm can protect against this risk by developing long lasting relationships with search firms. [A premier search firm will offer the same focus to its law firm clients.](#) Indeed, in a retained search relationship, the search firm is motivated to maintain a long-term relationship. This elevates and refines focus and service to a higher level.

**Third, a search firm may be 'blocked' from targeting candidates at particular firms because of their other client relationships.** A premier search firm will have made careful strategic decisions about the scope of its work so that it has free reign over a vast majority of the market.

**Finally,** a retained relationship may preclude a law firm from considering other candidates that surface during the retained search through other search firms, through the firm's contacts, or other means. Here the law firm and the search firm can make sensible decisions about this type of situation.

#### ***5. How Should Law Firms Decide Between Contingent Attorney Search and Retained Attorney Search?***

While firms usually think of retained search as a vehicle most appropriate for partner searches it can be used in almost any setting. The primary decision a law firm must make is whether it believes it receives better quality candidates and better quality service from o an unlimited contingent fee approach where it will receive resumes from any search firm o a limited roster of approved contingent fee firms o an exclusive contingent fee relationship for a fixed period of time (akin to a limited real estate listing) or a retained search relationship. In some respects, the decision of a law firm may reflect its experience with search firms. A law firm should know what a search firm has on its table. Whether the assignment is contingent, retained, or hybrid, the law firm must know the level of attention it can expect. If you do not sense that a search firm has made your law firm a priority, ditch them. Period.

#### ***6. What Are The Disadvantages To Contingent Attorney Search?***

Frankly, when the lateral hiring market is brisk, it is challenging for law firms to obtain the required focus and

commitment on contingent fee searches. In a contingent fee setting, a search firm is likely to present candidates to a range of firms because it knows that not all candidates will appeal to one firm. That can leave a law firm wondering why it is not seeing the supply of candidates it expects or why candidates are 'lost' to other firms at the mid-point in the search. This is particularly true in hot areas such as intellectual property, real estate, L&E, and certain corporate niches.

## ***7. Should You Consider Several Legal Recruiting/Attorney Search Firms?***

A law firm should always have close relationships with several search firms. Some leading retained search firms are quite small and in this market their availability can be limited. Second, an excellent search firm may not be able to help you because of either (a) a conflicting engagement in the same field or (b) the key targets of the search practice with one of the search firm clients. Third, competition never hurt anyone - and the aroma of competition can lead to better and more responsive service for the law firm. For a partner level or practice group leader search, it is often wise to conduct a 'shoot-off' or 'beauty contest' where several search firms appear to present their materials and respond to questions from the members of the firm heading the effort. Outstanding search firms are delighted to participate in this type of screening effort. It allows the law firm and search firm to have candid discussions about the search and the capabilities of the search firm.

## ***8. What Should A Retained Attorney Search Agreement Include?***

A [retained search agreement](#) should cover, clearly and comprehensively o the scope of the search o the duties of the search firm o the formula, cap, payment stream, and other details of the placement fee o guarantees, refunds, and termination o protecting the confidences of the law firm o defining a 'hands-off' protocol o and sundry provisions on governing law, notices, modification, and dispute resolution.

## ***9. How Can Law Firms Direct and Control an Attorney Retained Search with a Legal Recruiting Firm?***

The law firm must set clear guidelines for the pace and method of search. A top search firm will be flexible and attentive to the approach preferred by firms. Law firms should instruct search firms on the time limits and direction of the search, whether candidates should be presented in a group at the end of the prospecting stage or seriatim as they are identified. Similarly, the search firm should meet with the recruiting firm and the partner directing the search to learn the firm's preferences on target candidates, law school and grade cut offs, billing and client requirements, and any other feature of the search. The law firm should also let the search firm know its 'style' of search --- does it prefer to be involved throughout the effort, should it be advised in writing or orally about progress, and. Some of these issues can be spelled out in the agreement, but the law firm should control the process and make certain that its preferences are accommodated.

## ***10. How Can Firms Make A Retained Search Easier?***

For the search firm, a retained (or contingent fee) search is far easier to conduct when the search firm has all the information it needs to respond to candidate's inquiries. Obviously matters such as [partner compensation](#) and related issues are best left to discussions between the firm and the candidate but core information on demographics, growth, clientele, firm management, and related concerns will arise early in conversations with any serious prospect.

## ***11. What Questions Should Be Raised With Attorney Search Firms About Their Qualifications for a Retained Attorney Search?***

**Experience in the relevant practice area** - The learning curve will be far shorter when the search firm has considerable experience placing lawyers in the practice area involved in the search.

**Who will conduct the search?** With a larger search firm, make certain you have met and are comfortable with the person who will be doing the 'sourcing' (identifying targets) and the contacts.

**Where are you precluded from searching?** Every search firm should have a 'block list' - firms where because of existing client relationships they are precluded from soliciting or recruiting. Beware the search firm who says they do not have a block list or can 'work around' this issue. They may tell the same thing to another law firm who wants to target your lawyers.

**Are you working on conflicting assignments - i.e., are you searching on behalf of another law firm for lawyers in this field.** If so an issue of divided loyalty arises - and you run the risk that their efforts may not be as zealous (or complete) on your behalf. Here it is a matter of the risk you are willing to accept not an absolute black and white proposition. It is not unreasonable in a retained search setting to require exclusivity.

**Walk through their view of how the search would take place.** Without giving away state secrets, let the search firm describe the search process - including wrinkles that are peculiar to the practice area.

**References - a search firm should be pleased to provide references** from other law firm clients, placed lawyers, and others in the professional community familiar with their services.

## ***12. What Information Should Be Furnished About Candidates By the Legal Recruiting Firm?***

Make certain that your search firms know the range of information that must be submitted concerning any candidate. At a preliminary stage exploratory conversations often proceed between firms and candidates without full documentation. As conversations progress, law firms should require detailed information, including o current resume o proof of good standing in all states where the candidate is admitted o law school transcript o 3-5 year history on billings, collections, realization, hourly rates, and total compensation o roster of clients and key contacts o an outline of pending marketing efforts and a business plan looking 1-3 years forward.

When the matter is close to closure additional due diligence can be required including o tax returns or transcripts (or a letter from a CPA certifying that taxes are current)o certification that the candidate is not directly or indirectly involved in any disciplinary actions, malpractice claims, or court-issued sanctions. The candidate and the firm may have to engage in sensitive conversations about partnership withdrawal, admission, draw, and other issues. The search firm can assist in collecting and reviewing much of this information.

## ***13. What Are the Most Frequent Stumbling Blocks In Retained Legal/ Attorney Search?***

Most stumbling blocks can be avoided if the law firm and search firm know each other well, have a long-standing relationship, and are proceeding in cooperative good faith. As in any professional setting, when an 'issue' is looming, the best approach is to put it on the table as promptly as possible. What follows is a list of 'issues' that can create stumbling blocks in retained search.

The law firm slows down the search because of unrelated issues that change the focus of management  
The law firm changes the focus of the search because of intervening events related to the economy, other clients, etc.

The law firm and the search firm have not dealt adequately with how to handle the candidate who is submitted by another search firm during the search

The search firm does not understand partnership compensation, hourly rate, and other issues well enough to deliver candidates who are realistic prospects

The search firm does not adequately screen candidates for core information on clients, billings, collections, academic records, etc.

The search firm loses focus on the engagement because it is preoccupied with unrelated matters for other clients

The agreement does not clearly explain how the fee is calculated so that misunderstandings arise as to the fee owed to the search firm

The search firm does not 'know' the law firm and its practice area(s) well enough to sell the opportunity to candidates

The search firm does not understand the preferences and goals of the search because it has not met extensively with the members of senior management who control the search.

***Interested in Learning More About Legal Hiring? Read the Definitive Guide:***

***[How to Hire a Legal Recruiter for Your Law Firm: How Law Firms Recruit Attorneys Using Legal Recruiters](#)***