

## **Show and Tell: Don't let recruiters rush a lateral hire so much that key questions go unanswered.**

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1. A lot has been said and written over the past year about increased scrutiny and vetting of lateral partners. Some firms claim to be asking laterals to complete written questionnaires about their backgrounds and practices. Our outside search firm has advised us that this is all talk and that we should not use a vetting questionnaire because it will turn laterals off. What is your take on this?

My take is that your search firm is giving you self-interested bad advice. Search firms don't like vetting questionnaires because they get in the way of lateral moves. From your search firm's point of view, at best the questionnaire and its review by the firm slow the process down. Worse, it may dredge up information that will queer the placement by revealing unsavory aspects of their candidate's character or the soft underbelly of their representations about their income or the portability of their book of business. Since search firms get paid only if the lateral makes the move, they want to control and spin whatever data you see about their candidate.

In a recent sampling of about twenty-five very large firms, nearly all of them use written vetting questionnaires. Many go one step further and seek to corroborate information provided by a candidate in response to the questionnaire. In these forms, firms tend to focus in great detail on pedigree, past employment and historical billings and collections, portable business and compensation. They also probe for involvement in disciplinary proceedings and controversies (e.g., criminal matters, malpractice and sexual harassment claims, medical conditions) and bankruptcies. Some firms ask for copies of K-1's, law school transcripts, 360° reviews and client lists.

There are, of course, reputable search firms that carefully vet candidates and only present candidates who appear to meet the criteria a firm has set out for them. Even the most reputable, though, won't use a questionnaire as thorough as those that firms are developing today, and don't want you slowing down the

process doing your own due diligence. For most search firms, other than the highly controlled information they provide you with, the less information you get to digest the better.

2. After 9/11, many firms took a look at how to ensure the security and continuity of their server operations. Have any acted and if so, what are they doing?

Although many firms have looked at this, few have acted. More seem to be on the verge of doing so. As a first step, a few firms are moving their server operations off-site. Howrey and Orrick have both done this, pursuing different models. Orrick continues to operate their own servers; Howrey has outsourced its server operations. By moving their servers off-site, both firms report substantial savings. Part of this is the geography. Both firms previously had their servers in expensive downtown office buildings. Now they are in rural areas with rents a fraction of what they were. Both firms had significant server operations in California, subject to power outages occurring in the event of an earthquake. Howrey's DC servers were in close proximity to the White House and other important government operations always at risk for terrorist attacks. Both firms have moved effectively to avoid this risk by re-locating their server operations to rural areas.

In looking into this, some firms are discovering other security and cost saving opportunities. Some of these opportunities are common sense enough that even a non-tech layperson like me can understand them. They are looking at new operating systems and consolidating their innumerable servers (often hundreds of them) into a mainframe server. A by-product of the evolution of the desktop computer and the Windows operating systems pervasive in nearly all law firms, these hundreds of servers require large staffs to keep them running. The complexity of Windows and its vulnerability to crashing when applications conflict and hacking has driven CIOs to dedicate a new server for nearly every significant application. It's the only effective way they can avoid the howls of discontent voiced by lawyers when systems crash. But, by moving to mainframes and, for instance, a Unix operating system, many applications can run compatibly on a mainframe that takes up less space (save still more money) and crashes less (happier lawyers). And, in perhaps the most astonishing benefit of all, moving off the Windows platform removes their firms from the cross-hairs of Wormblaster and other viruses designed to attack the Windows platform through Outlook.

Clearly, we are on the doorstep of the next big revolution in law firm technology as large firms take a page from the technology strategies of the mid-cap companies they resemble and move from desktop computing back to mainframes.

3. For years, a constant refrain at many of the leading law firms around the world has been that the American Lawyer's publication of law firm financial performance "ruined" the profession by "forcing" firms to manage by the numbers. Yet managing partners today pride themselves on running their firms more like businesses, which are always focused on the bottom line. Is it good or bad to manage by the numbers?

A generation ago, managing partners commonly asserted that Steve Brill ruined the profession when he took it on himself to publish law firm financial results annually in the Am Law 100 list. Today's generation of forward looking managing partners, though, is clearly managing to the bottom line, and partners in firms are clearly better off for it. While the Am Law 100 list is clearly the most talked about and visible pressure point on profits, market forces are strong and inexorably forcing firms to manage by the numbers.

Whatever the cause, managing by the numbers has clearly been good for the owners: partners in law firms. Forced by an increasingly competitive marketplace to manage costs and client relationships for optimal performance, firms have radically changed the way they go about their business. They are increasingly requiring their investments in new partners, practices and offices to pay off quickly, in the short term, if not immediately. And they are dealing with any one of them that underperforms expectations with increasing swiftness.

The top performing firms no longer go into new markets on a hope and a prayer. Many of them engage in significant research to determine which industries and clients need what kinds of work, and who is doing it before they get there, to see if they can compete for it. If new offices aren't quickly accretive to profits, they are either revamped or closed. They understand that to cherry pick laterals their numbers have to be high, so they carefully and continuously winnow out underperforming partners and clients, devote resources only to promising practice areas and slowly winnow out others, consciously push billing rates to the leading edge and work hard to instill a business development culture among all of their clients, both by driving client service to the limits and rewarding those who develop and proliferate new business. Some are beginning to look at measuring return on investment in their marketing dollars, benchmarking client awareness of their brands before and after ad and marketing campaigns, not unlike consumer product companies.

Does all of this managing by the numbers pull firms apart? I don't think so. These firms consciously keep an eye on maintaining strong cultures that value their success and draw to them lawyers who value success. They measure their success not just in terms of financial reward, but also by the quality of clients and the challenges of the work they attract. They are incessantly focused on getting the best of both.

The top performing firms today pay heavy attention to the blocking and tackling of law firm management, including bottom line performance as the chief measure of success.