

# NALSC® NEWS

National Association of Legal Search Consultants Newsletter

Fall 2021

## PAST EVENT TESTIMONIALS

*"Thank you so much for your hard work on the conference, it was wonderful."*

*"A job well done! It all went seamlessly."*

*"You really outdid yourself! You produced the best conference ever!!"*

*"It was another great conference!"*

*"I wanted to let you know that I really did enjoy the conference over the last couple of days. The discussions were very interesting and helpful!"*



[Link to virtual NALSC 2021 Fall Symposium](#)

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Dear NALSC Members,

We hope you all are staying safe during these unprecedented times. As the evolution of the pandemic ebbs and flows, NALSC continues to flourish by adding great value for our members, albeit on a virtual basis at present. We have and will continue to work together to confront challenges and strengthen our organization and the legal recruiting community.

I am grateful and honored to have been selected as your new NALSC President. In recent years, I had the honor of serving as a Board member and in several officer and Executive Board positions prior to taking on this new and exciting role. While our Immediate Past President Dan Binstock certainly set the bar at an extraordinary level, it's exciting to follow in his footsteps, along with our Board, in leading and continuing to take NALSC on its upward trajectory.

We have several new initiatives currently in process: We asked our Advisory Committee (made up of law firms) to gauge the appetite of the law firm community for the concept of a Universal LPQ ("U-LPQ"); enrolled the Long Range Planning Committee to help work on a creative marketing initiative to boost NALSC's brand awareness; finalized our online searchable directory with an update for increased functionality which now includes geographic focus, market sector focus, and practice focus, all with corresponding percentage fields; launched the initiative behind a Roundtables/Masterminds concept which offers members the opportunity to connect and bond on similar business models and recruiting topics; and set into motion the Social Media Committee which is working on a new campaign to increase industry education and expand NALSC's overall visibility via podcasts, Clubhouse, and more.

Under the leadership of a newly constituted Board and our intrepid Executive Director Stephanie Ankus at Headquarters, membership continues to grow. We now are 215+ members strong, as we see an increasing number of law firms joining in addition to legal search firms. Search firm membership benefits include affiliation, credibility, networking, education, advertising, visibility via NALSC directories, a mandatory adherence to the NALSC Code of Ethics®, and more. Also, NALSC is gaining more success in our partnering efforts with additional law firms as sponsors and supporting members. The connection fostered between search firms and law firms is crucial to NALSC's mission of upholding the highest ethical standards, building relationships with clients, and the overall success of our industry. Furthermore, we deeply appreciate our corporate sponsors who provide the legal search community with valuable goods and services.

In addition, long overdue and now fully activated, we are implementing a new tiered structure for membership dues which will go into effect for the upcoming 2022 renewal cycle. Basically, tiers in terms of total recruiters will replace the concept of branch offices. Therefore, going forward, legal search firm members will pay dues based on the number of legal recruiters in their entire entity (including all offices/locales). For example, regular member search firms (who must all receive at least 51% of their net revenue from the placement of attorneys into full-time legal positions) with: 1-3 search firm consultants in their entire entity will pay \$595/year; 4-10 search firm consultants in their entire entity will pay \$795/year; and 11+ search firm consultants in their entire entity will pay \$1195/year. Other membership categories such as Legal Divisions (Individuals) and Affiliate Members will proceed similarly with our new tiered pricing. Since all offices of a legal search firm member will be required to abide by the NALSC Code of Ethics®, all search firm consultants within the entity will enjoy NALSC membership accordingly. Supporting law firm members and Associate vendor members will remain the same as in prior years.

We continue to offer educational forums, presently on a virtual basis, allowing NALSC members to learn, discuss best practices, network with clients, and socialize with colleagues. NALSC's recent virtual Conference was a great success with 250 attendees absorbing topics such as building better rapport for making better placements; navigating employment law risks for recruiters; strategic planning for talent acquisition and retention based on NALP research and data; virtual law firms and recruiting; perspectives from the candidate side; advice from recruiters who have "switched sides"; a

## President's Message

by Mitch Satalof



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variety of interactive breakout session topics; and the hit live virtual piano party networking reception featuring our own VJ, Dan the B. Testimonials reflected as such, *"I really enjoyed the event and thought the Whova virtual platform was very effective. I thought the discussions were interactive and substantive, despite the fact that we couldn't gather in person. Thanks for putting this all together!"*

As for the upcoming NALSC Fall 2021 Symposium (October 21-22), the program has been changed to fully virtual (again via Whova). Unfortunately, due to the spike in the COVID Delta variant, we no longer will offer an in-person cocktail reception or option to watch streamed sessions while gathered together. We thank Seyfarth Shaw LLP for graciously and generously offering to host NALSC in Washington, DC, but we had to make the difficult decision to cancel in-person activities for this event. While we know nothing can replace an in-person event, the Whova platform not only makes networking possible, it also is interactive and, frankly, a lot of fun. Even in a virtual setting, the usual NALSC camaraderie and energy still comes through. Educational sessions you can expect to view are: Navigating Your Personal Brand Growth and Leadership Trajectory in the Hybrid Landscape; The Conflicts Analysis Process and How to Avoid Common Pitfalls; Why Candidates Stay/Accept Counter Offers and Addressing this Earlier in the Process; The Pandemic and New Normal from Traditional Law Firms; LinkedIn & Clubhouse for Recruiting, Networking & Marketing; Cultural Competency and Recognizing and Eliminating Bias in the Recruiting Space; Reaching More Prospects More Easily Through Referrals and Other Proven Methods; Interactive Breakouts; and, of course, a fun and engaging networking reception. In addition, the conference will incorporate time to visit sponsors via virtual exhibit booths and set virtual meetups among clients, vendors, fellow recruiters, and our newest members. Registration is open now, so be sure to register ASAP. We are looking forward to "seeing" everyone there!

Finally, we determined to get new Board members involved in NALSC committees and planning immediately upon their election in April rather than wait for their first Board meeting in October—a change that reaped great benefits already. I would ask all to welcome our new Board Directors, Cheryl Brown, Kathryn Holt Richardson, Mary Clare Garber, and Ross Weil. Kudos, as well, to our Newsletter Committee under the peerless guidance of its Chair, Valerie Fontaine, and the excellent contributions of Cheryl Brown, Raphael Franze, Natalie Thorsen Harris, Scott Love, and Kathy Richardson who have volunteered their time and dedication in putting together these informative semi-annual NALSC Newsletters for which we receive such positive feedback.

Best regards to all and here's hoping we all will be gathering in person for our Annual Conference in Scottsdale, AZ, in March, 2022.

**Mitch Satalof** - President of NALSC®

NALSC® is pleased to welcome 13 new members since the last newsletter (Winter 2020/Spring 2021). We currently have 215 members consisting of 145 search firm members, 12 affiliate members, 10 branch office members, 4 individual members, 43 supporting members (law firms), and one associate member (vendor). Following is a list of recent new members and the cities and states in which they are based.

Our new Regular Firm Members and Affiliate Firms Members are:

- Alignment Recruiting LLC - Tampa, FL
- Balanced Legal Solutions - Alexandria, VA
- Branch Search Group - Austin, TX
- Collier Legal Search LLC - Houston, TX
- Engage Attorney Search - Los Angeles, CA
- Kenzak Group, LLC - West Palm Beach, FL
- Peak Legal Search, Inc. - Villanova, PA
- Prime Headhunting & Recruiting, Inc. - West Palm Beach, FL
- Stuart TenHoor Legal Search - Columbia, MD
- Thomas Bloom Consulting Inc. - Vashon, WA
- Valiant Search LLC - Albany, NY

Our new Supporting Members (Law Firms) are:

- Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow, P.C. - Los Angeles, CA
- Womble Bond Dickinson (US) LLP – Tysons, VA

For the upcoming renewals process, NALSC will be implementing a new tiered membership structure to replace branch offices. As such, all legal search firms will pay dues based on the total number of legal recruiters in their entities (including all physical and remote offices). Consequently, all consultants within all offices of a member search firm will be required to abide by the NALSC Code of Ethics® while also able to enjoy the many benefits of NALSC membership. In the event that only one or more individuals within an entity meet NALSC's membership eligibility requirement of receiving at least 51% of net revenues from the placement of attorneys into full-time legal positions, such members may qualify under the new "Legal Division" category (previously categorized as "Individual").

We also are excited to announce that the online searchable directory has been updated for increased functionality. Members now are able to expand their profiles with geographic focus, market sector focus, and practice focus information. Each of these searchable fields feature corresponding percentage fields as well. If you have not yet updated your online profile and need your username &/or password to log on, contact HQ at [info@nalsc.org](mailto:info@nalsc.org).

The Board remains at its maximum headcount of 13 and currently includes President Mitchell Satalof, VP of Membership Natalie Thorsen Harris, VP of Long Range Planning Arthur Polott, Secretary Valerie Fontaine, Treasurer Jane Pollard, and Directors Cheryl Brown, Avis Caravello, Raphael Franze, Mary Clare Garber, Scott T. Love, Patrick Moya, Kathryn Holt Richardson, and Ross Weil. The Immediate Past President and Emeritus Director is Dan Binstock.

Current NALSC Committees include Executive, Nominations, Newsletter, Ethics, Audit/Risk, Governing Documents, Long-Range Strategic Planning, Website, Events Prep, and Advisory. See our website at [www.nalsc.org/committees/](http://www.nalsc.org/committees/) for the membership of those committees.

NALSC truly appreciates all of our members, sponsors, event attendees, speakers, committee members, and Board Directors, each of whom play an integral part in helping grow and strengthen the organization. It's a team effort and we thank you!

# NALSC Membership Growth

by Natalie Thorsen Harris



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# NALSC Long Range Planning

by Arthur Polott

Pivoting to adjust to ambiguities is something each of us must do in our daily lives and every day in our practice. Likewise, the ambiguities presented by the pandemic were significant and NALSC responded quickly and effectively to support our membership. The Long Range Planning Committee (LRP), comprised of Cheryl Brown, Mary Clare Garber, Kathy Richardson, and Ross Weil, and me, with Patrick Moya as Chair, envisions and proposes to the Board and its committees forward-thinking initiatives to support the organization and its members.

The recent NALSC 2021 Annual Conference was widely lauded as an informative and meaningful success. Providing education and information while offering a forum for a discussion of trends and key marketplace issues is integral to the mission of NALSC. Feedback on the Conference was tremendous and everyone involved deserves significant credit! The Whova and Zoom platforms allowed NALSC to continue to be effective and to provide content and opportunities for connection, education, and support. Plans for a substantive NALSC Fall Symposium are coming along and we look forward to your registration and participation ([www.nalsc.org/2021-fall-symposium/](http://www.nalsc.org/2021-fall-symposium/)).

One of the ideas to come out of the recent Annual Conference is a “Mastermind Roundtables” initiative to help members stay engaged and learn together. Stay tuned for more details.

Also, the LRP is supporting the Advisory Committee as it puts together a survey geared towards NALSC’s law firm supporting members to measure law firms’ interests and how those interests dovetail with interests of the broader membership. More concretely, initial work is being done to explore the “Universal LPQ,” another idea which arose at our recent conference. We believe it would be helpful to many of our candidates, and, by extension, our members, if there was one Universal Lateral Partner Questionnaire (akin to the Common App for college applicants).

Finally, the LRP is working with headquarters in exploring a brand awareness campaign targeting multiple audiences over several forms of media to amplify our values and raise the profile of NALSC throughout the legal community. Our audience would include current NALSC membership, NALSC sponsors, non-sponsoring law firms, non-member legal search firms, corporations, lawyers, and law schools. The goal would be to increase awareness of NALSC in the larger legal community, promote membership, increase sponsorship, educate non-sponsoring law firms on the value of the NALSC Code of Ethics, and to encourage non-member legal search firms to join our organization. We also hope our campaign will prompt attorneys, law firms, and in-house legal departments to use NALSC recruiters when considering a lateral move or an additional hire.

We look forward to sharing more information with you and having the advantage of your input as we continue to support NALSC initiatives and efforts.



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## Legal Recruiting From the Candidate's POV by Valerie Fontaine

It was eye-opening to hear from attorneys about their experiences using a legal search consultant to make a lateral move. At the 2021 Annual Conference, a panel of former candidates shared tips on what the best recruiters do to facilitate the process and stand out from the pack. The bottom line is that a good recruiter will care, listen, streamline the process, and guide the candidate throughout. They will push for the best fit for both the candidate and the firm, not just to make a deal. They build relationships rather than focus on the individual transaction.

Paramount is that the search consultant engender absolute trust. One of the speakers mentioned the George Schultz quote: "Trust is the coin of the realm." Candidates want brutal honesty from their recruiters; they want you to say no, provide pushback, rein them in if necessary, and provide reality checks.

From the initial contact until completion, candidates want their recruiter to curate all communications, advice, and information so that it is tailored to the needs and interests of each candidate. Make it all about them. Before you speak or write, ask yourself: "Why is this information important to the candidate? Why this candidate? Why this firm?" Think

*"The bottom line is that a good recruiter will care, listen, streamline the process, and guide the candidate throughout. They will push for the best fit for both the candidate and the firm, not just to make a deal. They build relationships rather than focus on the individual transaction."*

about what is necessary for the candidate to know to be successful in the move and in their career.

The recruiter should ask the candidate to look at what they both like and dislike about their current firm, not just what they don't like. One panelist suggested that the recruiter make a spreadsheet of factors—both positive and negative—at the candidate's current firm, and rate each firm under consideration on those criteria.

All panelists agreed that good recruiters provide insight and knowledge of the market, the players, and the firms. They provide lots of preparation: inside information about the firm, what the firm is looking for, about the individual interviewers, and the process. We mustn't forget that many partners haven't interviewed in years and may need "socializing" and mock interviews/role play. A top recruiter will help the candidate find their story, what is unique about them, and will coach the candidate on how to present it as a value-add in interviews.

Candidates rely on their recruiters to keep the process moving and help close the deal. It is our duty to facilitate the process, keep everyone updated, push both sides on timing, and get both sides to commit. Once the offer is made and accepted, candidates want their recruiter to prepare them on how to resign and what to expect from everyone—the firm, colleagues (both supporters and detractors), jealous people, "information-pumpers," etc., and help them ease into the new role.

One panelist summed it up by proposing an adjustment in terminology: she suggested that we view ourselves as consultants or advisors, rather than as recruiters or headhunters.



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## The Evolving Salary Ban Minefield by Matthew J. McDonald, Partner, Klehr Harrison Harvey Branzburg, LLP

In recent years, laws prohibiting employers from requesting compensation information spread rapidly at the state and local levels. The resulting statutes, ordinances, and regulations vary widely in their scope, application, and penalties. This patchwork of laws creates a minefield for employers and recruiters. Notably, many of the new laws are accompanied by substantial fines and penalties.

Worse yet, because many of the restrictions went into effect only recently, cases interpreting them are few and far between. Recruiters and their clients thus need to be aware of the evolving legal landscape to

ensure they do not run afoul of these new laws, which are often referred to as "salary bans," "salary inquiry bans," or "salary history bans."

### Salary Bans Come in All Shapes and Sizes

The newly enacted bans vary in key respects. Several examples of the different requirements imposed in different jurisdictions include:

- i) **Anti-Retaliation Only:** In Alabama, an employer may request and

*Continued on page 6*

rely on compensation information, but is prohibited from retaliating against an employee who refuses to provide it.

- ii) **Voluntary Disclosure:** In Philadelphia and California, employers may rely on voluntarily disclosed compensation information, but in New York City and Colorado, employers are prohibited from relying upon it.
- iii) **Reactive Disclosure Requirements:** In California, employers must provide a pay scale upon request.
- iv) **Proactive Disclosure Requirements:** In Colorado, employers must include expected compensation in their job postings and disseminate openings internally and externally on the same date.

Notably, even among similar bans there can be variation, and associated risk for recruiters and their clients. For example, while California bans requesting compensation information, it permits discussion of salary expectations. In other jurisdictions, an inquiry into salary expectations may expose an employer to the claim that it is attempting to circumvent the ban on requesting compensation information by phrasing it as a request for compensation expectations.

Further, in many cases it is unclear which rules apply; those of the employer's location, the employee's location, or both. This issue can become particularly complicated, as with many employment rules, with the rise of remote work and videoconference interviews.

#### When is "Voluntary" Truly Voluntary?

As referenced above, many jurisdictions included carveouts to salary bans which allow an employer to consider voluntarily disclosed information when making employment decisions. A critical question thus becomes: When is a disclosure "voluntary?" In sum, it depends. The inquiry is very context dependent.

We expect different jurisdictions will develop different tests for evaluating whether a disclosure is in fact voluntary. In general, the following tests and factors may be applied: (a) whether the disclosure was prompted by the employer, (b) if the disclosure was in response to an employer's question, and/or (c) whether the applicant was led to believe that disclosure was expected or required by the employer.

Recruiters and employers, therefore, should carefully consider whether a candidate disclosed compensation information for their own benefit, or if they felt the employer wanted it, before relying on the disclosure. If an employer is using compensation information against a

candidate to offer reduced compensation, or as a factor against making an offer, then it should strongly consider consulting with counsel first.

#### Cost of Violations

The penalties for violations also vary—and can become quite costly for intentional and repeated violations. Several examples include:

- **New York City:** Fines range from \$125 for unintentional violations to \$250,000 for intentional violations.
- **Philadelphia:** Fines of up to \$2,000 per violation, and up to 90 days of imprisonment for repeated violations.
- **California:** No specific penalty.

Each of these jurisdictions also created a private right of action, allowing the candidate themselves to sue.

#### Conclusion: When in Doubt, Check with Counsel

Employers and recruiters face a rapidly evolving landscape with respect to salary bans—both as new bans are enacted and existing bans are interpreted through caselaw and regulations. Accordingly, to avoid substantial fines, we recommend conferring with counsel before presenting a question that could be considered soliciting compensation information, and particularly before relying on "voluntarily" disclosed information in a manner that is detrimental to a candidate.

Although this article is informational only, does not constitute legal advice or create an attorney-client relationship, and may not be relied upon, we would be happy to assist with any questions as they arise.



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## Advisory Committee Report

We are happy to announce that the NALSC 2021-22 Law Firm Advisory Committee consists of the following esteemed members:

- Carryn Sheen, Director of Lateral Partner Recruiting at Crowell & Moring LLP (Chair)
- Carmen Kelley, Director of Lateral Attorney Recruiting at Morrison & Foerster LLP (Co-Chair)
- Karen Kupetz, Senior Director of Lateral Partner Recruiting & Integration at Goulston & Storrs PC
- Danielle Shannon – Chief Talent Officer at Akerman LLP
- Mary Beth Walsh – Director of Lateral Recruiting at Dykema Gossett PLLC
- Christine Whitehead – Senior Manager, Talent Acquisition-Legal at Goodwin Procter LLP
- Edward Wisneski- Hiring Partner at Rimom Law

The mission of the Advisory Committee is to provide expertise to the NALSC Board of Directors on how NALSC can best meet the needs of its law firm members, and how law firm members can best contribute to the overall success of NALSC.

Currently, the Advisory Committee is working on a Universal LPQ initiative. The Committee has provided feedback for a survey which will be sent to our law firm supporting members. Based on preliminary field research as well as discussions with Committee Chair Carryn Sheen and Co-Chair Carmen Kelley, clearly there are merits of a Universal LPQ and we feel it is important to gauge the "appetite" of the law firm community.

Ultimately, the Committee will also assist us in interpreting survey results and suggest a plan of action moving forward. As a professional organization for the legal search profession, NALSC aims to stay on top of trends and issues in the marketplace and to make a difference in the industry with initiatives such as a Universal LPQ. We thank our Advisory Committee for playing an integral part.

# High-Performing Partners Equally Plagued With Mental Health Struggles

As a recruiter, author Dan Binstock sees high-level partners at a vulnerable time in their career, and the stress and anxiety can be palpable.

By Dan Binstock

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The increased focus on attorney stress/mental health over the past few years has been a welcome and much needed evolution. A lot of discussion has focused on associates who are “working their way up” in law firms, which is understandable given the pressures they face. As a legal recruiter, however, I bear witness to another category of attorneys that suffer more silently: partners. Yes, partners who generate multi-million—or often tens of millions—dollars in revenue and seem like they are on top of the world from outside appearances face similar struggles as associates when it comes to depression and anxiety.

Because I work closely with partners during critical junctures in their careers, I gain a unique insight into what goes on behind the scenes regarding their mental health. Here are my observations:

1. **The Stress Does Not Go Away:** Partners with the largest books of business are certainly not immune from depression and anxiety that results from constant stress. Not only do they have to generate top quality work product, but they have to be there 24/7 for their clients. The thought of not responding to a text or email almost immediately can create constant angst. For every client, there’s a line of other firms trying to rip that same client away. And living with this pressure to keep clients happy by providing faster, more responsive service is, in one partner’s words, “beyond exhausting at times.” I had one partner tell me, “I was eating dinner with my family and saw a client email. For the first time, I chose to put my phone away and wait until after dinner to respond. When I responded an hour later, the client had already spoken to another firm and decided to hire them. It ruined my weekend.” The money and power do not make the stress go away. The stress these partners felt as associates simply transforms into a different type of pressure as a partner. According to Ed Honnold, a counselor and professional coach for lawyers in Washington, D.C., “Competitive and other external pressures throw many partners into crisis. It compels some of them to find depths of self-insight and maturity that they have not previously developed, and they may seek a crash course in ‘growing up.’ They may find the capacity to know them-

selves more deeply, experience a calm place within themselves despite the external pressures, and find patience and kindness within themselves to complement their ambition and intellect.” He goes on to note that, “Others are driven to escape themselves, seek to outrun the pressures, by working even harder, buying multiple expensive homes, and exceeding their earlier ambitions, until their time runs out.”

2. **Imposter Syndrome is Still Present:** Many highly accomplished partners still have threads—or swaths—of imposter syndrome. For example, sometimes partners are stuck in truly negative work situations but they are reluctant to leave their current firm because they are deeply afraid they will ultimately fall short of the new firm’s expectations. I’ve had a number of partners confide to me that the courting process created excitement but also anxiety and self-doubt. In their most vulnerable moments they confided, “I’m concerned I’m not as much of a superstar as the (new) firm is making me out to be. What if all of my business does not follow and I’m not who they think I am?” The pressures on partners to retain business during a lateral move—which can contain variables outside of their control—is significant and can sometimes lead to professional paralysis and staying put for the wrong reasons, and this “settling” can result in various levels of unhappiness.
3. **The Lawyer Brain is Prone to Higher Levels of Stress.** Partners have been rewarded—and are often hired—for being uniquely skilled at finding the problems. Dr. Larry Richard of LawyerBrain LLC states, “According to my research, lawyers have dramatically higher levels of skepticism than average. While this is an essential trait for the high-quality practice of law, the very same trait makes it much more challenging to be an effective leader and even harder to sustain high levels of well-being.”

*“...partners who generate multi-million—or often tens of millions—dollars in revenue and seem like they are on top of the world from outside appearances face similar struggles as associates when it comes to depression and anxiety.”*

When associates advance to partner, they don't suddenly become glass-half-full people when the glass-half-empty thinking was often the key to their success. For me, I am blessed and cursed with a lawyer brain, and am open with candidates that I'm not immune from this myself. I have been taking antidepressants since I was 18 (my grandparents were Holocaust survivors, so worrying/vigilance is part of my DNA). The part of my brain that enables me to focus on the smallest of details, anticipate what could happen three steps ahead, and quickly tune into the feelings of others is a blessing in my professional life and has directly contributed to my success. But it also has ancillary impacts that can make the bumpy parts more rocky at times, which is why the medicine is a wonderful thing. It's a small shock absorber for those of us who may have a little less padding in our DNA for when life throws sharp curveballs. And many partner candidates have confided the same to me when we "get real" about our lives. The truth is that antidepressants and seeing therapists are much more common at the highest levels of success than people may fully realize. To quote Dr. Richard again, "Lawyers are also low in psychological resilience—they're thin-skinned. This makes them cautious about revealing or even acknowledging their shortcomings."

So what is the solution? While the stress of practicing law in an intense environment will not go away, I believe the best way of dealing with this stress is to embrace it. Kelly McGonigal's excellent book The Upside of Stress marshals the evidence that our mindset about stress is far more important than the actual levels of stress, especially with respect to its impact on our well-being.

Imagine what would happen if you, a successful partner, shared your own stress-related struggles with colleagues. I predict it would be incredibly powerful and inspiring to those who look up to you. And according to some of the leading authorities on workplace culture and connection, such as Patrick Lencioni and Brené Brown, the best leaders are those who are confident enough to be vulnerable. Over the next five years, I predict vulnerability will be one of the key leadership skills to be honed and harnessed by the most successful law firm partners.

By being more honest with each other about these real challenges, deeper bonds and connections will emerge not just as lawyers but as humans. And given the unavoidable stress in our industry, that small change can make a big difference, and it happens to be one of the few things within our actual control.

*"...By being more honest with each other about these real challenges, deeper bonds and connections will emerge not just as lawyers but as humans. And given the unavoidable stress in our industry, that small change can make a big difference, and it happens to be one of the few things within our actual control."*



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## Ghosting in Legal Recruiting

### *Why it Happens and How to Make it Happen Less*

By David Trapani and Raphael Franze

Picture it (likely from memory, no less): You, as a recruiter, just finished a lengthy and pleasant call with an engaging new prospect (or even an established one). Promises were made, action steps established, and timelines set.

This soon is followed by broken promises, inaction, and a complete disregard for your time on the part of the prospect—all delivered in a steady stream of apathy and radio silence. Barring the prospect being in a perilous state, chances are good that you were ghosted.

To better understand the reasons for and effects of ghosting in re-

cruiting (and, more specifically, legal recruiting), one must understand the origins of ghosting in general and the environments in which it can metastasize.

#### GHOSTING EXPLAINED

Ghosting is defined generally as "the practice of ending a personal relationship with someone by suddenly and without explanation withdrawing from all communication." The term came to prominence in the context of online dating two decades ago. It since gained broader use to encompass similar communication tactics in the context of family and friends as well as in employment, recruitment, and business in general. At its core, the tactic is used to avoid emotional discomfort, and the person doing the ghosting usually is not thinking about how it will make the other party feel.

Social media often is cited as a primary culprit for ghosting and for good reason. The concepts of "friend" and "connection" in social media speak to a greater breadth of communication but less depth



than what is inherent in more traditional interpersonal activity. However, the prevalence of technologies predating social media (e-mail, text, etc.) provided for more impersonal forms of communication over time and these technologies are very much rooted in the practice of ghosting. In fact, more methods for communicating actually resulted in a lack of close communication and, in turn, a lack of social consequences for ghosting. From a psychological perspective, a decline in empathy across society, coupled with an increase in narcissism and selfishness in our culture, contributed to the ghosting phenomenon (with self-isolation also cited as a contributor for individuals with mental health issues, including depression or addiction).

In a professional context, ghosting occurs for a number of reasons. Institutionally, our modern, technologically-steeped approach to finding job listings and applying for them resulted in hiring departments and recruiters becoming inundated with resumes. This leads to less personal attention to those in the candidate pool, which contributes to a more passive and unprofessional approach by prospects over time. On an individual basis, if a situation is difficult to address, we as humans are more prone to avoid it than confront it. This plays out in recruiting in a number of ways, including:

- When a prospect decides they no longer want an opportunity, or also are in-process for a more preferred opportunity and want to see that process through before responding to the less preferred one;
- When hiring processes take too long, leading to dwindling enthusiasm on the part of the prospect;
- When a particular recruiter no longer is perceived as a valued asset by the prospect; or
- When an employer opts to respond to a solicited prospect only if they ultimately are interested in the prospect.

Taken collectively, we now may be seeing a changing standard of professionalism at play as employers, recruiters, and prospects increasingly ghost one another.

Understanding what does and does not constitute ghosting goes a long way towards helping someone comprehend where their professional relationships stand. For instance, the inability to reconnect with a prospect from a previous unsolicited call that felt promising is not ghosting. On the other hand, if a prospect promises to send a resume but never does and never responds to your continued inquiries, that could be due to ghosting. Getting an interview or even a job offer for someone who has given you permission to guide their job search forward, and then not being able to get in touch with them, very well could be ghosting. A prospect never showing up for a new position with no correspondence as to why certainly can be considered ghosting (assuming the prospect is alive and well). In the context of the recruiter-employer relationship, an employer making an informal verbal offer and then going silent for weeks without making a formal written one reasonably could be perceived as ghosting. However, sending an unsolicited resume to an employer and getting no reply is not ghosting.

Just as an online dater with no other romantic prospects may be especially affected by a lack of correspondence from their only prospect, a recruiter with all their eggs in one basket may be quick to

perceive a lapse in communication (for whatever reason) as ghosting. The notion of being ghosted only exists if the “victim” is not getting and accepting the message being delivered passively. The message may be vague but often is sufficiently clear to necessitate de-prioritizing that prospect or opportunity. Maintaining a sufficient candidate and client pipeline will make ghosting less of a concern and just a cost of doing business in our industry.

As much as candidate-driven ghosting is of increasing concern, it works in both directions. Recruiters and prospective employers increasingly ghost to a similar extent as do prospective employees.

If you as a recruiter want to minimize your chances of being ghosted, then be impeccable with your word. Act professionally, answer promptly, and follow-up when you say you will in the hopes that such behaviors will be reciprocated.

#### ATTORNEY-SPECIFIC REASONS FOR GHOSTING

Despite following this general advice, there nonetheless are unique circumstances in the legal profession that contribute to ghosting. As previously mentioned, self-isolation can precipitate ghosting especially for those dealing

with mental illnesses such as depression and addiction. Such attributes are believed to be more prevalent in the legal profession, as a stressful and frequently all-consuming work schedule often results in an attorney’s lack of sleep and self-care. Also, a perceived lack of lifestyle-friendly work options within mainstream law firm practice may contribute to ghosting and can be compounded by a recruiter’s inability to differentiate their opportunities. An increased prevalence and competitiveness among legal recruiters also may be a reason for ghosting, as prospects have initial conversations with a multitude of recruiters but choose to go deep with only a select few.

Financial incentives provided by a current legal employer to hang onto its attorneys also have a significant impact on ghosting, where the prospect’s new desire to stay runs counter to their previous narrative for leaving. Ghosting under such circumstances can feel particularly traumatic to a recruiter, as the prospect typically is in the offer stage with a client when this happens, and the recruiter is at their most emotionally invested. Such financial incentives come in multiple forms, including:

- An unexpected firmwide pay raise that widens the salary gap between the prospect’s current employer and the client making the prospect an offer;
- Periodic bonuses (year-end, COVID-related, etc.) structured to vest several months after being earned, thus creating a situation where substantial monies are left behind upon departure; or
- Significant retention bonuses and counteroffers provided by current employers to keep otherwise departing prospects (this form of incentive can be the most jarring, as the attorney prospect accepted a client’s offer and tendered their resignation before such a bonus or counteroffer suddenly is offered).

#### RECRUITING TECHNIQUES FOR MINIMIZING GHOSTING

While ghosting can present significant challenges to a recruiter’s practice, there are several preemptive measures that you can take

*“If you as a recruiter want to minimize your chances of being ghosted, then be impeccable with your word. Act professionally, answer promptly, and follow-up when you say you will in the hopes that such behaviors will be reciprocated.”*

to minimize its presence in your day-to-day productivity:

- Discuss ghosting and ask difficult questions early in the process (even if it is somewhat of a buzzkill). Foreseeing and addressing otherwise difficult circumstances before they come to fruition can make them easier to avoid or deal with should they actually occur;
- Practice reversing (the Sandler concept of answering prospect questions with questions of your own). This technique is not designed to avoid answering the question; rather, it is designed to answer the right question by better understanding the intent of the original question and gaining a clearer fix on a prospect's motives. An example is asking a prospect, "Can you share what compensation package you may be looking for?" after they've asked, "What compensation is the firm offering?" Such a tweak and redirect of the question may provide insight into what aspects of compensation the prospect values most;
- Instead of informing a prospect of your intent to follow-up with them within a certain timeframe, schedule a specific follow-up time and send a calendar request. This not only obliges the prospect to you in an otherwise open time slot but also embeds this commitment into both of your schedules; and
- Keeping prospects in the loop on a periodic basis. If there is not much to report, an e-mail or text to that effect assures the prospect that they are not being ignored and, in turn, will make them less likely to ghost you.

#### UNDERSTANDING AND EMPATHIZING WITH THE ATTORNEY LIFESTYLE

Better understanding an attorney's day-to-day lifestyle and empathizing with their emotions around their experiences will help develop a meaningful rapport. The legal profession is uniquely demanding, and being able to connect on a more personal level with an attorney prospect sets you apart from other recruiters. As rapport increases, the potential for ghosting decreases.

Key to developing rapport is finding the attorney's "pain point," their true motivation for considering departure. Often, their initial reason is not clear. While the attorney may show interest in looking at a new position, without a recruiter understanding the emotional motivation for this decision, the recruiter ends up with a candidate not committed to fulfilling the process. Regardless of the quality of the opportunity, most attorneys will not move forward unless the opportunity assuredly meets their emotional needs.

Reversing and understanding the attorney's pain points go hand-in-

hand and it often is incumbent on the recruiter to help the attorney articulate them. In too many situations, recruiters get out ahead of the process before understanding their prospect's true motivations. If we ask (aka reverse) questions like the following ones, perhaps we gain that better understanding of the "why" behind their decision:

- How have your work demands impacted other aspects of your life?
- Tell me about your partners and your team – how well do you all work together?
- What would you like to see more or less of in your next position?
- How long have you been looking?
- What are some of the long-term goals you are looking to achieve? Can you envision attaining them with your current employer?
- How would it make you feel if you accomplished these long-term goals?

These questions are samples, and each conversation will be unique. The underlying theme is we must flesh out the emotional connection to the attorney prospect's "why." Also, frequently acknowledge the prospect's unique professional challenges and pain points once determined, both in the normal course of the recruiting process and in the event you are ghosted during the process. Developing such a rapport (especially early in the process) enables you to better address the emotions that ultimately might have led to the ghosting.

Finally, whether you are being ghosted actively or are trying your best not to be, remember that the recruiting process must be centered around the attorney prospect's wants and needs. Do not make it about your ambition to close a deal or even your client's sense of urgency, as this may signal to a conflicted prospect that you do not have their best interests at heart. As a result, your influence on them will be impaired both for the current opportunity and permanently thereafter. Furthermore, be transparent with your client about what is happening. They have seen such predicaments before and likely view it as less of an indictment of your recruiting skills than you might think.

With the pressure off from the client side, consider taking the long view with the prospect and understand that the question is not "if" but "when" they will move. Balance this philosophy with your overall understanding of the prospect and the risk inherent in working with them again, as their approach to the relationship may be such that you are better off without them.

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# The Recruiter's Bookshelf

**DIGITAL MINIMALISM: CHOOSING A FOCUSED LIFE IN A NOISY WORLD** by Cal Newport

By Raphael Franze

Four decades ago, a recruiter's tools of the trade were pretty standard: a landline phone, a Rolodex, and a tall stack of paper resumes were enough to get you in the game, with fax machines yet to be ubiquitous in small businesses. Legal recruiting was still in its infancy, as was legal media as we know it today (with ALM and its signature publication, *The American Lawyer*, both founded in 1979). The industry transparency afforded by such media quickly turned legal recruiting into a growth industry, affording early entrants in the profession both a good living and promising future.

In the following years and decades, technological advances allowed further transparency in the legal industry as well as efficiencies for the enterprising recruiters servicing the profession. From the personal computer to e-mail, internet, smart phones, and social media, the savvy adoption of innovation by recruiters is a hallmark for success in our industry.

As the information age has given way to what widely is referred to as "the attention economy," we now find ourselves inundated with technology options in both our personal and professional lives – options that not only exist on our desktops but also reside on our wrists and in our pockets, utilized by countless actors vying to get and keep our attention at every turn. In the context of our work, such omnipresence and access can be a detriment to a recruiter who, instead of controlling their technologies, unwittingly allows their technologies to control them.

Written by productivity expert Cal Newport, *Digital Minimalism* thoroughly addresses this phenomenon. Where Newport's previous book, *Deep Work*, delves into the underappreciated value of intense focus in producing transcendent results, *Digital Minimalism* focuses on the professional world's emphasis on distracting communication tools and how it increasingly holds people back from doing their best work.

Many of us are familiar with the general concept of minimalism through other authors and their wildly popular and heavily promoted techniques (e.g., Marie Kondo's KonMari Method and Courtney Carver's Project 333 Minimalist Fashion Challenge, etc.). However, Cal Newport's writing on the intersection of technology, lifestyle, and personal productivity takes the concept in another direction that should pique the curiosity of recruiters in any industry and at any stage of their respective careers.

Putting it more elegantly, Newport defines digital minimalism as:

"Digital minimalism is a philosophy that helps you question what digital communication tools (and behaviors surrounding these tools) add the most value to your life. It is motivated by the belief that intentionally and aggressively clearing away low-level digital noise, and optimizing your use of the tools that really matter, can significantly improve your life."

Three principles undergird Newport's approach to digital minimalism, each of which I will explore in detail from a recruiter's perspective (including examples from my own experience):

1. Intentionality is satisfying
2. Optimization is important
3. Clutter is costly

## INTENTIONALITY IS SATISFYING

To understand the importance of digital minimalism also is to better understand the environments in which we dwell and the competitive market for our attention in such environments. As also detailed in the acclaimed 2020 Netflix documentary *The Social Dilemma*, companies such as Apple, Twitter, Facebook, and even LinkedIn are in the business of grabbing our attention for their own benefit as well as for the benefit of their partners. Essentially, we have become the product of value that these entities are selling, and being aware of how that occurred is the first step to intentionally extracting maximum benefit from these resources at a minimal personal and professional cost.

One technique Newport advocates for heightening such awareness is creating and adhering to a firm schedule for your day. While not everyone likes to work from a firm schedule, doing so can highlight the friction between our priorities and the subtle ways in which our technologies impact them.

*"Digital Minimalism focuses on the professional world's emphasis on distracting communication tools and how it increasingly holds people back from doing their best work."*

In my own life, I found that the visual and audible notifications on my iPhone and the apps therein played a significant role in diverting my attention from my schedule. Since my iPhone serves as my professional as well as personal phone line, minimizing such distractions enabled me to stay focused on corresponding with clients and candidates during the work day. No longer was I compelled to see what was happening outside of my work life. To take this step further, I began removing certain apps from my iPhone completely, with the ability to access them only when going online and consciously entering my passwords.

Another positive effect of this exercise was on my relationship with e-mail. Far too often, I found myself urgently responding to client and candidate correspondence that really was not urgent. (Reflecting on it, I knew this to be true for two main reasons: they did not articulate urgency in their message and they opted to send an email instead of calling.) In doing so, I would stray from my schedule and often found myself permanently sidetracked from a high-priority task that I had intended to prioritize. While I attribute this distraction largely to my own impulsiveness, I did come to understand that it reflected a lack of respect for my own time and attention. I never would end a client call prematurely to send an email to another client, so why was I prematurely ending my scheduled task to do the same thing? Newport suggests limiting emailing to a select few time blocks during the day, which is a practice I generally adhere to and find quite effective.

## OPTIMIZATION IS IMPORTANT

By mindfully observing the impact of my technologies on my productivity, I better understood the degree of their effect, whether positive, negative, or indifferent. Gaining a handle on this enabled me to tweak my relationship with certain technologies for greater optimization (or even end the relationship entirely).

I initially subscribed to Twitter, for example, with the intention of eventually utilizing it for business purposes. However, I never used it for that reason and generally grew apathetic to it. For this reason, unsubscribing from Twitter and completely removing the app from my phone was a no-brainer.

Somewhat more conflicting, though, was determining how to manage my professional relationship with Facebook. As with many technologies, my use of Facebook in a work context has both positive and negative attributes. While I find Facebook to be an extraordinary resource for learning about the origin stories and potential motives of prospective candidates, it is a resource I rely on heavily only during intense research sessions every few months. In this sense, Facebook has a very positive impact but I also find that it can be highly distracting, which can sabotage my time and attention and occasionally my mood. For this reason, I removed Facebook's app from my phone, but still afford myself the ability to log on during the occasional work day for professional purposes.

One unexpected revelation I had through this process was in identifying my complex relationship with LinkedIn. While it is indispensable for identifying and connecting with prospective candidates, I was reminded through my heavy use that LinkedIn also is a social media company with a similar business model and financial incentives to those of Facebook and Twitter. While the social media content on LinkedIn often is professionally relevant and sometimes very useful, it still is capable of sabotaging my time and attention at inopportune times if I allow it. Nonetheless, given its professional upside, the LinkedIn app maintains in a prominent position as a "priority app" on my phone and is my main destination for social media (when I'm mindfully seeking it out).

Most unintentionally, this exercise prompted me to invest more of my attention into optimizing my relationship with the one technological resource I deem worthy of a significant financial investment: my legal database/directory service for sourcing and researching prospective candidates, clients, and job orders. Given its useful basic features, I extract good value from this resource and, in hindsight, was slow to attempt extricating even more value. However, since it is the one technology most aligned with the nature of my work, it behooves me to maximize its usefulness in the form of setting more alerts and updates and going deeper into the features of their service.

By gaining clarity on the usefulness of my technological resources, I better understand where my attempts at optimization make the most sense. Given our evolving resources and ever-changing selves, it is important to routinely assess the potential to further optimize the relationships we have with our technologies.

## CLUTTER IS COSTLY

Taking these steps proved helpful in the two years since I first read

*Digital Minimalism*. However, it wasn't until I better embraced what Newport calls the "digital declutter" that I consistently adhered to the principles supported in this book.

Newport's digital decluttering process occurs in three steps:

1. Take a 30-day break from all optional (i.e. non-critical) technologies;
2. Explore and rediscover activities and behaviors you find satisfying and meaningful; and
3. At the end of the break, reintroduce optional technologies back into your life starting from a blank slate.

While such a lengthy and all-encompassing approach may seem excessive to those who desire a more gradual approach to change, it is Newport's belief that the constant distractions inherent in our attention economy necessitates going all-in. As these optional technologies are set aside temporarily, they are replaced by satisfying analog activities that the subject may otherwise have lost track of or completely ignored. In the process, the subject learns that technology serves only a supporting role for more meaningful ends.

At the end of the break, certain optional technologies are reintroduced based on what value they serve in the subject's life and how, specifically, they will use the technology so as to maximize this value. The questions asked to make this determination include the following:

- Does this technology directly support something I deeply value (not just offering some value)?
- Is this technology the best way to support this value and, if not, what technology is?
- How am I going to use this technology going forward to maximize its value and minimize its harms?

As a result of my digital declutter, my distractive tools and compulsive habits, accumulated haphazardly over time, were replaced by a much more intentional set of behaviors optimized to support my values rather than subverting them.

While my takeaways from *Digital Minimalism* may be viewed as significant by some and nominal by others, the book incorporates both a philosophical approach as well as pragmatic insights that will appeal to and benefit all readers. In my opinion, the potential impact of Newport's work for those in the recruiting profession can, indeed, be profound.

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# Why Your Firm Needs a Recruiting Marketing Strategy by Stefanie Marrone

*“The world and our industry has forever changed as a result of the pandemic and firms need to adapt to that change in order to attract and retain great talent.”*

Lawyer hiring at firms across the United States is skyrocketing. Some recent mind-blowing statistics from legal research company Leopard Solutions showed demand for lawyers at all levels is reaching an all-time high this year as law firms across the nation expanded their attorney job searches to make up for last year's slow or nonexistent growth due to the pandemic. Leopard says there are 10K+ open legal jobs right now – this is higher than at any point since the company started tracking positions in the legal industry.

However, the increase in demand for lawyers has made it more challenging for law firms to compete for qualified candidates and retain their people. And outside legal recruiters are busier than ever as firms scramble to hire attorneys who can accommodate the uptick in legal work.

If you don't have a recruiting marketing strategy, you will have a hard time standing out from your competitors to attract recruits and laterals. It is simply not enough to be a great law firm or search firm doing great work with great lawyers anymore. Any firm that thinks it will attract candidates based solely on their brand, location, or (for law firms) salary is behind the times. The world and our industry has forever changed as a result of the pandemic and firms need to adapt to that change in order to attract and retain great talent.

Here are some ideas on how to create a recruiting marketing strategy at any size law firm (search firms can recommend these strategies to their law firm clients as well as adapt them for their own recruiting and marketing purposes):

- Know your value proposition. It's crucial to be able to convey why your firm is right for a candidate and what makes your firm unique compared to its competitors. Make sure you can not only articulate this in the recruiting process but also in written materials.
- Manage your online brand. Have you checked out your firm's Google search results lately? You should. Indeed, Glassdoor and Google reviews come up on the first page of your Google results. Your firm inevitably will have both good and bad reviews. Make sure to get ahead of them and be able to answer recruits' questions on the negative ones. Encourage star performers to post positive reviews to counterbalance the negative ones.
- Create dedicated recruiting marketing materials and messaging. These materials should live on your web site, your social channels, and be modular pieces you can easily PDF to a candidate, a recruiter, or a law school. Your client pitchbook materials won't cut it – recruiting materials must be tailored for candidates to highlight what it's like to work at the firm, what the summer and new associate programs are like, and what professional development resources you offer. For laterals, you may be able to repurpose some of your existing pitch materials, but you should also put together a piece on lateral integration, firm successes, and professional development.

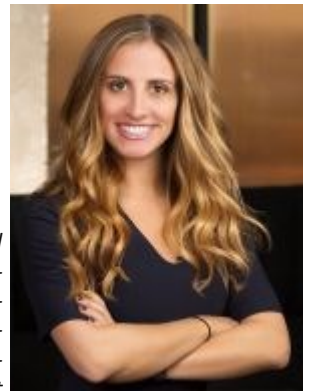
- Use LinkedIn. It's one of the most effective, cheap, and helpful ways to build relationships and market your firm. Use your LinkedIn company page to highlight news and successes, and your people.
- Use other social media channels that are less formal, such as Instagram, which can give recruits a sneak peek into life at the firm and the people with whom they would be working. My biggest word of advice is to be authentic and don't post the same content on every social media channel. Tailor the message and your imagery for the medium. (Instagram photos need to be square, for one).
- An easy way to create a recruiting marketing campaign for your law firm that costs zero money is to take the positive online reviews of your firm from Google, Indeed, Vault, Chambers Associate, and Glassdoor and feature them on your web site and in social media posts. It takes just a little time to pull the reviews and format them. You also can ask star lawyers for quotes on their favorite aspects of working at the firm and feature those in a campaign on your web site and social media channels.
- Build your network. The more people you know, the higher your chances to meet people who may be future colleagues, clients, candidates, employees, referrals, etc. While networking is a bit more challenging now, Zoom has made the process easier and more efficient.
- Conduct focus groups with star associates and partners. This will help you find out what is working well at the firm (as well as what's not). Going directly to your people for their honest feedback about the firm will give you invaluable information in many areas, not just recruiting. You also can use this information to create better events, professional development programs, and systems for how work is assigned.
- Don't stop offering remote and flexible work arrangements. Many lawyers want the freedom to continue working from home after the pandemic, especially women who are at a disadvantage because they often are primary caregivers. Support your lawyers on their professional journeys and they will be loyal to you. Also, when it makes sense, feature some of these success stories in your recruiting marketing materials.

Lawyers have lots of choices right now. Make sure they continue to choose you every day by providing them with the best possible opportunities for career growth. Taking the time to develop and implement a recruiting marketing strategy will help you stand out and attract the right candidates.

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Stefanie Marrone advises law firms of all sizes, professional service firms, B2B companies, professional associations and individuals on the full range of marketing and business development consulting services designed to enhance revenue, retain current clients and achieve greater brand recognition. She also serves as outsourced chief marketing officer/marketing department for smaller firms. Over her nearly 20-year legal marketing career, she has worked at and with a broad range of big law, mid-size and small firms, which has given her a valuable perspective of the legal industry. Connect with Stefanie on [LinkedIn](#) and follow her latest writing on [JD Supra](#).



# Recruiting for a Distributed Law Firm by Julie Innmon – Managing Partner, Recruiting at FisherBroyles, LLP

## **GIVE US A LITTLE BACKGROUND ABOUT YOUR FIRM.**

Founded in 2002, FisherBroyles is the world's first and largest distributed, full-service law firm, and is ranked by The American Lawyer as one of the 200 largest law firms by revenue. Our more than 300 partners practicing in 23 global markets in the US and UK are veterans of preeminent law firms, corporate departments, and government agencies. We seek to cultivate the brightest legal minds and to provide our clients with exceptional service, tailored advice, and practical, efficient solutions for their most complex transactions, disputes, and legal issues.

## **MANY LEGAL SEARCH FIRMS ARE MORE FAMILIAR WITH THE TERM "VIRTUAL LAW FIRM." CAN YOU ELABORATE ON WHY FISHERBROYLES SELF-DESCRIBES AS A "DISTRIBUTED, FULL-SERVICE LAW FIRM?"**

Our model leverages talent and technology instead of real estate to deliver clients the highest quality legal counsel. The distributed nature of our partnership allows us to work wherever and whenever clients need us. We focus on delivering long-term value rather than short-term profits. Unbound by geographic location, we attract the best lawyers wherever they are located. Unburdened by inefficient overhead, our Law Firm 2.0® business model allows us to produce the highest quality work product, delivered faster and more efficiently than traditional, global firms. For our clients, we offer rates that are logical, predictable, and flexible. And for our partners, we offer unparalleled compensation.

*"The distributed nature of our partnership allows us to work wherever and whenever clients need us."*

## **WHAT ARE SOME OF THE POSITIVES AND NEGATIVES ABOUT THE DISTRIBUTED WORKPLACE CULTURE?**

There are many positives: guaranteed compensation structure, freedom in billing rates, no billing quotas. Partners can use our office space anytime (or never) – as they choose. They only pay for the office space they use. No long commutes, freedom to work anywhere in the world, no vaccine mandates or excessive overhead costs. No firm politics. The firm hosts two networking conferences for all partners twice each year, happy hours are held for each office quarterly, firm wide and practice group calls are held monthly.

The negatives are for those partners who want a traditional office setting where everyone is required to be in the office all day and they have an assistant type everything for them. Arguably, this is more and more rare for any firm, especially since Covid. Many of our partners do office together, but it is not required. A partner who is not responsive to clients and fellow partners would have a difficult time here. Responsiveness is very important at FisherBroyles. We do not have salaries, so a strong portable book is important.

## **DESCRIBE THE LATERAL RECRUITMENT PROCESS – INITIAL SUBMISSION, INTERVIEWS, COMPLETION OF LATERAL QUESTIONNAIRE, CONFLICT PROCESS, FIRM APPROVAL/VOTE, TIMING OF THE PROCESS. WHAT IS THE FIRM'S ONBOARDING AND INTEGRATION PROCESS AFTER A PARTNER JOINS THE FIRM?**

Recruiters email me their candidate's bio and from there I set up a call with the candidate. If it goes well, the candidate is sent our NDA and is introduced to the managing partner of their subject matter area. Meanwhile, they are completing their application, submitting their client list, and interviewing with other partners in their area of law as well as with partners whose practices have synergies to theirs. Once they have cleared conflicts, they interview with our firm owners. We can do all of this within a few weeks – but usually the candidate needs a bit more time to submit their

client list and complete their interviews. We have a phenomenal onboarding team who provides training on integration into our firm, our various technology platforms as well as introductions to the partnership.

## **WHAT ADVICE WOULD YOU OFFER LEGAL SEARCH CONSULTANTS WHO WOULD LIKE TO RECRUIT FOR A DISTRIBUTED FIRM? WHAT KEY SELLING POINTS ABOUT THIS TYPE OF FIRM WOULD YOU LIKE TO SHARE WITH LEGAL SEARCH CONSULTANTS?**

Legal Search Consultants are phenomenal. They know law firms and are adept at finding strong candidates who are willing to consider a move. When recruiting for a distributed firm such as ours, consultants have the ability to provide a different, and much more profitable, option to their candidates.

We let our recruiters know the following in regard to recruiting for our firm:

At FisherBroyles, LLP, our Law Firm 2.0®, cloud-based business model aligns the interests of clients and attorneys by identifying and eliminating the inefficiencies of traditional Big Law. Our law firm resembles traditional Big Law only in the sophistication, breadth, and experience of our partners. We leverage the latest technology instead of unnecessary overhead, which results in a more efficient law practice. We are able to provide our clients value without sacrificing quality. The removal of inefficiencies also allows our attorneys to easily develop long-term business relationships, while billing less and earning more.

Our breadth of experience in all categories of business defense allows candidates the ability to meet the needs of their clients as well as effectively market legal services to existing and potential clients. The firm's AMLAW 200 standing, 300 partners and full resource business defense practice allows us to successfully land Fortune 500 clients. Our lawyers are financially incentivized to share work with each other, resulting in significant marketing within the firm.

FisherBroyles is one of the most diverse partnerships of any global law firm. By utilizing a formula-based compensation model, applying nondiscretionary client credit rules, and eliminating billable quotas, FisherBroyles allows partners of diverse backgrounds to succeed.

We have assembled a partnership of highly-qualified attorneys from some of the largest law firms and most sophisticated corporate legal departments in the U.S. and around the world, and all must meet our standards of excellence to join our team. We hire only AMLAW 200 trained partner level lawyers with significant portable books.

There are many things that differentiate FisherBroyles' work culture from traditional Big Law:

- All of our attorneys are full partners;
- No minimum billing quotas;
- A candidate can earn significantly more per billable hour and, in most cases, more than double than at traditional Big Law, as a percentage of the revenue generated;
- A candidate can earn significantly more than traditional Big Law for leveraging time and client contacts from cross-selling to other partners;

*Continued on page 15*

- A candidate can have significantly more control over their billing rate;
- A candidate can earn "equity-based" recruiting bonuses;
- Our compensation model is completely transparent, upfront, and objective;
- The partner compensation formula is grandfathered when they join and can never change
- The candidate can work from any physical location that they or their clients desire;
- Our Law Firm 2.0®, business model is easy to distinguish from traditional law firm models, which makes it easier to develop new clients;
- The candidate can have a true flexible schedule; and
- The candidate can experience a more meaningful work-life balance.

Finally, Legal Search Consultants are highly valued by FisherBroyles. Our compensation for recruiters is potentially almost **double** what they can earn in recruiter fees when placing a candidate in traditional law.

**WHAT ARE THE TOP THREE CHALLENGES YOU FACE AS A RECRUITER ATTRACTING CANDIDATES TO A FIRM WHERE EVERYONE WORKS REMOTELY? HOW HAVE YOU OVERCOME THOSE CHALLENGES?**

Lawyers might be concerned they will be "siloed" by working remotely. We let them know that, like any international firm with offices throughout the United States and Europe, our partners communicate constantly via telephone and email, not to mention firm happy hours and the two firm retreats we have each year.

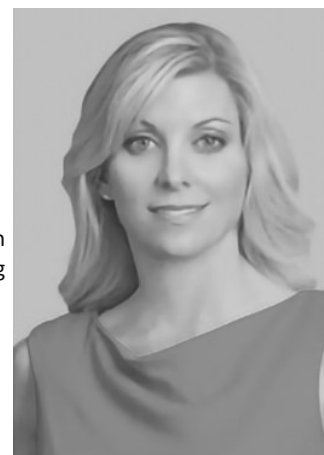
**WHAT REQUIREMENTS HAS THE FIRM ESTABLISHED TO WORK WITH LEGAL SEARCH CONSULTANTS, AND DOES THIS INCLUDE ABIDING BY THE NALSC CODE OF ETHICS®?**

It absolutely does. However, we do not disclose the terms of our agreement.

**SHARE A RECRUITING SUCCESS STORY.**

There are many. One of my favorites involves a recruiter who took the time to really learn about FisherBroyles; read the articles published about us, study our website and our partner bios, and make searches for candidates based on this. As a result, she has found and placed several lawyers with multi-million dollar books at our firm. She gets the attention of candidates by understanding their frustrations with traditional law and explaining what makes FisherBroyles different. She gets them intrigued enough to be willing to have a call with us. As a result, she has signed several phenomenal partners who subsequently increased their books significantly since they joined FisherBroyles, which made them, and this recruiter, a lot of money – not to mention adding great lawyers to our firm.

Search Consultants who take the time to really know the firm they are recruiting for are always the most successful. And we appreciate it!



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## Hidden Treasure: The NALSC Website Newsletter Archive

by Scott T. Love

You probably have benefited by reading the NALSC newsletter with all the great tips, ideas, book reviews, and profiles of industry colleagues. One thing you may not realize is that all our association's past newsletters are archived on our NALSC website here: <https://www.nalsc.org/newsletters/>.

You can read the newsletters online by browsing through them in reverse chronological order. You may have missed an interesting story about a trend, or insights from a successful legal recruiter.

You also can find a listing of previous articles at the bottom of that page, by scrolling all the way down and clicking on the button that looks like this:

SEE OUR INDEX OF EVERY STORY WE'VE WRITTEN

When you do this, you will access the Newsletter Index and see all the articles ever featured in our newsletter.

This is an evergreen and timeless treasure trove of ideas that can help you make more placements. Our industry is unique and, outside of NALSC, most recruiter training is generic and applicable to other industries like IT

or construction. Because of the strength of our association, we dig hard to bring you ideas that are nuanced to our niche.

Here are a few examples:

- You can read Karen Kaplowitz's article "How to Advise Women Candidates" from 2019.
- Much of the concepts in our industry are relevant even in today's market, such as Lawrence Latourette's article "Anatomy of a Lateral Move" written in 2012.
- One of my favorites is the "Legal Recruiter Fee Agreement Checklist" coauthored by Marina Sirras and Raphael Franze in 2020.

This listing is filled with one helpful idea after another and is the closest thing to an MBA in legal recruiting. I hope you make more placements from the powerful ideas shared with you in the newsletter archive.



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Coming to us from “The Live Music Capital of the World” and home of the NALSC 2018 Annual Conference – Austin, Texas – is Kathryn Holt Richardson (“Kathy”). Kathy founded HR Legal Search (HR stands for “Holt Richardson”) over 15 years ago and the firm consistently has been named one of the top legal search firms in Texas by *Texas Lawyer* since 2011. While Kathy is a new addition to our Board of Directors, she has been a member of NALSC since 2015 and a regular speaker at NALSC events and a contributor to the organization’s efforts.

Although Kathy lived in Texas most of her adult life, her upbringing as an “Army Brat” shaped her world view as she lived in Germany, Virginia, and Indiana in early childhood. While the scenery and circumstances may have changed from place-to-place, there was one constant that followed Kathy to each destination: her love of books. Kathy was an avid reader starting at age three, and still is, considering it her favorite escape. One of Kathy’s favorite books is *The Unbearable Lightness of Being* by Milan Kundera – it reminds her that meaning and mourning are intertwined, yet it is our birthright to feel joy and a lightness of being.

Kathy’s family ultimately settled on the Jersey Shore when her Dad was stationed in Bayonne. Upon arriving there, Kathy and her sister integrated their elementary school. After graduating high school in New Jersey, Kathy moved to Washington, DC to attend American University. Given her international exposure at a young age and her resulting affinity for our diverse world at-large, Kathy majored in international affairs at AU and studied in Sevilla, Spain for a year (with all of her coursework taught in Spanish). While she initially set out to become a diplomat, a foreshadowing of her professional destiny came early in her undergraduate career when she worked at AU’s career center. It was in her role as an assistant career counselor that Kathy was tasked with helping graduate students find work abroad. While she pursued the job because of the international aspect, she soon came to love the job because it helped her discover what she was put on this earth to do: support others in pursuing fulfilling careers.

Upon completing undergrad, Kathy lived in Senegal for several months before looking to build upon her experience at AU’s career center by pursuing a graduate degree in career counseling. However, caught between this desire and her Mom’s encouragement for her to pursue a more practical law degree, it was indeed a fortune cookie that sealed Kathy’s fate. Out to a Chinese dinner with her mother and discussing which way to turn at this crossroad, Kathy’s fortune cookie at the end of the meal read, “You would make a good lawyer.” With that, Kathy’s next three years came into focus.

Now moving to Austin – sight unseen, mind you, as she was eager to leave the cold of the Northeast – and beginning her legal studies at the University of Texas, Kathy immediately realized that legal practice was not for her. She soon pivoted her focus back to career counseling but now was looking to apply this passion to lawyers. Upon graduating with her Juris Doctor from UT, Kathy was awarded a two-year fellowship back in Washington, DC with the National Association of Public Interest Law (now Equal Justice Works). Among her many roles in this capacity was organizing the country’s largest career fair for public interest minded students. While in DC, Kathy also earned a certificate in diversity training from the National Multi-Cultural Institute and traveled to law schools across the country conducting diversity trainings and facilitating retreats to support public interest minded law students.

Upon completing this fellowship, Kathy returned to Austin and

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soon was tapped to head the career services office at UT. By staying true to her passion and adapting to her evolving circumstances along the way, Kathy landed her dream job while still in her 20s! In this role as Assistant Dean for Career Services, Kathy prided herself on counseling thousands of law students and lawyers pursuing not only traditional career paths but non-traditional ones, as well.

After six years at UT, Kathy was recruited by Major, Hagen & Africa (now Major, Lindsay & Africa) to co-found their Austin office. Kathy served as Managing Director at MLA and headed the Texas Associate Recruiting Practice Group. In this role, she observed MLA co-founder and fellow UT grad Bob Major in action and had the opportunity to work with UT Law alumni Lauren Hagen and Marty Africa. From these and other generous mentors, Kathy adopted the following core belief that continues to guide her career: “People don’t care how much you know until they know how much you care.”

In 2006, Kathy founded HR Legal Search, still one of the few Black woman owned legal search firms in the country. Based in Austin, the firm is national in scope with a varied practice placing groups and partners across the country, select associates, and in-house lawyers at every level including General Counsel. The firm has a niche in diversity recruiting, with a record of success placing attorneys of color.

In a legal recruiting career spanning almost two decades, Kathy understands that lawyers are highly invested in their profession and, as such, deserve to love their work and where they do it. To quote Kathy, “It is an honor to facilitate such transformative transactions.”

For those new to the recruiting profession, Kathy wishes she learned to spot red flags earlier and run, not walk, away from flaky candidates and clients. Kathy also had to adapt to the roller coaster of highs and lows that recruiters encounter and practice being more mindful and present. To that end, Kathy currently is studying to become a certified



health and wellness coach. She has begun co-facilitating wellness retreats in Barbados for lawyers as well as Chief Diversity Officers and other diversity professionals as she knows that sometimes we need to slow down to catch up. Kathy is interested in the confluence of wellness and diversity in the workplace. It is her hope to impact our profession by reinforcing that happy lawyers are better lawyers and that diverse workplaces are more fulfilling and, therefore, more profitable.

*“In a legal recruiting career spanning almost two decades, Kathy understands that lawyers are highly invested in their profession and, as such, deserve to love their work and where they do it. To quote Kathy, ‘It is an honor to facilitate such transformative transactions.’”*

When Kathy is away from the office, she enjoys the outdoors and can go months without turning on her TV. She is an avid hiker and attempted summiting Kilimanjaro on two occasions despite her fear of heights. She also enjoys traveling to remote places “off the grid” and has made her way to the Yukon, the Amazon, the Salt Flats in Bolivia, and the backroads of the Texas Hill Country and West Texas. Kathy has two sons in college and has been blessed to travel and hike with them, with a standing trip to Taos, New Mexico every year. Kathy also adopted a pandemic puppy, an Australian Sheppard named Rambo, and an older schnoodle, Nala. She is in two book clubs in Austin and enjoys collecting art, biking, and yoga. Recruiting lawyers is a tough yet fulfilling business and she believes that work-life balance is imperative to be both happy *and* successful and to maintain equanimity through the ups and downs of the rollercoaster ride. Her dream job was to support others find their dream job and she knows she is blessed to be living that dream.

Welcome to the Board, Kathy! Look forward to seeing you in-person again soon!

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## The Benefits of Providing CLE by Natalie Thorsen Harris

When I moved from traditional legal practice to attorney recruiting, I was shocked to learn how much I didn't know about the legal market as a practicing lawyer. Now, as a recruiter, I frequently talk with smart, savvy attorneys who are surprised to learn information that most recruiters would consider common knowledge. Sharing this information with attorneys by preparing and presenting continuing legal education (CLE) classes benefits both the attending lawyers and the presenting recruiter.

Attorneys often misunderstand the mechanics of the legal market because they do not have the relevant information. This can lead them to make avoidable errors in their careers. For example, some are bewildered to find themselves no longer as valued at their firm or in the market as they once were. A top-performing associate may be unable to progress to partnership if they overly prioritize catering to a demanding partner at the cost of developing their own skill set or client relationships. A four-year associate who receives multiple offers as a lateral firm candidate might no longer be as desirable a candidate after eight years of practice without a book of business. While recruiters have the information to avoid these missteps, many lawyers do not—and will not discover them until it's too late.

Another way that CLE can benefit attorneys is that recruiters can offer them a unique and valuable perspective on the legal market. The data that we access daily allows us a deeper understanding of why the market changes, how it adapts, and what factors stay consistent. In this uncertain and ever-developing economy, attorneys

will appreciate the context you can give them for current market shifts and the foresight you can lend them for potential future trends.

### Understanding Your Audience & Providing Value

I've learned that offering CLE classes provides value to my legal community while also benefitting me. Two fundamental things to consider before addressing any audience are **who** they are and **why** they are there. Keeping these in mind will allow you provide even more value.

Who is your audience? Attorney audiences present unique challenges. Dr. Larry Richard, founder of LawyerBrain, spoke at our NALSC Fall Symposium in 2020. Dr. Richard explained that, statistically, lawyers tend to be more skeptical and to have more of a sense of urgency than their non-lawyer counterparts. If you decide to speak to a room full of attorneys, it is important to keep these two statistics in mind.

Only present on topics that you deeply understand—and feel comfortable answering unpredictable questions about. Make sure the information you present is defensible and evidence-backed. For example, during a CLE I once attended, the presenter introduced a controversial assertion by stating that studies had proven it to be true; however, the presenter made his argument for the point without referring to a single supporting study. I watched as several attorneys in the room rolled their eyes and sighed. At the end of the presentation, as soon as the Q&A was open, the eye-rolling attorneys lost no time challenging the speaker's claim and pressing him for the promised evidentiary support. But by then his credibility was already diminished. As an attorney, being skeptical and able to find holes in an argument is not a personal-

Continued on page 18

ity defect, it is literally part of our job. Lawyers are professionally trained to challenge allegations and evaluate arguments. Even though I no longer practice, I still find it difficult not to approach every story and claim with skepticism, to the dismay of my extended family.

Why is your audience there? Typically, they come to see your class not because they know who you are or because they are especially excited about the material but because they can only keep their licenses and livelihoods active by meeting their state bar's mandatory live CLE presentation requirements.

Thus, to your audience, the fact your class offers CLE credit will likely be paramount, with considerations such as educational quality and networking opportunities being seen as secondary benefits. Show respect for their time by, at a minimum, ensuring your presentation meets the requirements to qualify for CLE credit.

Each state bar has its own CLE requirements. CLE presenters can become direct providers or speak under the auspices of an organization that is a registered provider. My preference is to speak at events hosted by an organization, since the host organization will typically oversee documentation requirements. I also highly recommend researching to see if your presentation can qualify for an ethics, professionalism, civility, or other niche required credit, as those are more rarely offered and thus more sought-after.

Understanding also that attorneys have a greater sense of urgency than the general population will help you make sure your presentation is well-received. A large part of many attorneys' work is to digest complex information, eliminate superfluity, organize what remains, and present it as clearly and persuasively as possible. If you, as your audience's teacher for an hour, don't endeavor to do the same with your chosen topic, they will likely not appreciate your approach. If possible, try to get feedback from your audience beforehand on what they hope to gain from the presentation. By understanding their questions ahead of time, you can tailor your classes to meet their needs and make them more relevant and interesting. Remember that your audience is setting aside their busy and sometimes chaotic practice for at least a couple of hours to attend—with all the attendant stress of doing so. Stick to the schedule and do not go over the allotted time.

*"Internal firm recruiters may consider providing CLE to their firms with the goal of retention of and relationship-building with the attorneys in the firm... Recruiting firms can benefit from CLE by using them to network with attorneys and establish themselves as an expert in the legal market."*

Last, remember that even attorney audiences—like all human beings!—connect best to presenters with interesting stories, thoughtful humor, and genuine interaction.

#### The Benefits of Providing CLE as a Recruiter

Whether you work as an internal firm recruiter or for an independent recruiting firm, providing CLE can benefit you.

Internal firm recruiters may consider providing CLE to their firms with the goal of retention of and relationship-building with the attorneys in the firm.

Internal recruiters could offer a CLE where they provide an update on the market, the firm's recruiting efforts, and how firm attorney can assist in the firm's recruiting goals. Another option would be to identify attorneys the firm is looking to recruit and structure a CLE that would appeal to them, perhaps even inviting a specific lawyer to speak on a panel hosted by the firm.

Recruiting firms can benefit from CLE by using them to network with attorneys and establish themselves as an expert in the legal market. Focusing on a specific practice area or geographical location can also be beneficial.

If you are a licensed attorney, offering CLE will benefit you even more directly, since most states provide CLE credit for the time that you prepare and present.

If you'd like to get started presenting CLE or just improve your current presentations, I recommend reading Dr. Larry Richard's article *Herding Cats: The Lawyer Personality Revealed*, which contains valuable advice. You also can ask for feedback, from attorneys whom you work with, about what classes, topics, and methods would be the most beneficial to them. Listen to what they say and be prepared to adapt accordingly.

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## Well THAT Was a Surprise! by Valerie Fontaine

Attorney recruiting never gets boring. I've been recruiting lawyers for exactly 40 years this November and, just when I think I've seen it all, something surprises me. We thought it would be fun and informative to inaugurate a regular column based on the surprising things we search firm and law firm recruiters have seen in the course of our careers. I'll start us off with the incident which sparked the idea for this series.

#### What's your sign?

About a year ago, my colleagues and I were in a Zoom meeting with executives from a potential in-house client searching for their first General Counsel. All was going as expected until, when describing the ideal candidate, the founder and CEO asked us to send candidates born under certain zodiac signs ONLY. They told us they would do a full astrological chart on anyone they wanted to consider seriously (and offered to do each of our charts, as well). We know that clients, especially those in-house, conduct a variety of assessments before making a hire, but this was the first time we heard of astrological screening.

Because exact birth date, place, and time are necessary to create a complete astrological chart, and U.S. law prohibits asking candidates about age and national origin, we advised them that in-depth astrological screening would be unacceptable. We informed them that neither we nor they could request the necessary information, but they didn't care. For that, and other reasons, we declined the search.

But that request piqued my curiosity. Since determining a candidate's astrological sun sign requires only a candidate's day and month of birth, would asking a candidate for that minimal information be permitted or problematic? It was interesting research and remains an open question.

This is what I learned:

In his June 2020 dissent in *Bostock v Clayton County, Georgia*, which extended workplace antidiscrimination protections to LGBTQ+ employees, Supreme Court Justice Samuel Alito mentioned astrology as a possible hiring criterion. He wrote, "Even idiosyncratic criteria are permitted; if an employer thinks that Scorpios make bad employees, the employer can refuse to hire Scorpios. Such a policy would be unfair and foolish, but under Title VII, it is permitted." That line of reasoning, limiting protected classes to those explicitly listed in Title VII, didn't persuade the majority of the Court with regards to discriminating against the LGBTQ+ community but, I wondered, would it hold up when applied to zodiac discrimination? Is that even a thing?

Apparently, it is, although not currently widespread in the United States.

According to a May 2, 2020 *Forbes* article, zodiac discrimination in hiring is a well-documented problem in China. It cited a 2017 study conducted by researchers at MIT and described in *Journal of Personality and Social Psychology* which found that, in China, 4.3 percent of college students surveyed reported suffering employment discrimination because of their astrological sign. The researchers also found that in China, approximately 40 percent of hiring managers surveyed discussed astrological signs when making hiring decisions.

In Austria in 2009, an insurance company posted an ad in major newspapers seeking employees for sales and management positions and specified that desired candidates must have certain astrological birth signs. The company claimed that statistics indicated that people born under those signs were the best workers. A wave of protests from equality groups led to an investigation by the country's antidiscrimination authorities. They determined that there was nothing illegal in choosing employees according to their star signs because, like Justice Alito's reasoning above, it did not explicitly run afoul of existing laws about gender, age, and racial discrimination.

How would that question fare in the US?

Not all discrimination is illegal. Merely choosing between candidates requires hiring authorities to discriminate based on criteria such as their educational credentials, work experience, and various "soft skills" they determine necessary for success in the position they seek to fill and to be a productive member of their organizations. The problem arises when potential employers discriminate on an illegal basis as defined by law.

California state law encompasses all protected classes included in

federal law and goes a little further, prohibiting discrimination based on:

- race
- color
- ancestry
- national origin
- religion
- sex (including pregnancy, childbirth, and related medical conditions)
- disability: physical or mental
- age (40 and older)
- genetic information
- marital status
- sexual orientation
- gender identity and gender expression
- AIDS/HIV
- medical condition
- political activities or affiliations
- military or veteran status, and
- status as a victim of domestic violence, assault, or stalking.

Other U.S. cities and states have laws protecting additional characteristics or extending protection to more employees than does federal law. For example, height and weight are protected classes in San Francisco. Vaccination status may become a protected class in some locations, as well. However, no legislation, to our knowledge, addresses astrological signs explicitly.

*"We thought it would be fun and informative to inaugurate a regular column based on the surprising things we search firm and law firm recruiters have seen..."*

Whether or not it is illegal to discriminate against candidates based on their zodiac sign, it might be unreasonable since astrology categorizes and judges people not on their individual merits, talents, or abilities but rather by their day of birth. Astrological discrimination is similar to racism in that both pre-judge individuals founded on general beliefs about a group. Furthermore, just as candidates have no control over their race or skin color, they have no control over when and where they were born.

Is a candidate's sun sign useful in determining the probability of success in a specific professional role? In a follow-up to the MIT study of zodiac discrimination in China mentioned above, the researchers recruited 173,309 Chinese adults to report their birthday and to fill out a series of tests about personality characteristics that aligned with the various astrological sign descriptions.

They concluded that, despite the large sample size, astrological signs did not significantly predict any of those personality traits, proving that astrological stereotypes are groundless.

Bottom line: Despite the open question of its legality, given the tenuous value of using astrology as a basis for making important hiring decisions, it might be best to view the hypothetical posed in Justice Alito's dissent merely as *reductio ad absurdum* rather than a valid recruitment strategy.

**Now, it's your turn to surprise us!** Please send [info@NALSC.org](mailto:info@NALSC.org) the most surprising thing you've encountered in your recruiting career. We'll select one and a member of the newsletter committee will work with you to craft an article for the next newsletter. We might learn something unexpected!



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